ELECTRONIC CODE OF FEDERAL REGULATIONS

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Title 40: Protection of Environment
PART 131—WATER QUALITY STANDARDS
Subpart B—Establishment of Water Quality Standards

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§131.10 Designation of uses.

(a) Each State must specify appropriate water uses to be achieved and protected. The classification of the waters of the State must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on water, agricultural, industrial, and other purposes including navigation. In no case shall a State adoı waste transport or waste assimilation as a designated use for any waters of the United States.

(b) In designating uses of a water body and the appropriate criteria for those uses, the State sh take into consideration the water quality standards of downstream waters and shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards (downstream waters.

(c) States may adopt sub-categories of a use and set the appropriate criteria to reflect varying needs of such sub-categories of uses, for instance, to differentiate between cold water and warm water fisheries.

(d) At a minimum, uses are deemed attainable if they can be achieved 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.

(e) Prior to adding or removing any use, or establishing sub-categories of a use, the State shal provide notice and an opportunity for a public hearing under §131.20(b) of this regulation.

(f) States may adopt seasonal uses as an alternative to reclassifying a water body or segment thereof to uses requiring less stringent water quality criteria. If seasonal uses are adopted, water quality criteria should be adjusted to reflect the seasonal uses, however, such criteria shall not preclude the attainment and maintenance of a more protective use in another season.

(g) States may remove a designated use which is *not* an existing use, as defined in §131.3, or establish sub-categories of a use if the State can demonstrate that attaining the designated use is r feasible because:

(1) Naturally occurring pollutant concentrations prevent the attainment of the use; or

(2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainmer the use, unless these conditions may be compensated for by the discharge of sufficient volume of

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effluent discharges without violating State water conservation requirements to enable uses to be m
or

(3) Human caused conditions or sources of pollution prevent the attainment of the use and can be remedied or would cause more environmental damage to correct than to leave in place; or

(4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the u and it is not feasible to restore the water body to its original condition or to operate such modificatio a way that would result in the attainment of the use; or

(5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or

(6) Controls more stringent than those required by sections 301(b) and 306 of the Act would re in substantial and widespread economic and social impact.

(h) States may not remove designated uses if:

(1) They are existing uses, as defined in §131.3, unless a use requiring more stringent criteria added; or

(2) Such uses will be attained by implementing effluent limits required under sections 301(b) ar 306 of the Act and by implementing cost-effective and reasonable best management practices for nonpoint source control.

(i) Where existing water quality standards specify designated uses less than those which are presently being attained, the State shall revise its standards to reflect the uses actually being attain

(j) A State must conduct a use attainability analysis as described in §131.3(g) whenever:

(1) The State designates or has designated uses that do not include the uses specified in secti 101(a)(2) of the Act, or

(2) The State wishes to remove a designated use that is specified in section 101(a)(2) of the A or to adopt subcategories of uses specified in section 101(a)(2) of the Act which require less stringe criteria.

(k) A State is not required to conduct a use attainability analysis under this regulation wheneve designating uses which include those specified in section 101(a)(2) of the Act.

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