State of Oregon Department of Environmental Quality

Variance Application Form

Water Quality Division

Note: The instructions following this application provide critical information needed to complete the application. The applicant must include supporting documentation as detailed in the instructions. If you have questions, please contact Aron Borok, Water Quality Variance Specialist, borok.aron@state.or.us, 503-229-5050.

A. Applicant Information

1. Permittee Name			2. Contact Person		
3. NPDES Permit No.			4. Mailing Address for Contact Person		
5. Facility Name			6. City	7. State	8. Zip Code
9. Street Address of Facility			10. Telephone Number		11. Fax Number
12. City	13. State	14. ZIP Code	15. Email Address of Contact Person		

16. Receiving Waterbody and Discharge Location (River Mile and GPS Coordinates, if available)

17. Include in supporting documentation a description of the facility, including the facility's treatment process, design and actual flow data, and any pre-treatment or pollutant minimization programs. If the facility is a publicly-owned treatment works, the description should include the facility's legal authority to treat the discharge, such as a sewer ordinance or approved pre-treatment program, as well as an estimate of how much of the facility's flow comes from residential customers and private entities.

B. Effluent Characterization

18. Pollutant for which variance is requested

19. Designated uses for which variance is requested

20. Applicable water quality criterion or criteria

21. Include in supporting documentation a characterization of effluent from the previous five years, including:

A. Discharge flow rate (average and maximum)
B. Number of samples analyzed, dates samples taken and sampling results
C. Appropriate analysis of sampling results, such as weekly or monthly concentrations, daily or monthly loads and trend analysis.
D. Sources of pollutant in effluent (attach Pollutant Source Investigation Report)

The applicant should confer with the DEQ variance specialist and permitting staff regarding the amount and type of data needed to sufficiently characterize effluent.

C. Alternatives Analysis

22. In supporting documentation, please provide an alternatives analysis. The analysis should describe all alternatives available and known to meet the criteria or reduce levels of the pollutant for which the variance is being requested. List these alternatives in order from greatest pollutant reduction to the least. For each alternative, describe the extent to which these alternatives are technologically, financially and environmentally feasible. **The alternatives analysis is necessary to justify the variance (i.e., why is it not technologically, financially, or environmentally feasible to meet the permit limit) and to determine what the facility can do to make progress toward the standard (see Section E. Highest Attainable Condition).**

D. Need for the Variance – Justification Factor

23. Please indicate which one of the factors below makes a variance for this pollutant necessary.

— Naturally occurring pollutant concentrations prevent attainment of the use.

___ Natural, ephemeral, intermittent, or low flow conditions, or water levels prevent attaining the use, unless these conditions may be compensated for by discharging sufficient volume of effluent to enable uses to be met without violating state water conservation requirements.

___ Human-caused conditions or pollution sources prevent attainment of the criterion and cannot be remedied or would cause more environmental damage to correct than to leave in place.

___ Dams, diversions or other types of hydrologic modifications preclude attainment of the criterion, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way which would result in attainment of the criterion.

___ Physical conditions related to the natural features of the waterbody, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality preclude attaining aquatic life protection criteria.

___ Controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act would result in substantial and widespread economic and social impact.

___ Actions necessary to facilitate lake, wetland, or stream restoration through dam removal or other significant reconfiguration activities preclude attainment of the criterion while the actions are being implemented.

In supporting documentation, please provide justification based on the chosen factor. The justification must include:

A. A description of why the effluent limit cannot be attained by implementing technology-based effluent limits required by the Clean Water Act. For example, there are not technology-based effluent limits for the pollutant or that if such limits exist, they are not sufficient to meet the underlying water quality standard.

B. Additional information based on the factor indicated above. Please refer to application instructions to see what information is required to justify the need for the variance based on the factor or factors marked here.

E. Highest Attainable Condition

24. Please indicate which of the following expressions of the Highest Attainable Condition will apply to the variance.

___ A. The highest attainable interim criterion (i.e., a concentration or pollutant level that can be attained in the receiving water by the end of the variance term). ***This expression should be used if there is a high degree of certainty that a target concentration or pollutant level can be achieved at the end of the variance duration. That concentration or pollutant level will be used as the basis for permit limits.***

___ B. The interim effluent condition that reflects the greatest pollutant reduction achievable (i.e., a concentration or pollutant level that can be attained in the effluent by the end of the variance term through improved treatment). ***This expression should be used if the applicant will implement a treatment upgrade that will make progress towards, but not achieve, permit limits based on the underlying water quality standard.***

___ C. If no additional feasible pollutant control technology can be identified, the interim criterion or interim effluent condition that reflects the greatest pollutant reduction achievable with the pollutant control technologies installed at the time the State grants the WQS variance, and adoption and implementation of a pollutant minimization plan. ***This expression should be used if there is no feasible pollutant control technology that can make progress toward effluent limits based on the underlying standard.***

In supporting documentation, please indicate why the Highest Attainable Condition is the greatest pollution reduction that can feasibly be achieved during the term of the variance. Refer to application instructions for guidance on information needed to justify the appropriate expression of the Highest Attainable Condition.

F. Protection of current water quality

25. Describe in supporting documentation how the requirements associated with the variance, as described in the Highest Attainable Condition, will protect the currently attained ambient water quality (i.e. not cause any lowering of water quality), except as allowed for restoration activities

G. Requested Variance Duration

26. What is the requested term of the variance? (Example: Five years from EPA approval; Until December 31, 2027)

In supporting documentation, describe why the term of the variance is necessary to achieve the highest attainable condition, as required in federal and state variance regulations.

H. Information to Support Re-evaluation of Highest Attainable Condition (if applicable)

26. If the proposed term of the variance is greater than 5 years, DEQ is required to re-evaluate the Highest Attainable Condition using all existing and readily available information at least every 5 years. In supporting documentation, please describe the information that the facility will provide in order for DEQ to re-evaluate the Highest Attainable Condition.

I. Certification

Based on the information provided, I believe that the applicable water quality standard for the pollutant indicated is not attainable for the reasons indicated. I understand that, as a condition of the variance, DEQ will include in the NPDES permit conditions sufficient to meet the Highest Attainable Condition by the end of the variance term and, as needed, any interim conditions to make progress toward the Highest Attainable Condition. I also understand that DEQ will include a requirement to submit annual reports demonstrating reasonable progress toward meeting the underlying criterion. I certify that the information provided in this application, including supporting information, is true, accurate and complete.

Individual submitting request	Title
Signature of Official	Date Signed

Instructions for Filling out the Variance Application

The applicant should follow these guidelines for filling out the variance application. The variance application must include supporting documentation, as discussed in these instructions. If you have questions, please contact Aron Borok (borok.aron@state.or.us, 503-229-5050), DEQ Variance Coordinator, for assistance.

Section A. Applicant Information

In application: Please include all applicable information in the application. For "Receiving Water Location and Discharge Coordinates," refer to the cover page of the currently effective NPDES permit.

In supporting documentation: The applicant should describe its facility. The description should describe:

- The nature of the effluent (e.g., sewage, process water, etc.)
- The treatment process
- The actual and design flow of the treatment process
- If the applicant is a publicly-owned treatment works:
    - Documentation for the applicant's legal authority to control potential sources of the pollutant for which the variance is requested, such as a sewer ordinance or an approved pre-treatment program.
    - A description of how much effluent is from residential customers vs. private customers.

Section B. Effluent Characterization

In application: Please include the pollutant for which the variance is requested (e.g., temperature, methyl-mercury, ammonia), the designated beneficial use for which the variance is requested (e.g., aquatic life, salmonid rearing and migration, freshwater recreation), and the applicable water quality criterion or criteria. Please refer to Oregon's designated use tables and maps and the appropriate Oregon Administrative Rule citation (e.g., OAR 340-041-0028 (Temperature) or OAR 340-041-0033 (human health or aquatic life toxics criteria)).

In supporting documentation: Please provide the effluent limit for the pollutant for which the variance is requested. In addition, characterize the level of the pollutant in the effluent, including effluent pollutant concentrations, flow rates, pollutant loads and sources of pollution. The applicant should consult with DEQ to determine minimum information needs to sufficiently characterize the level of the pollutant in effluent, which will vary based on the pollutant and specific circumstances of the discharger.

In addition, to the extent possible, please characterize pollutant levels in the receiving water, using data collected by the facility or other available data. Please refer to DEQ's most recent water quality assessment to determine whether the receiving water is impaired for that pollutant, and whether a total maximum daily load for the pollutant has been developed and whether the permitted facility has been assigned a wasteload allocation.

Finally, the applicant should provide information regarding previous efforts to control levels of the pollutant and the extent to which those efforts have been successful. This should include any efforts through a pre-treatment program, as well as technological efforts, including treatment upgrades and optimization.

Section C. Alternatives Analysis

A robust alternatives analysis provides the basis for justifying the need for variance (Section D), identifying the Highest Attainable Condition (Section E) and the variance term (Section F). The alternatives analysis should list all alternatives that the applicant has considered to meet permit limits for the pollutant for which the variance is requested, as well as alternatives that are not sufficient to meet limits, but make progress toward those limits. Alternatives may include technological upgrades, discharge relocation, effluent re-use or land application, trading, etc. The applicant should describe each alternative in detail, including an estimate of effluent levels that could be achieved by the alternative. If engineering studies are available, please include those in supporting documentation. If possible, alternatives should be listed in order from the alternative with the greatest pollutant reduction to that with the least and identify which alternative(s) would meet permit limits based on the underlying standard.

In addition to describing each alternative, the analysis should include a feasibility test for each alternative. The feasibility test should examine whether each alternative is technologically, economically and environmentally feasible. If there are no alternatives that meet each feasibility test *and* meet permit limits, the facility may be able to justify a variance.

The following guidance describes each of these three tests.

Technological feasibility test. The technological feasibility test answers whether there is a feasible way for the facility to install the alternative? For example, if the facility is considering a storage pond for cooling, does the facility have sufficient land or can the facility purchase sufficient land to install the storage pond? Can the facility secure appropriate easements to move its outfall location to one more beneficial for pollutant levels? If the facility is considering land application of effluent, the facility would have to ensure that land application would meet applicable requirements and that there is someone who is willing to land apply effluent.

Economic feasibility test. The economic feasibility test answers if design, construction, operation and maintenance of an alternative would result in widespread and substantial economic harm to the residents of a community. This is the same test as is used to justify a variance based on "Factor 6" in federal and state variance rules (see Section D). The U.S. EPA has developed guidance to determine whether an alternative may result in substantial and widespread economic harm. The guidance includes spreadsheets for public and private entities to assist with determining feasibility.

For public dischargers, information needed for the economic feasibility test includes a description and cost of the alternative; number of households in the community; median household incomes; and current cost of treatment. In addition, there is a secondary test, which requires information on debt, market value for taxable property, bond rating, unemployment rate, and other information that should be available to the discharger. Primary and secondary tests will determine if the project likely will or will not result in substantial financial impacts, or if it is unclear whether it will. To determine if the project would result in widespread impacts, the facility must provide information regarding the impact of the pollution controls on median household income, unemployment rate, overall net debt, poverty levels, potential for commercial development, and property values.

For private discharges, the economic feasibility test considers impacts of an alternative on profits. This test takes into account a variety of fiscal information, such as project costs, earnings, assets and liabilities, debt, etc. to determine whether or not a project will result in a substantial economic impact. In addition, the spreadsheet includes secondary tests, including current ratio, Beaver's ratio, and debt-to-equity ratio. In addition, to determine whether the project will result in widespread impacts, the facility must provide information on the impact of the pollution control project on the community, including median household income, unemployment rate, overall net debt, poverty levels, potential for commercial development, and property values.

Environmental feasibility test. The environmental feasibility test examines whether the addition of a pollutant control technology will cause greater environmental damage than leaving the pollution in place. If a treatment upgrade will reduce pollutant levels sufficiently to attain effluent limits, but will cause greater environmental damage in doing so, it is not environmentally feasible. Environmental damage associated with treatment options may include:

- Greenhouse gas emissions associated with construction, operation, and maintenance of the alternative.
- Costs to dispose of additional waste of the disposal.
- Needs for additional disinfectant chemicals or fungicides (i.e., to cleanse effluent of algae).
- Modification of a sensitive ecological area to construct the alternative.
- Land use and aesthetic considerations of the alternative.

If a treatment alternative is otherwise economically and technologically feasible, but is not environmentally feasible, the facility may be able to justify a variance using Factor 3, as described in Section D.

A challenge in measuring environmental feasibility is how to compare environmental damage of not removing the pollution with environmental damage associated with the pollutant control technology. EPA has not provided specific guidance regarding how to evaluate the tradeoffs between environmental improvement of the alternative and the potential impacts of the alternative, although DEQ and other states are currently working with EPA to obtain such guidance. One option is to complete a life cycle analysis for the alternative, which could use some numeric or monetary metric to equate environmental benefits and costs of various pollution alternatives. However, conducting such analyses can be expensive and time consuming. DEQ will work with the facility to ensure that its environmental feasibility test appropriately weighs environmental benefits and costs as part of its alternatives analysis.

Feasibility Test Table

The facility should summarize its alternatives analysis in a table from greatest pollutant reduction capacity to least, as shown in Table 1. For each alternative, the facility should indicate whether the alternative will meet permit limits and if that alternative is technologically, economically and environmentally feasible, as described above.

This table is designed to answer two key questions for the variance.

Variance eligibility. If there is no alternative that will simultaneously meet permit limits *and* all three feasibility tests, then the facility may qualify for a variance.

Highest attainable condition. If the facility is eligible for a variance, the table will then assist the facility in identifying the highest attainable condition (Section E). The highest attainable condition will be the alternative with the greatest amount of pollutant reduction that is technologically, economically AND environmentally feasible, even though it does not attain the WQBEL.

Table 1. Alternatives Feasibility Test

Alternative	Will Meet Permit Limits	Technologically feasible	Economically feasible	Environmentally feasible
Alternative with Greatest Pollutant Reduction				
.				

.				
.				
.				
.				
Alternative with Least Pollutant Reduction				

Example. Table 2 shows a hypothetical example of using this type of table. The table presents an example of a facility applying for a variance from the water quality standard for temperature. The facility has presented each alternative it considered in order from greatest pollutant reduction. Please note that this is an example and that any facility conducting such an alternatives analysis must evaluate alternatives taking into account the specific circumstances of their facility.

Table 2. Hypothetical Highest Attainable Condition Example

Alternative (in order of greatest pollutant reduction)	Will Meet Permit Limits	Technologically feasible	Economically feasible	Environmentally feasible
Chiller	Y	Y	N	N
Cooling tower	Y	Y	Y	N
Storage	Y	N	Y	Y
Outfall relocation	Y	N	Y	Y
Stream restoration project	N	Y	Y	Y
No additional treatment and pollutant minimization plan	N	Y	Y	Y

In the table, alternatives are ordered from highest temperature reduction to lowest. The facility has determined that a chiller would result in substantial and widespread economic harm for the community and that, primarily due to energy usage and associated greenhouse gas emissions, the benefit of the cooled water is less than the harm caused by installing and operating a chiller. A cooling tower, while less expensive, also is not environmentally feasible due to electricity use. The storage option is both economically and environmentally feasible, but is not technologically feasible due to a lack of available space to store the water and because the stored water will not cool down enough to meet the permit limit during the warm weeks of summer or early fall. Outfall relocation, while economically and environmentally feasible, is not technologically feasible due to lack of easement for access. Meanwhile, the permit holder identified a stream restoration project that would add flow to the river in the vicinity of the discharge and thus reduce temperature. Based on the evaluation, the project would reduce the thermal load of the river but not enough to meet its excess thermal load. Current treatment and implementation of a pollutant minimization program meets all three feasibility tests, but provides less pollutant reduction than the stream restoration project.

Based on the table, there is no alternative that meets effluent limits *and* meets all three feasibility tests. As a result, a variance is appropriate. In Section D, the facility should include a summary of its alternative analysis in this section in order to support the justification for the variance.

The highest attainable condition (see Section E) for the variance will the alternative with the greatest pollution reduction that meets all three feasibility tests. In this example, that alternative is the stream restoration project. The facility should summarize this alternative in Section E, including a description of how long it will take to design, construct and being operating the alternative. If the only feasible alternative is a pollutant minimization plan, the facility should include a copy of its plan in the variance application and describe how long it will take to implement the projects in its plan.

Section D. Reason for Variance

In application: Please indicate which of the seven variance factors listed (see OAR 340-041-0059(2)(a)(A)-(G)) that the applicant is using to support the need for a variance.

In supporting documentation: Please provide the following:

a. A detailed argument that the variance factor applies (see guidance in this section). This should include results from the alternatives analysis in Section C.
b. A description of why water quality based effluent limits cannot be met using technology-based requirements under the Clean Water Act. For example, describe why performance standards for secondary treatment are not sufficient to achieve applicable effluent limits.

Guidance for supporting the chosen variance factor

Information required to support the argument that the variance factor is applicable will differ depending on which variance factor is used. Table 1 lists the information required to support justifying the variance based on the chosen factor.

Table 1. Information Required to Support Justification for Variance Factors

Variance Factor	Required Information
Factor 1. Naturally occurring pollutant concentrations prevent attainment of the designated use.	❑ Data sufficient to adequately characterize natural pollutant concentrations and variability ❑ Source or sources of the pollutant within the waterbody including the basis for the conclusion that naturally occurring pollutant concentrations prevent attainment of the use. ❑ Analysis of how much of the pollutant in the stream occurs naturally and how much is a result of anthropogenic sources, including nonpoint and permitted point sources.
Factor 2. Natural, ephemeral, intermittent, or low flow conditions, or water levels prevent attaining the use, unless these conditions may be compensated for by discharging sufficient volume of effluent to enable uses to be met without violating state water conservation requirements.	❑ Description of the natural flow regime and how low flow or water levels are preventing attainment of the use including available monitoring data and analysis to support the conclusion. ❑ Describe why the criterion cannot be met through discharge of a sufficient volume of effluent without violating state water conservation requirements.

Factor 3. Human-caused pollutant concentrations prevent attainment of the designated use and criterion and cannot be remedied, or would cause more environmental harm to remedy than to keep in place.	❑ Data sufficient to adequately characterize pollutant concentrations
	❑ Identify the source and sources of the pollutant in the waterbody and an analysis supporting the conclusion that human-caused pollutant concentrations preclude attainment of the designated use and criterion.
	❑ Describe the basis for one of the following:
	  ❑ The human-caused source of pollution cannot be remedied; or
	  ❑ It would cause more environmental damage to remedy the source of pollution than to keep the pollution in place.

Factor 4. Dams, diversions or other types of hydrologic modifications preclude attainment of the designated use and criterion and it is not feasible to restore the water body to its original condition or to operate such modification in a way which would result in attainment of the use.	❑ Data sufficient to adequately characterize ambient and effluent pollutant concentrations; ❑ Identify the dam, diversion or other type of hydrologic modification that precludes attainment of the designated use and criterion including its location and proximity to the permitted facility; ❑ Describe how the dam, diversion or other type of hydrologic modification precludes attainment of the criterion and the data and basis for this conclusion ❑ Describe why it is not feasible to restore the water body to its original condition or to operate the modification in such a way that would result in attainment of the criterion.

Factor 5. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, and riffles, unrelated to water quality preclude attainment of the designated use and criterion.	❑ Data sufficient to adequately characterize pollutant concentrations in the effluent and receiving water. ❑ Identify if the receiving water body is water quality-limited for the pollutant. ❑ Identify the physical conditions related to the natural features of the water body that precludes attainment of the designated use and criterion. ❑ Describe how the physical conditions preclude attainment of the use. Please specify the data on which these conclusions are based.
Factor 6. Controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act would result in substantial and widespread economic and social impact.	❑ Data sufficient to adequately characterize pollutant concentrations ❑ Identify controls more stringent than those required by the Clean Water Act that would achieve water quality based effluent limits, including the costs of such controls. ❑ Provide justification that controls identified above would result in substantial and widespread social and economic impact. You may submit a justification by conducting the analysis described in EPA's Interim Economic Guidance for Water Quality Standards and associated worksheets for public and private entities.
Factor 7. Actions necessary to facilitate lake, wetland, or stream restoration through dam removal or other activities preclude attainment of the designated use and criterion while the actions are being implemented.	❑ Data sufficient to adequately characterize pollutant concentrations ❑ Identify if the receiving water body is water quality-limited for the pollutant. ❑ Describe the actions necessary to facilitate lake, wetland, or stream restoration. ❑ Describe why the actions preclude attainment of the designated use and criterion and the extent to which the criterion cannot be met, including magnitude, duration, and frequency of the water quality impacts. ❑ Describe when the water quality will be restored to levels that support the use.

Section E. Highest Attainable Condition

In the application: Please indicate which expression of the Highest Attainable Condition is applicable for the variance. If Highest Attainable Condition expressions 1 or 2 are applicable, also provide a description of the appropriate highest attainable instream criterion (expression 1) or interim effluent condition reflecting the greatest pollutant reduction achievable (expression 2).

In supporting documentation: (See below for additional guidance.)

- Describe why the Highest Attainable Condition marked in the application is supported, using the guidance in this section.
- If the Highest Attainable Condition is expression 1, please provide sufficient documentation supporting the highest attainable instream criterion (such as modeling results).
- If the Highest Attainable Condition is expression 2, please provide sufficient documentation supporting the interim effluent condition reflecting the greatest pollutant reduction achievable with treatment upgrades (such as engineering studies).
- If the Highest Attainable Condition is expression 3 (greatest pollutant reduction achievable with pollutant control technologies installed at the time of the variance and implementation of a pollutant minimization plan), the facility should document that there is no feasible pollutant control technology that can make greater progress toward meeting the permit limit based on the underlying water quality

standard, i.e. achieve greater pollutant reduction, than the alternative(s) proposed. The facility also must provide a copy of its pollutant minimization plan.

The Highest Attainable Condition forms the primary basis of permit conditions based on the variance. The Highest Attainable Condition must be one of the following (See OAR 340-041-0059(5)(a) and 40 CFR 131.14(b)(1)(ii)):

- *The highest attainable interim criterion.* This is an instream pollutant level which is less stringent than the underlying criterion which can be achieved and form the basis for an interim effluent limit. This would typically be available for a well-modelled stream for which the result of pollutant reductions could be incorporated into the model to develop an interim criterion.
- *The interim effluent condition that reflects the greatest pollutant reduction achievable.* This is the best effluent condition (i.e., a concentration, mass load, or percentage reduction) that can be achieved through a feasible technological upgrade. For example, some additional treatment can be installed to reduce temperature, but not enough to meet a water quality based effluent limit based on the underlying standard.
- If no additional pollutant control technology is technologically, economically and environmentally feasible, the interim criterion or interim effluent condition that reflects the greatest pollutant reduction achievable with the pollutant control technologies installed at the time the State grants the WQS variance, and adoption and implementation of a pollutant minimization plan. If there is no feasible pollutant control technology, the Highest Attainable Condition must be a numeric expression of the current effluent condition (i.e., a concentration, mass load, or percentage reduction) that can be achieved with the technology currently installed at the facility when that technology is optimized for removing the pollutant, and be well-operated and maintained. The Highest Attainable Condition must also require that the permittee adopt and implement a pollutant minimization plan. (Note: the federal variance rule uses the term pollutant minimization program.)

The analysis for the Highest Attainable Condition should focus on the progress that can be achieved by the facility towards attaining the underlying criterion during the term of the variance. Thus, a technology that is not technologically feasible to meet the criterion might be technologically feasible to achieve some reduction in the pollutant during the term of the variance and thus be appropriate as the Highest Attainable Condition.

The alternatives analysis conducted in Section C will support identification of the HAC.
The highest attainable condition will be the alternative with the greatest amount of pollutant reduction that is technologically, economically AND environmentally feasible.

If the Highest Attainable Condition requires some technological upgrade, it is likely that any permit with variance requirements will also include a compliance schedule to give the facility sufficient time to install and begin to operate the upgrade. DEQ will work with the applicant to include a timeline in the compliance schedule that is appropriate.

Section F. Protection of current water quality

The goal of a variance is to ensure that any permit holder that cannot feasibly meet effluent limits based on water quality standards make incremental progress towards achieving those effluent limits. As such, state variance rules at OAR 340-041-0059(2)(c) require that variance requirements not lower current water quality, unless the variance is needed for restoration activities.

In the application: The applicant should summarize why variance requirements as described in the Highest Attainable Condition will not lower currently attained water quality, except as allowed for restoration activities. For example, note that the pollutant load in the discharge will not be increased from the current permit.

In supporting documentation: If additional information is needed to support how protection of current water quality is ensured, please provide it in supporting documentation.

Section G. Requested variance duration

In the application: Please provide the requested term of the variance. The term can be expressed as a date from EPA approval; for example, 5 years from the date of EPA approval. It also may be expressed as a date certain: June 30, 2027.

In supporting documentation: Please describe why the proposed variance term is only as long as necessary to achieve the highest attainable condition, as required by OAR 340-041-0059(3)(a) and companion federal rules.

Guidance for Section G

For variances in which the Highest Attainable Condition will require a technological upgrade, the variance term will likely be the duration needed to design, construct and begin operation of the upgrade.

For variances in which the Highest Attainable Condition maintains current levels of treatment with implementation of a pollutant minimization program, the variance term will be the duration needed for the facility to complete all aspects of the PMP. DEQ will require implementation deadlines for PMP activities; such deadlines may also be included in variance-related permit conditions.

Section H. Information to Support Re-evaluation of the Highest Attainable Condition (if applicable)

In application: Please list a summary of information that the facility will provide to support any necessary re-evaluation of the Highest Attainable Condition, such as effluent and ambient water quality data, annual progress reports and a re-evaluation of pollutant control technologies.

In supporting documentation: A more detailed description of the information listed in the application, if necessary.

If DEQ grants and EPA approves a variance that lasts longer than 5 years, DEQ is required to re-evaluate the variance Highest Attainable Condition at least every 5 years. The re-evaluation must document the pollutant reduction achieved (i.e. progress made toward the underlying standard). In addition, it includes a re-evaluation of alternatives to determine if there is additional feasible technology that the applicant can employ that will make further progress toward the standard. The re-evaluation process must include opportunity for public input. In addition, DEQ must provide the re-evaluation to EPA within 30 days of it being finalized. To the extent a re-evaluation is necessary, DEQ will include public input requirements in the variance order it provides to EPA.

The Highest Attainable Condition re-evaluation will rely on information provided by the applicant. Such information should include monitoring data and annual reports, which will allow DEQ to monitor any progress made in reducing pollutant loading to the waterbody (i.e. progress toward the standard). If the HAC re-evaluation is done in conjunction with permit renewal, much of this information is required for both processes and the applicant can submit such information for one and refer to the other.

Section I. Certification

The application must be signed by the official submitting the request.