

GUIDANCE FOR RECOMMENDING A CHANGE IN DESIGNATED USE

The purpose of this guidance is to assist the public and/or stakeholder when requesting a change in the designated use of a waterbody. Recommendations in the guidance are not binding. EPD may consider other approaches consistent with the Georgia Water Quality Act, Georgia Administrative Procedures Act, and the U. S. Clean Water Act.

A. Changing a Designated Use

I. Designated Uses

Designated uses establish the environmental use of a waterbody. The list of waters with specific designated use classifications can be found in Section 14 of Georgia's Rules and Regulations for Water Quality Control (Chapter 391-3-6-.03). There are six designated uses in Georgia, found in Section 4 of the same chapter of Georgia Rules, including:

- a. **Drinking Water Supplies:** Those waters approved as a source for public drinking water systems permitted or to be permitted by the Environmental Protection Division (EPD). Waters classified for drinking water supplies will also support the fishing use and any other use requiring water of a lower quality.
- b. **Recreation:** General recreational activities such as water skiing, boating, and swimming, or for any other use requiring water of a lower quality, such as recreational fishing. These criteria are not to be interpreted as encouraging water contact sports in proximity to sewage or industrial waste discharges regardless of treatment requirements.
- c. **Fishing:** Propagation of Fish, Shellfish, Game and Other Aquatic Life; secondary contact recreation in and on the water; or for any other use requiring water of a lower quality.
- d. **Wild River:** For all waters designated as "Wild River," there shall be no alteration of natural water quality from any source.
- e. **Scenic River:** For all waters designated as "Scenic River," there shall be no alteration of natural water quality from any source.
- f. **Coastal Fishing:** For waters designated as "Coastal Fishing", site specific criteria for dissolved oxygen will be assigned. All other criteria and uses for the fishing use classification will apply for coastal fishing.

II. Water Quality Requirements

The specific criteria for each designated use can be found in Georgia's Rules in Chapter 391-3-6-.03(6). These criteria are in addition to the general criteria. The more stringent criteria for a parameter will be used in instances where multiple criteria apply. Because designated uses are designed to protect the waterbody, as opposed to effect change in the waterbody, the water quality in a waterbody should already meet the criteria for its current designated use or a TMDL has been developed to bring the waterbody back into compliance before the designated use is changed in the Rules.

III. Qualification Criteria

The following criteria will be considered for the recommended use designations:

- a. Drinking Water Supplies
 - 1) Existing designated use(s) for the waterbody
 - 2) Waterbody is currently being used or is planned to be used as a source for permitted public drinking supply system(s)
 - 3) Waterbody meets the water quality criteria for its current designated use or a TMDL has been developed to meet the water quality criteria
- b. Recreation
 - 1) Existing designated use(s) for the waterbody
 - 2) Waterbody is currently being used or is planned to be used for general recreational activities such as swimming or boating
 - 3) Waterbody meets the water quality criteria for its current designated use or a TMDL has been developed to meet the water quality criteria
- c. Fishing
 - 1) Existing designated use(s) for the waterbody
 - i. As this is the "default" designated use for waterbodies in Georgia, changing to this designated use will most likely require a use attainability analysis (UAA), which is outlined in Rule 391-3-6-.03(2)(f)
 - ii. It is not feasible for the waterbody to attain the current designated use
- d. Wild River
 - 1) Existing designated use(s) for the waterbody
 - 2) Waterbody meets the water quality criteria as outlined in 391-3-6-.03(6)(d)
- e. Scenic River
 - 1) Existing designated use(s) for the waterbody
 - 2) Waterbody meets the water quality criteria as outlined in 391-3-6-.03(6)(e)
- f. Coastal Fishing
 - 1) Existing designated use(s) for the waterbody
 - 2) Waterbody is located in the coastal plains
 - 3) Waterbody meets the water quality criteria for its current designated use or a TMDL has been developed to meet the water quality criteria

IV. Protection of Designated Waters

a. Point Source Discharges

Point source discharges on waters being considered for change in the designated use shall operate according to NPDES permitted limits as determined by EPD's existing permitting process, which includes an evaluation of the water quality criteria for the designated use of the waterbody receiving the discharge. Established and anticipated dischargers to these waters and to waters upstream of the nominated reach should be included in the stakeholder process because the change may result in alterations in permitted limits.

b. Nonpoint Source Discharges

Nonpoint source discharges should implement site specific best management practices to protect the water quality and quantity with respect to the assigned designated use. Implementation of these protections depends on local governments and landowners, therefore these entities should be included in the stakeholder process.

V. Nominations Requiring Use Attainability Analysis

Removing a designated use and/or assigning a designated use of lower quality requires a use attainability analysis (UAA), as outlined in Rule 391-3-6-.03(2)(f). A UAA is a scientific assessment of the physical, chemical, biological, and/or economic factors that affect the attainability of the assigned designated use of a waterbody. If it is determined from these factors and according to EPA guidance that a waterbody is unable to meet the criteria for the assigned designated use, then EPD will consider changing the use. If necessary, EPD will consult other affected agencies such as Georgia DNR's Wildlife Resources Division. The nomination package and any information to assist in completing the UAA should be submitted to EPD. (For additional information, see EPA's website <https://www.epa.gov/wqs-tech/use-attainability-analysis-uaa>.)

VI. Nomination Package

It is EPD's goal to address nominated waterbodies in a timely manner. Most frequently, comments related to the Triennial Review make EPD aware of waterbodies that the public and stakeholders would like to nominate for a change in designated use. While this is not a requirement for nomination, the Triennial Review is typically the process that EPD would use to consider a change in designated use. Due to the need to research all aspects of a waterbody prior to changing the designated use, nominations at the beginning of the Triennial Review (the Opening Public Hearing or shortly thereafter) will be considered for that review cycle and comments during the middle or at the end of the Triennial Review will be considered for the next review cycle.

Nomination packages should be submitted to EPD with letters of support from stakeholders, such as local governmental agencies, businesses, and point and nonpoint source dischargers. EPD and the nominating party will engage the stakeholder groups to analyze how the change in designated use could impact them, as well as research the water quality and current uses of the waterbody.

a. Steps for Nomination a Waterbody for a Change in Designated Use

The Georgia Board of Natural Resources authorizes changes to the designated use of all bodies of water in the state through its rulemaking authority in O.C.G.A. § 12-5-23(a)(1). Each designated use is designed to provide protection to the waterbody. Reassignment of designated uses can cause a wide variety of impacts to the community where the waterbody is located, such as changes in requirements and expectations for point and nonpoint source dischargers. Therefore, public participation and open communication with stakeholders is paramount to the success of any change in designated use.

Any individual or organization nominating a waterbody for a change in designated use should contact the EPD's Watershed Planning & Monitoring Program (WPMP) to communicate the desire to change the designated use of the waterbody. EPD will research the existing water quality to ensure the waterbody can meet the criteria for the recommended designated use and will confirm the permitted intakes and dischargers in the watershed. EPD will contact the nominating individual or organization to coordinate an outreach effort to stakeholders and the public in the watershed regarding the change in designated use.

Meetings with the public and stakeholders should include information from the nominating individual or organization as to why the designated use for the waterbody should change. Open discussion on implementing any necessary changes in operations, permit limits, and/or best management practices should be included in the meetings. Plans for implementing these changes should be supported, in writing, by affected governmental agencies, local governments, businesses, dischargers, and landowners. The nominating party should compile comments received and letters of support and/or opposition from stakeholders and the public and submit this information as part of the nomination package to EPD.

A nomination package should include the following:

- Name of the waterbody.
- Waterbody length.
- Location of the reach, shown on a map.
- Any 305(b)/303(d) impairment(s) &/or TMDL(s)
- Current users of the waterbody, including but not limited to dischargers, intakes, businesses, or industries.
- Current activities that occur in or on the waterbody, broken down by season. Provide supporting data including boat ramps, beaches, outfitters, parks within the waterbody and watershed, and any "blue trails" .

- Investments, both completed and pending, for improved use of the waterbody such as boat ramps, parks, trails, or drinking water systems. Include the amount of the investment, as well as who funded the project(s) and for what purpose.
- Letters of support and/or opposition from dischargers, domestic and industrial, intakes, and business located on the reach.
- Letters of support and/or opposition from municipalities, County Board of Commissioners, other affected governmental bodies, and other interested stakeholders who live in the watershed of the reach.

When it is determined that the change in a waterbody's designated use is appropriate, EPD will begin the Rule making process. This process includes:

- Briefing the DNR Board of the intended rule change, which includes presenting a true and exact copy of the Rule and a summary of issues that arose as part of the stakeholder process
- If the Board gives approval to proceed, EPD will prepare a 45-day public notice of the Rule change and will hold at least one public hearing, which should include information from the nominating individual or organization about why the designated use for the waterbody should change
- EPD will collect comments from the hearing(s) and prepare a response to those comments that will be included in the final Rule change package for the Board
- If the change in designated use is adopted then the updated Rules are filed with the Secretary of State's office
- The Secretary of State posts the newly adopted Rules on their website
- Georgia then has to obtain the State Attorney General's certification that the standards were adopted in accordance with State law
- The package for the Rule change can then be sent to U.S. EPA for approval for Clean Water Act purposes