

# USE ATTAINABILITY ANALYSIS

Use Attainability Analysis, or UAA for short, is one of the EPA's regulatory tools under the federal Clean Water Act (CWA). It is a key component of the process through which a state, territory, or tribe would enact a downgrading of the designated uses (DU) for a waterbody. Under CWA rules, all waters of the United States should be designated for uses that reflect the CWA's "fishable/swimmable" water quality goal, unless it is demonstrated impractical. EPA grants the states and authorized tribes the power to identify and assign DUs for their waterbodies, and to develop associated enforceable water quality criteria to protect the assigned DUs. It is not uncommon to see some DUs that are not currently occurring uses for a waterbody. However, even a non-existing DU may only be removed if a state can demonstrate, through a UAA process, that attaining the DU for a specific waterbody is not feasible, because of one or more of the following 6 factors.



1. Naturally occurring pollutant concentrations



2. Natural, ephemeral, intermittent or low flow conditions or water levels



3. Human caused conditions or sources of pollution that cannot be remedied or would cause more environmental damage to correct than to leave in place



4. Dams, diversions, or other types of hydrologic modifications



5. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like



6. Substantial and widespread economic and social impact caused by attaining the DU

## WHY DOES ONONDAGA COUNTY NEED A UAA?

Fecal coliform (See [Factsheet 4](#)) bacteria count was one of the water quality parameters in the Amended Consent Judgment (ACJ, [Factsheet 2](#)) between Onondaga County, NYS DEC, and Atlantic States Legal Foundation, Inc., concerning water pollutions caused by the County's wastewater treatment plant and combined sewer system. It remains a primary water quality concern in three Onondaga Lake tributaries receiving combined sewer overflows (CSOs, [Factsheet 1](#)) after the County successfully met all other ACJ requirements.

New York State's water quality classification system designates the affected segments of the three tributaries, namely Onondaga Creek, Harbor Brook and Ley Creek, either Class B or Class C water (Map 1). Although the designated best uses for B and C waters are different, NYS water quality standards (WQS) require all fresh waters to be suitable for primary and secondary contact recreation, such as swimming, kayaking, etc., regardless of their classification and other factors that may limit such uses. Less than 200CFU/100ML of total fecal coliform bacteria count is one of the primary water quality criteria for such uses. It is included in the State Pollution Discharge Elimination System (SPDES) permit for the County's combined sewer system, and is still out of compliance.

### CLASS B FRESH SURFACE WATERS

Best usages are primary and secondary contact recreation and fishing. These waters shall be suitable for fish, shellfish and wildlife propagation and survival.

### CLASS C FRESH SURFACE WATERS

Best usage is fishing. These waters shall be suitable for fish, shellfish and wildlife propagation and survival. The water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes.



Long-term water quality monitoring data indicate the existence of non-CSO sources and dry weather sources of fecal contamination, both within and outside of combined sewer serviced areas. This may render compliance with current fecal coliform criteria unfeasible, resulting in unattainable DUs. Current fecal coliform WQS are to protect the DUs that are largely unrealistic for Onondaga Creek and Harbor Brook in their urban section due to channelization and fencing, making compliance with current standards unreasonable. A UAA process has been included in the newly executed state consent order between NYS DEC and Onondaga County that replaced ACJ in October 2021. It's a necessary step to support NYSDEC's review and, if appropriate, revision of water quality standards for fecal coliform for these CSO receiving tributaries.

## HOW WILL THE UAAS BE CARRIED OUT IN ONONDAGA COUNTY?

These UAAs will be focused on the downstream sections of the three tributaries from the first CSO outfalls, as shown in Map 1. The UAA process is planned as follows:

<b>YEAR ONE</b>	DEC and Onondaga County review existing data to identify information gap, organize data and prepare for analysis
<b>YEAR TWO TO YEAR FOUR</b>	Onondaga County implements data collection program to address any information gap identified above, assesses the additional data collection and makes final determinations, and develops and reviews UAA Reports.
<b>YEAR FOUR</b>	DEC will review and approve UAA reports. If one or more of the 6 factors exist, revise the water quality standards and SPDES permit, and submit to EPA for review and approval.

During review and data collection, stakeholder outreach programs may be implemented to gather all needed information. Public will be notified of any changes to water quality standards as a result of the above UAA process.

