Presented below are water quality standards that are in effect for Clean Water Act purposes.

EPA is posting these standards as a convenience to users and has made a reasonable effort to assure their accuracy. Additionally, EPA has made a reasonable effort to identify parts of the standards that are not approved, disapproved, or are otherwise not in effect for Clean Water Act purposes.
Senate Substitute for
Substitute for HOUSE BILL No. 2219

By Committee on Natural Resources

AN ACT concerning classified stream segments; relating to recreational use; amending K.S.A. 2002 Supp. 82a-2001 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section. 1. K.S.A. 2002 Supp. 82a-2001 is hereby amended to read as follows: 82a-2001. As used in this act:

(a) (1) “Classified stream segments” shall include all stream segments that are waters of the state as defined in subsection (a) of K.S.A. 65-161, and amendments thereto, and waters described in subsection (d) of K.S.A. 65-171d, and amendments thereto, that:

(A) are indicated on the federal environmental protection agency's reach file 1 (RF1) (1982) and have the most recent 10-year median flow of equal to or in excess of 1 cubic foot per second based on data collected and evaluated by the United States geological survey or in the absence of stream segment flow data, calculations of flow conducted by extrapolation methods provided by the United States geological survey;

(B) have the most recent 10-year median flow of equal to or in excess of 1 cubic foot per second based on data collected and evaluated by the United States geological survey or in the absence of stream segment flow data, calculations of flow conducted by extrapolation methods provided by the United States geological survey;

(C) are actually inhabited by threatened or endangered aquatic species listed in rules and regulations promulgated by the Kansas department of wildlife and parks or the United States fish and wildlife service;

(D) (i) scientific studies conducted by the department show that pooling of water during periods of zero flow less than one cubic foot per second stream segments provide important refuges for aquatic life and permit biological recolonization of intermittently flowing segments; and

(ii) a cost/benefit analysis conducted by the department and taking into account the economic and social impact of classifying the stream...
segment indicates that the benefits of classifying the stream segment outweigh the costs of classifying the stream segment, as consistent with the federal clean water act and federal regulations; or

(E) are at the point of discharge on the stream segment and downstream from such point where the department has issued a national pollutant discharge elimination system permit other than a permit for a confined feeding facility, as defined in K.S.A. 65-171d, and amendments thereto.

(2) Classified stream segments other than those described in subsection (a)(1)(E) shall not include ephemeral streams; grass, vegetative or other waterways; culverts; or ditches.

(3) Any definition of classified stream or “classified stream segment” in rules and regulations or law that is inconsistent with this definition is hereby declared null and void.

(b) “Department” means the department of health and environment.

c) “Designated uses of classified stream segments” shall be defined as follows:

1. “Agricultural water supply use” means the use of a classified stream segment for agricultural purposes, including the following:
   (A) “Irrigation” means the withdrawal of water from a classified stream segment for application onto land; or
   (B) “livestock watering” means the provision of water from a classified stream segment to livestock for consumption.

2. “Aquatic life support use” means the use of a classified stream segment for the maintenance of the ecological integrity of streams, lakes and wetlands, including the sustained growth and propagation of native aquatic life; naturalized, important, recreational aquatic life; and indigenous or migratory aquatic or terrestrial wildlife directly or indirectly dependent on surface water for survival. Categories of aquatic life support use include:
   (A) “Special aquatic life use waters” means classified stream segments that contain combinations of habitat types and indigenous biota not found commonly in the state, or classified stream segments that contain representative populations of threatened or endangered species, that are listed in rules and regulations promulgated by the Kansas department of wildlife and parks or the United States fish and wildlife service.
   (B) “Expected aquatic life use waters” means classified stream segments containing habitat types and indigenous biota commonly found or expected in the state.
   (C) “Restricted aquatic life use waters” means classified stream segments containing indigenous biota limited in abundance or diversity by the physical quality or availability of habitat, due to natural deficiencies or artificial modifications, compared to more suitable habitats in adjacent
waters.

(3) “Domestic water supply” means the use of a classified stream segment, after appropriate treatment, for the production of potable water.

(4) “Food procurement use” means the use of a classified stream segment for the obtaining of edible forms of aquatic or semi-aquatic life for human consumption.

(5) “Groundwater recharge use” means the use of a classified stream segment for the replenishing of fresh or usable groundwater resources. This use may involve the infiltration and percolation of surface water through sediments and soils or the direct injection of surface water into underground aquifers.

(6) “Industrial water supply use” means the use of a classified stream segment for nonpotable purposes by industry, including withdrawals for cooling or process water.

(7) (A) “Recreational use” means:

(i) Primary contact recreational use is use of a classified stream segment for recreation during the period from April through October 31 of each year, provided such classified stream segment (a) by law or written permission of the landowner is open to and accessible by the public and (b) is capable of supporting the recreational activities of swimming, skin diving, water skiing, wind surfing, boating, kayaking or mussel harvesting where the body is intended to be immersed in surface water to the extent that some inadvertent ingestion of water is probable.

(a) Primary contact recreational use-Class A: Use of a classified stream segment for recreation during the period from April through October 31 of each year, and the classified stream segment is a designated public swimming area. Water quality criterion for bacterial indicator organisms applied to Class A waters shall be set at an illness rate of eight or more per 1000 swimmers. If through routine monitoring, a sample collected exceeds the primary contact recreational use-Class A single-sample criterion, then at least five more samples shall be collected in separate 24-hour periods over a 30-day period to calculate a geometric mean. The classified stream segment shall only be considered impaired for primary contact recreational use-Class A if the geometric mean of the five samples exceeds the corresponding water quality criterion. The water quality criterion for primary contact recreational use-Class A waters during the period November 1 through April 30 of each year shall be equal to the criterion applied to secondary contact recreational use-Class A waters.

(b) Primary contact recreational use-Class B: Use of a classified stream segment for recreation, where moderate full body contact recreation is expected, during the period from April through October...
31 of each year, and the classified stream segment is by law or written
permission of the landowner open to and accessible by the public. Water
quality criterion for bacterial indicator organisms applied to Class B wa-
ters shall be set at an illness rate of 10 or more per 1000 swimmers. If
through routine monitoring, a sample collected exceeds the primary 
(contact recreational) use-Class B single-sample criterion, then at
least five more samples shall be collected in separate 24-hour periods over
a 30-day period to calculate a geometric mean. The classified stream seg-
ment shall only be considered impaired for primary 
(contact recreational) use-Class B if the geometric mean of the five samples exceeds
the corresponding water quality criterion. The water quality criterion for
primary contact 
(recreational) use-Class B waters during the
period November 1 through April 30 [March 31] of each year shall be
equal to the criterion applied to secondary contact 
(recreational) use-Class A waters.

(c) Primary contact recreational use-Class C: Use of a classified
stream segment for recreation, where full body contact recreation is in-
frequent during the period from May 1 [April 1] through October 31 of
each year, and is not open to and accessible by the public under Kansas
law and is capable of supporting the recreational activities of swimming,
skin diving, water-skiing, wind surfing, boating, mussel harvesting, wad-
ing or fishing. Water quality criterion for bacterial indicator organisms
applied to Class C waters shall be set at an illness rate of 12 or more per
1000 swimmers. If through routine monitoring, a sample collected exceeds
the primary 
(contact recreational) use-Class C single-sample
criterion, then at least five more samples shall be collected in separate 24-
hour periods over a 30-day period to calculate a geometric mean. The
classified stream segment shall only be considered impaired for primary

(contact recreational) use-Class C if the geometric mean of the
five samples exceeds the corresponding water quality criterion. The water
quality criterion for primary contact 
(recreational) use-Class C
waters during the period November 1 through April 30 [March 31] of
each year shall be equal to the criterion applied to secondary contact 
(recreational) use-Class B waters.

(ii) Secondary contact recreational use:

(a) Secondary contact recreational use-Class A: Use of a classified
stream segment for recreation capable of supporting the recreational ac-
activities of wading or fishing and the classified stream segment is by law or written permission of the landowner open to and accessible by the public. Water quality criterion for bacterial indicator organisms applied to secondary contact recreational use-Class A waters shall be nine times the criterion applied to primary contact recreational use-Class B waters. If through routine monitoring, a sample collected exceeds the secondary contact recreational use-Class A single-sample criterion, then at least five more samples shall be collected in separate 24-hour periods over a 30-day period to calculate a geometric mean. The classified stream segment shall only be considered impaired for secondary contact recreational use-Class A if the geometric mean of the five samples exceeds the corresponding water quality criterion.

(b) Secondary contact recreational use-Class B: Use of a classified stream segment for recreation capable of supporting the recreational activities of wading or fishing and the classified stream segment is not open to and accessible by the public under Kansas law. Water quality criterion for bacterial indicator organisms applied to secondary contact recreational use-Class B waters shall be nine times the criterion applied to primary contact recreational use-Class C use waters. If through routine monitoring, a sample collected exceeds the secondary contact recreational use-Class B single-sample criterion, then at least five more samples shall be collected in separate 24-hour periods over a 30-day period to calculate a geometric mean. The classified stream segment shall only be considered impaired for secondary contact recreational use-Class B if the geometric mean of the five samples exceeds the corresponding water quality criterion.

(b) is use of a classified stream segment for recreation, provided such classified stream segment (1) is not open to and accessible by the public under Kansas law and (2) is capable of supporting the recreational activities of swimming, skin diving, water skiing, wind surfing, boating, mussel harvesting, wading or fishing.

(B) If opposite sides of a classified stream segment would have different designated recreational uses due to differences in public access, the designated use of the entire classified stream segment may be the higher attainable use, notwithstanding that such designation does not grant the public access to both sides of such segment.

(C) Recreational use designations shall not apply to stream segments where the natural, ephemeral, intermittent or low flow conditions or water levels prevent recreational activities.

(d) “Ephemeral stream” means streams that flow only in response to precipitation and whose channel is at all times above the water table.

(e) “Secretary” means the secretary of health and environment.

New Sec. 2. The secretary of the Kansas department of health and
environment shall develop and publish proposed rules and regulations to
incorporate the provisions of this act, in accordance with the rules and
regulations filing act, on or before July 1, 2003.

Sec. 3. K.S.A. 2002 Supp. 82a-2001 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its
publication in the Kansas register.