

**Agenda Item:** 19-28 **Request Approval to Send Proposed Amendment to 15A NCAC 02B .0304 for the Proposed Reclassification of the Sandy Bottom Wetlands in Buncombe County (French Broad River Basin) from Class WL to Class WL UWL and Fiscal Note to Public Notice and Comment**

**Explanation:**

On November 20, 2018, Division of Water Resources received a Petition for rulemaking from Mountain True, Defenders of Wildlife, and the North Carolina Wildlife Federation. The Petitioners asked the Division Water Resources staff to recommend to the Environmental Management Commission that the Sandy Bottom Wetlands in Buncombe County, NC, (French Broad River Basin) be reclassified from Class WL to Class WL UWL. North Carolina's classification for freshwater wetlands is "WL", while the classification for unique wetlands is "UWL." Unique wetlands are described as "wetlands of exceptional state or national ecological significance, which require special protection to maintain existing uses. These wetlands may include wetlands that have been documented to the satisfaction of the Commission as habitat essential for the conservation of state or federally listed threatened or endangered species." The petition states that under the Department of Environmental Quality's Class UWL criteria, Sandy Bottom qualifies for reclassification to UWL for the following reasons: ... population of Federally-Threatened Bog Turtle in "good" condition; ... populations of two Special concern salamander species, Four-Toed Salamander and Mole Salamander, with an EO rank of B; ... and a wetland community (Montane Floodplain Slough Forest) rated SI [Critically-Impaired] that also provides habitat for the Significantly Rare lax manna-grass population" and, therefore the UWL classification is appropriate for the Sandy Bottom Wetlands.

If reclassified, the Sandy Bottom Wetlands will be provided with an additional layer of protection in that future development would need to demonstrate a public need to obtain a 404/401 permit.

At the July 10, 2019 Water Quality Committee (WQC) meeting, the WQC granted DWR staff approval to proceed to the full Environmental Management Commission for public notice of the proposed amendment to 15A NCAC 02B .0304 for the proposed reclassification. In the regulatory impact analysis DWR states "The agency anticipates that if the UWL classification is adopted as proposed, there would be a one-time cost of about \$400 to the State for updating a GIS layer. There are no other quantifiable economic costs or benefits associated with this proposed rulemaking." The proposed effective date is April 1, 2020.

**Recommendation:**

Environmental Management Commission approves to send the proposed rule amendment of 15A NCAC 02B .0304, French Broad River Basin for the proposed reclassification of the Sandy Bottom wetlands from Class WL to Class WL UWL and the fiscal note to proceed to public notice and comment.