

# Opportunities Exist to Improve the Erosion and Sedimentation Control Program and Recover \$1.7 Million in Annual Costs

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A presentation to the  
Joint Legislative Program Evaluation Oversight Committee

January 29, 2019

Adora Thayer, Program Evaluator



# Handouts

## Full Report

Opportunities Exist to Improve the Erosion and Sedimentation Control Program and Recover \$1.7 Million in Annual Costs



Final Report to the Joint Legislative Program Evaluation Oversight Committee

Report Number 2019-01

January 29, 2019

## Slides

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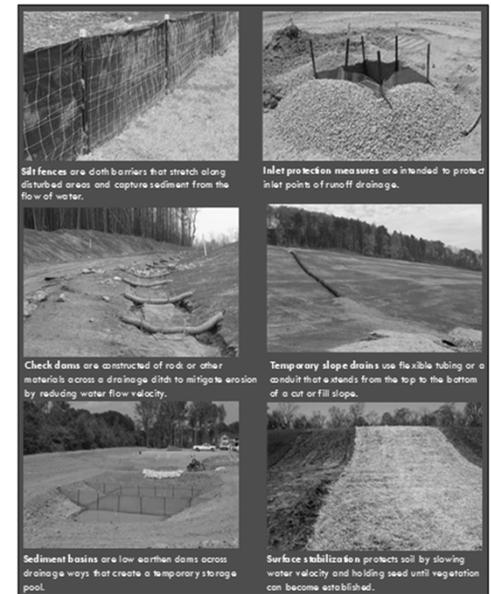
January 29, 2019

Adora Thayer, Program Evaluator

Program Evaluation Division  North Carolina General Assembly

## Handout

Exhibit 1: Common Erosion and Sedimentation Control Practices



Source: Program Evaluation Division based on documents provided by DENR and research on commonly used controls.



# Our Charge

- Evaluate the State Erosion and Sedimentation Control (E&SC) Program
  - Efficiency and Effectiveness
  - Duplication with National Pollution Discharge Elimination System (NPDES)
  - Team: Sean Hamel and Sidney Thomas

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# Commonly Used Acronyms

- DEQ DEMLR – Dept. of Environmental Quality's Division of Energy, Mineral and Land Resources
- SCC – Sedimentation Control Commission
- E&SC – State Erosion and Sedimentation Control Program
- NPDES – National Pollution Discharge Elimination System Program

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# Overview: Six Findings

1. No duplication exists between E&SC and NPDES
2. Delegated local program oversight is challenged by inconsistent reviews and data collection
3. Plan review and approval is effective but can be further improved with greater technical support
4. Inspections are ineffective and inefficient
5. Sedimentation fees do not fully support program costs
6. Insufficient information and performance management practices hinder program improvement



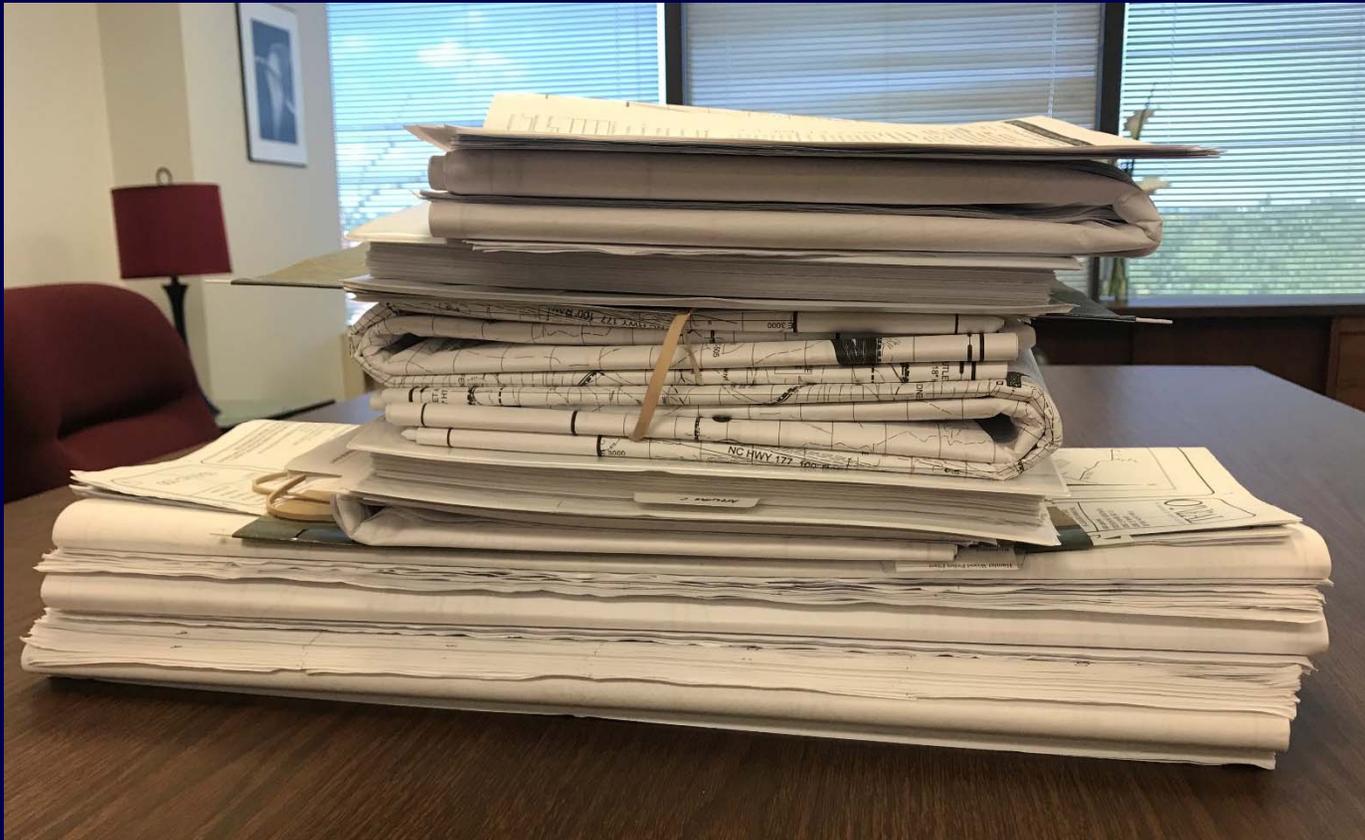
# Overview: Recommendations

The General Assembly should

- Amend state law to outline reporting and review requirements for delegated local programs and raise fees
- Direct DEQ DEMLR to track plan review targets, coordinate inspections, and establish information and performance management practices
- Direct SCC to develop rules on risk factors



# Background



# State E&SC Program

## Mission and Components

- Created in 1973
- Seeks to minimize erosion at construction sites and prevent off-site pollution from sedimentation
- Four program components:
  1. Plan Review and Approval
  2. Monitoring and Compliance
  3. Technical Support and Outreach
  4. Oversight of Delegated Programs

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# Program Expenditures

- Fiscal Year 2017–18:
  - Total Expenditures (\$2.98 Million)
  - Costs recovered from fees (44%)
  - Largely support staff expenses

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# Findings



# Finding 1

The E&SC program is a state program that fulfills requirements of the federal National Pollution Discharge Elimination System (NPDES) program and thus no duplication exists; additionally, it is not advantageous to merge oversight of the programs

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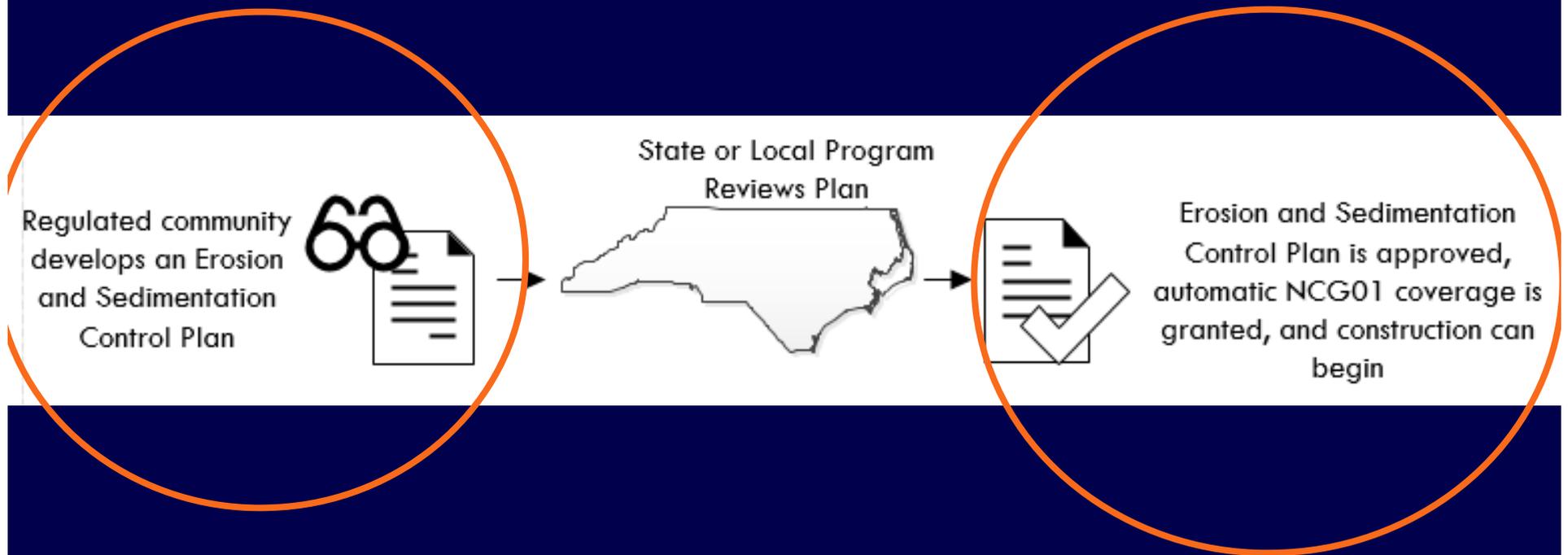
# NPDES Background

- Federal program created in 1972 to address water pollution
- Twelve regulatory areas
  - Including construction stormwater
- 46 states have delegated authority

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# Current Permitting Process Demonstrates No Duplication Exists



E&SC program fulfills and enforces NPDES

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## Finding 2

Oversight of delegated local program operations does not meet performance targets and is challenged by inconsistent data collection and reporting

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# Delegated Local Erosion and Sedimentation Control Programs

- To be approved, local units of government must
  - Adopt state or more stringent standards
  - Engage in an MOA
  - Agree to undergo review
- Local programs replace state operations

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# Effective Oversight of Local Programs is Challenged

- E&SC does not meet target to review local programs once every two years  
–48% not reviewed
- Data collection is inconsistent
- Local reporting is not enforced

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## Finding 3

Although the E&SC program is meeting plan review and approval performance targets, existing inefficiencies could be remedied by providing greater technical support to the regulated community

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# Plans Are Reviewed Within Statutory Timeframes

- Effectively meets statutory targets
  - Initial plan review and approval (30-day)
  - Revised plan review and approval (15-day)
- Performance can be stretched

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# Plan Review Costs Can Be Reduced

- Wide variability in efficiency
- Fiscal Year 2017–18:
  - Approval Rates (57% lower than statewide)
  - Cost Per Approved Plan (\$535-\$1,400)



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## Finding 4

Inspection operations reduce the efficiency and effectiveness of the E&SC program and create opportunities to improve monitoring and compliance

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# Improving Inspection Operations

- E&SC does not meet target to inspect all sites once per month
- Better coordination could
  - Provide technical support on violations
  - Reduce follow-up inspections
- A risk-based approach would prioritize inspections

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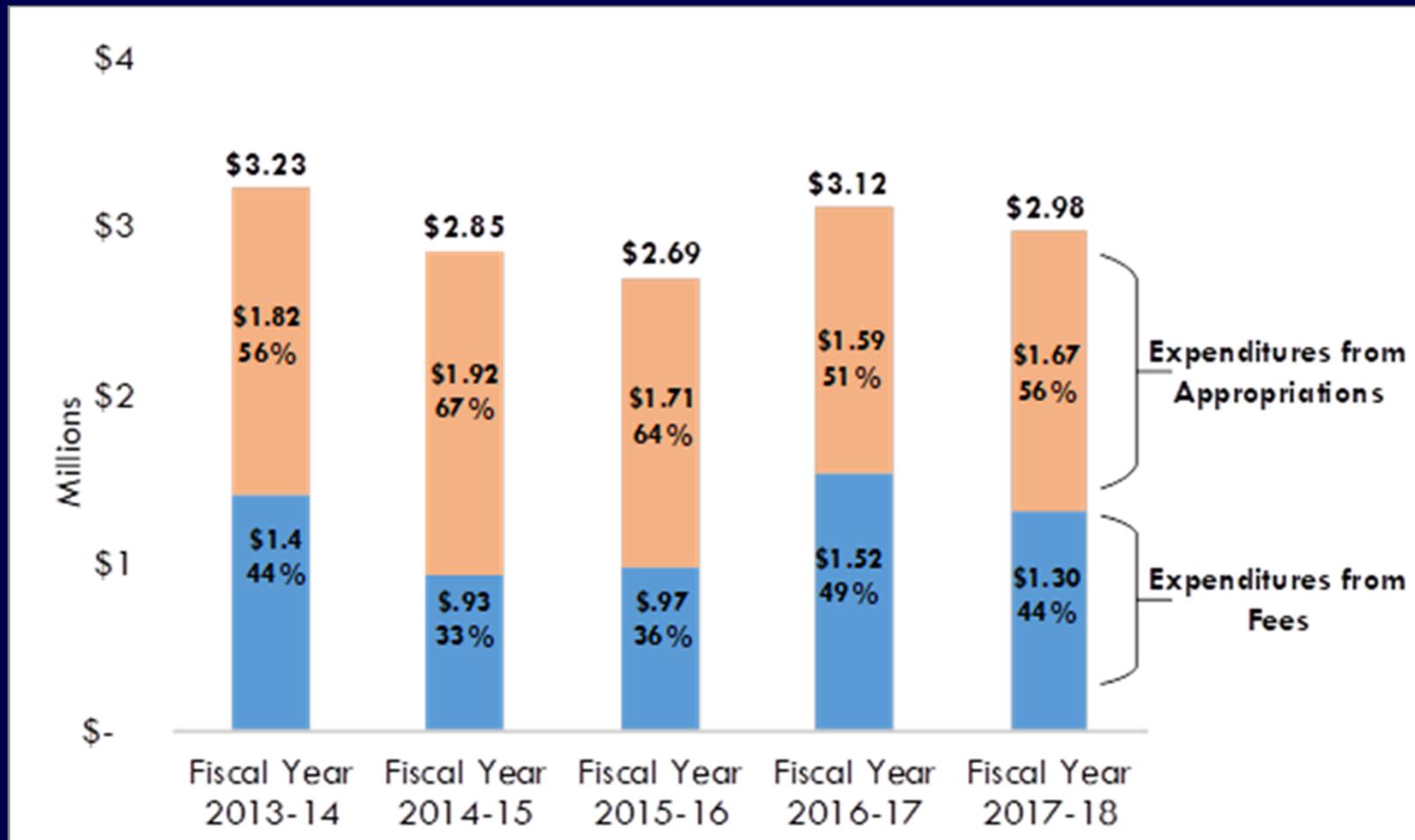
## Finding 5

Sedimentation fees charged to the regulated community are not sufficient to recover program costs, requiring the State to appropriate funds to support program operations; adjusting fees could recover an estimated \$1.7 million annually

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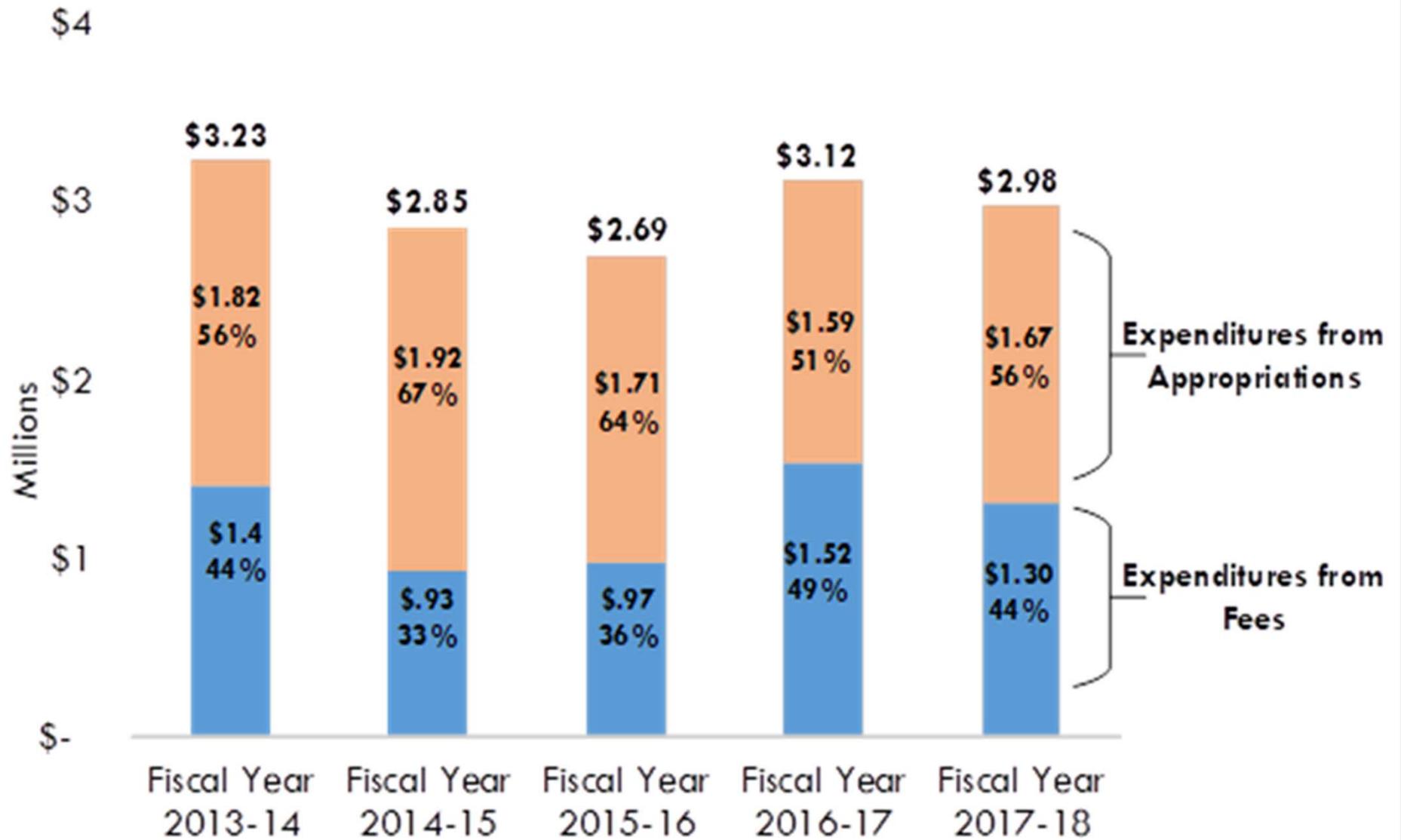


# Fees Do Not Support Operations



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# Fees Are Comparatively Low

- Lower than all surrounding states
- Lower than 83% of delegated local programs

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## Finding 6

The E&SC program does not have information management practices that ensure valid and reliable data that can be used in a performance management system

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# Information Practices Hinder Performance Management

- Insufficient information management
  - PED found more than 200 data discrepancies
- Limited performance measures
  - PED could not verify several internal targets

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# Recommendations



# Recommendation 1

Amend state law to outline reporting requirements for delegated local programs and mandate that E&SC review delegated local programs at least once every five years

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## Recommendation 2

Direct DEQ DEMLR to formally collect, maintain, monitor, and report data on its internal target of 25 days for the review and determination of erosion and sedimentation control plans

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## Recommendation 3

Direct the SCC to develop administrative rules to include the use of site-specific risk factors to prioritize monitoring and compliance activities

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## Recommendation 4

Direct DEQ DEMLR to abide by inspection policies and coordinate with the regulated community for the performance of site inspections

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## Recommendation 5

Amend state law to reduce dependence on appropriations by increasing erosion and sedimentation control plan review fees to \$125 per acre of disturbed land to fully support the cost of E&SC program operations

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## Recommendation 6

Direct DEQ DEMLR to establish information management policies and a performance management system for the E&SC program

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# Follow-Up Reporting

Report to the Environmental Review  
Commission, Joint Legislative Program  
Evaluation Oversight Committee, and  
SCC by January 1, 2020



# Summary: Findings

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# Summary: Recommendations

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# Summary: Response

- DEQ DEMLR's formal response to this evaluation can be found at the end of the report
- DEQ DEMLR representatives here today



Report available online at  
[www.ncleg.net/PED/Reports/reports.html](http://www.ncleg.net/PED/Reports/reports.html)

