



*2021 Coastal Habitat Protection Plan:
Priority Habitat Issue Paper – Environmental Rule Compliance and Enforcement to
Protect Coastal Habitats*

DEPARTMENT OF ENVIRONMENTAL QUALITY

Anne Deaton | CHPP Steering Committee | July 30, 2020



Compliance and Enforcement

The Issue

- In past 10 years, 376 DEQ positions cut (34% cut)
- Staff shortages → limited compliance inspections → more non-compliance
- Non-compliance → more wetland loss and water quality degradation
- Six compliance positions funded in 2006 for DWQ, DCM, Forest Service based on CHPP recommendations have been cut.

“NC in Top 4 to environmental budget cuts” *Washington Daily News Dec 31, 2019*

“If residents care about clean water and clean air, then they must speak up and seek greater investment in the protection of our natural resources and public health,”

H. Deck, Sound Rivers

“North Carolina’s environmental protection agency has lost 1/3 of its funding over ten years. How has it impacted our area?” *Port City Daily January 2020*

“The issue of actual enforcement and regulatory authority should be a priority,”

NC Rep. Deb Butler

Compliance and Enforcement

Ecosystem Services of Wetlands

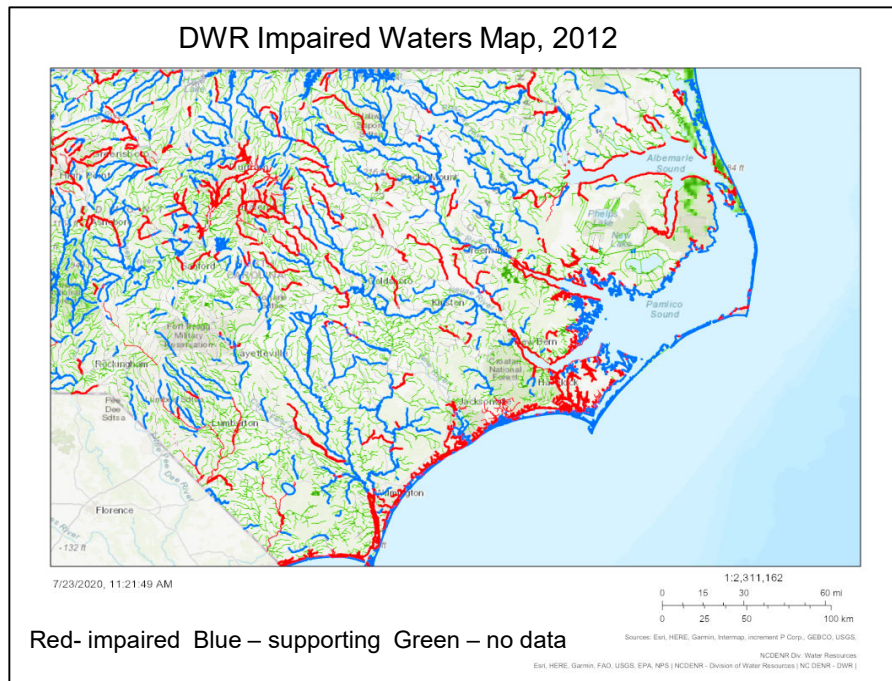
- Flood protection by storing of surface and subsurface waters.
- Water quality improvement by filtering nutrients, sediment, pollutants from runoff
- Habitat for diversity of fish and other aquatic life
- Supports recreational and commercial fisheries and forestry
- Removes carbon dioxide



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Degradation of Wetlands and Surface Waters

- Land clearing, increased impervious surfaces, wetland loss, and water quality impairment are connected
- Many coastal waters are rated impaired and listed on the Section 303 (d) of the Clean Water Act (DWR 2018)



Wetlands
provide free
water quality
treatment



Compliance and Enforcement

Authorized Impacts

- Authorized wetland impacts in coastal river basins under Section 401 WQ certifications:
 - 2014-2019: ~1,499 acres wetlands
 - 1999-2019: ~ 8,125 acres of wetlands and 1.3 million linear feet of stream impacts



Compliance and Enforcement

Compliance and Enforcement Studies

1995 study (Burby 1995)

- Less than 50% of NC Sediment and Erosion Control Program site inspections were compliant with the plan

2007-2011 DWR study (Dorney et al. 2015)

- EPA funding for three full time compliance positions
- Before pilot project, less than 1% of authorized sites/year inspected
- Rate of compliance ↑ as annual site inspections ↑



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Compliance Inspections, 2014 - 2019

Agency	Program Type	Initial Site Inspections (#)	Compliance (%)	Compliance (%) 2011
DWR	401 WQC, buffers, wetland and stream standards - DOT	2,230	88.7	
DWR	401 WQC, buffers, wetland and stream standards – non DOT; routine inspection	794	68.2	82.0
DWR	401 WQC, buffers, wetland and stream standards – non DOT; complaint	493	22.5	68.2
DCM	GP and Major permits	4,688	99.8	
DEMLR	NPDES State and Phase 2 Stormwater	4,910	72.0	
DEMLR	Erosion and Sedimentation Control	8,188	38.0	
Forest Service	Forest Practice Guidelines Related to Water Quality	11,545	98.5	

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Compliance Inspections Deter Violations

- For every one acre of authorized wetland impact there were 1.54 acres of unauthorized wetland impacts (2014-2019)
- Applicants are deterred from violating environmental regulations:
 - **if the risk of penalties is real**
 - compliance is cheaper than the expected penalties
 - maintaining good reputation matters
- \uparrow compliance = \downarrow wetland loss with no new regulation

1 : 1.54



Compliance and Enforcement

Recommended Actions

1. By 2022, through legislative appropriations or budget reallocations, DEQ should increase staffing in DWR and DEMLR by a minimum of two staff (one per office per agency) in the Washington and Wilmington regional offices.
2. By 2023, DEQ should seek alternative funding through grants or other sources to supplement state-appropriated compliance efforts. Although sustaining a long-term program with grant funding is difficult, it could fill a funding gap until reoccurring funds are secured.



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Recommended Actions

3. By 2022, DWR and DEMLR should work with the DEACS to establish a public portal on DEQ's website. This site could house information on compliance issues, allow the public to submit complaints, and potentially highlight a list of repeat violators.
4. By 2023, DWR, DEMLR, and DCM should develop and hold outreach workshops for NGOs, HOAs, and other interested public on rules related to land disturbing activities that affect wetlands and water quality, and how to identify violations to improve effectiveness of public complaints.



Compliance and Enforcement



Questions?





PUBLIC COMMENT



CHPP Steering Committee Meeting



BREAK

Return in 15 minutes

