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Buffer Interpretation/Clarification #2007-007

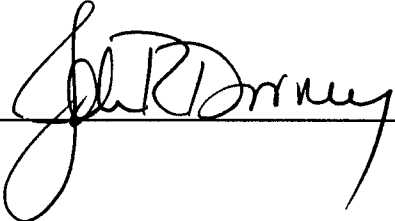
## MEMORANDUM

Background: The definition of built-upon area 15A NCAC 2B .0202(13), states that the area of a pool that is filled with water is considered to be pervious, regardless of whether it was above or below ground. The idea is that it collects rain and doesn't allow rain to runoff during certain rain events.

Problem: This definition is used to determine the built-upon area and not for buffer impacts. In order to install a pool in the buffer, a portion of the buffer is removed. Therefore, a portion of the buffer nutrient removal function is also removed. Also, pools are not listed in the table of uses in the Neuse Buffer Rules 15A NCAC 02B.0233, the Tar-Pamlico Buffer Rules 15A NCAC 02B.0259, or in the Catawba Buffer Rules 15A NCAC 02B.0243. If a use is not listed in the table of uses of the buffer rules, it is considered prohibited.

Solution:

Pools that are installed in the protected Neuse River Basin buffers 15A NCAC 02B.0233, the Tar-Pamlico River Basin buffers 15A NCAC 02B.0259, or in the Catawba River Basin buffers 15A NCAC 02B.0243, are considered prohibited and would require a minor variance for installing it in Zone 2 and a major variance for installing it in Zone 1.

Signature:  Date: 3/21/07