

**What would the WQAC recommend to the Commissioners at this time with respect to the Recreational Uses and associated bacteria indicator criteria for the Delaware Estuary?**

Option	Designated Use	WQ Criteria	Regulatory Revisions	Advantages / Disadvantages / Considerations
A	<u>Secondary Contact</u> No change to use	<u>Current Criteria – Secondary Contact</u> <ul style="list-style-type: none"> <li>No change: Use current DRBC WQ Criteria</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>No burden for rule making process.</li> <li>Will likely receive petition/challenges from external groups.</li> <li>No regulatory incentive toward primary contact use.</li> <li>Continue to collect data.</li> <li>Continue to make improvements in WQ towards the recreational use criteria.</li> </ul>
B	<u>Secondary Contact</u> No change to use	<u>EPA Criteria - Primary Contact</u> <ul style="list-style-type: none"> <li>Adopt EPA recommended criteria for “recreation “</li> <li>Apply “recreation” criteria to areas designated for “secondary contact recreation”</li> </ul>	<ul style="list-style-type: none"> <li>DRBC rulemaking required to revise WQ criteria</li> <li>State rulemaking may be required as well.</li> </ul>	<ul style="list-style-type: none"> <li>Criteria align with basic swimmable goal under the CWA.</li> <li>Will likely result in impaired waters*.</li> <li>May pose legal/regulatory conflict because Designated Use is different than the use for which the criteria were developed.</li> <li>Use NPDES permits</li> </ul>
C	<u>Primary Contact Zone 3 &amp; upper 4</u> Adopt “recreation” designated use for all interstate waters where it is determined to be attainable.	<u>EPA Criteria - Primary Contact</u> <ul style="list-style-type: none"> <li>Conduct <b>Attainability Study</b> extent of attainability</li> <li>Adopt recommended criteria for “recreation” where it is determined to be attainable.</li> </ul>	<ul style="list-style-type: none"> <li>DRBC Rulemaking required to revise the Water Code (WQ Regulations) to change the designate use and adopt new WQ criteria</li> </ul>	<ul style="list-style-type: none"> <li>Attainability Study will follow CWA and consider the HAU and socio economic factors consistent with EPA guidance.</li> <li>Requires significant resources for Attainability Study.</li> <li>Will likely result in impaired waters*.</li> </ul>
D	<u>Primary Contact Zone 3 &amp; upper 4</u> Adopt designated use for “recreation” for all interstate waters	<u>EPA Criteria - Primary Contact</u> <ul style="list-style-type: none"> <li>Adopt recommended criteria for “recreation “</li> <li><b>No Attainability Study.</b></li> </ul>	<ul style="list-style-type: none"> <li>State rulemaking may be required as well.</li> </ul>	<ul style="list-style-type: none"> <li>Will likely result in impaired waters*.</li> <li>Use NPDES permits, compliance and enforcement, long term CSO control plans, and EPA guided integrated planning to achieve criteria (pollution minimization methods)</li> </ul>

				<ul style="list-style-type: none"> <li>• May be subject to the Commission or some party imitating a revision to the Comp Plan.</li> </ul>
<b>E</b>	<p><b><u>Primary Contact – Location by Location</u></b> Adopt designated uses for recreation in specific river miles or areas, that can currently support recreational uses</p>	<p><b><u>EPA Criteria - Primary Contact</u></b></p> <ul style="list-style-type: none"> <li>• Adopt recommended criteria for “recreation “ in <b>specific areas</b></li> <li>• <b>No Attainability Study.</b></li> </ul>		<ul style="list-style-type: none"> <li>• No Attainability Study</li> <li>• May be subject to some party imitating a request to revise the Comp Plan.</li> </ul>
*	<p>Impaired waters designation could be listed under Category 5-Alt (or state equivalent), triggering a Water Quality Improvement Plan (WQIP) under existing regulatory mechanisms rather than a TMDL. A WQIP approach could be pursued even without an impairment designation, as a plan to minimize bacterial contamination and thereby enhance recreational uses over time.</p>			

DRAFT AND DELIBERATIVE