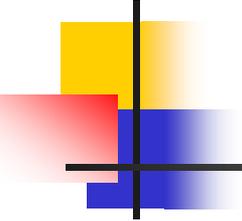


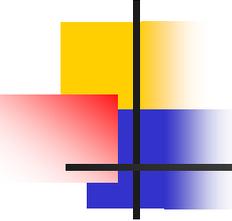
Water Quality Standards Academy

Designated Uses



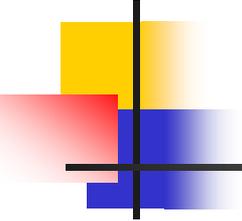
Module Outline

- What are designated uses? Why are they important?
- What are some examples of designated uses?
- What is the statutory and regulatory basis for them?
- What are my options for refining uses?
- What are existing uses?
- What is a use attainability analysis?



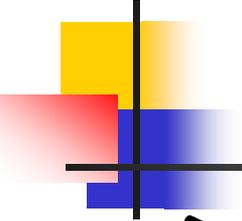
What are Designated Uses?

- Designated uses are “those uses specified in state or tribal water quality standards regulations for each water body or segment **whether or not they are being attained.**”
- Designated uses may be thought of as:
 - Water quality goals
 - Management objectives
 - Communication tools
 - Functions and/or activities that are supported by a level of water quality



Why are Designated Uses Important? (1)

- Designated uses are an important component of WQS
- Establish water quality goals for a specific water body and communicate these goals to the public.



Why are Designated Uses Important? (2)

- Determine criteria needed to protect use
 - Criteria are the regulatory basis for management actions like attainment decisions, TMDLs, and NPDES permit limits
- If WQS function to achieve CWA goals and restore water quality, we must ensure the designated uses are right!

What are Examples of Designated Use Categories? (1)

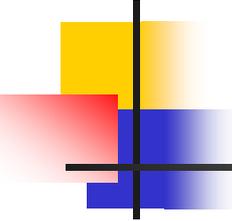
- Protection of aquatic life (fish, shellfish, aquatic habitat, etc.)
- Recreation (swimming, surfing, boating, fishing, wading, etc.)
- Domestic water supply
- Livestock watering
- Navigation



What are Examples of Designated Use Categories? (2)

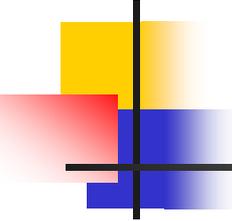
- Ceremonial Uses (baptisms)
- Shellfish Harvesting
- Wildlife Protection
- Endangered Species Protection
- Hydroelectric Power
- ...and the list goes on!





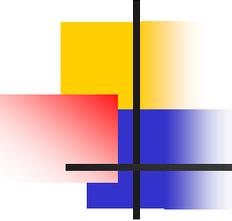
District of Columbia's Designated Uses

- Primary contact recreation
- Secondary contact recreation and aesthetic enjoyment
- Protection and propagation of fish, shellfish, and wildlife
- Protection of human health related to consumption of fish and shellfish
- Navigation



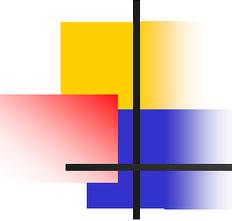
Virginia's Designated Uses

- Recreational uses (e.g., swimming and boating)
- Propagation and growth of a balanced, indigenous population of aquatic life, including game fish, which might reasonably be expected to inhabit them
- Wildlife
- Production of edible and marketable natural resources, e.g., fish and shellfish



Where Does the CWA Talk About Uses? (1)

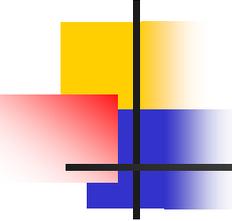
- CWA 101(a)(2) sets a national goal that, wherever attainable, water quality provides for the protection and propagation of fish, shellfish and wildlife, and recreation in and on the water
 - Includes protection of aquatic life for human consumption



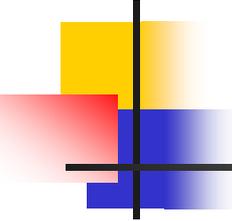
Where Does the CWA Talk About Uses? (2)

- CWA 303 (c)(2)(a): water quality standards shall serve the purposes of the [Act] and consider the use and value for public water supplies, propagation of fish and wildlife, recreational, agricultural, industrial and other purposes, and...navigation

What Does the CWA Mean by "Use"?

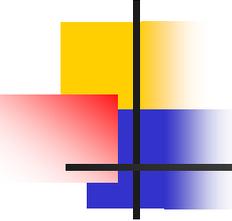


- A function of, or activity in, a water that is supported by a level of water quality



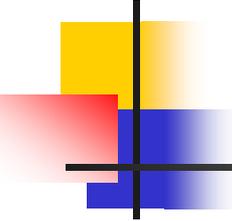
What are EPA's Regulatory Expectations for Designated Uses?

- EPA's regs state that designated uses:
 - Be specified in State and Tribal WQS regulations
 - Consider all uses identified in CWA 101(a) and 303(c)
 - Do not provide for waste transport or waste assimilation
 - Provide for attainment/maintenance of WQS of downstream waters
 - Be established through a public process



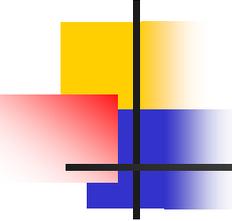
What is the "Rebuttable Presumption"?

- The WQS regulations at 40 CFR Part 131 effectively establish a "rebuttable presumption" that uses specified in CWA 101 (a)(2) are attainable
- If a state or tribe disagrees, regulations require appropriate documentation to show such uses are not attainable (i.e. **Use Attainability Analysis** or UAA)
- States and Tribes have the primary role in establishing uses and in weighing evidence regarding their attainability



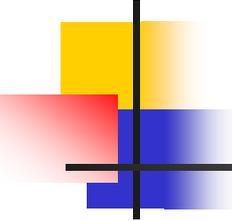
May States/Tribes Refine Their Designated Uses?

- Use refinement is a broad term relating to any activity to review and revise the designated uses
- States may refine their designated uses to reflect more specific goals and to more clearly reflect the attainable use



Why are Refinements to Designated Uses Important ?

- Help states/tribes clearly communicate their water quality objectives to stakeholders
- More specificity allows states/tribes to adopt more effective criteria and thus more appropriate endpoints for permits and TMDLs.



What are Some Examples of Refined Uses?

- **Recreation:**

- Primary contact recreation/secondary contact recreation
- Seasonal primary contact recreation May 1 - October 1/secondary contact recreation all other times

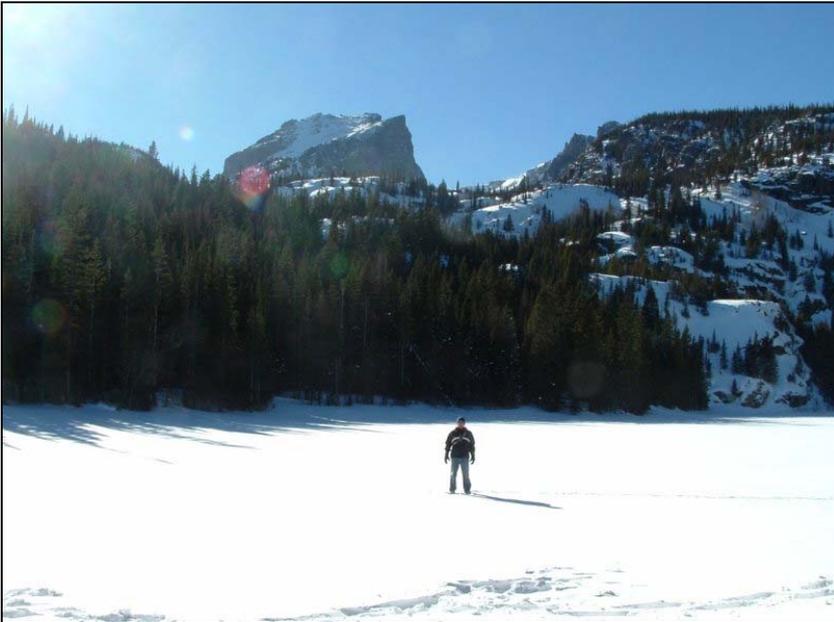
- **Aquatic Life:**

- Warmwater fishery/coldwater fishery
- Trout rearing/trout spawning

Primary and Secondary Recreation



Seasonal Uses: Same Lake, Different Seasons...

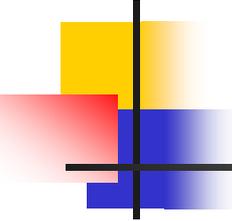


How has Oregon Refined its Uses?

- Beneficial Use - "Fish Use"
- Sub-categories:
 - Salmon and Steelhead migration corridors
 - Salmon and Steelhead spawning through fry emergence
 - Redband or Lahontan cutthroat trout

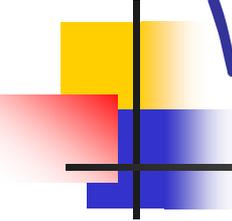


How has Virginia Refined its Uses?



- Designated use - "Propagation and growth of a balanced, indigenous population of aquatic life...."
- Sub-categories:
 - Migratory Fish Spawning and Nursery Designated Use
 - Shallow-Water Submerged Aquatic Vegetation Designated Use
 - Open-Water Aquatic Life Designated Use

What are EPA's Expectations When Refining Uses?

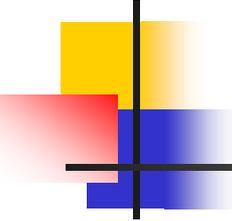


- When adopting a subcategory of a use specified in CWA 101(a)(2) with less stringent criteria than previously designated use, a UAA is required
- May not remove a designated use if doing so removes protection for an **existing use**

What are Existing Uses? (1)

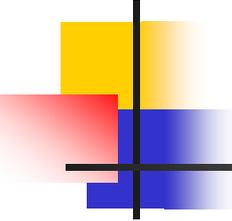
- Existing uses are those uses actually attained in a waterbody on or after November 28, 1975, whether or not they are included in the water quality standards
- Existing uses serve as a baseline or “floor” of water quality, below which we don't want to drop





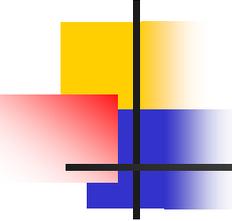
What are Existing Uses (2)?

- Existing uses are known to be “attained” when **both** the use and the water quality necessary to support the use has been achieved:
 - Swimming in a *CSO*-impacted waterbody
 - Trout fishery in mining impacted waters (high levels cadmium, zinc)
- Where data may be limited, inconclusive, or not available, states/tribes have discretion to determine when an existing use has been attained.



How Do I Determine an Existing Use?

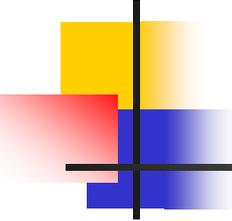
- Made on a site-specific basis
- Consider the quantity, quality, and reliability of different types of available data
- Determine the extent to which water quality since 1975 has supported an actual use occurring in the water



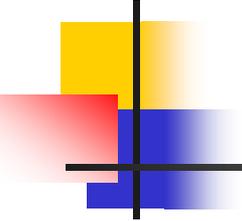
What is the Difference Between Existing Uses and Designated Uses?

- Existing uses are not generally adopted into state/tribal law
- State and tribes are not bound to describe existing uses in the same way their WQS articulate designated use
 - Existing uses can be expressed more specifically than designated uses, to reflect degree of use actually attained

What is the Difference Between Existing Uses and Designated Uses?

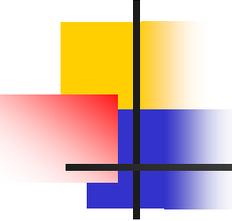


“Designated uses focus on the attainable condition while existing uses focus on the past or present condition.”



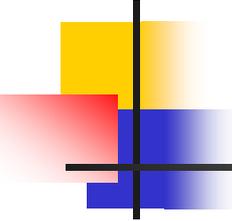
Remember...

- Existing uses only come into play when refining or removing a designated use.



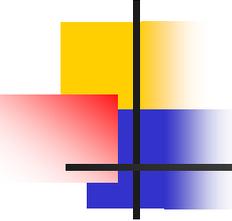
Take Home Messages

- Designated uses are an important component of water quality standards
- Uses specified in section 101(a)(2) of the Act are presumed attainable unless a state demonstrates otherwise through a UAA
 - States/tribes have more discretion when designating 303(c) uses
- EPA encourages use refinements to reflect more specific uses
- Existing uses may never be removed



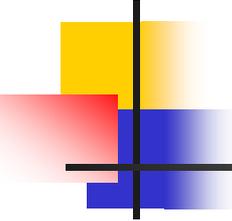
UAAs: A Sneak Preview

- The WQS regulation recognizes that situations exist where designated uses may not be attainable.
 - A use may not be attainable due to any one of six regulatory factors identified in the regulation.
- The UAA process helps a state/tribe determine whether a use is attainable and, if not, the highest attainable use that is attainable for the water body.
- UAA provides a defensible rationale and record of decision when adopting a new or revised WQS.



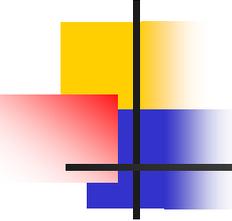
Review Questions #1

- True or False. A designated use must apply to an entire water body.



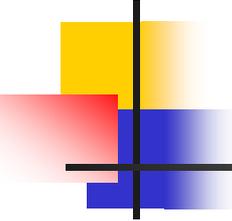
Review Questions #1

- True or False. A designated use must apply to an entire water body.
- Answer:
 - False. Uses can be designated for water body segments.



Review Questions #2

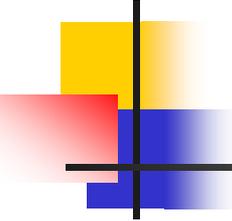
- Which of the following cannot be a State/Tribal designated use?
 - a. navigation
 - b. boating
 - c. propagation of fish
 - d. waste transport
 - e. drinking water
 - f. swimming



Review Questions #2

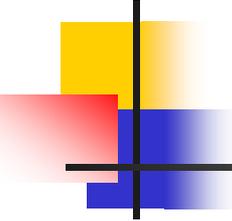
- Which of the following cannot be a State/Tribal designated use?
 - a. navigation
 - b. boating
 - c. propagation of fish
 - d. waste transport
 - e. drinking water
 - f. swimming

- Answer:
 - d. A State/Tribe may not adopt waste transport or waste assimilation as a designated use.



Review Questions #3

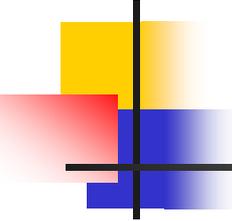
- What is the minimum designated use(s) expected by the Water Quality Standards regulations?
 - a. protection & propagation of fish, shellfish, and wildlife
 - b. recreation in & on the water
 - c. a only
 - d. b only
 - e. both a & b



Review Questions #3

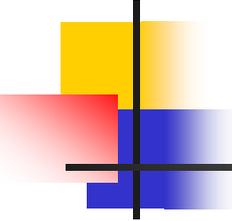
- What is the minimum designated use(s) expected by the Water Quality Standards regulations?
 - a. protection & propagation of fish, shellfish, and wildlife
 - b. recreation in & on the water
 - c. a only
 - d. b only
 - e. both a & b

- Answer:
 - *e. Unless a State or Tribe can demonstrate that the use is unattainable, the minimum use that must be designated is protection & propagation of fish, shellfish, and wildlife, and recreation in & on the water.*



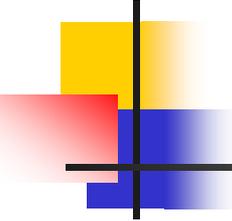
Review Questions #4

- True or False. A use must be attained before the State or Tribe can designate it for a particular waterbody



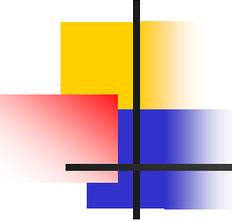
Review Questions #4

- True or False. A use must be attained before the State or Tribe can designate it for a particular waterbody
- Answer:
 - *False. A designated use can be specified by the State or Tribe whether or not it is being attained for a waterbody.*



Review Questions #5

- Recreation is often divided into what two subcategories?
 - a. primary contact/secondary contact
 - b. coldwater/warmwater
 - c. boating/wading
 - d. summer/winter



Review Questions #5

- Recreation is often divided into what two subcategories?

- a. primary contact/secondary contact
- b. coldwater/warmwater
- c. boating/wading
- d. summer/winter

- Answer:

- a. *Primary contact protects people from illness due to immersion. Secondary contact protects people when immersion is unlikely.*