

State of North Carolina

ROY COOPER
GOVERNOR

February 12, 2024

EXECUTIVE ORDER NO. 305

AN ORDER TO PROTECT AND RESTORE NORTH CAROLINA'S CRITICAL NATURAL AND WORKING LANDS

WHEREAS, N.C. Const. Art. XIV, § 5 establishes that it is the policy of this State to conserve and protect its lands and waters for the benefit of all its people, that it is a proper function of the state to control and limit the pollution of our air and water and to preserve in every other appropriate way as a part of the common heritage its forests, wetlands, estuaries, beaches, historical sites, open lands, and places of beauty; and

WHEREAS, pursuant to N.C. Gen. Stat. § 113A-3 it is the "...policy of the State to seek, for all of its citizens, safe, healthful, productive and aesthetically pleasing surroundings; to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety; and to preserve the important historic and cultural elements of our common inheritance" and

WHEREAS, the State acknowledges the intrinsic value of its natural lands in providing unparalleled opportunities for outdoor recreational activities, such as hunting, fishing, hiking, camping, and other nature-based pursuits, which foster a deep appreciation for the State's diverse ecosystems and abundant wildlife and supports billions of dollars of economic activity; and

WHEREAS, on May 25, 2023, the Supreme Court of the United States issued a decision in *Sackett v. EPA*, 143 S. Ct. 1322, 598 U.S. 651, that dramatically reduced federal protections for isolated wetlands, which will have permanent and significant consequences for the environment and people of the state; and

WHEREAS, on June 27, 2023, the General Assembly overrode Governor Roy Cooper's veto to enact the North Carolina Farm Act of 2023, which rolled back state protections for wetlands without first studying the environmental consequences of such an act for the people, environment, economy, and flood resiliency of the State of North Carolina; and

WHEREAS, the State recognizes the paramount importance of wetlands in providing flood control, water pollution filtration, aquifer regeneration, outdoor recreation, critical habitat; biodiversity; and reduction of wildfire risk to communities; and

WHEREAS, North Carolina is experiencing the impacts of climate change including more frequent and intense hurricanes, flooding, extreme temperatures, droughts, sea level rise, and saltwater intrusion, all of which are already imperiling the people and economy of North Carolina, and causing more than 250 billion dollars in damages in recent years; and

WHEREAS, the State is investing tens of millions of dollars in flood resiliency activities including the development of the statewide Flood Resiliency Blueprint; and

WHEREAS, North Carolina has more pocosins than anywhere else in the world; these unique high-carbon peatland wetland habitats cover a substantial portion of the state, and offer extensive benefits through carbon storage and sequestration; enhance water quality through storage and filtration; contribute to biodiversity and ecological resilience; and mitigate flood and fire risk that cause substantial economic costs; and

WHEREAS, pocosins and other peatlands, pine savannas, Carolina Bay ecosystems, and mountain bogs in the state are integral to North Carolina's natural and cultural heritage, biodiversity, and climate resilience properties, and are most at risk following *Sackett v. EPA* and the passage of the North Carolina Farm Act of 2023; and

WHEREAS, coastal wetlands such as marshes are vital to the State's ecosystems and its seafood industry and coastal marshes need open area for movement as sea level rises; and

WHEREAS, according to the 2022 North Carolina Greenhouse Gas Inventory, natural and working lands have high carbon sequestration potential, offsetting more than 34 percent of the State's greenhouse gas emissions; and

WHEREAS, according to the 2020 Natural and Working Lands Action Plan, in 2020 the State had more than 15.3 million acres of forests, including forested wetlands, which stored approximately 5.6 billion metric tons of carbon dioxide each year not held in conservation or protection from development; and

WHEREAS, the State supports the 2015 Paris Agreement's goals, and protecting natural and working lands is critical to achieving the state's commitments to the United States Climate Alliance under Exec. Order No. 80, 33 N.C. Reg. 1103-1106 (Dec. 3, 2018) and Exec. Order No. 246, 36 N.C. Reg. 1287-1291 (Feb. 1, 2022) to reduce statewide greenhouse gas emissions to 40 percent below 2005 levels; and

WHEREAS, a key recommendation of the 2023 North Carolina Deep Decarbonization Pathways Analysis was to prioritize sustainable management of natural and working lands, including through land conservation and forest restoration, which is critical to achieving net carbon neutrality by mid-century and meeting the state's goals under Executive Order No. 246; and

WHEREAS, natural and working lands are important to the U.S. Department of Defense's mission and its conservation priorities, and restoring and preserving the natural, working, and rural character of key landscapes protects vital testing and training missions conducted on military installations surrounded by such landscapes; and

WHEREAS, urban forests and tree canopies provide public health and community benefits such as cooling shade, improved air quality, green spaces for recreation, and flood reduction and North Carolina is losing, on average, 4510 acres of urban tree canopy cover per year according to the 2020 North Carolina Natural and Working Lands Action Plan; and

WHEREAS, the 2020 North Carolina Natural and Working Lands Action Plan, based on extensive stakeholder engagement and feedback, recommends taking transformative actions, which cut across sectors and require government implementors to change the "business as usual" approach to natural and working lands management; and

WHEREAS, the 2015 North Carolina Wildlife Action Plan provides a conservation blueprint for the State to guide collaborative and complimentary efforts for the benefit of biodiversity and resiliency of NC resources; and

WHEREAS, the Fisheries Reform Act of 1997 called for the development of a Coastal Habitat Protection Plan, and the 2021 Amendment to the plan noted that losses to forested wetlands alter hydrology and impact estuarine health, and called for restoring hydrologically altered peatlands; and

WHEREAS, the State recognizes the utmost significance of conserving its natural lands to safeguard and promote biodiversity, as these diverse ecosystems support a wide array of plant and animal species, including more than 600 species listed as threatened or endangered by the North Carolina Wildlife Resources Commission and North Carolina Plant Conservation Program; and contributes to the state's rich ecological heritage, and enhances the resilience of its natural systems in the face of environmental challenges; and

WHEREAS, the State aims to ensure that decision-making processes on land use, environmental, and conservation policy are informed by the best available scientific and technical knowledge and considerations of environmental justice; and acknowledges the value of engaging stakeholders, local communities, and private landowners in voluntary conservation efforts; and further recognizes the need for a unified state approach to enhancing conservation, restoration, and enhancement of natural and working lands; and

WHEREAS, in 2000 Governor James B. Hunt, in conjunction with the passage of N.C. Sess. Laws 2000-23, launched the Million Acre Initiative to permanently conserve one million acres of farmland, forestland, parkland, game land, wetlands, and open space by the year 2010, mobilizing state agencies and public and private partners to conserve natural lands statewide; and

WHEREAS, pursuant to Article III § 1 of the North Carolina Constitution and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the State and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. §147-12, the Governor has the authority and the duty to supervise the official conduct of all executive and ministerial officers.

NOW, THEREFORE, by the authority invested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. North Carolina Goals

It is the goal of the State of North Carolina to diligently protect, restore, and enhance natural and working lands that (i) facilitate carbon sequestration, (ii) strengthen ecosystem and community resilience, (iii) support biodiversity, (iv) provide vital ecosystem functions and services such as clean water and protection from floods, (v) support military training operations, (vi) facilitate tourism and enhance the State's economy, or (vi) provide opportunities for hunting, fishing, boating and other recreational activities.

The State of North Carolina shall encourage, facilitate, plan, coordinate, and support appropriate federal, state, local, and private land protection and restoration efforts to accomplish the following collective goals by 2040:

- a. Permanently conserve one million (1,000,000) new acres of North Carolina's natural lands, with special focus on wetlands, as measured from year 2020.
- b. Restore or reforest one million (1,000,000) new acres of North Carolina's forests and wetlands, as measured from the year 2020.
- c. Plant one million trees (1,000,000) in urban regions of the state as measured from the year 2020.

In addition, Cabinet agencies shall, to the fullest extent of their authority under existing law, proactively seek to protect, enhance, and restore North Carolina's natural and working lands including by implementing relevant strategies promoted in the 2020 North Carolina Natural and Working Lands Action Plan. The North Carolina Department of Natural and Cultural Resources ("DNCR"), and the North Carolina Department of Environmental Quality ("DEQ") shall assist other Cabinet agencies in this effort, including recommending actions to further conservation and resiliency efforts.

Section 2. Definitions

For the purposes of this Executive Order, the following terms shall have the meanings ascribed to them below:

- a. "Natural and working lands" are lands that remain in natural condition or that are managed to support food and fiber production, or for the benefit of human communities. Examples include public and private forests, cropland, pastureland, game lands, grassland, wetlands, salt marsh, and recreational areas that are managed natural lands within urban and rural communities.
- b. "Wetlands" are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, pocosins, bays and similar areas. This definition does not depend on state or federal law and is intended to be broader in scope than current law.
- c. "Native plants" are plants that the United States Department of Agriculture ("USDA") has classified as native to a state or county in the Southeastern United States. Southeastern United States, for the purpose of this Executive Order, includes the states of Alabama, Georgia, North Carolina, South Carolina, Tennessee, Virginia, and the following counties in Florida: Bay Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington.
- d. "Nature-based solutions" means sustainable planning, design, environmental management, or engineering practices that incorporate natural features or processes into the built environment to promote adaptation and resilience.
- e. "Ecosystem services" are the economic, health, or quality of life benefits people receive from nature.
- f. "Restoration" means the return of an ecosystem to a close approximation of its condition and function prior to disturbance.

Section 3. Addressing Knowledge Gaps

A comprehensive understanding of natural and working lands is essential to inform the creation of environmental, conservation, climate, and resilience policies. To this end, specified Cabinet agencies shall undertake the following initiatives to close natural and working lands knowledge gaps:

- a. Within six (6) months of the signing of this Executive Order, DEQ shall develop a methodology to update existing wetland mapping data for North Carolina that may be employed to estimate the number acres of wetlands that may lose protections as a result of *Sackett v. EPA*, and the North Carolina Farm Act of 2023.
- b. Within four (4) months of the signing of this Executive Order, DEQ shall evaluate the feasibility of obtaining updated high-resolution remotely sensed land cover data state-wide to assist in the assessment of type and extent of natural and working lands, including wetlands. The outcome should provide a full 20-class high resolution land cover map. The map will support planning for community resilience to climate change, prioritizing habitat and wetland conservation and protection, and providing a foundation to assess land use change over time.
- c. Within ten (10) months of the signing of this Executive Order, DNCR shall identify the number of acres of natural land by category, as classified by the National Land Cover Database, permanently conserved in North Carolina as of 2020 and the number of acres of natural land by category permanently restored as of 2020. This analysis will serve as the benchmark to measure the progress of goals outlined in Section 1.
- d. Within twenty-four (24) months of the signing of this Executive Order, DNCR shall

develop and publish ecosystem vulnerability analyses, that analyze climate change's impacts on state biodiversity, and natural lands, and waters utilizing the North Carolina natural heritage inventory data and other data as deemed appropriate by DNCR.

- e. DEQ shall engage with an academic partner or partners to research and deliver a report or reports to the Governor and the appropriate leadership or committees of the North Carolina General Assembly that investigates the following:
 - i. The estimated social, economic, and environmental value of conserving natural and working lands by land type, with a special focus on wetlands.
 - ii. The estimated social, economic, and environmental impacts, including estimated flood risk, to the state associated with the degradation of wetlands that lost federal or state protections between 2022 and 2023.
 - iii. The expected costs to the state associated with ongoing and projected wetlands loss.
 - iv. The estimated social, resilience, economic, and environmental benefits of conservation policies, such as the reinstatement of conservation tax credits.

DEQ shall make a research request pursuant to Section 3(e) herein through the North Carolina Project Portal and shall prioritize partnering with Historically Black Colleges and Universities and Minority Serving Institutions. The report shall be completed within twelve (12) months of the signing of this Executive Order.

Section 4. Protecting Vulnerable Wetlands and Other Critical Ecosystems

Recognizing the importance of preserving pocosins, Carolina Bay ecosystems, coastal wetlands, mountain bogs, and sea marsh corridors, DNCR and DEQ shall collaboratively identify the geographic boundaries of these ecosystems. These designations may expand upon existing area-based designations and shall be published within six months after the publishing of the assessment described in Section 3b of this Executive Order.

Cabinet agencies involved in awarding grants should consider, to the fullest extent of their authority, potential adverse impacts of grant-funded activities in the above-referenced ecosystems.

DNCR shall recommend new national natural landmark designations to the National Park Service in such a way as to elevate North Carolina's unique natural heritage and prioritize specialized wetlands under the greatest threat of conversion.

Section 5. No-Net Loss and Lead-by-Example Policies

In pursuit of sustainable land management practices, Cabinet agencies shall adopt the following "no-net-loss" and "lead-by-example" policies and initiatives.

No-Net Loss Policy

Cabinet agencies shall strive to protect, enhance, and fully restore the quality and extent of North Carolina's forested lands and wetlands in accordance with a goal of "no-net-loss" to these ecosystems as a result of Cabinet agency activities. Agencies shall achieve this through the following activities:

- a. Cabinet agencies shall strive to minimize new construction that adversely affects forested lands and wetlands.
- b. Where no reasonable alternative construction site exists, Cabinet agencies shall strive to minimize the impact of new construction projects on forestlands, wetlands, and riparian areas. This may involve activities such as incorporating nature-based solutions into designs, offsetting environmental impacts through compensatory mitigation, and offsetting environmental impacts through state acquisition or restoration of natural and working lands through other activities across Cabinet agencies.
- c. As a long-term goal, the State shall strive for a "net gain" in wetlands, emphasizing

their conservation and economic value and enhancement for future generations.

Lead by Example Policies

DEQ shall pursue competitive funding to support the acquisition and restoration of pocosins and other wetlands to enhance flood resiliency and ecosystem protections, improve water quality, and sequester carbon.

Where reasonable and in accordance with existing law and authority, Cabinet agencies shall consider conservation, biodiversity, and resiliency benefits during grant, permitting, and leasing processes.

DNCR shall incorporate ecological and social benefits along with climate impact considerations into the existing Biannual Protection Plan and North Carolina Conservation Planning Tool. The North Carolina Conservation Planning Tool shall add ecosystems identified in Section 4, climate resilience, carbon sequestration potential, ecosystem services, impact on marginalized and underserved populations, risk of conversion, proximity to other conserved lands, and pollinator habitat as the datasets become publicly available. Cabinet agencies should strongly consider prioritizing land acquisition intended to be held in permanent conservation using the updated statewide North Carolina Conservation Planning Tool. Other state agencies are encouraged to consider utilizing the updated tool for land acquisition prioritization.

Section 6. Native Plant Policy

Landscaping for all property allocated to the North Carolina Department of Administration (“DOA”) or any other Cabinet agency shall only use seeds and plants that the USDA has classified as native to a state or county in the Southeastern United States, including cultivars and varieties thereof that were not bred to have reduced reproductive structures, with a strong preference for plants the USDA has classified as native to North Carolina. The following non-native plants shall be exempted from this policy:

- 1) Non-native plants on property allocated to or incorporated as part of a project that already exists at the time of the effective date of this policy;
- 2) Non-native turf grass;
- 3) Non-native seeds and plants where the primary purpose is:
 - a) crop cultivation,
 - b) scientific research,
 - c) botanical or historical gardens,
 - d) plantings for wildlife, or
 - e) plantings for exhibits or for animal consumption at museums, zoos, and aquariums.

State-funded or permitted projects and activities, including those administered on behalf of the federal government, shall avoid introducing non-native plants. To support native biodiversity, Cabinet agencies shall also consider the native plant practices of private properties in future lease agreements.

Local governments are encouraged to adopt similar native plant policies.

Section 7. Promoting Statewide Conservation and Resilience

DNCR and DEQ shall strive to expand nature-based educational opportunities for North Carolina youth and promote public awareness of the significance of natural and working lands, along with opportunities to participate in voluntary conservation.

DEQ shall work with stakeholders to evaluate the feasibility of approaches to incentivize or compensate owners of agricultural lands for voluntary and temporary use of those lands as floodwater diversion or retention areas.

The DOA State Construction Office shall provide nature-based solution design best practices and host at least one educational training program on nature-based solution design and construction practices for the target audience of relevant construction and design firms.

DEQ, DNCR, and the North Carolina Office of Recovery and Resiliency (“NCORR”) shall, in consultation with the DOA Commission on Indian Affairs, promote and support new and ongoing ecosystem conservation and restoration efforts along with climate resiliency initiatives on natural lands within tribal communities or owned by tribal governments.

Council of State members, higher education institutions, local governments, private businesses, non-governmental organizations, and other North Carolina entities are strongly encouraged to protect, restore, and enhance natural and working lands, and adopt the policies in this Executive Order. Subject to applicable law, Cabinet agencies shall actively support state and local efforts.

Section 8. Evaluation, Monitoring, and Reflexive Reform

DNCR, DEQ, and NCORR shall collaborate to identify available grant opportunities and potential sources of funding to support efforts outlined in this Executive Order.

DNCR and DEQ shall convene meetings at least quarterly with relevant stakeholders as needed to ensure effective coordination and to facilitate the implementation of this Executive Order. Cabinet agencies shall assist DEQ and DNCR in implementing this Executive Order, including sharing relevant information and data.

The Governor’s Office and all affected Cabinet agencies shall incorporate environmental justice considerations and equity benefits into the implementation of this Executive Order, in alignment with the principles of Executive Order No. 246 and Exec. Order No. 292, 38 N.C. Reg. 654-659 (Dec. 1, 2023). The Governor’s Environmental Justice Council shall offer its assistance and consultation in supporting these efforts where applicable.

Every three (3) years, DNCR shall publish and deliver to the Governor an updated Natural and Working Lands Action Plan. The next update shall be published no later than October 31, 2024. These updates shall assess the progress of ongoing conservation efforts by the state and include an evaluation of actions toward achieving the goals of this Executive Order and the 2020 Natural and Working Lands Action Plan. Additionally, DNCR shall identify critical current or emerging knowledge gaps relating to natural and working lands management. DNCR shall consider ongoing Cabinet agency data collection and survey efforts and provide recommendations on addressing them for inclusion in updates to the 2020 Natural and Working Lands Action Plan. Furthermore, DEQ and DNCR shall identify and report on programs and initiatives that require additional resources to effectively achieve the objectives and purposes of this Executive Order.

Section 9. Severability

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.


Section 10. No Private Right of Action

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

Section 11. Effective Date

This Executive Order is effective immediately and shall remain in effect unless rescinded or superseded by another applicable Executive Order. Unless otherwise specified, the provisions in this Executive Order go into effect at the time of signing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 12th day of February in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State

