



Proposed Revisions to Water Quality Rules and Regulations, Chapter 1,
Wyoming Surface Water Quality Standards

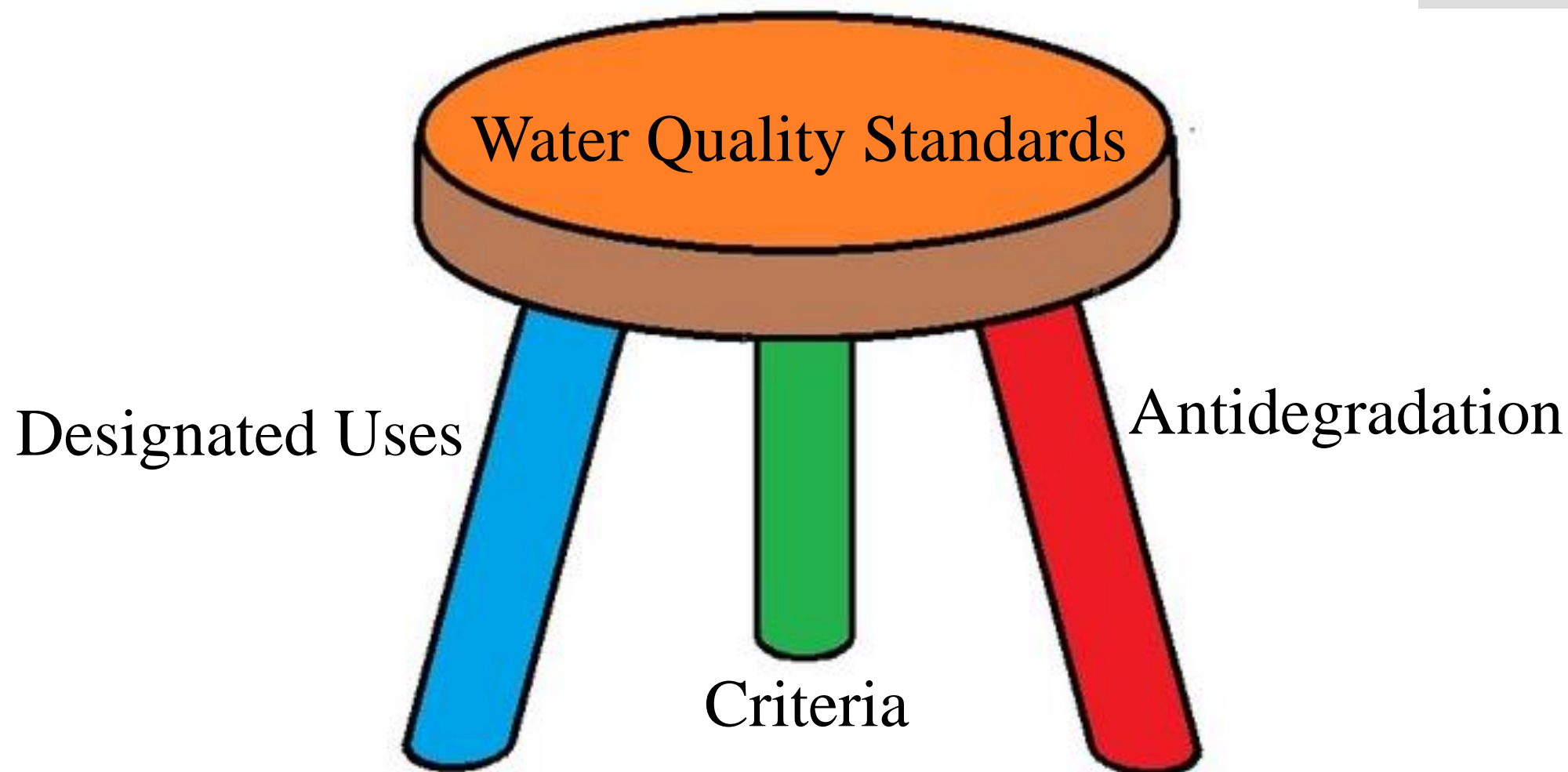
Discharger Specific Variances

February 21, 2018

Outline

- Background on Surface Water Quality Standards
- Reasons For Proposed Rule
- Comments and Changes to Proposed Rule

Surface Water Quality Standards



Water Quality Criteria

- Concentrations of pollutants or narrative conditions necessary to support designated uses



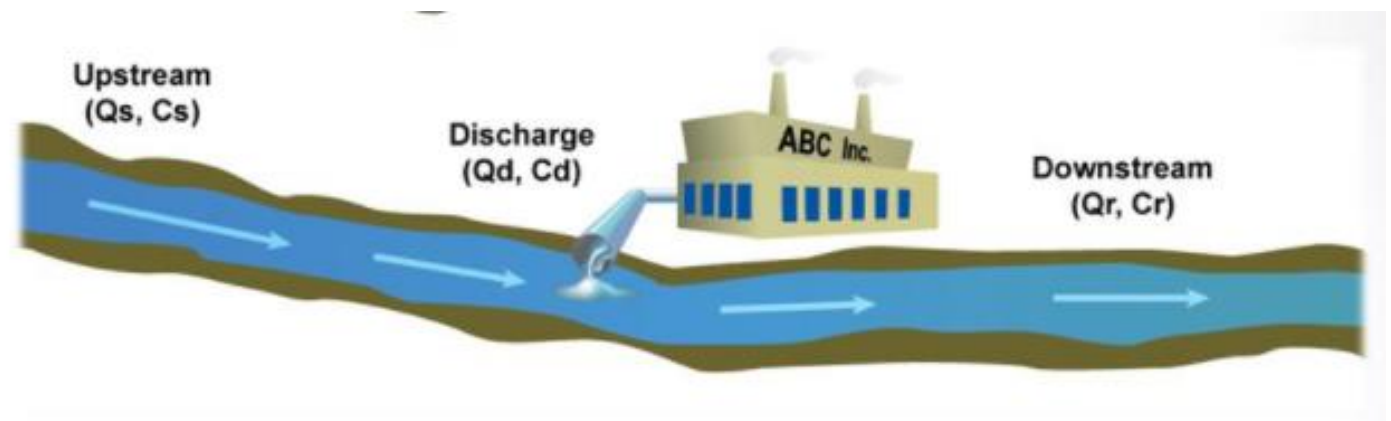
- When derived, do not take into consideration the feasibility (costs, available treatment, etc.) of meeting the criteria

Water Quality Criteria and Point Sources

- Water quality criteria are used to develop water quality based effluent limits (WQBELs)

- WQBELs also consider:

- amount of effluent
- low flow of receiving water
- background concentration in receiving water



Current Options to Modify WQBELs

- Permitting Options
 - Modify input parameters
 - Compliance schedule
- Water Quality Standards Options
 - Modify designated uses
 - Site-specific criteria



Reasons for Proposed Rule

- Recently, a small Wyoming municipality with a wastewater lagoon received a stringent ammonia effluent limit based on a total maximum daily load (TMDL)
- EPA's 2013 recommended ammonia criteria
- Numeric nutrient criteria

Reasons for Proposed Rule

- Most wastewater treatment facilities in Wyoming are lagoons not designed to treat to low levels of ammonia or nutrients
- Costs to upgrade facilities to meet ammonia and/or nutrient limits are significant and may not be affordable for small communities

Clean Water Act and Variances

- Lots of interest in variances nationally due to increasingly stringent water quality criteria
 - Montana, Colorado, Wisconsin, Kansas, Missouri
- Federal regulations for water quality standards were revised in 2015
 - Include additional details on variances

Proposed Rule

- Administrator may grant a variance to a designated use and water quality criteria for ammonia and/or nutrients (e.g., total nitrogen, total phosphorus)
 - Ammonia and nutrients are the focus since treating for these pollutants may not be economically feasible for small communities

Proposed Rule: Demonstration

- Permittee must complete a comprehensive alternatives analysis
- Must demonstrate that the most economical means of meeting the water quality based effluent limit would result in “substantial and widespread economic and social impact” (i.e., economic hardship)

Proposed Rule: Highest Attainable Condition

- Permittee must implement actions to achieve the highest attainable condition of the receiving water
 - Effluent limit closest to the water-quality based effluent limit that is feasible to achieve without causing economic hardship

Proposed Rule: Highest Attainable Condition

- Identified through a comprehensive alternatives analysis and/or other supporting documentation
- Also includes developing and implementing a pollutant minimization program

Proposed Rule: Duration

- Duration is only as long as necessary to achieve the highest attainable condition

Proposed Rule: 5-Year Reevaluation

- Did the permittee comply with conditions of the variance?
- Is the information used to justify the original variance the same (e.g., pollutant control costs, economic conditions, etc.)
- Does the highest attainable condition need to be modified?
- 30-day public comment period

Comment: Wyoming Game and Fish

- An environmental analysis should be completed to determine impacts to aquatic resources
- Variance should also require monitoring of aquatic resources to ensure that aquatic resources are not being impacted by increased discharge of pollutant

Response: Wyoming Game and Fish

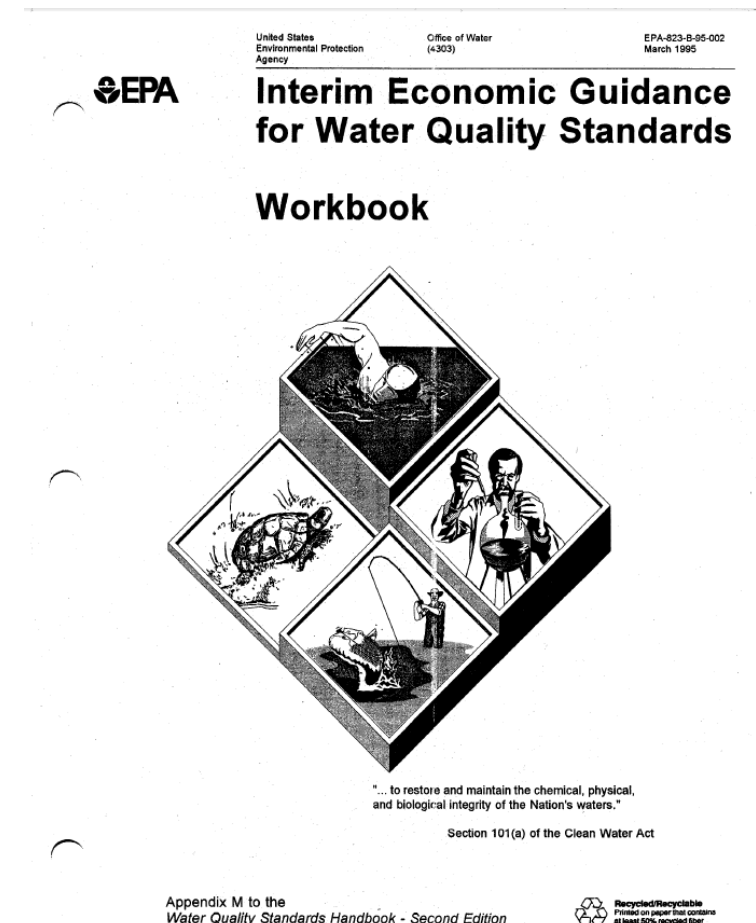
- The goal of a variance is to improve water quality and aquatic resources over time
- Doesn't allow for increases in the discharge of the pollutant
- DEQ can initiate a reevaluation at any time

Comment: Wyoming Game and Fish

- Need definition and/or sideboards for what constitutes “substantial and widespread economic and social impacts”

Response: Wyoming Game and Fish

- Language is derived from the federal regulations
- EPA developed guidance in 1995
 - Not absolute decision points
 - Other economically defensible approaches are acceptable
- DEQ developing guidance



Comment and Response: USEPA

- Changes to the “interim effluent condition” as part of the reevaluation (Section 37(h)(ii)) should be “highest attainable condition”
 - Revised rule accordingly

Comment and Response: USEPA

- Highest attainable condition can only get more stringent during a reevaluation
- If reevaluation determines that the highest attainable condition needs to be more lenient, the variance needs to be revised
 - Revised rule to clarify

Comment: USEPA

- Requested DEQ remove: “The variance shall become effective either upon EPA approval or 90 days after submittal, whichever comes first.”

Comment: USEPA

- Clean Water Act provides a 60-day timeframe to approve submissions and 90 days to disapprove submissions
 - Restated in the federal regulations
- Federal regulations also state that EPA has to approve the variance in order for it to be “the applicable standard for purposes of the Clean Water Act”

Response: USEPA

- Revised language to allow the director to grant an extension upon request by EPA's Regional Administrator
- Also outlines that the variance shall become effective upon either EPA approval or the expiration of the extension

Questions?

