

Regulating (or not) NPS in North Carolina

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NC's Authority to Regulate NPS *(example)*

- **Environmental Management Commission**
 - “may adopt rules setting out strategies necessary for assuring that water quality standards are met by any point or nonpoint source or by any category of point or nonpoint sources that is determined by the Commission to be contributing to the water quality impairment.” *(NC Gen. Stat. §143B-282(d))*
- When has the Commission exercised this authority?
 - ✓ NSW (Nutrient Sensitive Waters) classification
 - ✓ ORW
 - ✓ HQW
 - ✓ Endangered species
 - ✓ Water supply

Example: Nutrient Sensitive Waters (NSW)

- Supplemental classification established in 1979
 - In response to nuisance blooms and fish kills
 - Watershed-specific, but can be whole river basin
 - Mandates development of nutrient management strategy
 - Load reductions from agriculture *required*
 - Extra training for fertilizer applicators *required*
 - Protection & maintenance of existing buffers *required*
 - Extra stormwater management for developed areas *required*
 - Point source reductions *required* too
 - Compliance is monitored; enforceable
- ✓ ***Implements nutrient TMDL***

Sounds Easy...

- TMDL implementation through rule-making is
 - a. Difficult
 - b. Controversial
 - c. Visible
 - d. Time-consuming
 - *Can take up to 10 years from monitoring to adoption*
 - *Plus additional time for compliance*
- ✓ ***All of the above***

NPS Implementation Without Regulation

- **Example: SE White Oak River shellfish area TMDL**
 - NC Coastal Federation (nonprofit) took lead
 - ✓ **Assembled and engaged partners**
 - State shellfish program staff
 - Town governments
 - Area residents
 - NCDOT
 - Contractor (for modeling)
 - ✓ **Secured 319 funding for monitoring, model development**
 - ✓ **Produced TMDL-ready modeling**
 - ✓ **Held public meetings, issued press releases, ran legal notices**
 - ✓ **After TMDL approved, secured 319 implementation funding**

Sounds Easy...

- Voluntary NPS TMDL & implementation can be
 - a. Easier
 - b. Collaborative
 - c. Visible
 - d. Not as time-consuming
 - *Can take up to 3-4 years from monitoring to approval*
 - *Plus additional time for implementation*
- ✓ *All of the above*

Observations

- In NC, NPS components of TMDLs with no watershed-specific rules, and no local “champion” ...
 - Typically don’t get implemented
 - *(But EPA counts the beans!)*
- NC prefers non-TMDL collaborative approaches to controlling NPS to attain standards
 - More resources (staff, \$\$) committed
 - “Pace Credit Alternative” pilot
 - More compatible with SP-10, 11, 12, 13 than TMDL program
- NC can adopt rules in absence of TMDL
 - *(But we need the beans!)*

Conclusions

- NC has authority to require NPS controls
 - But uses it sparingly
 - Requires new site-specific regulations
 - Considerations include
 - Fish kills
 - Water supplies
 - Endangered species
 - *(Not TMDLs)*
- Threat of TMDL can be useful for intimidation

“If you don’t start doing something to correct that impairment, we’ll develop a TMDL, and then you’ll be sorry!”

