United States Environmental Protection Agency

Office of Water
EPA 820-**F-15-004**
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Water Quality Standards Regulatory Revisions (Final Rule)

Summary

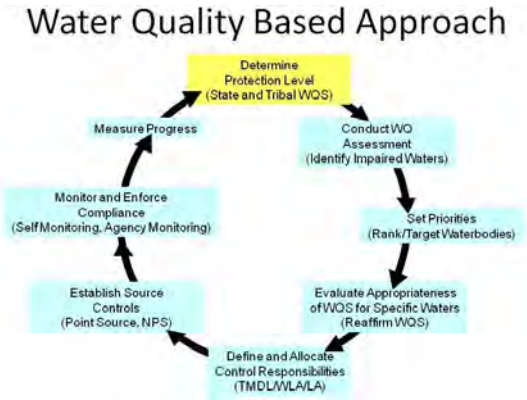
EPA has finalized updates to the federal water quality standards (WQS) regulation at 40 CFR Part 131 that interprets part of the Clean Water Act. The updates result in a better-defined pathway for states and authorized tribes to improve water quality and protect high quality waters through enhancements in the regulation's effectiveness, WQS transparency, and opportunities for meaningful public engagement at the state, tribal and local levels. The final rule addresses the following key WQS program areas: (1) Administrator's determination that new or revised WQS for states and tribes are necessary, (2) designated uses of waters, (3) triennial reviews of state and authorized tribal WQS, (4) antidegradation provisions to protect water quality, (5) WQS variances, and (6) permit compliance schedule authorizing provisions.

Background

Water quality standards are the foundation of the water quality-based pollution control program mandated by the Clean Water Act and serve a dual purpose. First, WQS define the goals for a water body by designating its uses, setting criteria to protect those uses, and establishing antidegradation policies to protect water bodies from pollutants. Second, WQS serve as the basis for water quality-based limits in National Pollutant Discharge Elimination System (NPDES) permits, as the measure to assess whether waters are impaired, and as the target in a Total Maximum Daily Load (TMDL) to restore impaired waters.

The core requirements of the WQS regulation have been in place for over 30 years. The requirements have provided a strong foundation for water quality-based controls, including water quality assessments, impaired waters lists and TMDLs, under Clean Water Act section 303(d), as well as for water quality-based effluent limits (WQBELs) in NPDES discharge permits under Clean Water Act section 402. As with the development and operation of any program, a number of policy and technical issues have been raised by stakeholders or identified by EPA in the implementation process that are most efficiently addressed by revising the federal WQS regulation.

This action finalizes the WQS regulation revisions initially proposed by EPA on September 4, 2013. The final rule enables states and authorized tribes to more effectively address complex water quality challenges, protect existing water quality, and facilitate environmental improvements. It also leads to better understanding and proper use of available Clean Water Act tools and promotes transparent and engaged public participation.



What This Final Rule Does

(1) Clarifies what constitutes an **Administrator's determination** that new or revised WQS are necessary pursuant to Clean Water Act section 303(c)(4)(B), supporting EPA's ability to communicate openly and effectively with states and authorized tribes about WQS concerns.

(2) Refines how states and authorized tribes assign and revise **designated uses** for individual water bodies, ensuring that appropriate WQS are in place to help restore and maintain robust aquatic ecosystems and promote resilience to the anticipated effects of climate change and other emerging stressors to water quality.

(3) Clarifies the **triennial review** requirements to explain the role of new or updated Clean Water Act section 304(a) criteria recommendations in the development of WQS by states and authorized tribes, and to describe the applicable WQS that must be reviewed triennially, promoting public transparency on how states and authorized tribes consider such criteria recommendations during triennial reviews.

(4) Establishes stronger **antidegradation requirements** by creating a more structured process for identifying high quality waters and specifying the type of analysis that is required before a state or authorized tribe allows degradation of high water quality, resulting in enhanced protection of high quality waters and promoting public transparency.

(5) Outlines a comprehensive regulatory structure for **WQS variances**, promoting the appropriate use of this Clean Water Act tool and providing regulatory certainty to states, authorized tribes, the regulated community, stakeholders, and the public in making progress toward attaining designated uses.

(6) Clarifies that a state or authorized tribe must adopt, and EPA must approve, a **provision authorizing the use of permit compliance schedules** prior to legally using schedules of compliance for WQBELs in NPDES permits.

Affected Entities and Estimated Economic Costs of the Final Rulemaking

State and authorized tribal governments responsible for administering or overseeing water quality programs may be directly affected by this rulemaking. As a result of this final rule, states and authorized tribes may need to consider and implement new provisions, or revise existing provisions, in their WQS. Regulated entities such as industrial dischargers or publicly owned treatment works may be indirectly affected by this rulemaking because WQS may be used in determining NPDES permit limits or in implementing other Clean Water Act programs.

Total annual costs of this final rule to states and authorized tribes are estimated to be between $6.51 million - $24.11 million, which is well below EPA's $100 million threshold for regulatory significance. Annual burden to states and authorized tribes resulting from this final rule is estimated to be between 124,575 - 430,080 hours/year.

Benefits of the final rule include improved regulatory clarity for states and tribes, stakeholders, and the public in key areas that will allow them to better understand and make proper use of available Clean Water Act tools and flexibilities, while maintaining open and transparent public participation. Other potential benefits include incremental improvements in water quality and a variety of economic benefits associated with these improvements, including greater recreational opportunities and protection and improvement of public health; water of adequate quality for agricultural and industrial use; and water quality that supports the commercial fishing industry and higher property values.

Where can I find more information?

Email us at WQSRegulatoryClarifications@epa.gov or visit EPA's Water Quality Standards website at: http://water.epa.gov/lawsregs/lawsguidance/wqs_index.cfm.