

ESA and the National Flood Insurance Program in FEMA Region 10

Pre-Implementation Compliance Measures Webinar

July and August 2024

Federal Emergency Management Agency (FEMA) Region 10
Facilitated by Kearns & West



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Purpose

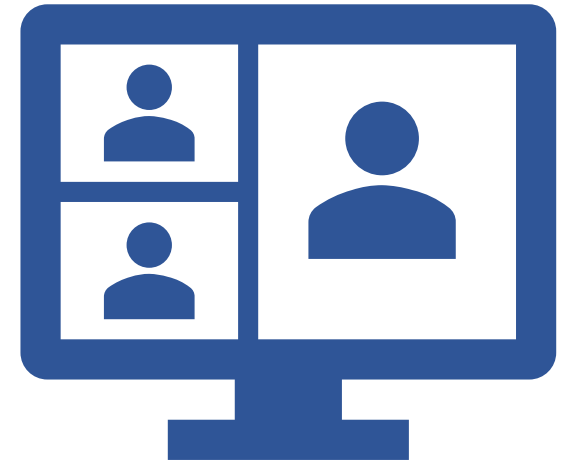
- FEMA will provide an overview and status update for the Oregon National Flood Insurance Program (NFIP) - Endangered Species Act (ESA) integration.
- Introduce the Pre-Implementation Compliance Measures, short-term measures communities must implement to comply with coming changes and requirements.
- Provide an opportunity for Oregon NFIP floodplain managers to ask questions of FEMA staff.

Agenda

- Welcome and Overview
- Background and Context
- Pre-Implementation Compliance Measures Overview
- Delay in Processing C/LOMR-Fs
 - Conditional Letters of Map Revision based on Fill
 - Letters of Map Revision based on Fill
- Available Technical Assistance
- Q&A
- Next Steps

Meeting Guidelines

- Honor the agenda
- Participate actively and respectfully.
- Provide your name and affiliation each time you speak.
- Stay on mute when not speaking.
- Be mindful of your speaking time.
- Chat is reserved for technical difficulties.
 - Chat or email Colin at cbaker@kearnswest.com
- Hold questions until the end of each agenda item.
 - Keep questions focused to content presented



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Zoom Instructions

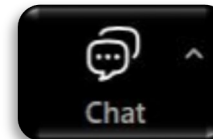
- Open Participants window to see who is in the meeting



- Turn microphone/video on/off



- Chat is reserved for technical difficulties



- Use Raise Hand feature (or *9 if calling in) to ask a question



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Today's Presenters

- John Graves, CFM, Floodplain Management and Insurance Branch Chief
- Roxanne Reale-Pilkenton, Senior NFIP-ESA Integration Specialist
- John Valett, NFIP-ESA Integration Specialist



Zoom Poll

Poll question:

- What topic are you most interested in hearing about today?

Poll instructions:

- A pop-up window will appear on your screen, please respond to the poll question
- Answers will be shown once everyone has had a chance to participate



Topics you are interested in

Poll | 1 question

1. What topic are you most interested in hearing about today? (Multiple Choice)

- Background and Context
- PICM Overview
- Delay in processing C/LOMR-Fs
- Available Technical Assistance
- Not sure

Background and Context

John Graves, Floodplain Management and Insurance Branch Chief

Flood Impacts in Oregon

- In the United States, flooding is the **single greatest source of damage** from natural hazards
- Congress created a National Flood Insurance Program (NFIP) following devastating flooding in the 1960s
- Oregon had **400 flood insurance claims** from 2013-2017, with payments of over **\$6.7 million**



About the National Flood Insurance Program



Serves to **protect lives and property**, while **reducing costs to taxpayers** due to flooding loss. Available as quid pro quo program to over **22k communities** who voluntarily agree to regulate development in the floodplains.



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Role: Provides maps, development and building standards, flood insurance coverage, and programmatic implementation of the NFIP. Does not regulate local land use.



Community

Role: Establishes higher regulatory standards, adopts/enforce local floodplain management ordinances, and issues or denies development building permits.

Endangered Species Act Federal Guidance



Section 7(a)(1)

Protect and conserve endangered and threatened species and their habitats.

Section 7(a)(2)

Ensure that any action federal agencies authorize, fund, or carry out is unlikely to:

- Jeopardize the continued existence of any endangered or threatened species; or
- Result in the destruction or adverse modification of their habitat

Oregon NFIP-ESA History



2009: Suit filed against FEMA for “failure to consult” under ESA Section 7



2018: Three-year extension from Disaster Recovery Reform Act



2019-2021: FEMA, DLCD, and partners develop 2021 Oregon NFIP-ESA Implementation Plan



2016: Oregon BiOp issued with Reasonable and Prudent Alternatives



2019: FEMA begins renewed effort to develop Implementation Plan



2023: Notice of Intent for Environmental Impact Statement (EIS) published..



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Changes to the NFIP



Issued Biological Opinion (BiOp) in response to the NFIP implementation, resulting in jeopardy determination. Identified changes needed to **protect habitat of 16 species of fish and Southern Resident killer whales** to comply with the Endangered Species Act (ESA).

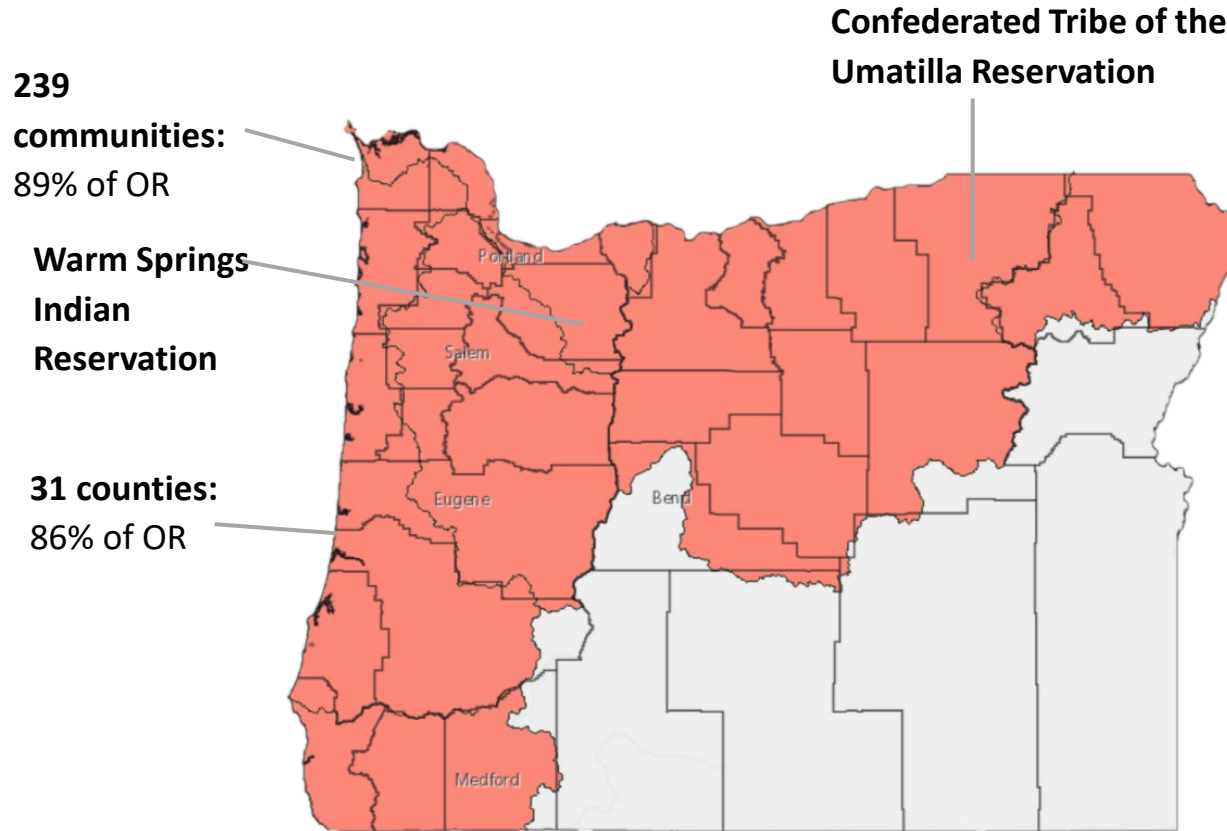


Responding to guidance provided by developing draft **NFIP-ESA Implementation Plan**.



Required to demonstrate how floodplain development is compliant with the ESA in Special Flood Hazard Areas.

Oregon Communities Affected



239
communities:
89% of OR

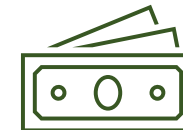
Warm Springs
Indian
Reservation

31 counties:
86% of OR

Confederated Tribe of the
Umatilla Reservation



90% NFIP policies
impacted of **24,098** total
policies in OR



Annual payment of **~\$24
million** and coverage of
over **\$6.65 billion**



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Action Area

(defined by NOAA salmon recovery domains)

Oregon NFIP-ESA Implementation Plan

- From 2019-2021, FEMA worked with the Department of Land Conservation and Development (DLCD) and other key parties to develop the 2021 Draft Oregon Implementation Plan for NFIP-ESA Integration.
- The Plan outlines the actions FEMA plans to take to ensure Oregon NFIP implementation is compliant with the ESA and 2016 BiOp.



Oregon Implementation Plan for NFIP-ESA Integration

FEMA's response and proposed implementation approach for the 2016 Biological Opinion on the National Flood Insurance Program in Oregon

DRAFT, October 2021



Current Status

- **Environmental Impact Statement (EIS) development:** FEMA is evaluating proposed changes to the Oregon NFIP outlined in the Implementation Plan, in compliance with the National Environmental Policy Act. Public scoping meetings were held in Spring 2023.
- **Interim measures:** Communities need to take action, called Pre-Implementation Compliance Measures, to protect habitat and achieve “no net loss.”



No net loss is any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.



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Questions?



- **To enter the discussion queue, use the "Raise your hand" button or press *9 on your phone. Please lower your hand once you are done speaking.**
 - If unable to speak, use the chat for technical assistance.
Refrain from sidebar conversations.



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Pre-Implementation Compliance Measures (PICMs) Overview

John Graves, Floodplain Management and Insurance Branch Chief

Near-term Options for Communities

FEMA developed PICMs for participating NFIP communities to comply with ESA requirements in the interim period while the full implementation is being reviewed under NEPA.

PICM options

Prohibit all new development

Prohibit all new development in the floodplain.

Model Ordinance

Incorporate the ESA into local floodplain ordinances.

Permit-by-Permit

Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve “no net loss.”



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Prohibit all new development

Implementation

- State and local communities have the authority to prohibit development in some circumstances.
- FEMA does not have the authority to prohibit development.

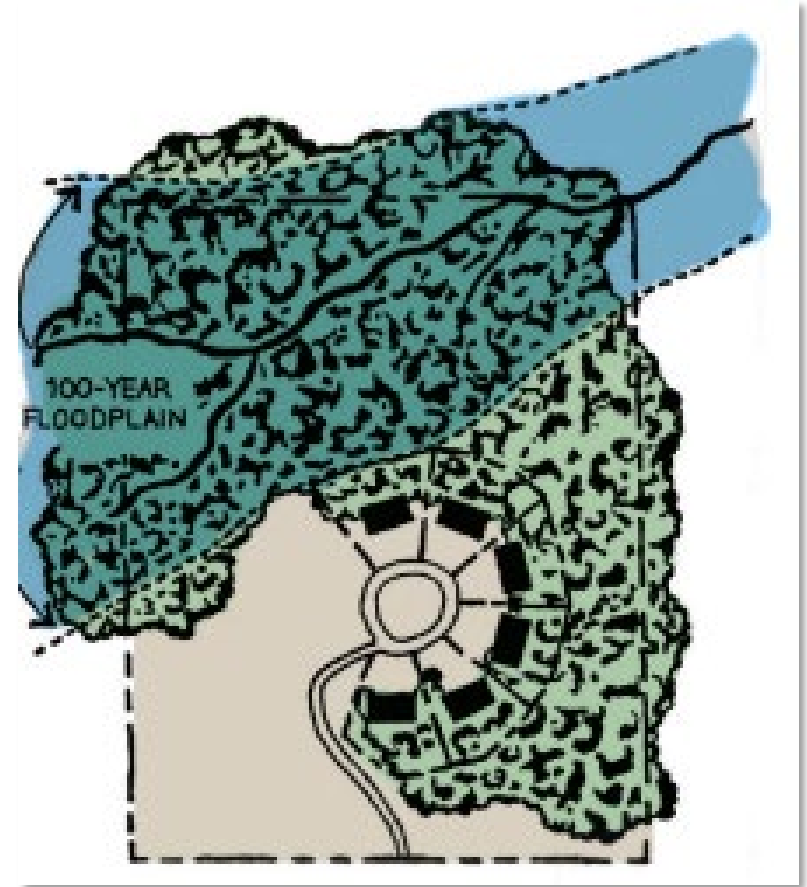


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Model Ordinance

Implementation

- Developed based on the current Oregon Model Ordinance.
- Includes performance standards to address protection of species and habitat.
- Includes mitigation ratios.

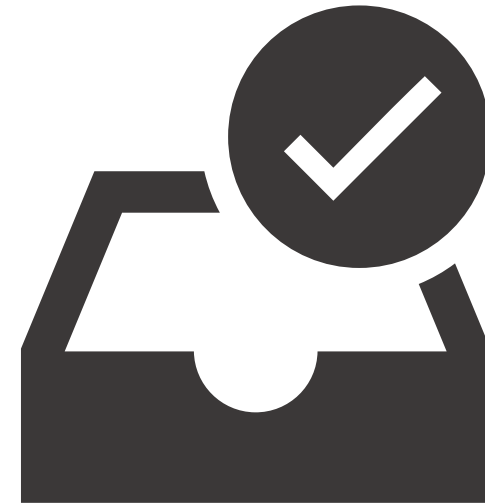


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Permit-by-Permit

Implementation

- Each floodplain development permit must review potential for impacts to species and habitat.
- Habitat Assessment Guidance provides a methodology for conducting the assessment.
- Includes mitigation ratios.



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Roles and actions under PICM



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- **Temporarily suspend processing applications** for Letters of Map Revision based on Fill (LOMR-Fs) and Conditional Letters of Map Revision based on Fill (CLOMR-Fs).
- Send **letter to State Hazard Mitigation Officers** about prioritizing buy-outs
- Provide **Technical Assistance** to communities throughout the process



Community

- **Choose a PICM:**
 - Prohibit all new development
 - Model ordinance
 - Permit-by-permit
- **Meet reporting requirements**

Reporting and Enforcement

Dec. 1, 2024: Communities select and implement a PICM option. *If none selected, default to Permit-by-Permit.*

Jan. 31, 2025: Data collection begins

Required information includes:

- ✓ Amount of fill, compensatory storage, and new impervious surfaces
- ✓ Area of clearing and grading
- ✓ Trees removed greater than six inches diameter
- ✓ Track acres disconnected or reconnected from the floodplain
- ✓ Mitigation provided

July 31, 2025: Communities fully implement PICMs

January 31, 2026: Communities report data using FEMA reporting tool. *If report is not provided it will result in a community visit.*

2027: FEMA achieves full implementation.



Requirements are outlined in RPA Element 5

New Reporting Tool required

Beginning next calendar year

Zoom Poll

Poll question:

- Which of the three PICMs are you most interested in learning more about?

Poll instructions:

- A pop-up window will appear on your screen, please respond to the poll question
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PICMs

Poll | 1 question

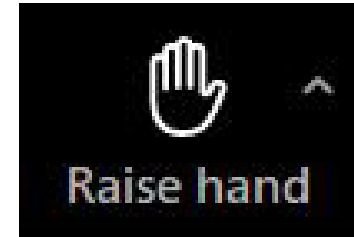
1. Which of the three PICMs are you interested in learning more about?
(Multiple Choice)

- Prohibit all new development
- Model ordinance
- Permit by Permit
- Not sure

Questions?



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Delay in Processing C/LOMR-Fs

John Graves, Floodplain Management and Insurance Branch Chief

Overview

FEMA is suspending applications* for two types of flood map revision requests submitted after Aug. 1, 2024.

**Some applications may be excluded.*



Letter of Map Revision based on Fill (LOMR-F)



Conditional Letter of Map Revision Based on Fill (CLOMR-F)



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Exceptions to the C/LOMR-F delay in processing

- Projects that are undergoing Section 7 consultation via an alternative federal nexus
- LOMR-Fs for already processed CLOMR-Fs
- CLOMRs required for Habitat Restoration projects



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Why is this needed?

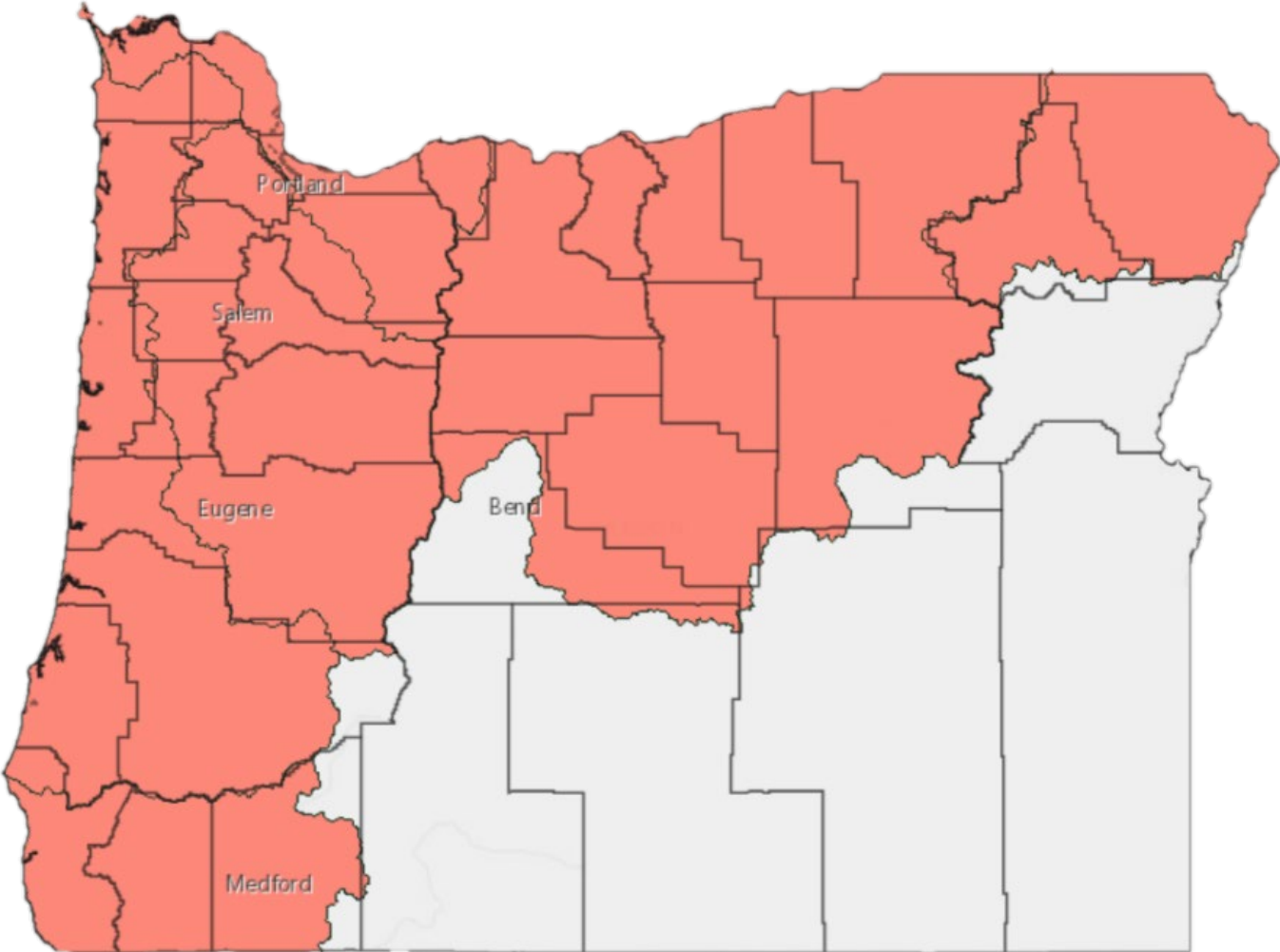
- Avoid potentially negative effects of floodplain development on critical habitat of threatened and endangered species, as detailed in the BiOp
- Identify changes needed to the NFIP before moving forward with new C/LOMR-Fs requests



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Affected Communities

31 counties:
86% of OR



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Questions?



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Available Technical Assistance

John Graves, Floodplain Management and Insurance Branch Chief

Supporting your Community

Summer 2024 (*Complete*): Informational webinars

Summer 2024: Take our questionnaire to help us plan the fall workshops and identify needs for technical assistance

Fall 2024: Attend workshops to review PICMs in-depth and discuss questions and concerns.

Beginning Fall 2024: Get Technical Assistance support from FEMA to implement PICMs.



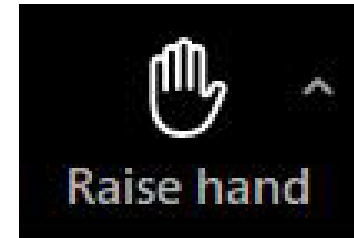
Scan me to access the
PICM Questionnaire

Q&A

Questions?



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Next Steps

Aug. 1, 2024: Suspend applications for C/LOMR-Fs.

July 31 – Sept. 4, 2024: Communities complete questionnaire

Fall 2024: PICM workshops and Technical Assistance begins.

Dec. 1, 2024: Communities select and implement a PICM option.

Beginning Jan. 31, 2025: Data collection begins on implementation of PICMs.

July 31, 2025: Communities fully implement PICMs

Jan. 31, 2026: Communities report data on implementation of PICMs.

Pre-Implementation Compliance Measures Questionnaire

FEMA is providing support to participating National Flood Insurance Program (NFIP) communities to help them comply with coming changes to the NFIP in Oregon. These changes will ensure the NFIP in Oregon complies with the Endangered Species Act (ESA) and protects the habitat of several species of fish and the Southern Resident killer whales. The final NFIP-ESA Implementation Plan will outline these changes.

Oregon communities participating in the NFIP can take short-term measures to comply with ESA requirements, known as Pre-Implementation Compliance Measures (PICMs). FEMA developed these measures in response to concerns from communities about the time and resources needed to meet ESA requirements and ensure their future good standing in the NFIP. By implementing these measures now, communities will be better prepared for compliance audits.

Your answers to this questionnaire will help FEMA understand:

- What floodplain management measures your community is currently implementing to comply with the ESA.
- If your current measures need to be updated, or how your community plans to update them, to comply with the final NFIP-ESA Implementation Plan.
- Which PICMs you are most interested in learning about at our fall workshops.
- What support your community needs to implement the PICMs.

This questionnaire will be open through September 4.

* 1. Name

* First name * Last name

* 2. Title

* 3. Where is your community located?

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