



Questions and Answers about Use Attainability Analysis

General Information

Q: What is a Use Attainability Analysis (UAA)?

A: A use attainability analysis (UAA) is a *structured, scientific assessment* of the factors affecting the attainment of the use of a water body, such as swimming, fishing, and drinking. Water body uses are designated for protection in the state's water quality standards. A UAA is the tool used to evaluate the potential to remove nonexistent and nonattainable designated uses, or to establish subcategories of uses. Federal regulations guide UAAs; the results must be adopted into the water quality standards and approved by the US Environmental Protection Agency (EPA) as meeting the federal Clean Water Act (CWA) and Endangered Species Act (ESA).



Fishing

Q: What steps must be taken to remove or modify a designated use?

A: The following steps must occur before a use can be modified or removed:

1. An acceptable UAA must be prepared, either by the Idaho Department of Environmental Quality (DEQ) or by entities outside DEQ and submitted to DEQ.
2. The UAA must contain sufficient information to demonstrate to DEQ and EPA that the designated use is not existing and not attainable.
3. The UAA must identify the highest attainable replacement use for any water body evaluated.
4. DEQ must remove or modify the use in Idaho's water quality standards through the formal rulemaking process.
5. DEQ must submit the revised rule to EPA for approval.
6. EPA must approve the rule (after appropriate consultation with federal agencies and tribes).



Streambank Restoration

Q: Can a use be removed or modified based solely on water quality criteria not being met?

A: No. Failure to meet a water quality criterion already established to protect a use is not by itself sufficient evidence to show the use is not attainable.

Q: What uses can be removed?

A: States may remove nonexistent and nonattainable designated uses. Federal regulation 40 CFR 131.10(g) contains the rules governing the circumstances under which a state can remove a use:

“States may remove a designated use which is not an existing use, or establish subcategories of a use requiring less stringent criteria if the state can demonstrate that attaining the designated use is not feasible (not an attainable use) because one or more of the following six conditions are met:

- 1. Naturally occurring pollution concentrations prevent the attainment of the use; or*
- 2. Natural, ephemeral, intermittent, or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met; or*
- 3. Human caused conditions or sources of pollution prevent the attainment of the use and cannot 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 use, and it is not feasible to restore the water body to its original condition or to operate such modification in 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 lack of 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 Section 3031 (b) and 306 of the Act would results in substantial and widespread economic and social hardship.”*



Wildlife

Q: What are designated, existing, and attainable uses?

A: *Designated uses* are specifically assigned (designated) to a water body in the Idaho Administrative Procedures Act for protection under the water quality standards. Designated uses may or may not be existing uses.

- Once a use is designated in a state’s standards, it receives special regulatory protection.
- A UAA can be used to remove or modify designated uses but only if they are not existing and not attainable uses.

Existing uses are those in existence after November 28, 1975, whether or not they have been designated in Idaho’s water quality standards.

- An existing use cannot be removed, even with a UAA.
- An existing use may not be optimally supported (use may be affected by current conditions but is still present in the water body).
- All existing uses must be protected whether or not designated.

Attainable uses may not be existing uses or the designated uses but can be attained by applying technology-based effluent limits to point sources and cost-effective best management practices to nonpoint sources. The attainable level of water quality must be determined, taking into account the capability of the natural system, as well as the technical and economic limitations of human sources, throughout the basin affecting the water body.

When conducting a UAA study, the focus should be on objectively determining the attainable uses and attainable water quality—irrespective of designated uses.



Boating

Q: Can a water quality criterion be made less stringent?

A: Yes. Criteria can sometimes be revised to represent the attainable level of water quality without changing the designated use. This revision can be based on determining whether natural conditions in the area are of a lower quality than the numeric criteria. In some cases, the water body has special physical or chemical characteristics modifying or interfering with the toxicity of a chemical, or the plants and animals in the water body are not adequately represented when developing the existing water quality criterion. In such cases, it might be possible to develop a site-specific criterion for the water body. Site-specific criteria development is generally a very costly process and should be undertaken only after thorough discussions with DEQ and EPA.

Q: Can a UAA be used to change a water quality criterion?

A: No. A UAA can be used to change the beneficial use that may result in a different water quality criterion being applied to the water body, but it does not change the water quality criterion associated with a particular beneficial use.

Q: What other considerations affect UAA results?

A: Considerations affecting UAAs include the following:

- Downstream uses and standards. Approvable UAAs must not interfere with downstream uses and criteria.
- Revisions must be based on sound science. UAAs are not limited to using available information. Additional data collection and research are likely to be needed.
- Attainable use protection. The UAA must identify the highest use attainable.



Swimming

Q: Who may submit a UAA?

A: Any entity desiring to modify a use may submit a UAA to DEQ. However, a UAA must be acceptable to both DEQ and EPA before it can be used as the basis for removing or modifying a use designation. The applicant should work with the approval agencies to determine the data needs. Developing UAAs can be very expensive. Moving forward with a UAA that does not adequately address the federal requirements and state guidance can result in large costs and little or no benefit for the applicant.

Q: Can DEQ conduct UAAs?

A: Yes. However, because of the potentially high costs of producing acceptable UAAs, DEQ is more likely to focus limited resources on discussions with applicants before beginning a UAA, and in reviewing UAAs after they are submitted. In cases where DEQ conducts a UAA, DEQ will likely focus on a project area where natural conditions prevent attainment of a use or on projects where existing scientific and historical information is already available to help answer use questions.

To examine the designated uses and use categories in Idaho’s water quality standards, go to the Surface Water Quality Standards (IDAPA 58.01.02) at <https://adminrules.idaho.gov/rules/current/58/0102.pdf>

For more information, contact Don Essig at (208) 373-0119.