

# Tribal WQS Academy

## Designated Uses & Revising Uses





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  - Impose any binding requirements
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  - Change or substitute for any statutory provision or regulation requirement
  - Represent, change or substitute for any Agency policy or guidance
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# Part 1 of 2 – Designated Uses

Set Goals and Water Quality Standards

## WQS: Designated Use Categories





# OUTLINE

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- What are Designated Uses
- Why are they Important
- Designated Use Identification
- CWA Sections 303(c)(2)(A) & 101(a)(2)
- Terminology
- EPA's Reg Requirements
- Rebutting the Presumption of Attainability



# What are Designated Uses?

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- Designated uses are “those uses specified in the WQS regulations for each water body or segment **whether or not they are being attained.**” (40 CFR § 131.3(f))
- Designated uses may be thought of as:
  - Goals/Objectives/Desired conditions of a waterbody
  - Function of, or activity in, a water that is supported by level of water quality



# Why are Designated Uses Important?

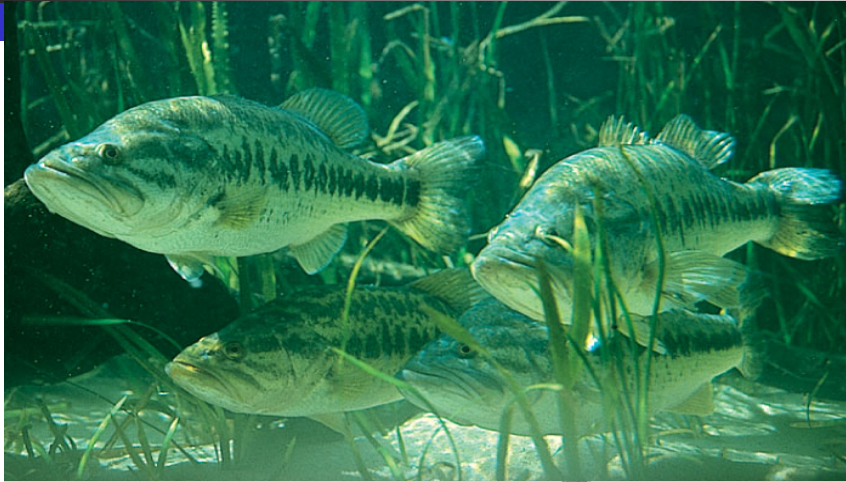
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- Establish water quality goals for a specific water body and communicate these goals to the public.
- Identifying designated uses leads to identification of the right water quality criteria to protect those uses.
  - Criteria are the primary regulatory basis for TMDLs, NPDES permit limits, etc.

# Examples of Designated Use Categories



# Examples of Designated Use Categories





# Designated Uses Example: Virginia

\* Recreation

\* Propagation and growth of a balanced, indigenous population of aquatic life, including game fish...

\* Wildlife; and the production of edible and marketable natural resources, e.g., fish/shellfish



# Designated Uses Example: Vermont

- ❑ Class A(1) Ecological waters:
  - ❑ Aquatic biota, wildlife and aquatic habitat
  - ❑ Aesthetics
  - ❑ Swimming and other PCR
  - ❑ Boating, fishing and other recreation use
- ❑ Class A(2) Public Water Supply:  
Class A(1) waters and  
public water supplies
- ❑ Class B: Class A1 and class A2  
and irrigation of crops  
and other agricultural uses





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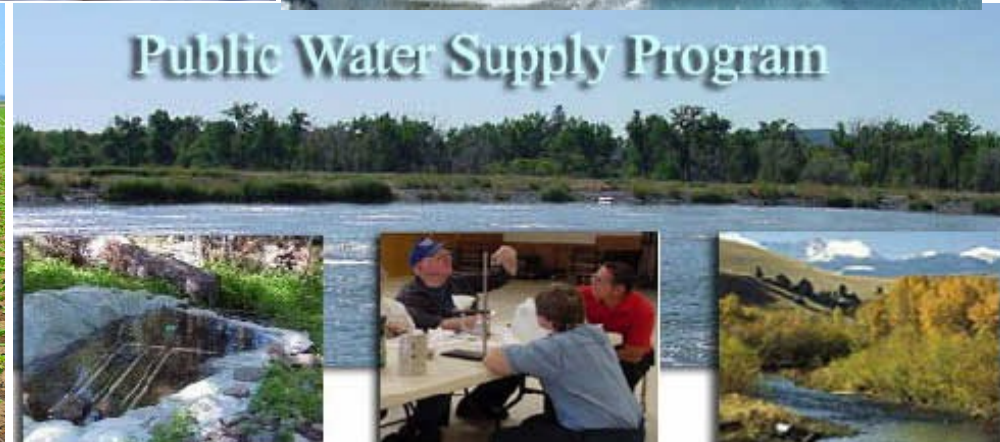
**CWA section 303(c)(2)(A):** water quality standards “shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and...navigation.”



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# Clean Water Act

***CWA section 101(a)(2): national goal that, wherever attainable, water quality provides for the protection and propagation of fish, shellfish and wildlife, and recreation in and on the water.***



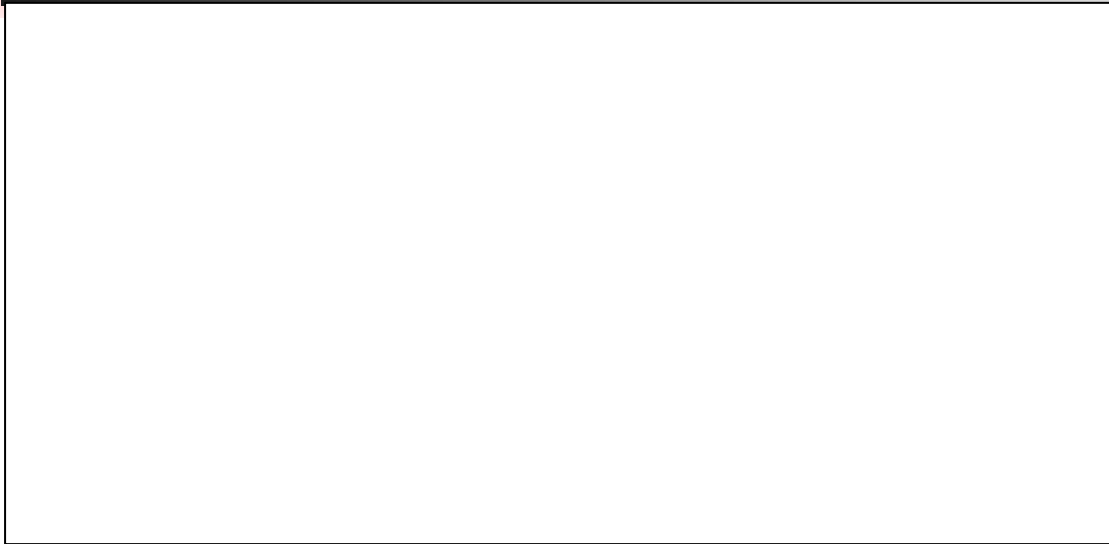
# Terminology



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- “101(a)(2) uses” – uses that provide for the protection and propagation of fish, shellfish and wildlife, and recreation in and on the water.
- Subcategories of 101(a)(2) uses – any use that reflects the subdivision of 101(a)(2) uses for the purpose of reducing variability.
- “Non-101(a)(2) uses” – uses that are not related to the protection and propagation of fish, shellfish and wildlife or for recreational purposes. Uses in section 303 (c)(2)(A) but not in section 101(a)(2).

# Non 101(a)(2) uses (=303(c)(2)(a) uses – 101(a)(2) uses)



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- **EPA's Reg Requirements**
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# EPA's Regulatory Requirements for Designated Uses

- Specify appropriate uses to be achieved and protected...  
..in no case shall a state adopt waste transport/assimilation as a designated use for any waters of the US.(131.10(a));
- **Allow for subcategories of uses (e.g. cold and warm water fisheries) (131.10(c)) and seasonal uses (131.10(f));**
- **Lists 6 factors of which at least 1 must be satisfied to justify removal of 101(a)(2) uses and requires states to adopt the highest attainable use when revising uses based on a required UAA (131.10(g))**
- **Establishes when a state or authorized tribe is or is not required to conduct a use attainability analysis (UAA) (131.10(j) and (k).**





# EPA's Regulatory Requirements for Designated Uses?

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- **Specify that States/authorized tribes may not remove designated uses if they are existing uses, unless a use requiring more stringent criteria is added (131.10(h)(1));**
- **Uses can be attained by the imposition of effluent limits required under sections 301(b) and 306 of the Act and cost-effective and reasonable best management practices for nonpoint source control (131.10(d)), and such uses may not be removed (131.10(h)(2));**
- Require states and authorized tribes to revise WQS to reflect uses that are presently being attained but not designated (131.10(i));
- Requires that WQS ensure attainment and maintenance of WQS of downstream waters (131.10(b));



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# Rebutting the Presumption of Attainability

101(a)(2) uses are presumed attainable unless demonstrated otherwise through a use attainability analysis (UAA).





# Key Messages - Uses

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- Designated uses are an important component of water quality standards as they lead to decisions of what water quality criteria level is required for the water.
- They express a state or authorized tribe's desired condition for the water body whether or not that condition is currently attained.
- CWA established a goal that all waters provide for the “protection and propagation of fish, shellfish and wildlife and recreation in and on the water”. Such uses are presumed attainable and must be designated unless demonstrated otherwise.
- When adopting uses, states and authorized tribes must take into consideration the use and value of waters for public water supply, industrial, agricultural, navigation and other uses in addition to the uses specified in section 101(a)(2) of the CWA.



# Questions?

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