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Governor

William G. Ross, Jr., Secretary
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January 25, 2008
Buffer Interpretation/Clarification #2008-016

MEMORANDUM

Background: Presently in the mitigation sections for the Neuse Buffer Rules (15A NCAC 02B.0242), the Tar-Pamlico Buffer Rules (15A NCAC 02B.0260), and the Catawba Buffer Rules (15A NCAC02B.0244), there is an option for restoring a buffer for mitigation purposes.

Problem: When a Notice of Violation (NOV) is issued by the Division of Water Quality (DWQ) for someone clearing a protected riparian buffer without prior authorization, it is unclear as to whether the person that was issued the NOV would need to restore per the above mentioned mitigation sections, or if they would restore only the numbers of trees that were removed.

Solution:
DWQ requires that any person removing trees* or shrubs** from the protected riparian buffer without prior authorization from DWQ, will be required to restore the buffer per Neuse Buffer Rules (15A NCAC 02B.0242), the Tar-Pamlico Buffer Rules (15A NCAC 02B.0260), and the Catawba Buffer Rules (15A NCAC02B.0244), by replanting 320 trees per acre at maturity. For additional guidance on restoring the protected riparian buffer, you can download the "Guidelines for Riparian Buffer Restoration" at <http://www.nceep.net/news/reports/buffers.pdf>.

If grass is the only vegetation removed during the violation, then the area would have be restabilized with grass.

DWQ reserves the right to use best professional judgment on a case-by-case basis as needed when requiring the restoration of the protected riparian buffer.

* Trees are defined in the buffer rules [Neuse: 15A NCAC 02B.0233(2)(m), Tar-Pamlico: 15ANCAC 02B.0259(2)(m), and Catawba: 15A NCAC 02B.0243(2)(s),] as "a woody plant with a DBH equal to or exceeding five inches or a stump diameter equal to or exceeding six inches".

**Three shrubs are the equivalent of one tree.

Signature: _____

Date: _____

02/11/08