



# WEST VIRGINIA RIVERS COALITION

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Water Quality Standards Program  
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601 57th St., S.E.  
Charleston, WV 25304

Submitted electronically to [Laura.k.cooper@wv.gov](mailto:Laura.k.cooper@wv.gov)

RE: Recommendations on proposed changes for Water Quality Standards – Triennial Review

Dear Ms. Cooper,

These comments elaborate on our initial triennial review recommendations as well as respond to some of the information presented in recent public meetings with the Water Quality Standards Program. They are being submitted on behalf of the organizations and individuals signed on at the end of these comments.

## **Category A**

We strongly support the current status of Category A designation in all waters within West Virginia. We applaud the state's policy to protect all of our water supplies for present and future drinking water use with few exceptions. West Virginia is rich in freshwater resources; we are a headwaters state. Eleven other states depend on WV's waters for their drinking water after it leaves our state, therefore all waters upon leaving the state should meet Category A use for human consumption as a good faith effort to our neighboring states.

The current definition of Category A says the state must protect present and future use. A new state law requires utilities to develop source water protection plans which study the feasibility of secondary intakes or backup sources. Over the next several years, water utilities will be taking steps necessary to implement the ability to have a backup source of water which will expand the number of surface waters likely to be relied on in emergency and other unanticipated events. This law makes it especially crucial to preserve the future use of drinking water in sources where the flow makes it a feasible source. Making sure the State's rivers and streams are adequately protected for future drinking water use is prudent management.

We are aware WVDEP has received recommendations to make severe changes to limit the application of Category A. In previous attempts to allow discharge above the numeric criteria of pollutants allowed in Category A waters where there was no public intake within 5 miles, the WV Environmental Quality Board ruled in 1995 that it is not logical to apply Category A in 5-mile segments since the 5-mile rule is more stringent than Category A that applies in these 5-mile segments. If Category A limits only applied in 5-mile segments above public water supplies and the 5-mile rule also applies in these segments, the more stringent 5-mile rule would always apply instead of Category A, which would never apply and there would be no purpose for the existence of Category A criteria. We agree with this previous ruling which ruled in favor of the office of water resources and see no reason to change the Category A use designation.

A main concern we hold is that any limiting of Category A outright ignores protection for future public water supply use. Limiting the availability of water quality at levels protected by the Category A Use Designation will discourage desired expansion of the state's population base and development of small communities and local industries that might be established beyond the reach of public service districts. Pulling back Category A would put West Virginia at a disadvantage for attracting economic development opportunities.

There are 60 parameters that are known or suspected carcinogens where Category A is the most stringent standard. Removing Category A Use Designation from any portion of a state water would allow higher concentrations of known or suspected carcinogens into the waters of the state which would adversely impact the health and safety of our current and future populations and users downstream. Because the Category A Use Designation protects the population from known carcinogens, the statewide designation must be preserved in the interest of public health.

In 2008, a proposal was put forth to change Category A. Under Section 6.3a Insufficient Flow, the rule states that the Secretary shall consider whether the insufficient flow may be compensated for by the increase in effluent to meet the use. We question whether an effluent dominated flow should be considered as potential source water. If there is insufficient flow to meet Category A, then there may not be sufficient flow to provide dilution for the effluent discharge. A case in point is the 1988 incident in the City of Buckhannon in Upshur County when the Buckhannon River (source of the public water supply) was quite low and the effluent from the large surface mine upstream at Tenmile constituted a major source of water in the river. Water treatment systems were overwhelmed and complaints of nasty water and cream curdling in coffee were plentiful. More expensive water treatment measures have since been added to the basic operation of the water plant and cost to local users increased.

Under Section 6.6c the 2008 proposed rule states that the applicant shall make a determination of the connection between the wells or springs and the surface water in question. Groundwater under the direct influence of surface water is a common occurrence in West Virginia. The applicant would need to hire a qualified individual to make a GWUDI determination based on criteria such as physical parameters in wells and surface waters in nearby streams and monitoring bacteria (bacti test) to determine which groundwater sources are affected by surface water sources.

As stated previously, water utilities are currently identifying secondary or backup water sources. Section 6.3.a.3 states that the Secretary shall consider whether the water could serve as a backup water supply. This criteria should also be included in Section 6.6 where it states that the Secretary shall ensure that the water is not currently used as a water supply and shall require the applicant to demonstrate that the water supply has no potential for future use as a backup water source.

### **Bacteria**

With regard to changing the bacterial criteria, we refer to our previous comments submitted in the 2014 triennial review process relating to the issue. There should be a transition period where both the old and the new bacterial criteria run concurrently until WVDEP has adequately collected E. coli data on WV streams. Specifically, all streams listed as impaired based on the existing fecal coliform criterion should remain on the 303(d) list, unless new E. coli data are collected that specifically contradict the existing impairment. This transition process should be explicitly stated in the water quality standard.

Additionally, we have serious concern over the daily maximum criterion included in the previously proposed revision. Understanding that when WVDEP collects fecal coliform data, it rarely does so more than once a month during routine testing done under the watershed management framework, we are concerned that the proposed daily value for E. coli “not to exceed a concentration level of 1074 cfu/100 ml” is likely to become the default criterion - this would result in criteria less stringent than our existing criteria. This daily maximum criterion should be dropped and the proposed 410 cfu/100 ml should be interpreted the same as the prior fecal coliform criterion i.e., that one sample > than 410 cfu/100 ml is an exceedance of the water quality standard as it would be equal to 10% exceedance even if 10 samples were taken in that month and 9 of those samples were less than 410 cfu/100ml. The added daily value provision to the proposed was confusing and could be interpreted and applied as a weakening of the current bacteria standard and should be removed.

Thank you for taking these comments into consideration. A priority of the state should be preserving Category A use designation for all waters of the state as it moves us in the right direction toward cleaner, safer and more secure drinking water sources for West Virginians and the millions of users downstream.

Sincerely,

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