

Statutory and Regulatory Background

7. Under Clean Water Act § 303(c), 33 U.S.C. § 1313(c), states have the primary responsibility for establishing, reviewing, and revising water quality standards applicable to their waters. Water quality standards define the desired condition of a water body, in part, by designating the use or uses to be made of the water, 40 C.F.R. §§ 131.2 and 131.10, and by setting the numeric or narrative water quality criteria necessary to protect those uses. 40 C.F.R. §§ 131.2 and 131.11.

8. There are two primary categories of water quality criteria: human health criteria and aquatic life criteria. Human health criteria protect designated uses targeted toward human health, such as public water supply, recreation, and fish and shellfish consumption. Aquatic life criteria protect designated uses targeted toward aquatic life, such as survival, growth, and reproduction of fish, invertebrates, and other aquatic species. Water quality criteria “must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use of waters. For waters with multiple use designations, the criteria shall support the most sensitive use.” 40 C.F.R. § 131.11(a)(1).