

How do I know if I have jurisdictional areas?

- **Step 1: Delineate**
 - PWS or Environmental Scientist
- **Step 2: GPS Locate or Survey**
 - Sub-meter accuracy
- **Step 3: Submit Plat Map to ACOE**
 - Signed by a Professional Land Surveyor (PLS)



How do I know if I have jurisdictional areas?

■ Step 4: Verify

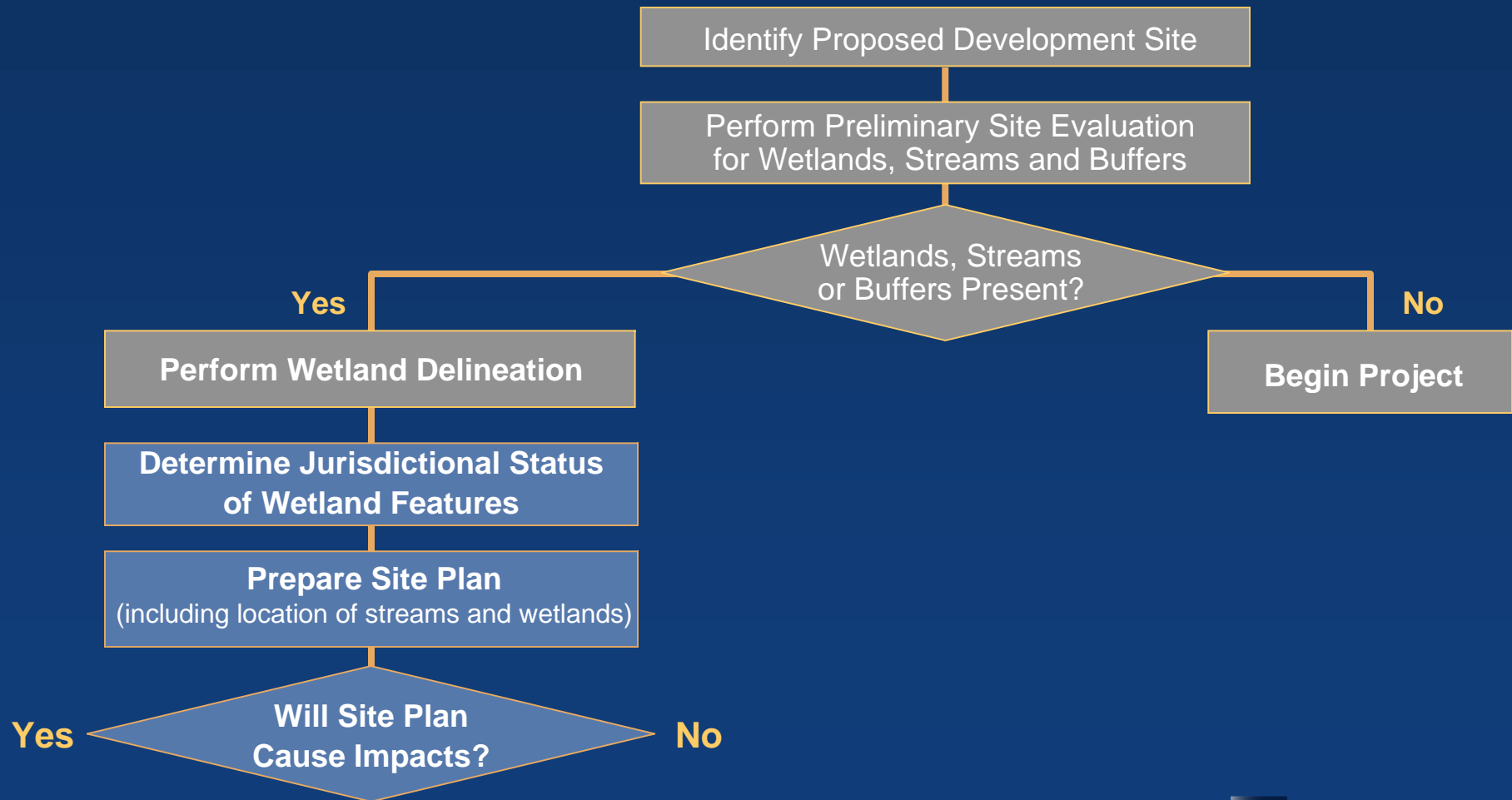
- ACOE wetlands & streams
- NC DWQ “buffer calls”

■ Step 5: Receive Jurisdictional Determination (JD)

- Valid for 5 years
- Current delay due to significant backlog.



Wetland-Stream Permitting Decision Flow Chart



When Do I Need a Permit?

- **Before you impact any jurisdictional “Waters of the U.S.,” including:**
 - **Rivers & Streams**
 - **Lakes & Ponds**
 - **Wetlands**
 - Marshes
 - Swamps
 - Wet Meadows
 - Floodplains



When Do I Need a Permit? (*cont'd*)

- **Before you impact any NC jurisdictional areas, including:**
 - Isolated wetlands
 - Buffered area around perennial streams
 - Buffered area around intermittent streams



What is an Impact?

- **ACOE Definition:**

“Any disturbance to the soil or substrate (bottom material) of a wetland or waterbody, including a stream bed, is an impact and may adversely affect the hydrology of an area.”

- **A permit is required for permanent or temporary work**

- **Examples of temporary discharges:**

- temporary fills for access roadways, cofferdams, storage and work areas.

What Does “Buffered” Mean?

■ NCDWQ Definition:

“A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.”



What Does “Buffered” Mean? (*cont’d*)

- **North Carolina has established 50-foot buffer zones on:**
 - Neuse River Basin
 - Tar-Pamlico River Basin
 - **Catawba River Basin**
 - Main Stem and Main Stem Lakes Only
 - **Water Supply Watersheds**
 - Randleman Lake
 - Upper Cape Fear (*up for public review*)
- **Local Municipalities may have additional buffer regulations**
- **Consult a Professional**



What Does “Buffered” Mean? (cont’d)

Example: Neuse River Buffer Zones

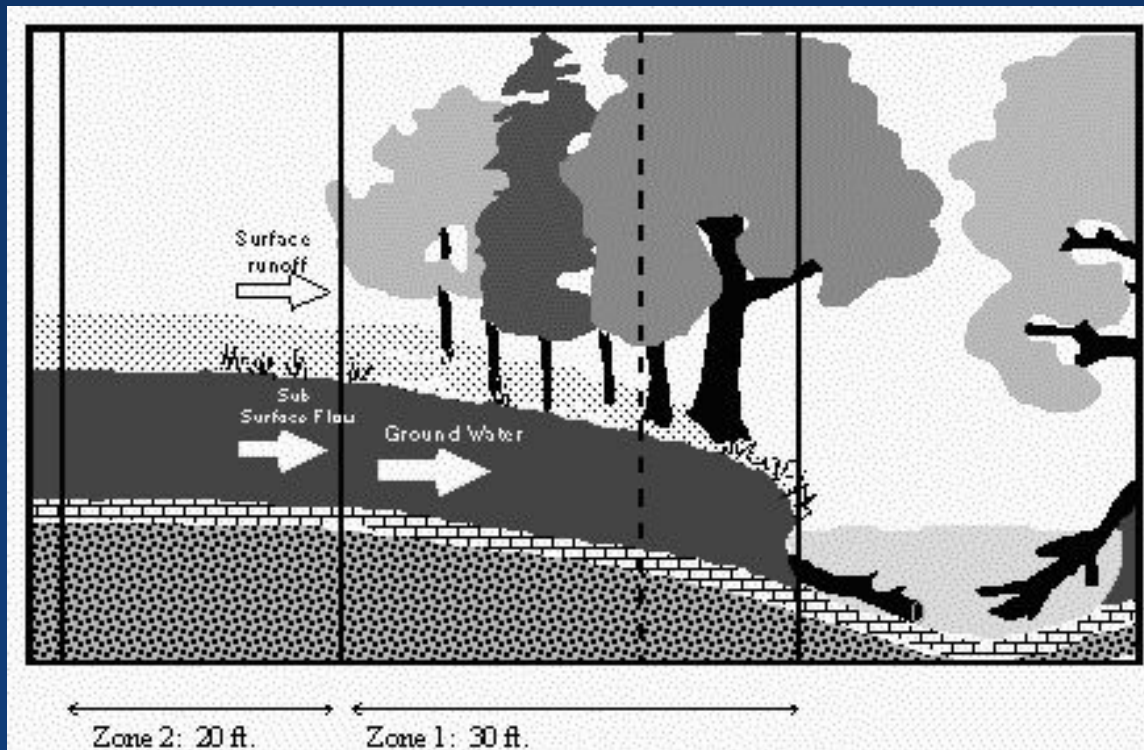


Image Credit: NCDWQ

- Buffered features are only those that appear on the most recent versions of a USGS Topographic Map or NRCS Soil Survey
- If the feature is on one or both of the maps, but an on-site determination shows that surface waters are not present, then buffer rules do not apply

Do I need a Buffer Permit?



- Apply for a buffer authorization (permit) on the Pre-construction Notification (PCN)
- If the proposed activity is prohibited for that River basin:
 - Complete a Major Variance form for impacts in Zone 1
 - Complete a Minor Variance form for impacts in Zone 2
- Some activities do not require notification
 - For example: A road crossing in the Neuse Basin that is less than 40 (linear) feet does not require a permit

Wetland-Stream Permitting Decision Flow Chart



Can I impact NC wetlands and/or streams without filing for permits?

- Yes, you may only impact isolated wetlands* (waters which have no visible surface water connection to downstream jurisdictional waters) if you meet the following minimum thresholds:

Isolated Streams	≤150 linear feet
Isolated Lakes and Ponds	≤1/3 acre
Isolated Wetlands	≤1/3 acre east of I-95 ≤1/10 acre west of I-95

- “Courtesy copy” of PCN suggested if size/quality of feature is in question.
- **CANNOT** impact any other waters without a permit.

*per State General Permit #IWGP100000

Isolated Wetland Permit Requirements

- **PCN is required for projects impacting:**

Isolated Streams	>150 linear feet
Isolated Lakes and Ponds	>1/3 acre
Isolated Wetlands	≥1/3 acre east of I-95 ≥1/10 acre west of I-95



- **State issued IPs are required for projects impacting:**

Isolated Streams	>250 linear feet
Isolated Lakes and Ponds & Isolated Wetlands	>1 acre

Wetlands and/or Streams will be Impacted... What type of permits do I need?

■ 404/401 Permits

- 401 Water Quality Certification
- Nationwide Permit
- Individual Permit
- Regional General Permit



Section 404/401 of the Clean Water Act

■ Section 404 of Federal Clean Water Act

- EPA delegated regulatory authority to ACOE
- If wetlands are not considered wetlands by ACOE, EPA approval is required
- Dredge and Fill Permit; issued by ACOE

■ Section 401 of Federal Clean Water Act

- Water Quality Certification (WQC); issued by NC DWQ

■ Section 404 and 401 go hand-in hand

- NC DWQ must issue 401 WQC before ACOE can grant 404 permit
- Program administered by ACOE

401 Water Quality Certification

- Application for 401 WQC is a Pre-construction Notification (PCN)
- Once a PCN and associated fees are received by the State, a 60-day review period takes place
 - \$200 fee for less than 1 acre of wetland impact or 150 linear feet of stream
 - \$475 fee for impacts greater than 1 acre of wetland impact or 150 linear feet of stream
 - Express Permits = Additional Fees

Requirements for Permit Submission

All permits must include plans to:

- **Step 1: Avoid Impacts**
 - Design site to avoid activities in wetlands and streams



Requirements for Permit Submission *(cont'd)*

All permits must include plans to:

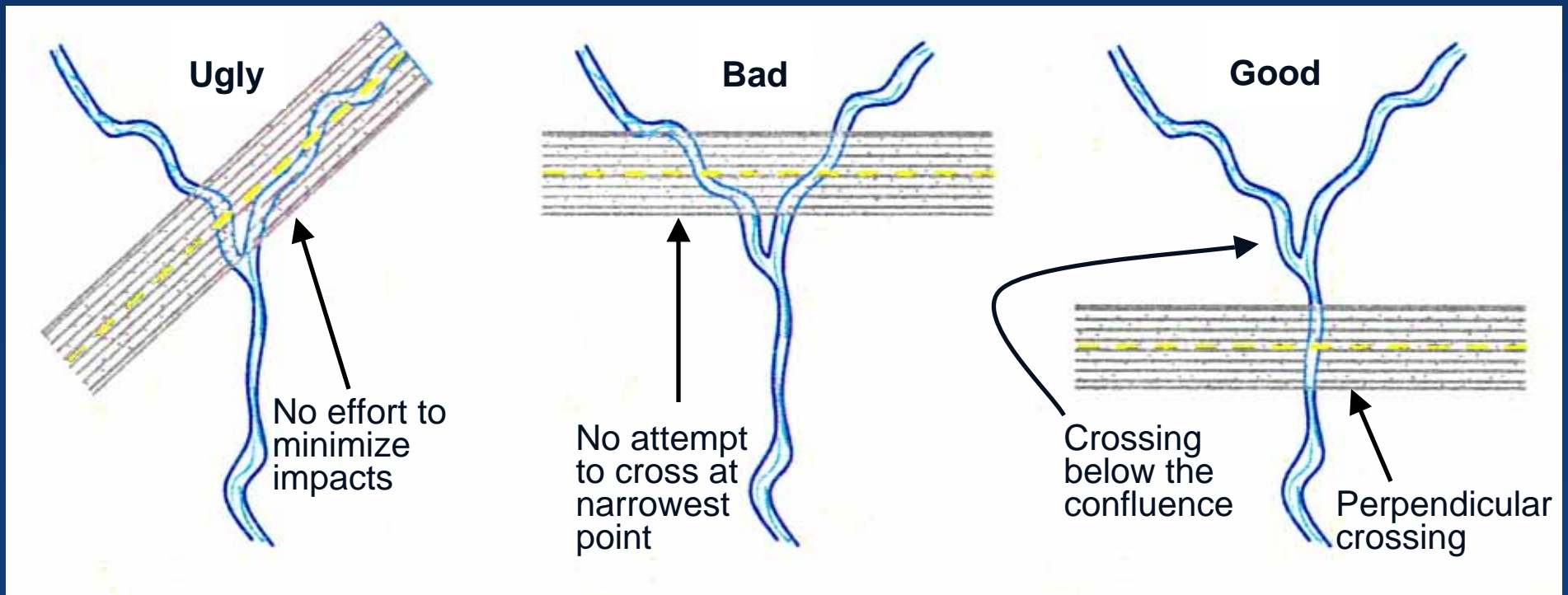
■ **Step 2: Minimize (unavoidable) Impacts**

- Cross at narrowest points
- Cross at right angles
- Use retaining walls
- Bore underneath
- Cross bank-to-bank
- No channel disturbance



Requirements for Permit Submission *(cont'd)*

■ Step 2: Minimize (unavoidable) Impacts



Requirements for Permit Submission *(cont'd)*

All permits must include plans to:

- **Step 3: Mitigate for Unavoidable Impacts**
 - Self-mitigation on or off site
 - State-managed mitigation
 - Mitigation Bank



What is Mitigation?

- The practice of allowing unavoidable losses of wetlands (and streams) in exchange for their replacement elsewhere through restoration or through creation of new wetlands
 - Applicant mitigation
 - Restore
 - Create (wetlands only)
 - Enhance
 - Preserve
 - State managed mitigation
 - NC Ecosystem Enhancement Program (EEP)

