

## CHAPTER 6 PROCEDURES FOR REVIEW AND REVISION OF WATER QUALITY STANDARDS

State review and revision of water quality standards are discussed in section 6.1. of this chapter. Guidance is provided on the administrative and regulatory requirements and procedures that should be followed in the State review and submittal process as well as the implication of a State's failure to submit standards. EPA review and approval procedures are discussed in section 6.2, and the procedures for promulgation of Federal standards are described in section 6.3.

### **6.1** State Review and Revision

Section 303(c)(1) of the Clean Water Act requires that a State shall, from time to time, but at least once every 3 years, hold public hearings to review applicable water quality standards and, as appropriate, to modify and adopt standards. The 3-year period is measured from the date of the letter in which the State informs EPA that revised or new standards have been adopted for the affected waters and are being submitted for EPA review or, if no changes were made in the standards for those waters, from the date of the letter in which the State informs EPA that the standards were reviewed and no changes were made.

States identify additions or revisions necessary to existing standards based on their 305(b) reports, other available water quality monitoring data, previous water quality standards reviews, or requests from industry, environmental groups, or the public. Water quality standards reviews and revisions may take many forms, including additions to and modifications in uses, in criteria, in the antidegradation policy, in the antidegradation

implementation procedures, or in other general policies.

#### **6.1.1 Consultation with EPA**

State consultation with EPA regional offices should occur when States begin activities to revise or adopt new water quality standards and long before the State standards are formally submitted for EPA review. Reasons for early consultation with EPA include the following:

- States will benefit from early identification of potential areas of disagreement between EPA and the States, and EPA can determine where assistance may be provided;
- EPA must be in a position to respond to litigation and to congressional and other inquiries relating to actions on the revised State water quality standards;
- Headquarters must be ready to support promulgation actions when State standards have been disapproved;
- early consultation with EPA allows issues to be discussed well before a formal review request is received from the State; and
- EPA actions related to State standards should receive as comprehensive a review as possible.

#### **6.1.2 Public Notice Soliciting Suggestions for Additions or Revisions to Standards**

An important component of the water quality standards setting and review process is a

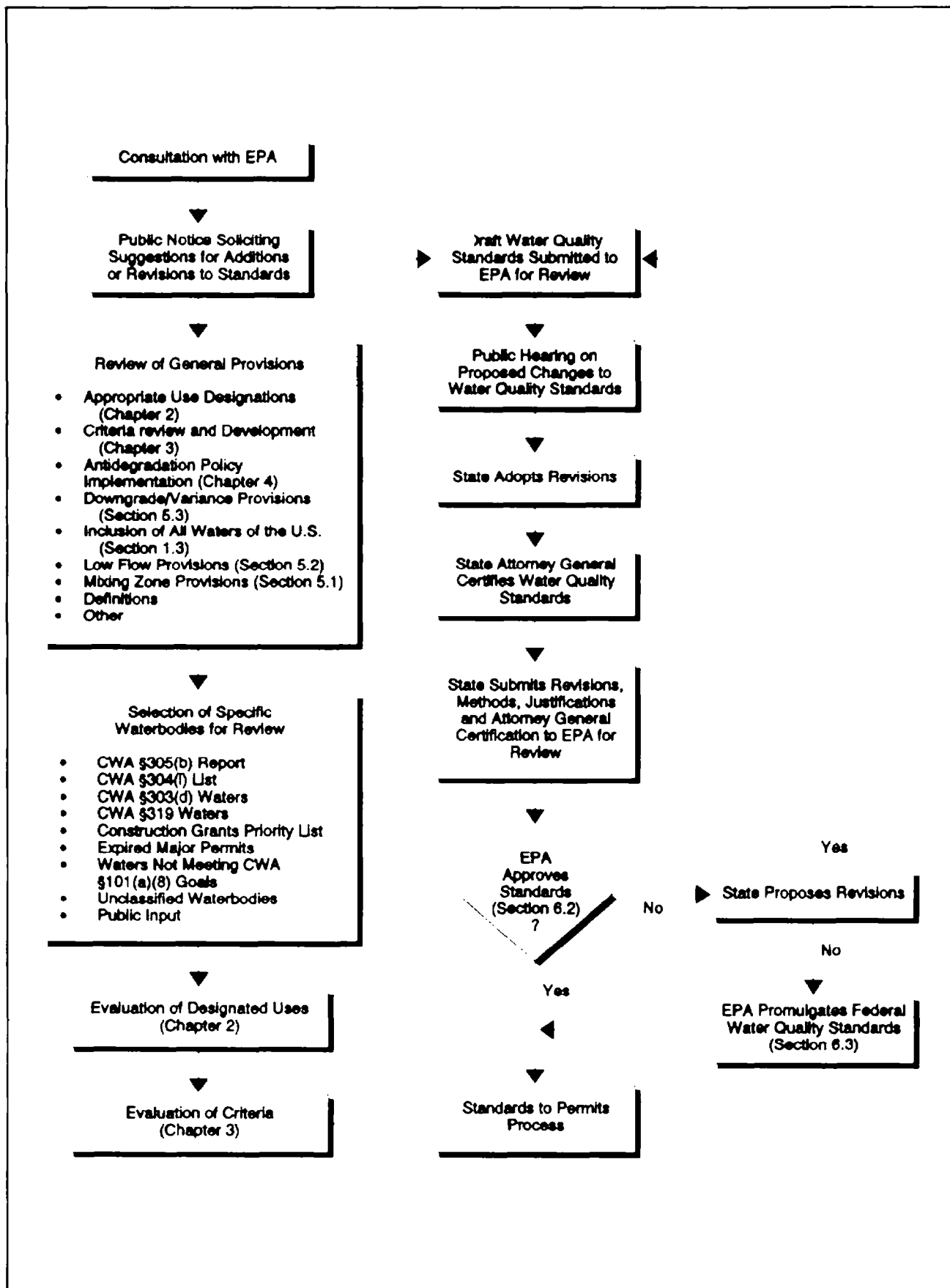


Figure 6-1. Simplified Flow Chart of a Typical State Water Quality Standards Review Process

meaningful involvement of those affected by the standards decisions. At a minimum, section 303(c) of the Clean Water Act requires States to hold a public hearing in reviewing and revising water quality standards. (State law may require more than one hearing.) However, States are urged to involve the public more actively in the review process. Involvement of the public includes the involvement of citizens affected by standards decisions, the regulated community (municipalities and industry), and inter-governmental coordination with local, State, and Federal agencies, and Indian Tribes with an interest in water quality issues. This partnership will ensure the sharing of ideas, data, and information, which will increase the effectiveness of the total water quality management process.

Public involvement is beneficial at several points in the water quality standards decision making process. Enlisting the support of municipalities, industries, environmentalists, universities, other agencies, and the affected public in collecting and evaluating information for the decision making process should assist the State in improving the scientific basis for, and in building support for, standards decisions. The more that people and groups are involved early in the process of setting appropriate standards, the more support the State will have in implementing the standards.

### **6.1.3 Review of General Provisions**

In each 3-year water quality standards review cycle, States review the general provisions of the standards for adequacy taking into consideration:

- new Federal or State statutes, regulations, or guidance;
- legal decisions involving application of standards; or
- other necessary clarifications or revisions.

### **Inclusion of All Waters of the United States**

Water quality standards are needed for all "waters of the United States," defined in the National Pollution Discharge Elimination System Regulations at 40 CFR 122.2 to include all interstate waters, including wetlands, and all intrastate lakes, rivers, streams (including intermittent streams), wetlands, natural ponds, etc., the use, degradation or destruction of which would affect or could affect interstate or foreign commerce. The term "waters of the United States" should be read broadly during the standards review process. States should ensure that all waters under this definition are included in the States' water quality standards, are assigned designated uses, and have protective criteria.

### **Definitions**

Terms used in the Water Quality Standards Regulation are defined in 40 CFR 131.3. The glossary of this document contains these and other water quality standards-related terms defined by the Clean Water Act, EPA regulation, or guidance. States, when reviewing their water quality standards, should at a minimum define those terms included in the Definitions section of the regulation to be synonymous with the EPA definitions.

### **6.1.4 Selection of Specific Water Bodies for Review**

The Water Quality Standards Regulation allows States to establish procedures for identifying and reviewing the standards on specific water bodies in detail. Any procedures States establish to revise standards should be articulated in the continuing planning process consistent with the water quality management regulation. Water bodies receiving a detailed standards review are most likely to be those where:

- combined sewer overflow (CSO) funding decisions are pending;
- water quality-based permits are scheduled to be issued or reissued;
- CWA goal uses are not being met;
- toxics have been identified and are suspected of precluding a use or may be posing an unreasonable risk to human health; or
- there may be potential impacts on threatened or endangered species.

States may have other reasons for wishing to examine a water body in detail, such as human health problems, court orders, or costs or economic and social impacts of implementing the existing water quality standards. States must reexamine any water body with standards not consistent with the section 101(a)(2) goals of the Act every 3 years, and if new information indicates that section 101(a)(2) goal uses are attainable, revise its standards to reflect those uses.

States are encouraged to review standards for a large enough area to consider the interaction between both point and nonpoint source discharges. In carrying out standards reviews, the States and EPA should ensure proper coordination of all water quality programs.



### 6.1.5 Evaluation of Designated Uses

Once priority water bodies have been selected for review, the designated uses must be evaluated. This may involve some level of data collection up to and including a full water body survey and assessment; however, an intensive survey of the water body is not necessary if adequate data are available. The purpose of the evaluation is to pinpoint problems and to characterize present uses, attainable uses (uses that could exist in the absence of anthropogenic effects), uses impaired or precluded, and the reasons why uses are impaired or precluded. Information generated in the survey also can be used to establish the basis for seasonal uses and subcategories of uses.

Included in section 2.9 of this Handbook are examples of a range of physical, chemical, and biological characteristics of the water body that may be surveyed when evaluating aquatic protection uses. This information is then used in determining the existing species in the water body and the health of those species, as well as what species could be in the water body given the physical characteristics of the water body, or what species might be in the water if the quality of the water were improved.

#### Review of the Cause of Uses Not Being Met

If the survey indicates that designated uses are impaired, the next step is to determine the cause. In many situations, physical conditions and/or the presence of pollutants prevent the water body from meeting its designated use. Physical limitations refer to such factors as depth, flow, habitat, turbulence, or structures such as dams that might make a use unsuitable or impossible to achieve regardless of water quality.

If uses are precluded because of physical limitations of the water body, the State may wish to examine modifications that might allow a habitat suitable for a species to thrive where it could not before. Some of the techniques

which have been used include bank stabilization, current deflectors, construction of oxbows, or installation of spawning beds. A State also might wish to consider improving the access to the water body, improving facilities nearby so that it can be used for recreational purposes, or establishing seasonal uses or subcategories of a use.

If uses are not being met because of water pollution problems, the first step in the process is to determine the cause. If the standards review process is well coordinated with the total maximum daily load (TMDL) determination and the permit process, permittees may be required to conduct some of the analyses necessary to determine why uses are not attained (For more information on the TMDL process, see chapter 7, this Handbook.) When background levels of pollutants are irreversible and criteria cannot be met, States should evaluate other more appropriate uses and revise the water quality standards appropriately.

#### **Determination of Attainable Uses**

Consideration of the suitability of the water body to attain a use is an integral part of the water quality standards review and revision process. The data and information collected from the water body survey provide a firm basis for evaluating whether the water body is suitable for the particular use. Suitability depends on the physical, chemical, and biological characteristics of the water body, its geographic setting and scenic qualities, and the socioeconomic and cultural characteristics of the surrounding area. Suitability must be assessed through the professional judgment of the evaluators. It is their task to provide sufficient information to the public and the State decision makers.

In some instances, physical factors may preclude the attainment of uses regardless of improvements in the chemistry of the receiving water. This is particularly true for fish and wildlife protection uses where the lack of a

proper substrate may preclude certain forms of aquatic life from using the stream for propagation, or the lack of cover, depth, flow, pools, riffles, or impacts from channelization, dams, or diversions may preclude particular forms of aquatic life from the stream altogether. While physical factors may influence a State's decision regarding designation of uses for a water body, States need to give consideration to the incidental uses that may be made of the water body notwithstanding the use designation. For example, even though it may not make sense to encourage use of a stream for swimming because of the flow, depth, or velocity of the water, the States and EPA must recognize that swimming and/or wading may, in fact, occur. To protect public health, States must set criteria to reflect swimming if it appears that primary contact recreation will, in fact, occur in the stream.

While physical factors are important in evaluating whether a use is attainable, physical limitations of the stream may not be an overriding factor. Common sense and good judgment play an important role in setting appropriate uses and criteria. In setting criteria and uses, States must assure the attainment of downstream standards. The downstream uses may not be affected by the same physical limitations as the upstream uses.

If a change in the designated use is warranted based on a use attainability analysis, States may modify the uses currently assigned. In doing so, the State should designate uses that can be supported given the physical, chemical, or biological limitations of the water body. Or, a State may designate uses on a seasonal basis. Seasonal use designations may be appropriate for streams that lack adequate water volume to support aquatic life year round, but can be used for fish spawning, etc., during higher flow periods. In setting seasonal uses, care must be taken not to allow the creation of conditions instream that preclude uses in another season. EPA encourages the designation of seasonal

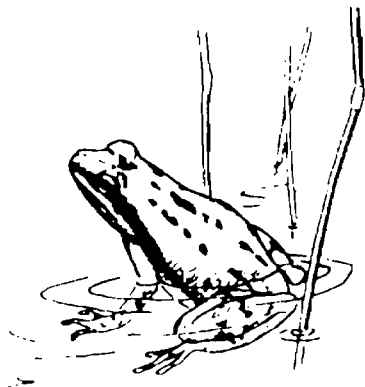
uses as an alternative to completely downgrading the use of a water body.

### Economic Impact Assessment

The Water Quality Standards Regulation allows States to establish uses that are inconsistent with the section 101(a)(2) goals of the Act if the more stringent technology required to meet the goals will cause substantial and widespread economic and social impact. These are impacts resulting specifically from imposition of the pollution controls and reflect such factors as unemployment, plant closures, and changes in the governmental fiscal base. The analysis should address the incremental effects of water quality standards beyond technology-based or other State requirements. If the requirements are not demonstrated to have an incremental, substantial, and widespread impact on the affected community, the standard must be maintained or made compatible with the goals of the Act.

#### 6.1.6 Evaluation of Criteria

Changes in use designations also must be accompanied by consideration of the need for a change in criteria. If a use is removed, the criteria to protect that use may be deleted or revised to assure protection of the remaining uses. If a use is added, there must be adequate water quality criteria to protect the use. Regardless of whether changes or modifications in uses are made, criteria protective of the use must be adopted. Certain criteria are deemed essential for inclusion in all State standards,



and criteria for section 307(a) toxic pollutants must be addressed consistent with section 303(c)(2)(B) (see chapter 3, this Handbook). All State standards should contain the "free froms" narrative statements (see section 3.5.2) in addition to numerical limits that can be used as a basis for regulating discharges into surface waters. Also, water quality parameters such as temperature, dissolved oxygen, pH, and bacteriological requirements are basic to all State standards.

EPA's laboratory-derived criteria may not always accurately reflect the bioavailability and/or toxicity of a pollutant because of the effect of local physical and chemical characteristics or varying sensitivities of local aquatic communities. Similarly, certain compounds may be more or less toxic in some waters because of differences in temperature, hardness, or other conditions. Setting site-specific criteria is appropriate where:

- background water quality parameters, such as pH, hardness, temperature, color, appear to differ significantly from the laboratory water used in developing the section 304(a) criteria; or
- the types of local aquatic organisms differ significantly from those actually tested in developing the section 304(a) criteria.

Developing site-specific criteria is a method of taking local conditions into account so that criteria are adequate to protect the designated use without being more or less stringent than needed. A three-phase testing program that includes water quality sampling and analysis, a biological survey, and acute bioassays provides an approach for developing site-specific criteria. Much of the data and information for the water quality sampling and analysis and the biological survey can be obtained while conducting the assessment of the water body. Included in section 3.10 of this Handbook are scientifically acceptable procedures for setting site-specific pollutant concentrations that will protect

designated uses. EPA believes that setting site-specific criteria will occur on only a limited number of stream segments because of the resources required to conduct the analyses and the basic soundness of the section 304(a) recommendations.

### 6.1.7 Draft Water Quality Standards Submitted to EPA for Review

While not a regulatory requirement, prudence dictates that draft State water quality standards be submitted to EPA for review. The EPA regional office and Headquarters will conduct concurrent reviews of draft standards and make comments on proposed revisions to assist the State in producing standards that are approvable by the Regional Administrator. Continuing cooperation between the State and EPA is essential to timely approval of State standards.

### 6.1.8 Public Hearing on Proposed Changes to Standards

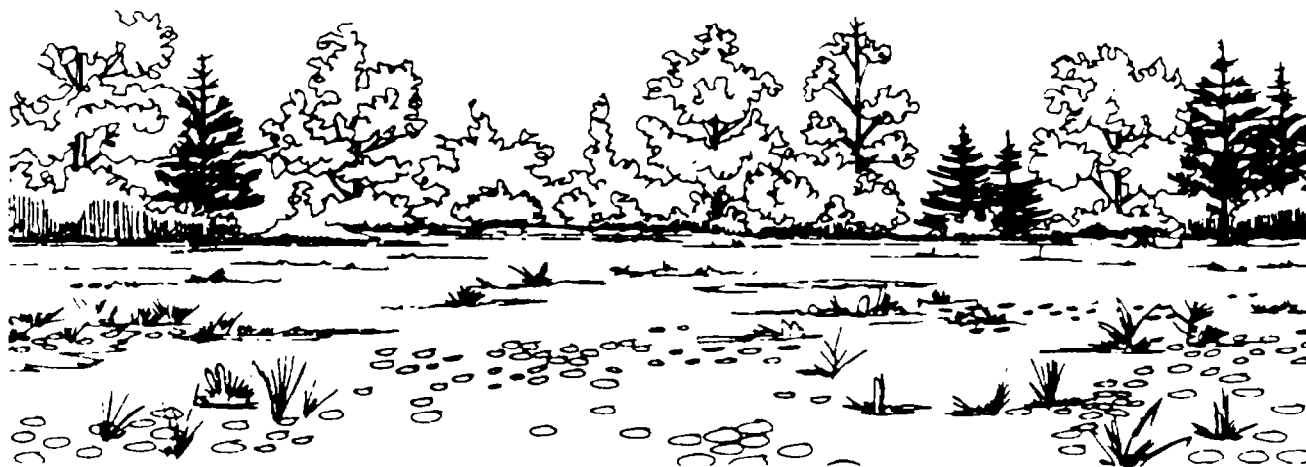
Before removing or modifying any use or changing criteria, the Clean Water Act requires the State to hold a public hearing. More than one hearing may be required depending on State regulations. It may be appropriate to have EPA review the adequacy of justifications including the data and the suitability and appropriateness of the analyses and how the analyses were applied prior to the public

hearing. In cases where the analyses are judged to be inadequate, EPA will identify how the analyses could be improved and suggest the additional types of evaluations or data needed. By consulting with EPA frequently throughout the review process, States can be better assured that EPA will be able to expeditiously review State submissions and make the determination that the standards meet the requirements of the Act.

The analyses and supporting documentation prepared in conjunction with the proposed water quality standards revision should be made available to the interested public prior to the hearing. Open discussion of the scientific evidence and analysis supporting proposed revisions in the water quality standards will assist the State in making its decision.

### 6.1.9 State Adopts Revisions; Submits Standards Package to EPA for Review

Within 30 days of their final administrative action, States submit to EPA water quality standards revisions, supporting analyses, and State Attorney General certification that the standards were duly adopted pursuant to State law. Final administrative action is meant to be the last action a State must take before its revision becomes a rule under State law and it can officially transmit State-adopted standards to EPA for review. This last action might be a signature, a review by a legislative committee or



State Board, or a delay mandated by a State administrative procedures act.

In reviewing changes in uses that are inconsistent with the section 101(a)(2) goals of the Act or changes in criteria, EPA will carefully consider the adequacy of the analyses and the public comments received during the hearing process. Standards are to meet the goals of the Act unless the State can clearly demonstrate that the uses reflected in the goals are unattainable.

## **6.2** EPA Review and Approval

When States adopt new or revised water quality standards, the State is required under CWA Section 303(c) to submit such standards to EPA for review and approval/disapproval. Section 131.20(c) of the Water Quality Standards Regulation requires the submittal to EPA to occur within 30 days of the final State action. Figure 6.2 outlines EPA's review process. EPA reviews and approves/disapproves the standards based on whether the standards meet the requirements of the CWA and the Water Quality Standards Regulation. States are encouraged to provide early drafts to the EPA Regional Office so that issues can be resolved during the water quality standards review process, prior to formal State proposal or adoption of revised or new standards.

When reviewing State water quality standards, EPA ensures that the standards meet the minimum requirements of the Act and Water Quality Standards Regulation. Pursuant to section 510 of the Act, State water quality standards may be more stringent than EPA's minimum requirements.

The general elements of an EPA review include, but are not limited to, the following:

- EPA determines whether "fishable/swimmable" designated uses have been assigned to all State waters or a use
- EPA ensures that general "free from" narrative criteria are included that protect all waters at all flows from substances that

attainability analysis (UAA) is available to support the designation of other uses. Other uses may satisfy the CWA section 101(a)(2) goal if properly supported by a UAA. EPA reviews the adequacy of the analyses.

- EPA determines whether the State's water quality criteria are sufficient to protect the designated uses by ensuring that all numeric criteria are based on CWA Section 304(a) guidance, 304(a) guidance modified to reflect site-specific conditions, or other scientifically defensible methods. EPA's decision to accept criteria based on site-specific calculations or alternative scientific procedures is based on a determination of the validity and adequacy of the supporting scientific procedures and assumptions and not on whether the resulting criterion is more or less stringent than the EPA guideline.
- EPA ensures that uses and/or criteria are consistent throughout the water body and that downstream standards are protected. A review to determine compliance with downstream standards is most likely to involve bodies of water on, or crossing, interstate and international boundaries.
- Where the analyses supporting any changes in the standards are inadequate, EPA identifies how the analyses need to be improved and suggests the type of information or analyses needed.
- For waters where uses have not been designated in support of the fishable/swimmable goal of the CWA, EPA determines whether the alternative uses are based on an acceptable UAA and whether such UAAs have been reviewed every 3 years as required by 40 CFR 131.20(a).



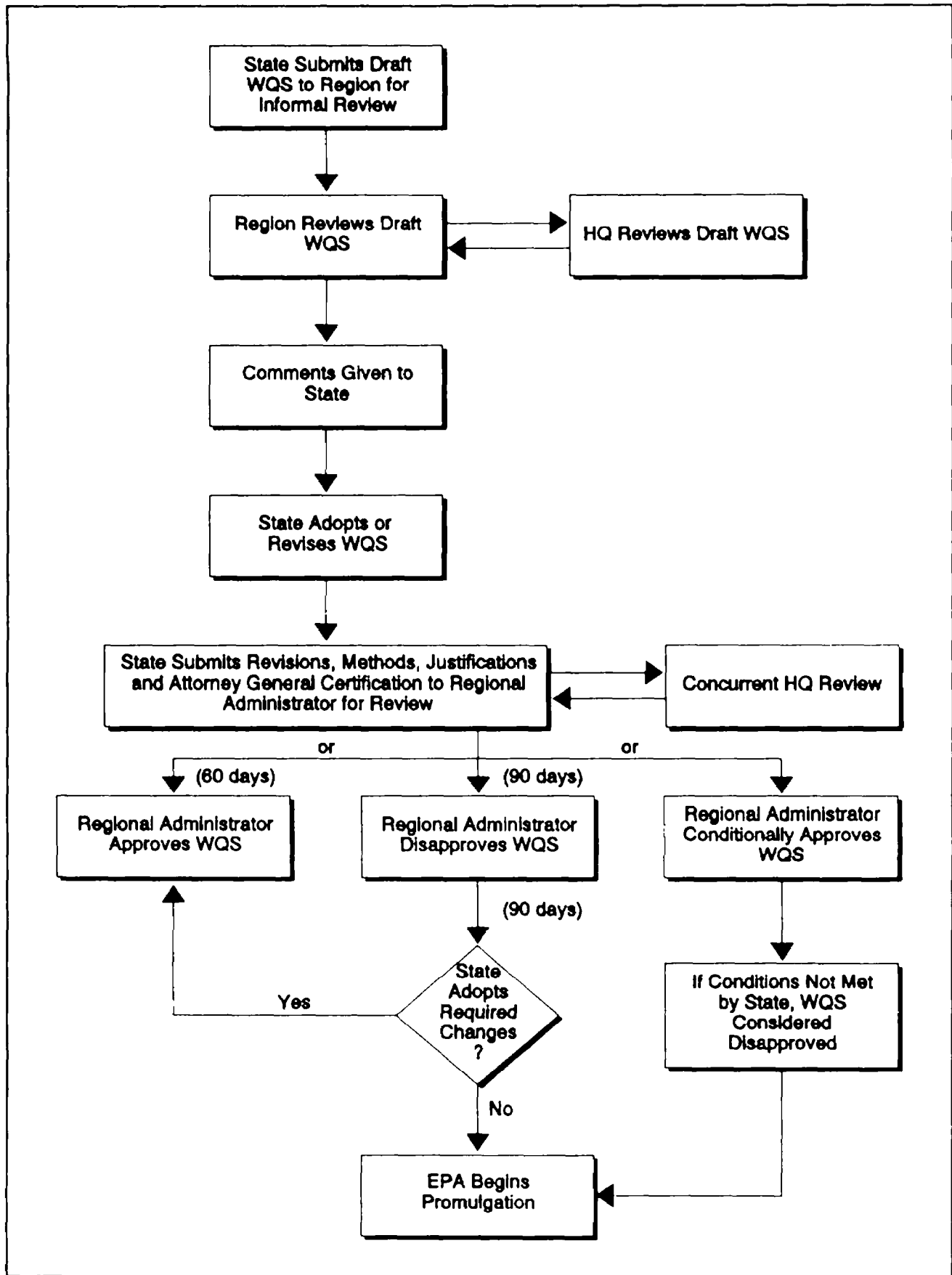


Figure 6-2. Overview of EPA Water Quality Standards Review Process

settle to form objectionable deposits; float as debris, scum, oil, or other matter; produce objectionable color, odor, taste, or turbidity; are acutely toxic; or produce undesirable or nuisance aquatic life.

- EPA determines whether the State has included criteria for CWA section 307(a) "priority" pollutants sufficient to satisfy the requirements of CWA section 303(c)(2)(B).
- For toxic pollutants where EPA has not issued guidance or it is not known which toxicant or toxicants are causing the problem, EPA ensures that the State standards include or reference a method for implementing the narrative toxics "free from" criterion.
- EPA ensures that the State's antidegradation policy meets the requirements of section 131.12 of the Water Quality Standards Regulation.
- EPA reviews whether the State has provided or referenced a procedure for implementing the antidegradation policy.
- Where (optional) general policies are included in the State water quality standards (e.g., mixing zone provisions, variance policies, low-flow exemption policies), EPA reviews whether the policies are consistent with the latest EPA guidance.
- EPA reviews comments and suggestions on previous State water quality standards to ensure that any areas for improvement or conditions attached to previous approvals have been acted upon satisfactorily.
- EPA reviews whether the policies are consistent with the latest EPA guidance and regulatory requirements.
- EPA ensures that the State has met the minimum requirements for a standards

submission as outlined in section 131.6 of the Water Quality Standards Regulation.

- EPA reviews whether the State has complied with the procedural requirements (e.g., public participation) for conducting water quality standards reviews.

Since 1972, EPA review and approval/disapproval includes concurrent reviews by the Regions and Headquarters. However, because the EPA regional Administrator has the responsibility for approving/disapproving water quality standards and because of the decentralized structure of EPA, the regional offices are the primary point of contact with the States. The EPA regional offices, not the States, are responsible for providing copies of State water quality standards to EPA Headquarters for review and for acting as liaison between States and EPA Headquarters on most matters affecting the water quality standards program. The basic internal EPA review procedures have been described in various guidance documents over the years; the most was a memorandum dated December 17, 1984. This memorandum also made one minor change to the process. It required that Headquarters be consulted immediately for possible advice and assistance when the Regional Office learns that a State:

- is proposing to lower designated water uses below the section 101(a)(2) goals of the Act;
- is not raising water uses to meet the section 101(a)(2) goals of the Act; or
- is considering adopting a water quality criterion less stringent than currently included in a State's standard.

To expedite Headquarters review, copies of State water quality standards revisions (draft and final) must be provided to the Director, Standards and Applied Science Division, at the time they are received by the Region. The Standards and Applied Science Division will

involve other EPA offices in the review as appropriate, and provide comments and suggestions, if any, to regional offices for consideration in State-EPA negotiations and final standards decisions. Their review will be expeditiously accomplished so as not to slow regional approval/disapproval. Neither the regional nor Headquarters review need be limited only to revisions to existing standards or to new standards.

In general, three outcomes are possible:

- EPA approval, in whole or in part, of the submitted State water quality standards;
- EPA disapproval, in whole or in part, of the submitted State water quality standards; and
- EPA conditional approval, in whole or in part, of the submitted State water quality standards.

Unconditional approval or disapproval of State-adopted water quality standards within the statutory time limits is the preferred approach. Conditional approvals should be used only as a limited exception to this general policy for correcting minor deficiencies in State standards and only if a State provides assurance that it will submit corrections on a specified, written schedule. Failure of a State to respond in a timely manner to the conditions expressed in the letter means that the standards are disapproved and the Region must promptly request Headquarters to initiate a promulgation action. Where this occurs, the Region should formally notify the State in writing that their failure to meet the conditions previously specified results in the standards now being disapproved as of the original date of the conditional approval letter.

#### **6.2.1 Policies and Procedures Related to Approvals**

Authority to approve or disapprove State water quality standards is delegated by the

Administrator to each Regional Administrator. The Administrator retains the authority to promulgate standards. Revisions to State water quality standards that meet the requirements of the Act and the Water Quality Standards Regulation are approved by the appropriate EPA Regional Administrator. The Regional Administrator must, within 60 days, notify the Governor or his designee by letter of the approval and forward a copy of the letter to the appropriate State agency. The letter should contain any information that might be helpful in understanding the scope of the approval action. If particular events (e.g., State implementation decisions, pending Federal legislation pertaining to water quality standards requirements) could result in a failure of the approved standards to continue to meet the requirements of the Act, these events should be identified in the approval letter. Such events should be identified for the record to guide future review and revision activities.

When only a portion of the revisions submitted meet the requirements of the Act and the Water Quality Standards Regulation, the Regional Administrator may approve only that portion. If only a partial approval is made, the Region must, in notifying the State, be as specific as possible in identifying what is disapproved and why. The Regional Administrator must also clearly indicate what action the State could take to make the disapproved item acceptable.

#### **6.2.2 Policies and Procedures Related to Disapprovals**

If the Regional Administrator determines that the revisions submitted are not consistent with or do not meet the requirements of the Act or the Water Quality Standards Regulation, the Regional Administrator must disapprove such standards within 90 days. Such disapproval must be via written notification to the Governor of the State or his designee. The letter must state why the revisions are not consistent with the Act or the Water Quality Standards

Regulation and specify the revisions that must be adopted to obtain full approval. The letter must also notify the Governor that the Administrator will initiate promulgation proceedings if the State fails to adopt and submit the necessary revisions within 90 days after notification.

A State water quality standard remains in effect, even though disapproved by EPA, until the State revises it or EPA promulgates a rule that supersedes the State water quality standard. This is because water quality standards are State laws, not Federal laws, and once the law is amended by the State, the previously adopted and EPA-approved standards no longer legally exist.

### 6.2.3 Policies and Procedures Related to Conditional Approvals

Conditional approvals are EPA approvals contingent on the performance of specified actions on the part of a State in a timely manner. There is an implicit or explicit statement in the letter to the State that failure to satisfy the identified conditions will nullify the conditional approval and lead to Federal promulgation action. Problems have arisen with inconsistent use of conditional approvals among the regions and with followup actions to ensure that a State is responding to the conditions in a timely manner.

Because promulgation of Federal standards is inherently a lengthy process, the use of conditional approvals evolved over the years as another mechanism to maintain the State-Federal relationship in establishing standards. When used properly, conditional approvals can result in standards that fully meet the requirements of the Act without undue Federal intervention and promote smooth operation of the national program.

If used improperly, conditional approvals can be an unacceptable delaying tactic to establishing standards and can be construed as EPA failing to properly exercise its duty to review and either approve or disapprove and promptly initiate promulgation action after the allotted 90-day period for State action. This improper use of conditional approvals must be avoided.

It is incumbent on a Region that uses a conditional approval to ensure that State action is timely. When a State fails to meet the agreed-upon schedule, EPA should initiate promulgation action. Conditional approvals are to be used only to correct minor deficiencies and should be the exception, not the rule, governing regional responses to State standards. Note that requests for clarification or additional information are not approval actions of any type.

This policy is modeled after that applied to EPA approval of State implementation plans



(SIPs) in the air program. (See 44 F.R. 38583, July 2, 1979. See also *Mississippi Commission on Natural Resources v. Costle*, 625 F. 2d 1269 (5th Cir.) 1980.)

### Necessary Elements of Conditional Approvals

First, conditional approvals are appropriate only for "minor deficiencies." Blatant disregard of Federal statutory or regulatory requirements or changes that will affect major permit issuance or reissuance are not minor deficiencies. In addition, the State's standards submission as a whole must be in substantial compliance with EPA's regulation. Major deficiencies must be disapproved to allow prompt Federal promulgation action.

Second, the State must commit, in writing, to a mutually satisfactory, negotiated schedule to correct the identified regulatory deficiencies in as short a time period as possible. The time allowed should bear a reasonable relationship to the required action. However, in consideration of the first element above, it is expected that the time period for compliance will be limited to a few months. It is definitely not expected that a year or more will be required. If that is the case, disapproval would be more appropriate. Headquarters concurrence in the schedule is required if it extends for more than 3 months.

### 6.3 EPA Promulgation

As a matter of policy, EPA prefers that States adopt their own standards. However, under section 303(c)(4) of the Act, EPA may promulgate Federal standards:

- if a revised or new water quality standard submitted by a State is determined by the Administrator not to be consistent with the requirements of the Clean Water Act, or

- in any case where the Administrator determines that a new or revised standard is necessary to meet the requirements of the Act.

Under the latter provision of the statute, EPA would be able to promulgate standards for a State, or States, that failed to conduct a triennial review and submit new or revised standards to EPA for review so long as the Administrator determined new standards were necessary. Where one of these conditions is met, the Administrator has the authority to publish proposed revisions to the State(s) standards in the *Federal Register*. Generally, a public hearing will be held on the proposed standards. Final standards are promulgated after giving due consideration to written comments received and statements made at any public hearings on the proposed revisions.

Although only the Administrator may promulgate State standards, the Regional Office has a major role in the promulgation process. The Regional Office provides the necessary background information and conducts the public hearings. The Regional Office prepares drafts of the rationale supporting EPA's action included in the proposed and final rulemakings. The rationale should clearly state the reason for the disapproval of the State standard.

If conditions warrant (e.g., a State remedies the deficiencies in its water quality standards prior to promulgation), the Administrator may terminate the rulemaking proceeding at any time. However, if a proposed rulemaking has been published in the *Federal Register*, then the Regional Administrator must not approve the State's changes without obtaining concurrence from Headquarters.

Whenever promulgation proceedings are terminated, a notice of withdrawal of the proposed rulemaking will be published in the *Federal Register*. The Regional Offices are responsible for initiating such action and

furnishing a rationale for use in preparing the notice for the Administrator's signature.

An EPA-promulgated standard will be withdrawn when revisions to State water quality standards are made that meet the requirements of the Act. In such a situation, the Regional Office should initiate the withdrawal action by notifying the Standards and Applied Science Division (WH-585) that it is requesting the withdrawal, specifying the rationale for the withdrawal, and obtaining Headquarters concurrence on the acceptability of the State's water quality standards. EPA's action to withdraw a federally promulgated standard requires both a proposed and final rulemaking if the State-adopted standards are less stringent than federally promulgated standards but, in the Agency's judgment, fully meet the requirements of the Act. EPA will withdraw the Federal rule without a notice and comment rulemaking when the State standards are no less stringent than the Federal rule (i.e., standards that provide, at least, equivalent environmental and human health protection).

Withdrawal of a Federal promulgation is based on a determination that State-adopted water quality standards meet the requirements of the Clean Water Act. Such State-adopted standards may be the same as, more stringent than, or less stringent than the Federal rule.

**CHAPTER 7**

**THE WATER QUALITY-BASED  
APPROACH TO  
POLLUTION CONTROL**

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