

MEMORANDUM

To: City Council
From: Carla McLane, Planning Official
Date: October 29, 2024
RE: FEMA PICM

Pre-Implementation Compliance Measures (PICM) for the National Flood Insurance Program (NFIP): Pre-Implementation Compliance Measures, also known as PICMS, are short-term measures that communities must adopt to comply with Endangered Species Act (ESA) requirements under the NFIP. FEMA has developed these measures to address Reasonable and Prudent Alternative (RPA) Element 2 (Interim Measures) in the 2016 National Fisheries and Marine Services (NMFS) Biological Opinion (BiOp). These interim 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.

Under PICM, communities may select one of three compliance measures:

1. Prohibit all new development in the floodplain;
2. Incorporate the ESA performance standards into local floodplain ordinances through a model ordinance; or
3. Require permit applications to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area (SFHA) will achieve no net loss.

What? No doubt all those acronyms, particularly in the order they are presented, are making your head hurt. It hurts my head. This all started back in 2009 as outlined in the timeline below and it has still not been concluded.

- 2009 Federal Emergency Management Agency (FEMA) was sued for failure to implement the Endangered Species Act (ESA) in the Special Flood Hazard Area (SFHA).
- 2016 National Marine Fisheries Service (NMFS) issued the NFIP Biological Opinion (BiOp) with Reasonable and Prudent Alternatives (RPAs).
- 2018 Three-year extension from Disaster Recovery Reform Act.
- 2021 FEMA, DLC, and partners developed "2021 Oregon NFIP-ESA Integration Implementation Plan."
- 2023 FEMA published a Notice of Intent to prepare an Environmental Impact Statement (EIS).
- July 2024 FEMA PICM Notification Letters were sent to affected jurisdictions.
- July – August 2024 PICM informational Webinars were held.
- August 2024 "Floodplain Habitat Assessment and Mitigation Regional Guidance for Oregon" published.
- August 14, 2024 "NFIP Oregon Implementation Program Guidance Model Floodplain Management Ordinance for Participating Communities in the Implementation Plan Area" made available from FEMA.

So, what now? FEMA is demanding that participating communities, including the City of Boardman, select a Pre-Implementation Compliance Measure (PICM) no later than December 1, 2024. If Boardman does not select one, then by default, we will be required to address issues within the Floodplain Permit-by-Permit. But it is important to note that the amount of Floodplain within Boardman is negligible (see included map). But the other component of this discussion is whether the community would also have floodplain that is within the Implementation Area under the 2016 NMFS BiOp. Boardman does not.

What to do to meet this FEMA requirement? Staff recommend nothing. Or choose the Permit-by-Permit option which is what the default is. Boardman has a Floodplain Ordinance that is out of date and will be updated as part of the current Strategic Planning work that is ongoing. At that time, we will determine which Model Code for floodplain management we will use and if we need to address the 'no net loss' standards that are now being deployed in Oregon based on the lawsuit and BiOp.

Glad to answer any questions you may have.