



FEMA

# FEMA's NFIP ESA Consultation in Oregon

**November 2016 Update**



# Overall Objective of ESA Compliance

**Under the ESA, Section 7, all federal agencies are required to consult with NMFS to ensure that any action that is authorized, funded or carried out by that agency does not jeopardize the continued existence of endangered species or result in the destruction or adverse modification of the critical habitat of such species.**



# Terms and Acronyms



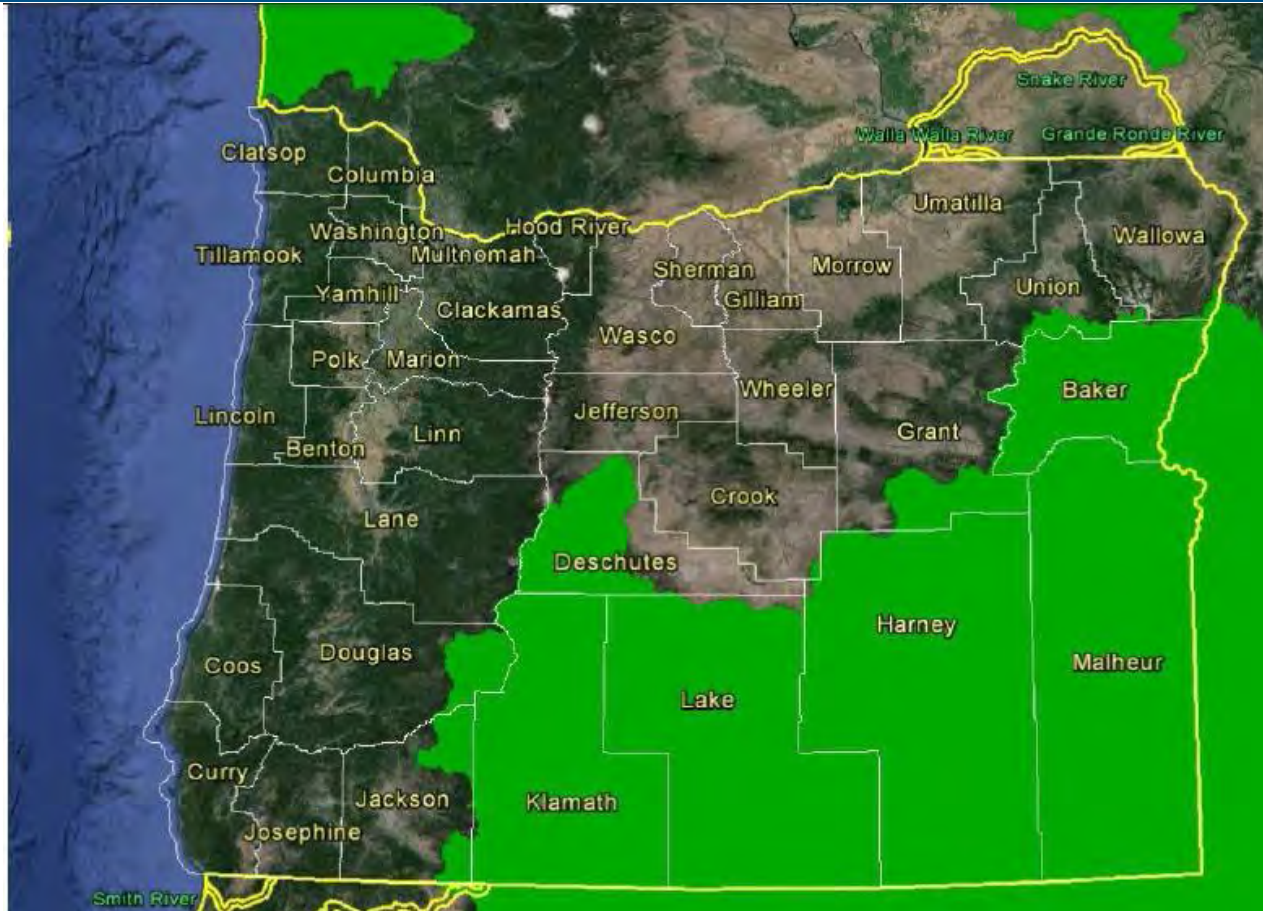
- **NMFS: National Marine Fisheries Service** is a division of NOAA Fisheries, responsible for the stewardship and management of the nation's living marine resources and their habitat
- **NFIP: National Flood insurance Program**
- **BO/BiOp: Biological Opinion** on the NFIP issued by NMFS
- **RPA: Reasonable and Prudent Alternative** are revisions to the NFIP that NMFS believes necessary to achieve ESA (Endangered Species Act) compliance

# NFIP in Oregon- ESA History

- **2009: Lawsuit filed by Audubon Society of Portland et al, for FEMA's failure to consult with NMFS**
- **2010: Settlement agreement reached**
  - **Habitat impacts to be avoided or mitigated as a condition of processing CLOMCS**
- **2011: FEMA requested informal consultation with NMFS**
- **2012: FEMA began formal consultation with NMFS requiring Program Level Biological Assessment (BA)**
- **2013: FEMA BA last amended – NMFS produced draft BiOp with Jeopardy determination and draft RPA**
- **April 14, 2016 Final BiOp with RPA issued to FEMA – Jeopardy with adverse modification to critical habitat**



# Affected Communities



Affects 232 of  
271 Oregon  
Communities

All river sub-basins in Oregon that contain ESA listed Salmon, Steelhead & Eulachon fish (excludes shaded green area)

# Oregon RPA Elements

<b><u>RPA Element</u></b>	<b><u>RPA Deadline</u></b>
1. Notify affected communities	June 14, 2016
2. Interim floodplain management criteria	April 14, 2018
3. Changes to mapping procedures, future conditions	March 2018 & Sept 2019
4. Long-term floodplain management criteria*	Jan 1, 2019 (for items that do not need regulation changes)
5. Permit data collection and reporting	March 15, 2018
6. Compliance and enforcement	Sept 15, 2019
* RPA components that require federal regulatory revisions	January 1, 2021

# FEMA's View



- **FEMA will work toward implementation of the RPA requirements within our legal authority**
- **NFIP enforcement will remain unchanged**
  - RPA standards as conveyed through FEMA RX guidance will become part of the minimum NFIP standards

# Path Forward (Year 1: Planning)

## Strategic and programmatic partnership with Oregon DLCDC

- **DLCDC received funding through our CAP-SSSE Grant for FY16 for technical assistance and to serve an advisory role to FEMA**
- **Conducted 10 outreach/workshops**
- **Coordinate 4 community engagement and stakeholder work groups with 52 participants**
- **Provide information to local floodplain administrators and biological consultants**
- **Provide clarification and develop guidance materials, tools, etc.**





# Workgroup Topics/Focus Areas

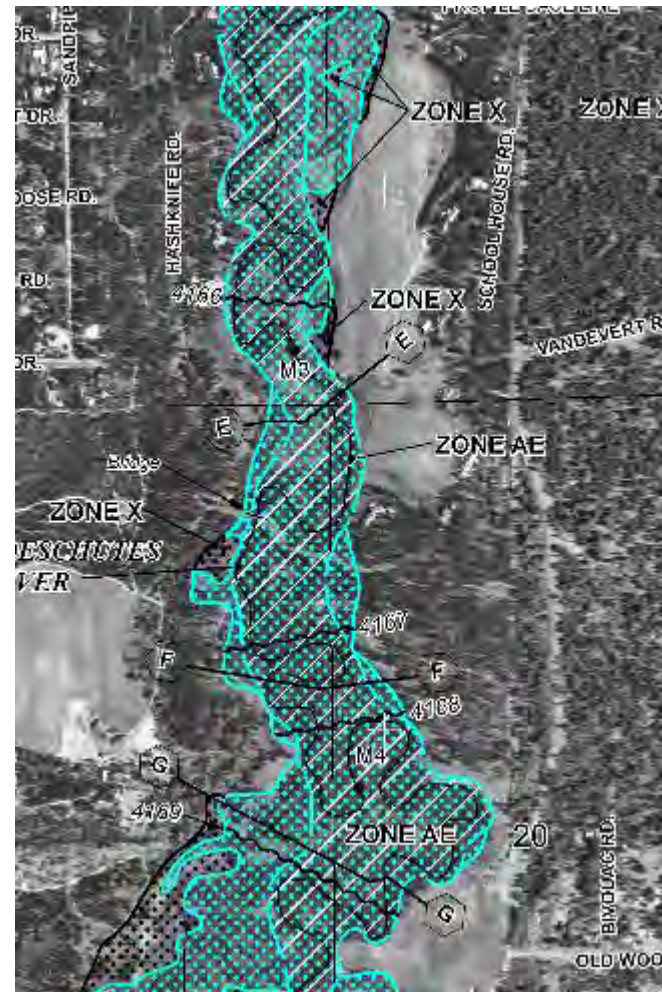
**Workgroups will provide comments to inform guidance materials and tools.**

**All workgroups are currently agreeing to a work plan, tasks, and priorities.**

## **Focus Areas Include:**

- **Process/Permitting**
- **Habitat Assessment and Mitigation**
- **Regulatory Issues**
- **Mapping**

# Path Forward (Year 2: Implementation)



- **FEMA will create an implementation plan based on tribal, state, local government, and other stakeholder input**
- **Create model ordinance, guidance documents, and other tools**
- **Offer technical assistance**
- **Communities adopt new ordinances**

# Expectations

**Local governments, tribes, and other stakeholders can expect:**

- **A seat at the table and opportunity to provide input within the process**
- **By approximately April 2018, the NFIP in Oregon will look different than it does today**

# Examples of Region X WA Guidance



National Flood Insurance Program  
Community Rating System

## CRS Credit for Habitat Protection

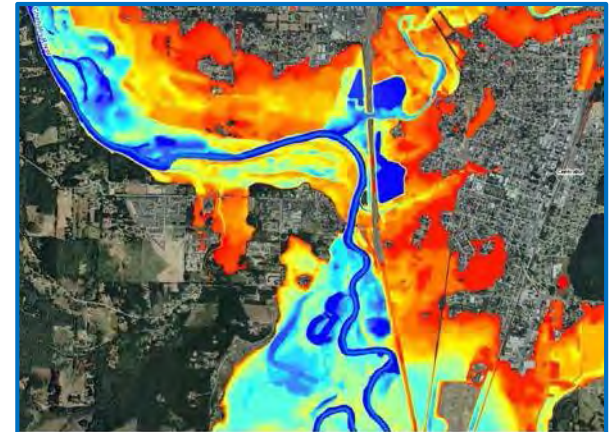
2010



## Floodplain Habitat Assessment and Mitigation

Regional Guidance for the Puget Sound Basin

2013



## Regional Guidance for Hydrologic and Hydraulic Studies

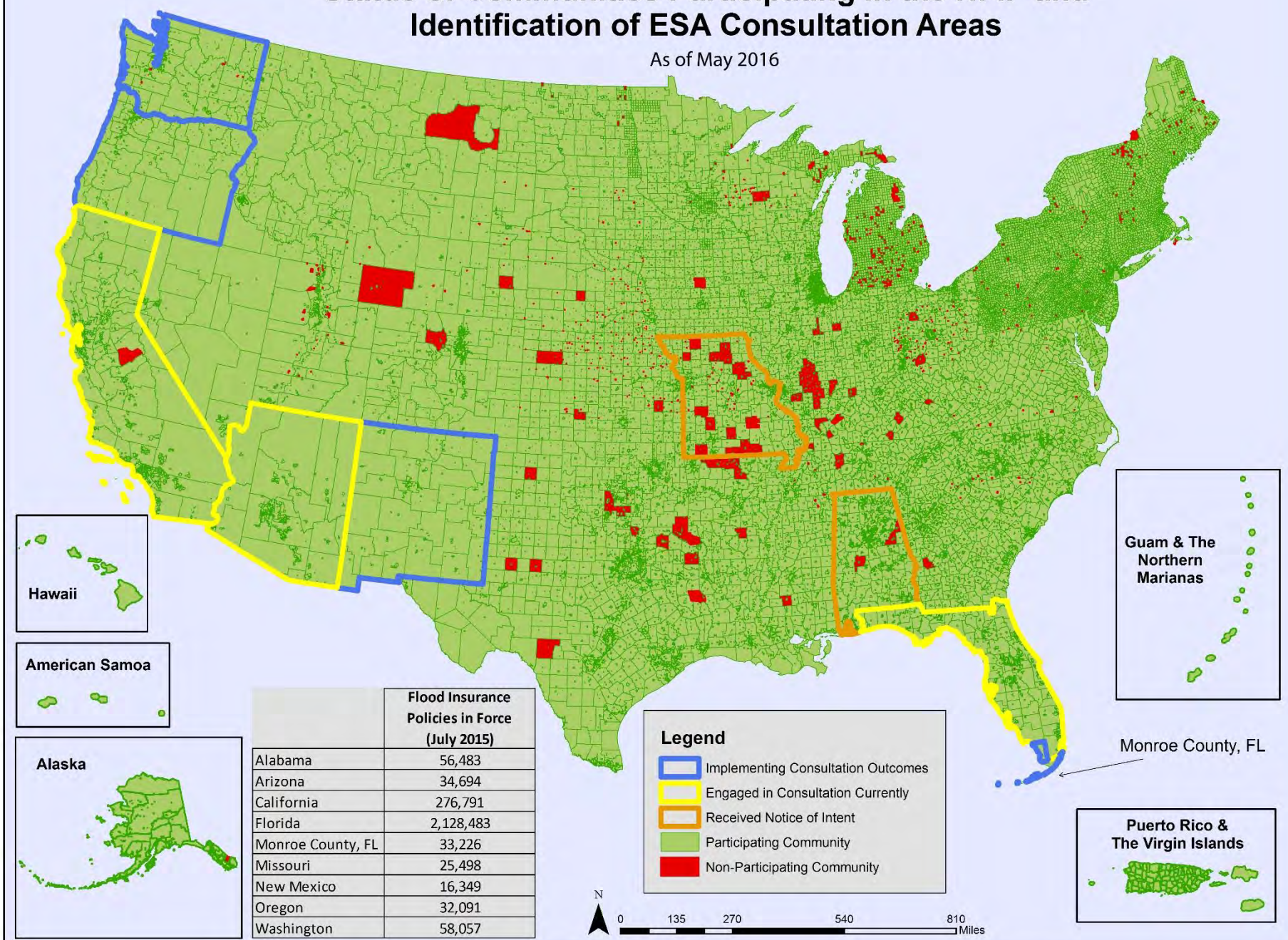
In support of the Model Ordinance for  
Floodplain Management and the Endangered Species Act

2010



# Status of Communities Participating in the NFIP and Identification of ESA Consultation Areas

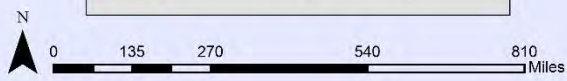
As of May 2016



	Flood Insurance Policies in Force (July 2015)
Alabama	56,483
Arizona	34,694
California	276,791
Florida	2,128,483
Monroe County, FL	33,226
Missouri	25,498
New Mexico	16,349
Oregon	32,091
Washington	58,057

**Legend**

- Implementing Consultation Outcomes
- Engaged in Consultation Currently
- Received Notice of Intent
- Participating Community
- Non-Participating Community



Guam & The Northern Marianas

Monroe County, FL

Puerto Rico & The Virgin Islands

# Questions

## Resources

- FEMA ESA comment email address:  
[FEMA-R10-ESAccomments@fema.dhs.gov](mailto:FEMA-R10-ESAccomments@fema.dhs.gov)
- DLCD website:  
[http://www.oregon.gov/LCD/Pages/NFIP\\_BiOp.aspx](http://www.oregon.gov/LCD/Pages/NFIP_BiOp.aspx)

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