

DLCD's Perspective

On the Implementation of
FEMA's PICM

- Why PICM?
- DLCD's role
- What does a community need to do?
- Staff Concerns
- PICM Pathways 1-3
- What were hearing from FEMA
- FFRMS policy

Why PICM?

Summary of BiOp:

- 2009 FEMA was sued by several environmental groups alleging FEMA violated the NFIP in Oregon.
- 2010 FEMA settled and agreed to consult with groups. (Federal to Federal consultation - state not involved)
- 2016 NMFS issued a jeopardy opinion (BiOp) containing RPA. Bi-Op concluded the NFIP jeopardizes 16 T&E species in Oregon, namely salmon and Resident killer whale.
- 2021 FEMA issued draft implementation plan post stakeholder involvement.
- 2023 FEMA begun NEPA process focusing on long-term measures.
- Sept. 2023 environmental advocacy groups sued FEMA alleging FEMA is taking too long to implement the BiOp.
- July 2024 FEMA announced short-term interim measures or Pre-implementation Compliance Measures known as PICM.

Jeopardy, adversely harm listed species or modify critical habitat

Recommend local FPA/staff review:

- 2016 Oregon BiOp (400+ pgs.)
- Draft Implementation Plan
- FEMA's PICM fact sheet
- FEMA's PICM Webinar slide deck
- DLCD's PICM FAQ (Oct. 24)

Biological Opinion (BiOp)
Reasonable and Prudent Alternative (RPA)
T&E Threatened or Endangered
National Environmental Policy Act (NEPA)
Pre-implementation Compliance Measures
(PICM per FEMA)

DLCD's Role

- Technical Assist – long-time NFIP grant at DLCD
- Continued coordination with FEMA
- Share information with Oregon local floodplain staff
- DLCD is a cooperating agency (advisory committee) along with other local Oregon staff providing feedback on FEMA's long-term implementation (NEPA process). DLCD did not have an opportunity to play similar role while FEMA developed and implemented PICM.
- PICM was a significant surprise – what does it mean for cities and counties?
- **DLCD's PICM FAQ 10/4/24 Informational guidance:**
<https://www.oregon.gov/lcd/NH/Pages/NFIP.aspx>

DLCD NFIP Grant Activities:

- Assists FEMA and states to implement the NFIP
- Provide technical assistance
- Community Outreach, share information, education, and perform audits
- Coordinate with other state agencies
- Prevent and resolve FP permit issues

What Can a Community Do Now?

Review the FEMA Documents

- Revised FEMA model floodplain Ordinance.
- FEMA Habitat Assessment guidance document
- PICM fact sheet
- FEMA webinar slide deck.
- DLCD PICM FAQ

Discuss PICM with other local staff and your attorneys

- Create a PICM team or staff person locally
- Email PICM inbox or State NFIP Coordinator questions.
- Explore implications or opportunities for your community.
- Ask your attorney questions.

Collect data at local level to inform local decision making.

- How much SFHA in your community?
- How many vacant lots/parcels.
- What's the zoning in the SFHA?

Schedule informational work-sessions or consent calendar cover memorandum

- Use the FAQ to glean from or attach to cover memo.
- Explain situation.
- Summarize options.
- Convey NFIP non-participation implications.

Keep FEMA informed of your progress at their FEMA PICM inbox

- If you conduct a work-session document it.
- If you have a question along the way email FEMA or the State.

PICM Implementation Concerns

What am I hearing from Oregon staff:

- Two separate process at once is very confusing (PICM and full implementation)
- How does this affect mitigation grants – projects?
- Revised PICM Model code is complex ~ technical contains new “no net loss” standards
- Local staff left scrambling with other dedicated duties
- Minimal staff & \$ resources to implement
- Will there be a delay to Dec. 1, 2024, PICM deadline ??? **NO Delay given.**
- What if we do nothing by Dec. 1 deadline ???

What are other agencies doing?

- League of Oregon Cities and Association of Oregon Counties have info pages on BiOp
- DLCD is closely tracking
- PLSO announcement made
- Governor and other delegate letters on DLCD NFIP page

DLCD's PICM FAQ 10/4/24 Informational guidance:
<https://www.oregon.gov/lcd/NH/Pages/NFIP.aspx>

PICM Pathways

FEMA is requiring a city or county choose a PICM option:

Pathway 1: Adopt a PICM model floodplain code

Pathway 2: Review individual proposals on a permit-by-permit habitat assessment mitigation plan

Pathway 3: Prohibit all new development in the Floodplain via a moratorium.

Other actions FEMA took:

- Requiring communities begin tracking floodplain permits Jan 31, 2025, and then report them to FEMA beginning Jan. 2026.
- Suspended all Letters of Map Change based on fill (Aug, 2024)
- Sent a letter to the SHMO recommending ODEM prioritize mitigation buyouts for repetitive loss properties in critical salmonoid habitats.

Implementation Challenges:

- Sudden announcement – not sufficient time to implement.
- 90% Oregon communities in the BiOp area.
- LOMC or RiskMap updates
- PICM Model code introduces new technical code provisions.
- Reconciling two (2) model FP Ordinances: 2020 and 2024 PICM Versions.
- Capacity / Capability at local level limited for many jurisdictions.

What were hearing from FEMA

What is FEMA's next steps:

Deadline for communities to choose a PICM path was Dec. 1, 2024.

They have sent several emails or phone calls to communities they have not heard from on their PICM selection in past few months.

They are continuing to offer technical assistance to staff via technical assist request form, FAQ, PICM website, or their PICM email.

What were hearing from staff:

Some staff are confused and concerned with FEMA's email message: *If FEMA does not receive acknowledgement that the city county has defaulted to the permit-by-permit approach, your community may become non-compliant with the NFIP.*

The FEMA ESA website does not clearly differentiate between PICM or full implementation.

Local staff would like more training on PICM.

Technical Assistance:

- FEMA TA request form:
<https://forms.gle/C6meD8jEb9S7iweK7>.
- DLCD FAQ
- State Agency resources – 3 pager.

FFRMS Policy

Federal Flood Risk Management Standard (FFRMS, eff. 9/9/2024)

- Implements requirements of Executive Order (EO) 11988.
- Rule bolsters community resilience to flooding.
- Each Federal Agency will come up with their own rulemaking on the policy.
- So far HUD and FEMA completed rulemaking on the policy.
- Applies to all actions where FEMA funds are used: new construction, Substantial Improvement/Substantial Damage, Hazard grants.

NFIP and FFRMS:

- No changes to the CFR floodplain regulations. So, communities aren't required to adopt this policy in their local codes. But it may be a good idea to consider.

FFRMS FEMA Policy

Federal Flood Risk Management Standard (FFRMS, eff. 9/9/2024)

- Uses a wider floodplain horizontally to reflect future flooding scenarios.
- Creates higher *eligibility* standard higher elevation for structures receiving federal funds examples:
 - HMGP, BRIC, FMA (structure elevation, mitigation)
 - mortgage programs: FHA

FEMA grant for FMA example:
A house elevation – the house would need to be elevated at least **two feet** instead of usual one feet.

FFRMS Flood Elevation for Non-Critical Action

Ex. 0.2PFA greater than +2'FVA

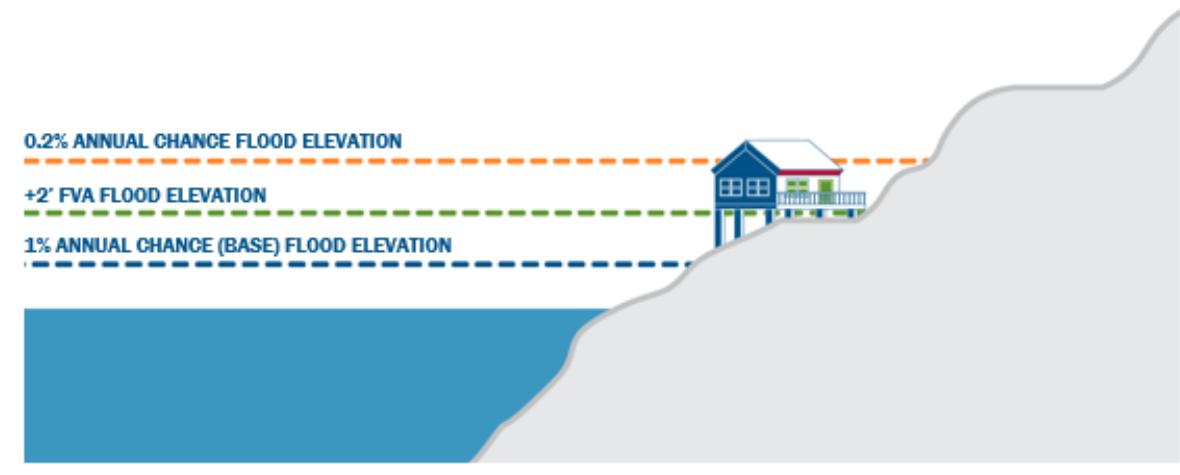


Figure 1.4 FFRMS flood elevation for non-critical action with slope transition



DLCD

Department of
Land Conservation
& Development

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Questions?

Thank you!