

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0100 - PROCEDURES FOR ASSIGNMENT OF WATER QUALITY STANDARDS

15A NCAC 02B .0101 GENERAL PROCEDURES

(a) The rules contained in Sections .0100, .0200 and .0300 of this Subchapter, which pertain to the series of classifications and water quality standards, shall be known as the "Classifications and Water Quality Standards Applicable to the Surface Waters and Wetlands of North Carolina."

(b) The Environmental Management Commission (hereinafter referred to as the Commission), prior to classifying and assigning standards of water quality to any waters of the State, shall proceed as follows:

- (1) The Commission, or its designee, shall determine waters to be studied for the purpose of classification and assignment of water quality standards on the basis of user requests, petitions, or the identification of existing or attainable water uses, as defined by Rule .0202 of this Subchapter, not presently included in the water classification.
- (2) In determining the best usage of waters and assigning classifications of such waters, the Commission shall consider the criteria specified in G.S. 143-214.1(d). In determining whether to revise a designated best usage for waters through a revision to the classifications, the Commission shall follow the requirements of 40 CFR 131.10 which is incorporated by reference including subsequent amendments and editions. A copy of the most current version of the requirements is available free of charge at <https://www.govinfo.gov>.
- (3) When revising the classification of waters, the Division shall collect water quality data within the watershed for those substances that require more stringent control than required by the existing classification. However, such sampling may be limited to only those parameters that are of concern. If the revision to classifications involves the removal of a designated use, the Division shall conduct a use attainability analysis as required by the provisions of 40 CFR 131.10.
- (4) After studies of the identified waters to obtain the data and information required for determining the revised classification of the waters or segments of water are completed, the Commission, or its designee, shall make a decision on whether to initiate proceedings to modify the classifications and water quality standards of identified waters.
- (5) In the case of a petition for classification and assignment of water quality standards according to the requirements of G.S. 150B-20 and 15A NCAC 02I .0500, the Director shall make a preliminary recommendation on the appropriate classifications and water quality standards of the identified waters on the basis of the study findings or information included in the petition supporting the classification and standards changes.
- (6) The Commission shall make a decision on whether to grant or deny a petition in accordance with the provisions of G.S. 150B-20 and 15A NCAC 02I .0500 based on the information included in the petition and the recommendation of the Director.
- (7) The chairman of the Commission shall give due notice of public hearings regarding water quality classifications or standards in accordance with the requirements of 40 CFR 131.20, 40 CFR 25.5, G.S. 143-214.1 and G.S. 150B-21.2 and shall appoint a hearing officer(s) in consultation with the Director.
- (8) After completion of a public hearing regarding water quality classifications or standards, the hearing officer(s) shall submit a report of the proceedings of the hearing to the Commission. The hearing officer(s) shall include in the report a transcript or summary of testimony presented at such public hearing, exhibits, a summary of information from the stream studies conducted by the technical staff of the Commission, and final recommendations as to classification of the designated waters and the standards of water quality and best management practices to be applied to the classifications recommended.
- (9) The Commission shall consider the provisions of G.S. 143-214.1, the hearing record(s), and final recommendation(s) of the hearing officer(s) before taking final action with respect to the assignment of classifications and any applicable standards or best management practices applicable as rule(s) to the waters under consideration.
- (10) The final action of the Commission with respect to the assignment of classification with its accompanying standards and best management practices shall contain the Commission's conclusions relative to the various factors in G.S. 143-214.1(d) and shall include the class or

classes to which such designated waters in the watershed or watersheds shall be assigned on the basis of best usage in the interest of the public.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);
Eff. February 1, 1976;
Amended Eff. August 1, 1995; February 1, 1993; August 3, 1992; August 1, 1990;
RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity;
Amended Eff. October 1, 1996;
Readopted Eff. November 1, 2019.