

Overview of Compliance Options



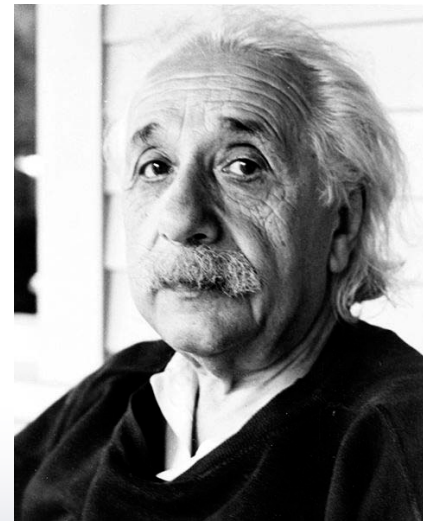
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“Insanity: doing the same thing over and over again and expecting different results”

Albert Einstein



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Reasonable and Prudent Alternative

Summary of Elements

1. **Notify Puget Sound communities of determination**
2. **Change mapping procedures to reduce impacts**
3. **Require communities to consider impacts on fish habitat when issuing floodplain development permits**
4. **Changes to CRS program**
5. **Addressing levee vegetation maintenance effects**
6. **Mitigation to adversely affected habitat**
7. **Report to NMFS on progress towards meeting requirements**



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FPM Performance Criteria: Element 3

- ▶ 44 CFR 60.3 (a) (2) A community shall:
 - Assure all necessary permits have been received from State and Federal agencies from which approval is required by Fed/State law.
 - Requires a showing of compliance, particularly with CWA 404 permits, but includes ESA Section 10 permits.

**Floodplain
Development Permit**

No. 1546

Has been issued to Mickey Mouse

For construction of a House

At 1234 Mockingbird Lane, Marysville, WA

Lot 4 Block B Subdivision River Run

Flood County, USA

Donald Duck
Issuing Officer

This notice shall be posted in a conspicuous location at the front of the above described property at the time of commencement of work.

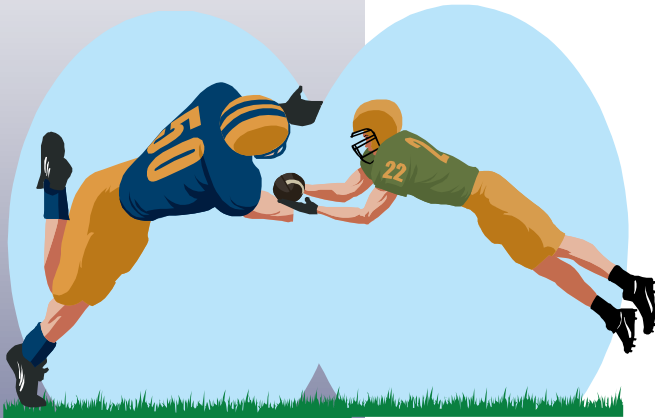


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FPM Performance Criteria: Element 3

► **Compliance with the ESA and the NFIP**

- **In the CFR since 1968 1982**
- **No change to the rule**
- **Step up enforcement of the rule**
- **Changing the culture of floodplain management**

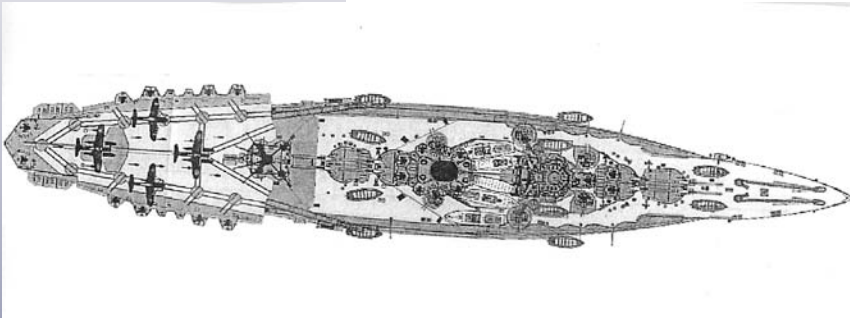


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Changing the Culture of Floodplain Management



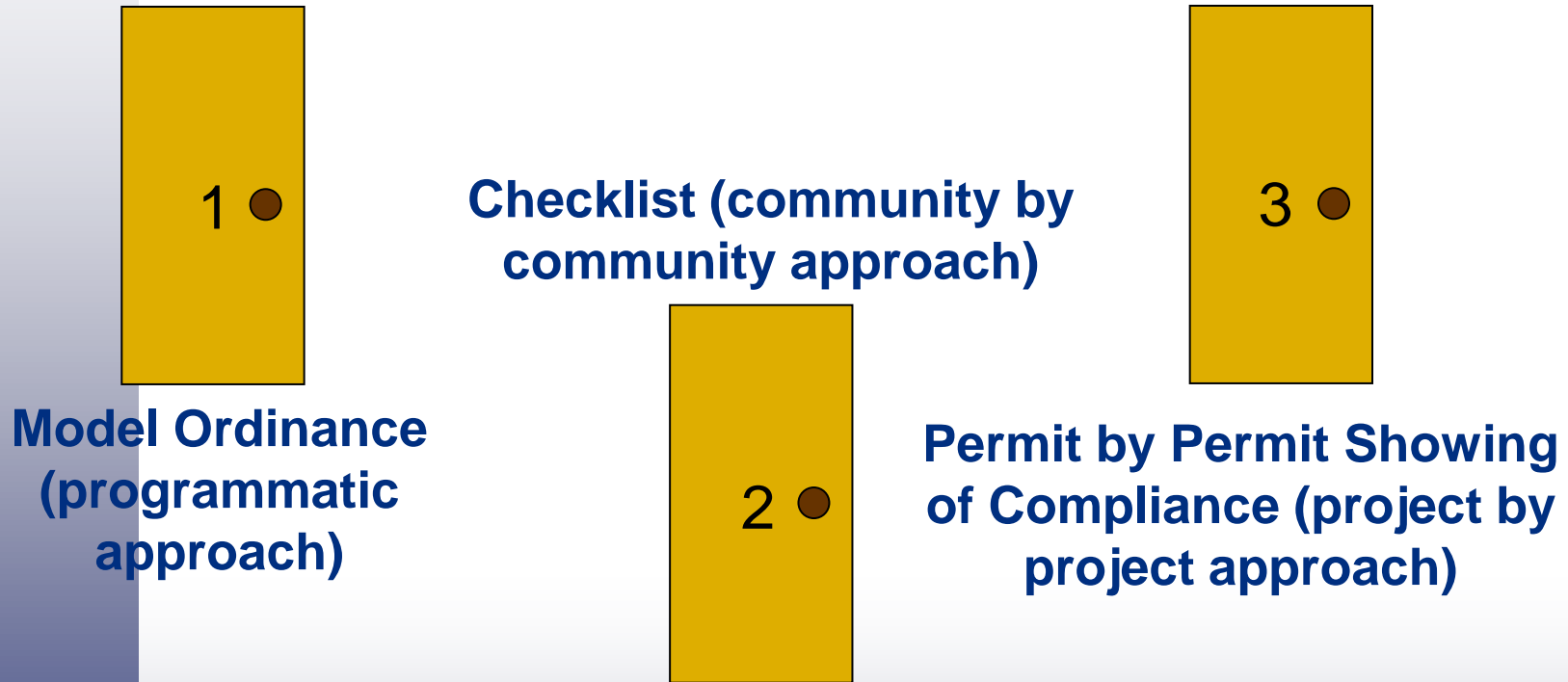
- ▶ **Communities are making changes**
 - **3 years ago vs. now**
 - **Communities are already changing**
- ▶ **FEMA is changing the way we do business**
 - **Pursuing National ESA implementation into NFIP**
 - **National NFIP Reform**
 - **Risk MAP**



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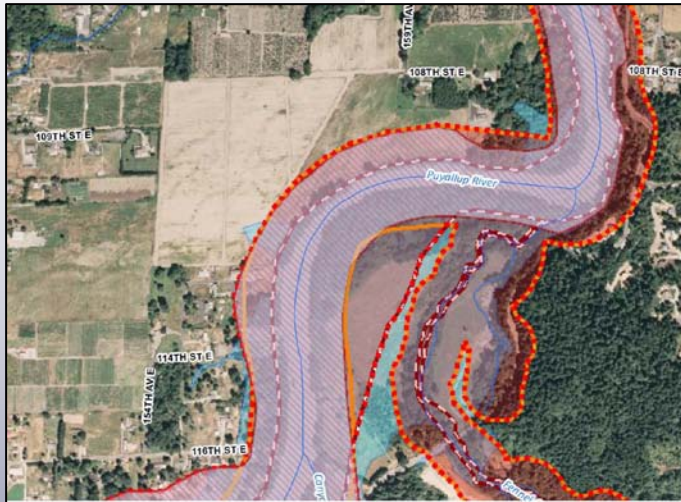
Compliance Options

Three Doors Approach



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Model Ordinance



Floodplain Management and the Endangered Species Act A Model Ordinance

2010



- Programmatic approach
- Combines Floodplain requirements (Structural based) with Habitat requirements (species based)
- Written ESA inclusive, not salmon specific
- More than minimally necessary (avoid adverse effect vs. eliminate Jeopardy/Adverse Mod.)
- Technical Assistance
- Not required, but highly encouraged



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Ordinance Review Process



- **FEMA reviews the submittal against the model ordinance**
- **FEMA will provide a comment letter to community**
- **When approved FEMA will send a letter to the community**
- **Technical Assistance meetings available**
- **Future changes need to be reviewed again**

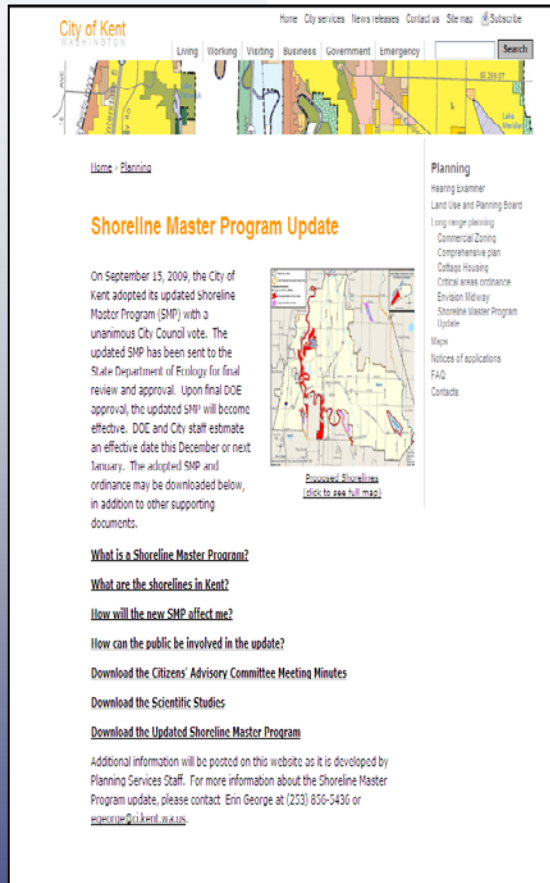


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Community Checklist



The screenshot shows the City of Kent website with a navigation menu at the top (Home, City services, News releases, Contact us, Site map, Subscribe) and a search bar. The main content area is titled 'Shoreline Master Program Update' and includes a map of Kent with red lines indicating the proposed shoreline. The text on the page states that on September 15, 2009, the City of Kent adopted its updated Shoreline Master Program (SMP) with a unanimous City Council vote. The updated SMP has been sent to the State Department of Ecology for final review and approval. Upon final DOE approval, the updated SMP will become effective. DOE and City staff estimate an effective date this December or next January. The adopted SMP and ordinance may be downloaded below, in addition to other supporting documents. The page also includes links for 'What is a Shoreline Master Program?', 'What are the shorelines in Kent?', 'How will the new SMP affect me?', 'How can the public be involved in the update?', 'Download the Citizens' Advisory Committee Meeting Minutes', 'Download the Scientific Studies', and 'Download the Updated Shoreline Master Program'. Additional information will be posted on this website as it is developed by Planning Services Staff. For more information about the Shoreline Master Program update, please contact Erin George at (233) 856-5436 or erine@ci.kent.wa.us.

- Programmatic approach
- Utilizes existing local/state regulations adopted at the local level thus providing flexibility
- If item is missing use model ordinance to add language
- Meets the minimum requirements of the Biological Opinion (may be salmon centric)
- Not required, but highly encouraged



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Community Checklist



► Building Blocks

- SMP
- GMA
- Critical Areas Ordinances
- Flood Damage Prevention Ordinances
- Salmon Recovery Plans

► We need to do more

- Enact the recovery plans
- Lower SEPA thresholds
- Higher regulatory standards



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Community Checklist Review Process

<input checked="" type="checkbox"/>	_____
<input checked="" type="checkbox"/>	_____
<input checked="" type="checkbox"/>	_____
<input checked="" type="checkbox"/>	_____
<input checked="" type="checkbox"/>	_____

- **FEMA reviews the submittal against the checklist**
- **FEMA will provide a comment letter to community**
- **When approved FEMA will send a letter to the community**
- **Technical assistance meetings available**
- **Changes need to be reviewed**



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Permit by Permit

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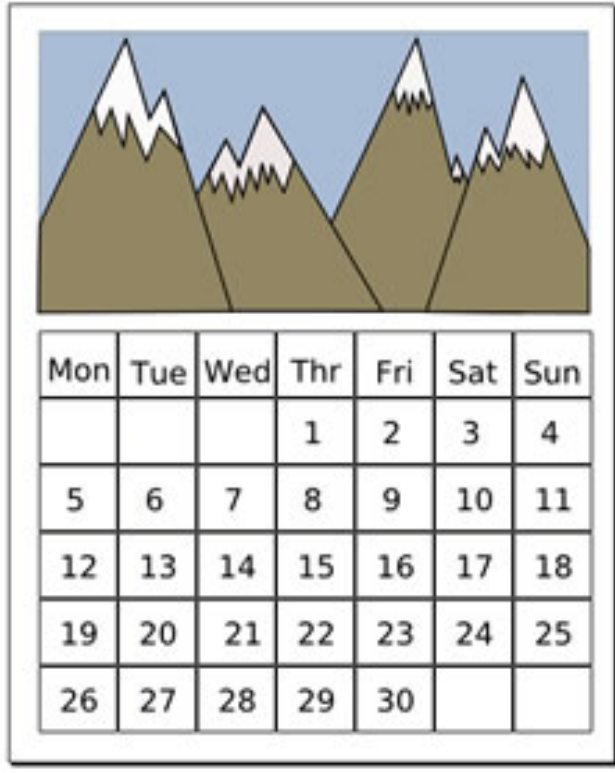
This notice shall be posted in a conspicuous location at the front of the above described property at the time of commencement of work.

- Individual approach
- Requires demonstration of compliance on project level basis
- Habitat Assessment required for each project (requires a look a cumulative effects)
- Utilize ESA Sections:
 - Section 7 consultation
 - Section 4d approval
 - Section 10 Permit
- Default option



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Choosing Your Door



▶ Door #1 Model Ordinance

- Provide a copy of the ordinance and proof of adoption
- Similar to Flood Damage Prevention ordinance process currently in place

▶ Door #2 Checklist

- Provide a copy of the checklist with cross references and copies of appropriate local ordinances or written procedures
- Detailed explanation on why community thinks that the cited regulation meets the performance standard

▶ Door #3 Permit by Permit

- Provide a letter stating that your intention is to not permit any projects in the SFHA unless project demonstrates compliance with ESA
- Explain how this is set in code, policy, or procedure



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Enforcement



- ▶ **Community Assistance Visits (CAV)/Community Assistance Contacts (CAC)**
- ▶ **Failure to Enforce**

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Habitat Assessment Workshops



- ▶ **FEMA and NMFS will conduct 4 workshops this spring**
 - **North Sound**
Burlington- April 21
 - **Mid-Sound**
Snohomish County
 - **South Sound**
Lacey/Tacoma
 - **Olympic Peninsula**
Bremerton- April 22

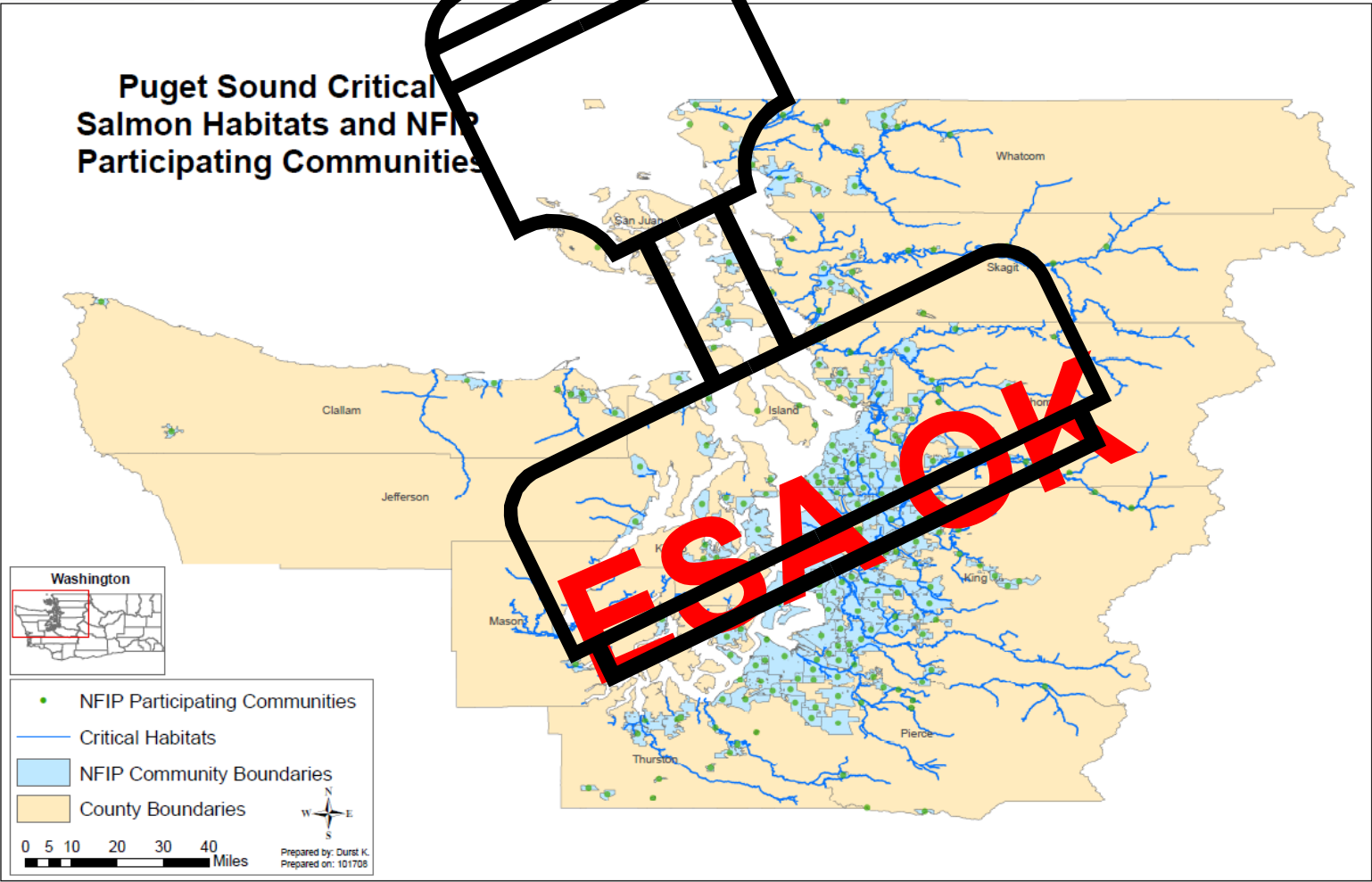


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Puget Sound Critical Salmon Habitats and NFIP Participating Communities



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Contact Information

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More Information

<http://www.fema.gov/about/regions/regionx/nfipesa.shtm>

or

www.fema.gov and search for ESA



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