

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
ENVIRONMENTAL MANAGEMENT
COMMISSION

INTERPRETIVE RULING ON THE MEANING)
OF THE MOST RECENT VERSION OF NRCS)
SOILS SURVEY MAP REFERENCED IN THE) INTERPRETIVE RULING
NEUSE AND TAR-PAMLICO RIPARIAN)
BUFFER PROTECTION RULES)

This matter came before the North Carolina Environmental Management Commission (Commission) on 12 July 2006 for an interpretative ruling identifying which map is the “most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture” that is to be used to identify existing surface waters that are subject to the Neuse and Tar-Pamlico riparian buffer protection rules, 15A NCAC 2B .0233 and .0259, respectively.

The issue before the Commission is which of the several map forms produced over time by the Natural Resources Conservation Service (NRCS) did the Commission intend to be used to identify the surface waters approximately shown on the most recent of the soil survey map prepared by the NRCS for purposes of implementing riparian buffer protection in the Neuse River and Tar-Pamlico River Basins.

In consideration of the issue, the Commission finds the following:

1. The Neuse and Tar-Pamlico Riparian Buffer Protection Rules, 15A NCAC 2B .0233 and .0259, respectively, protect 50 foot wide buffers along intermittent and perennial streams, lakes, ponds and estuaries in these river basins. These surface waters are identified as being present “if the feature is proximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the

most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic prepared by the United States Geologic Survey (USGS).”

2. The buffer protection rules for the Neuse and Tar-Pamlico River Basins provide that riparian buffers adjacent to surface waters that appear on either of the maps are to be protected but riparian buffers are not protected if the adjacent surface waters do not appear on the maps.

3. By making references to these maps in the rules, the Commission intended to make land development and design predictable for the agricultural, silvicultural and development communities because the maps could be examined and an initial determination made concerning the presence of surface waters for design purposes.

4. The NRCS maps were (and are) paper-bound copies in county soil survey publications that depict soil polygons as well as surface waters in a particular county.

5. Electronic versions of the soil survey maps for several counties in the Neuse and Tar-Pamlico River Basins recently have been made available for public use. However, these “Web Soil Survey” maps do not show surface waters that are depicted on the paper-bound or published copies of the county soil surveys. The surface waters that are shown on these web maps are not intended to depict the actual network of streams. The number and length of streams shown on the electronic NRCS maps is significantly reduced from those depicted on the paper-bound maps.

6. The published paper-bound NRCS maps are the best available for use in identification of surface waters present in the Neuse and Tar-Pamlico River Basins and the adjacent riparian buffers. The published paper-bound NRCS maps are available in the counties or with assistance from DENR.

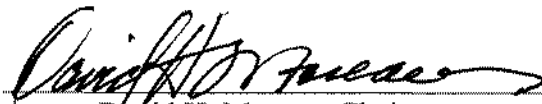
Based upon the foregoing findings, the Commission issues the following:

INTERPRETIVE RULING

The “most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture” referenced in 15A NCAC 2B .0233 and .0259 means the most recent paper-bound versions of the NRCS soil surveys, or copies thereof, that were in place at the time that these maps were first referenced in the Neuse Buffer Rule (1997) are to be used for implementing the Neuse and Tar-Pamlico Buffer Protection rules and any other Environmental Management Commission rules or programs that refer to the NRCS maps for stream or surface water location and identification purpose unless an updated version of these maps is available that depicts, at a minimum, an equal or greater amount of linear feet of streams that was shown on the paper-bound version of the map that was in place at the time the Neuse or Tar-Pamlico Buffer Rule was originally adopted.

This the 16th day of August, 2007.

ENVIRONMENTAL MANAGEMENT COMMISSION


David H. Moreau, Chairman