

RECLASSIFICATION OF SURFACE WATERS IN NORTH CAROLINA

How to Request a Reclassification

Any person may request the reclassification of North Carolina's surface waters by contacting staff listed on the web at <https://www.deq.nc.gov/about/divisions/water-resources/water-planning/classifications-standards#Contacts>. Local governments which are requesting a water supply reclassification should also have dialogue with all local governments having land use jurisdiction within the boundaries of a proposed water supply watershed; if the request is for a more protective water supply classification, a written resolution from all affected local governments is needed per 15A NCAC 2B .0104. Water quality studies may be required to determine whether the waters meet the criteria associated with the requested classification.

Process for Reclassification

If the waters meet the criteria for reclassification outlined in the North Carolina Administrative Code (15A NCAC 2B .0100 and .0200), permission is sought from the North Carolina Environmental Management Commission (EMC) to proceed with the reclassification request through “rule-making”; rule-making is the required legal process to make official amendment to a waterbody classification. The rule-making process can typically be, at a minimum, an 18-month process. Public comments are considered as part of this process, and verbal comments are heard at public hearing/s. A written record of the rule-making process including all comments received is prepared, and a recommendation regarding the reclassification is presented to the EMC.

Final Adoption of a Reclassification

If the EMC adopts a rule, the rule is then submitted to the Rules Review Commission (RRC), a ten-member panel appointed by elected officials. If the RRC approves the rule, and less than 10 people formally object to it, then the reclassification becomes effective under state rules. However, if the RRC approves the rule, and 10 or more people formally request legislative review, then the reclassification goes to the next legislative session. If the reclassification survives legislative review, then it becomes effective under state rules. The EPA has final approval of the reclassification.