

Oregon National Flood Insurance Program Endangered Species Act Integration Guidance for Communities

FEMA is assisting communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA).

FEMA outlined these changes in the draft NFIP-ESA Implementation Plan, which FEMA will fully implement in 2027. Until then, communities need to begin implementing interim measures, known as Pre-Implementation Compliance Measures (PICMs), to protect habitat and achieve no net loss. FEMA has developed these measures to address the 2016 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp).

These measures are intended to occur as the agency undertakes a National Environmental Policy Act (NEPA) review to assess the effects of FEMA's proposed NFIP-ESA integration efforts.



The 2021 Plan outlines the actions FEMA plans to take to ensure Oregon NFIP implementation is compliant with the ESA and the 2016 BiOp issued by NMFS.

What is “no net loss”?
Any development actions that result in a loss to one or more key floodplain functions must be mitigated or avoided.

The PICMs include the following three options:

Prohibit all new development

Model Ordinance

Permit-by-Permit



Prohibit All New Development

What is involved?

With this option, communities could protect essential fish habitat by prohibiting all new development in the floodplain. A prohibition on floodplain development may take many forms, such as a Moratorium and Director's decisions.



How this complies with NFIP-ESA Integration in Oregon

Avoids adverse impacts to floodplain functions and essential fish habitat associated with floodplain development.

Key considerations

- Historically, communities applying this option have small areas of floodplain that have little development pressure, or the Special Flood Hazard Area is already in community ownership.
- Communities have the option of going through the process to prohibit development or move forward with approval to prohibit development from a planning director.
- FEMA advises communities to consult with their attorneys on how to legally enact this option.
- Exceptions to prohibition of all new development may include habitat restoration projects and activities identified as exempt from no net loss, but will have to be specified when implementing this PICM.

Model Ordinance

What is involved?

Communities could incorporate the ESA requirements into local floodplain ordinances.

How this complies with NFIP-ESA Integration in Oregon

Section 6.0 of the Model Ordinance provides ESA compliance through no net loss standards.

Key considerations

- FEMA used the current Oregon Model Ordinance as the basis for creating the PICM model ordinance. As a result, the language remains consistent with current guidance in other aspects of floodplain management.
- The [Model Floodplain Management Ordinance](#) provides guidance on federal and state standards; however, communities will need to review their existing ordinances and ensure that all the required components are included.
- Compliance with the ESA is built into the code of the Model Ordinance. Therefore, communities do not need to go through a separate or additional process to ensure ESA compliance.



- The Model Ordinance provides new performance standards to address protection of ESA-listed fish and essential fish habitat, including mitigation ratios that will achieve no net loss.
- The Model Ordinance may be the most practical PICM option for communities that receive a large number of permit applications in the floodplain.

Permit-by-Permit

What is involved?

Requires permit applicants to develop a habitat assessment documenting that their proposed development in the Special Flood Hazard Area will achieve no net loss. Communities would review each floodplain development permit for potential impacts to ESA-listed fish and essential fish habitat.



How this complies with NFIP-ESA Integration in Oregon

Individual habitat assessments identify the existing floodplain functions at the development site in question and identify the mitigation measures taken to ensure ESA compliance.

Key considerations

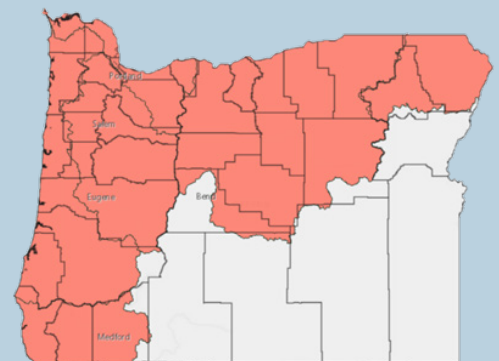
- Regional [Habitat Assessment Guidance](#) provides a methodology for conducting and reviewing the assessment.
- This guidance also includes:
 - Instructions for how to prepare a mitigation plan that will meet the mitigation ratios.
 - Suggestions on who should conduct these analyses.
 - Ideas for how communities can obtain reviews of these assessments if they do not have internal capacity.
- The Permit-by-Permit approach may be the most practical for communities that have some development in the floodplain or larger communities where floodplain regulations are dispersed across their code.

Affected Communities

The PICMs and the Oregon NFIP-ESA integration performance standards apply to communities that are:

- Located in the Oregon implementation area, as specified by the 2016 NMFS BiOp;
- Participating in the NFIP; and
- Have a mapped SFHA

For more information in determining if your community is in the plan area, please visit [National Flood Insurance Program – Endangered Species Act Integration in Oregon | FEMA.gov](#).



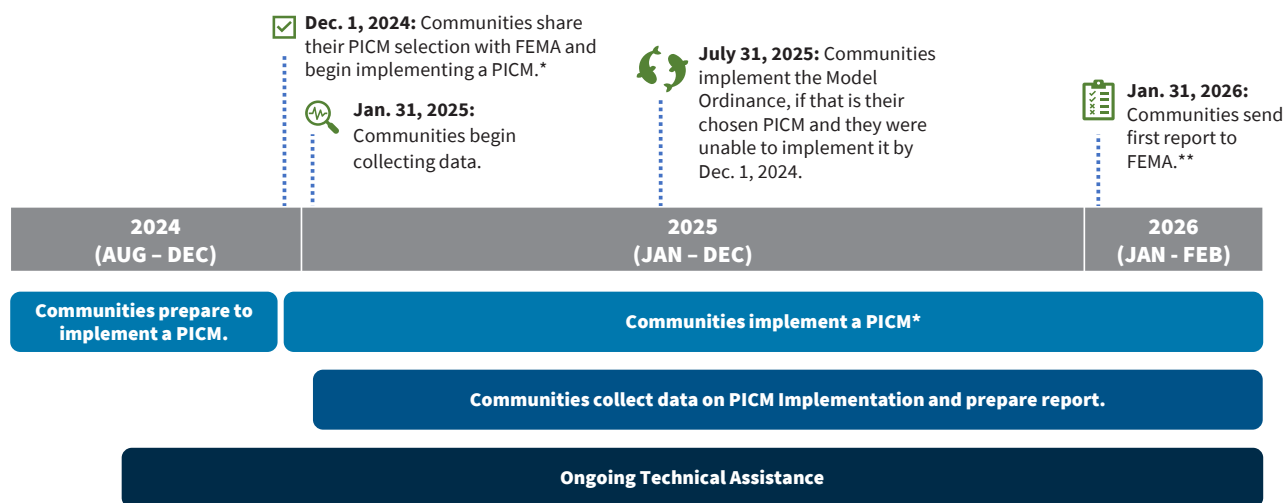
A total of 227 communities across 31 counties are affected in Oregon.

Next Steps

By Dec. 1, 2024 communities will share their PICM selection with FEMA and begin implementing a PICM. Key reporting and enforcement dates are highlighted in the timeline below.

Communities are required to implement the PICMs through the remainder of the Environmental Impact Statement (EIS) process. The Final Implementation Plan is anticipated by 2026 following the Record of Decision in the EIS process. Once the Record of Decision (ROD) for the EIS is issued, and thus marking the end of the EIS process, PICM will no longer be required. The ROD is expected to be issued in 2026.

PRE-IMPLEMENTATION COMPLIANCE MEASURES (PICM) IMPLEMENTATION TIMELINE



*If a community chooses the Model Ordinance approach and is unable to put it in place by Dec. 1, the community must implement the Permit-by-Permit approach or prohibit all new development in the Special Floodplain Hazard Area until they are able to implement the Model Ordinance approach, which must be implemented by July 31, 2025.

**FEMA will provide a reporting tool. If report is not provided, it will result in a community visit.



FEMA Resources and Assistance



FEMA is offering several resources to assist communities in preparing for Oregon NFIP-ESA integration. Visit this website to learn more and review information about NFIP-ESA Integration: <https://www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration>

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov