

these waterbodies with use designations consistent with the CWA and 40 CFR part 131 before a final rulemaking, EPA would expect to approve those use designations. This would eliminate the need to promulgate Federal water quality standards for any waterbody so reclassified. EPA notes that a water's use designation of primary contact recreation (made solely for CWA purposes) and adoption of water quality criteria protective of that use are intended to ensure that water quality will protect swimming if it occurs in such waters. A water's use designation of primary contact recreation is not an official government sanction that swimming necessarily is recommended in such waters. There may be other considerations, such as safety, in deciding whether swimming is appropriate.

EPA is soliciting comment for information about use attainability, especially for any Subject Waterbodies with no or limited data.

B. Request for Comment and Data

EPA believes the proposed primary contact recreation designated use and the bacteria criteria to protect primary contact recreation for the Subject Waterbodies are appropriate considering the requirements of the CWA and the information available to EPA at this time. EPA acknowledges that additional information may exist that may further support or contradict the attainability of a proposed primary contact recreation designated use and bacteria criteria in Subject Waterbodies. The Agency will evaluate any new information that is submitted to EPA during the public comment period with regard to the primary contact recreation use and bacteria criteria for the Subject Waterbodies. Based on the evaluation of new information, EPA will decide whether the primary contact recreation use and bacteria criteria for the Subject Waterbodies in today's proposal are appropriate and consistent with the CWA. To help the Agency ensure that this decision is based on the best available information, the Agency is soliciting additional information. The following paragraphs provide guidance on the type of information EPA considers relevant.

Specifically, EPA seeks information on the Subject Waterbodies that would help determine: (1) Whether primary contact recreation is or has been an existing use; (2) whether the designated use and criteria identified above are being attained or have been attained in the past; (3) whether natural conditions or features or human caused conditions prevent the attainment of this use and

criteria and whether these conditions can be remedied or would cause more environmental damage to correct than to leave in place; or (4) whether controls more stringent than those required by section 301(b) and 306 of the CWA would be needed to attain the use, and whether implementation of such controls would result in substantial and widespread social and economic impact. Below is a general discussion of the types of data/information requested by the Agency:

Ambient Monitoring Information: (1)

Any ambient water quality data for the Subject Waterbodies reflecting either natural conditions or human-caused conditions which cannot be remedied and which prevent the swimmable use or water quality criteria from being attained; (2) any available ambient biological data; (3) any chemical and biological monitoring data that verify improvements to water quality resulting from treatment plant/facility upgrades and/or expansions; and (4) any ambient water quality data reflecting nonpoint sources of pollution or best management practices that have been implemented for nonpoint source control.

Economic Data: Any information relating to costs and benefits associated with or incurred as a result of facility or treatment plant expansions or upgrades, including: (1) Qualitative descriptions or quantitative estimates of any costs and benefits associated with facility or treatment plant expansions or upgrades, or associated with facilities or treatment plants meeting permit limits; (2) any information on costs to households in the community with facility or treatment plant expansions or upgrades, whether through an increase in user fees, an increase in taxes, or a combination of both; (3) descriptions of the geographical area affected; (4) any changes in median household income, employment, and overall net debt as a percent of full market value of taxable property; and (5) any effects of changes in tax revenues if the private-sector entity were to go out of business, including changes in income to the community if workers lose their jobs, and effects on other businesses both directly and indirectly influenced by the continued operation of the private sector entity.

IV. Alternative Regulatory Approaches and Implementation Mechanisms

Today's proposal reflects EPA's determination that primary contact recreation is an appropriate use designation for the Subject Waterbodies based upon the information currently available to EPA. In developing a final rule, EPA will consider any data or

information submitted to the Agency during the comment period. However, it is possible that relevant information for these waterbodies may become available after completion of this rulemaking. If EPA ultimately promulgates a Federal "swimmable" use designation for these waterbodies, there are several ways to ensure that the use and its implementing mechanisms appropriately take into account such future information.

A. Designating Uses

States have considerable discretion in designating uses. A State may find that changes in use designations are warranted. EPA will review any new or revised use designations adopted by the Commonwealth for these waters to determine if the standards meet the requirements of the CWA and implementing regulations. If approved, EPA would withdraw any final Federal water quality standards which may result from today's proposal.

In adopting recreation uses, the Commonwealth may wish to consider additional categories of recreation uses. For example, Puerto Rico could establish more than one category of primary contact recreation to differentiate between waters where recreation is known to occur and waters where recreation is not known to occur but may be attained based on water quality, flow, and depth characteristics.

EPA cautions the Commonwealth that it must conduct use attainability analyses as described in 40 CFR 131.10(g) when adopting water quality standards that result in uses not specified in section 101(a)(2) of the CWA or that result in subcategories of uses specified in section 101(a)(2) that require less stringent criteria (*see* 40 CFR 131.10(j)).

B. Site-Specific Criteria

The Commonwealth may also develop data indicating a site-specific water quality criterion for a particular pollutant is appropriate and take action to adopt such a criterion into their water quality standards. Site-specific criteria are allowed by regulation and are subject to EPA review and approval. 40 CFR 131.11(a) requires States to adopt criteria to protect designated uses based on sound scientific rationale and containing sufficient parameters or constituents to protect the designated use. In adopting water quality criteria, States should establish numerical values based on 304(a) criteria, 304(a) criteria modified to reflect site-specific conditions or other scientifically defensible methods. Alternatively, States may establish narrative criteria