


The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance.

WATER QUALITY STANDARDS VARIANCES

NATIONAL PERSPECTIVE



DISCLAIMER – THIS PRESENTATION DOES NOT:

- IMPOSE ANY BINDING REQUIREMENTS
 - DETERMINE THE OBLIGATIONS OF THE REGULATED COMMUNITY
 - CHANGE OR SUBSTITUTE FOR ANY STATUTORY PROVISION OR REGULATION REQUIREMENT
 - REPRESENT, CHANGE OR SUBSTITUTE FOR ANY AGENCY POLICY OR GUIDANCE
 - CONTROL IN ANY CASE OF CONFLICT BETWEEN THIS DISCUSSION AND STATUTE, REGULATION, POLICY OR GUIDANCE
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JUSTIFICATIONS FOR A VARIANCE (40 CFR 131.10(G) AND 40 CFR 131.14)

1. NATURALLY OCCURRING POLLUTANT CONCENTRATIONS PREVENT THE ATTAINMENT OF THE USE
2. NATURAL, EPHEMERAL, INTERMITTENT OR LOW FLOW CONDITIONS OR WATER LEVELS PREVENT THE ATTAINMENT OF THE USE, UNLESS THESE CONDITIONS MAY BE COMPENSATED FOR BY THE DISCHARGE OF SUFFICIENT VOLUME OF EFFLUENT DISCHARGES WITHOUT VIOLATING STATE WATER CONSERVATION REQUIREMENTS TO ENABLE USES TO BE MET.
3. HUMAN CAUSED CONDITIONS OR SOURCES OF POLLUTION PREVENT THE ATTAINMENT OF THE USE AND 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 PRECLUDE THE ATTAINMENT OF THE USE, AND IT IS NOT FEASIBLE TO RESTORE THE WATER BODY TO ITS ORIGINAL CONDITION OR TO OPERATE SUCH MODIFICATION IN A WAY THAT WOULD RESULT IN THE ATTAINMENT OF THE USE.
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, UNRELATED TO WATER QUALITY, PRECLUDE ATTAINMENT OF AQUATIC LIFE PROTECTION USES.
6. CONTROLS MORE STRINGENT THAN THOSE REQUIRED BY SECTIONS 301(B) AND 306 OF THE ACT WOULD RESULT IN SUBSTANTIAL AND WIDESPREAD ECONOMIC AND SOCIAL IMPACT.
7. ACTIONS NECESSARY TO FACILITATE LAKE, WETLAND, OR STREAM RESTORATION THROUGH DAM REMOVAL OR OTHER SIGNIFICANT RECONFIGURATION ACTIVITIES PRECLUDE ATTAINMENT OF THE DESIGNATED USE AND CRITERION WHILE THE ACTIONS ARE BEING IMPLEMENTED.

VARIANCES APPROVED BY EPA SINCE 40 CFR 131.14 BECAME EFFECTIVE

- AT LEAST 48 VARIANCES HAVE BEEN APPROVED
- IN FOUR DIFFERENT REGIONS
- 44 OF THE APPROVED VARIANCES ARE FROM REGION 5
- VARIANCES ARE CURRENTLY BEING WORKED ON IN MORE STATES AND REGIONS
- NO WATERBODY VARIANCES HAVE BEEN SUBMITTED

DEMONSTRATION OF NEED CITED IN APPROVED VARIANCES

- THREE VARIANCES USED FACTOR #3 JUSTIFICATION
 - HUMAN CAUSED CONDITIONS CANNOT BE REMEDIED OR WOULD CAUSE MORE ENVIRONMENTAL DAMAGE TO CORRECT THAN LEAVE IN PLACE
- ALL REMAINING VARIANCES USED FACTOR #6 JUSTIFICATION
 - CONTROLS MORE STRINGENT THAN NEEDED TO MEET TECHNOLOGY BASED LIMITS WOULD RESULT IN SUBSTANTIAL AND WIDESPREAD ECONOMIC AND SOCIAL IMPACT
- ANY OF THE 7 FACTORS THAT ARE USED TO DEMONSTRATE THE NEED FOR THE VARIANCE MUST INDEPENDENTLY DEMONSTRATE THAT THE USE IS UNATTAINABLE FOR A LIMITED PERIOD OF TIME (AT THIS GEOGRAPHIC SCOPE AND FOR A SPECIFIC POLLUTANT(S)).

HIGHEST ATTAINABLE CONDITION IN APPROVED VARIANCES

- MOST APPROVED VARIANCES USE HIGHEST ATTAINABLE CONDITION (HAC) #3
 - IF NO ADDITIONAL FEASIBLE POLLUTANT CONTROL TECHNOLOGY CAN BE IDENTIFIED, THE INTERIM CRITERION OR INTERIM EFFLUENT CONDITION REFLECTING GREATEST POLLUTANT REDUCTION ACHIEVABLE WITH CURRENTLY INSTALLED (AND OPTIMIZED) TREATMENT **AND** ADOPTION AND IMPLEMENTATION OF A POLLUTANT MINIMIZATION PROGRAM (PMP)
- HAC #2 HAS ALSO BEEN USED
 - INTERIM EFFLUENT CONDITION REFLECTING GREATEST POLLUTANT REDUCTION ACHIEVABLE
- NO VARIANCES USING HAC #1 HAVE BEEN SUBMITTED SINCE THE 2015 REGULATORY REVISION
 - HIGHEST ATTAINABLE INTERIM CRITERION

TYPES OF APPROVED VARIANCES


- ALL SUBMITTED AND APPROVED VARIANCES, SINCE 40 CFR 131.14 WENT INTO EFFECT, ARE DISCHARGER-SPECIFIC.
- THREE ARE MULTIPLE DISCHARGER VARIANCES.
- THE REMAINDER ARE INDIVIDUAL DISCHARGER VARIANCES.

POLLUTANTS ADDRESSED IN APPROVED VARIANCES

- NUTRIENTS (NITROGEN AND PHOSPHORUS OR TOTAL PHOSPHORUS ONLY)
- MERCURY
- AMMONIA
- CHLORIDE
- IRON
- PH
- ALUMINUM
- COPPER



NATIONAL COLLABORATION

- EPA COORDINATED WITH THE ASSOCIATION OF CLEAN WATER ADMINISTRATORS (ACWA) TO ORGANIZE AN EPA/STATE VARIANCE WORKSHOP IN NOVEMBER 2017.
 - EPA IS ENGAGING SEVERAL STATE REPRESENTATIVES AND ACWA AS IT CONSIDERS VARIOUS NATIONAL WQS VARIANCE ISSUES
 - EPA IS WORKING CLOSELY WITH INDIVIDUAL STATE PARTNERS ON SPECIFIC VARIANCES.
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VARIANCES IN REGION 10

- NO VARIANCES HAVE BEEN SUBMITTED TO REGION 10 FOR APPROVAL SINCE 40 CFR 131.14 BECAME EFFECTIVE
- CONTINUE TO WORK CLOSELY WITH ECOLOGY TO IMPLEMENT THE TOOLS, INCLUDING VARIANCES, ESPECIALLY IN THE SPOKANE RIVER
- PROVIDE TECHNICAL SUPPORT TO OREGON DEQ ON VARIANCES FOR MERCURY
- EXPLORE BOTH WATERBODY VARIANCES AND DISCHARGER-SPECIFIC VARIANCES WITH STATE PARTNERS (INDIVIDUAL AND MULTI-DISCHARGER VARIANCES)



OTHER EPA APPROVAL CONSIDERATIONS

- TRIBAL CONSULTATION
- ENDANGERED SPECIES ACT (ESA) CONSULTATION
 - REQUIRED FOR VARIANCES TO AQUATIC LIFE USES AND CRITERIA



TOOLS/RESOURCES AVAILABLE FOR STATES & TRIBES

- EPA SPREADSHEET FOR EVALUATING ECONOMIC IMPACT (FACTOR 6)
 - WWW.EPA.GOV/WQS-TECH/ECONOMIC-GUIDANCE-WATER-QUALITY-STANDARDS
- WQS VARIANCE BUILDING TOOL - INCLUDING ADDITIONAL FAQ'S AND CHECKLISTS
 - WWW.EPA.GOV/WQS-TECH/WATER-QUALITY-STANDARDS-VARIANCE-BUILDING-TOOL
- EPA WQS VARIANCE WEBSITE
 - WWW.EPA.GOV/WQS-TECH/WATER-QUALITY-STANDARDS-VARIANCES



QUESTIONS?

LINDSAY GUZZO

WASHINGTON WQS COORDINATOR

206-553-0268

GUZZO.LINDSAY@EPA.GOV

