

Checklist for Water Quality Standards Variance Supporting Documentation Requirements

NOTES: This checklist is only for evaluating whether a state, territory, or authorized tribe has all of the required supporting documentation for their water quality standards (WQS) variance submission to EPA. See the regulations at [40 CFR Part 131.14](#) for additional requirements for WQS variances. WQS variances for discharges into waters in the Great Lakes system must also meet the requirements of [40 CFR Part 132](#). Where regulations in these parts overlap, the more stringent regulation applies.

STATES AND AUTHORIZED TRIBES MUST DOCUMENT AND SUBMIT THE FOLLOWING INFORMATION TO SUPPORT THE WATER QUALITY STANDARDS VARIANCE:

- ☐ For a WQS variance to a 101(a)(2) use¹, a demonstration that attaining the underlying designated use is not feasible throughout the term of the WQS variance because of at least one of the factors listed in § 131.10(g) or because of the restoration-related factor listed in § 131.14(b)(2)(i)(A)(2) (*40 CFR 131.14(b)(2)(i)(A)*);
- ☐ For a WQS variance to a non-101(a)(2)² use, a documentation justifying how the state's consideration of the use and value of the water for those uses listed in § 131.10(a) supports the WQS variance and term (this may also be satisfied by a demonstration consistent with § 131.14(b)(2)(i)(A)) (*40 CFR 131.14(b)(2)(i)(B)*); and,
- ☐ Documentation demonstrating that the term of the WQS variance is only as long as necessary to achieve the highest attainable condition by describing the pollutant control activities to achieve highest attainable condition (*40 CFR 131.14(b)(2)(ii)*).

FOR WATER QUALITY STANDARDS VARIANCES APPLICABLE TO A WATERBODY OR WATERBODY SEGMENT, STATES AND AUTHORIZED TRIBES MUST ALSO DOCUMENT AND SUBMIT THE FOLLOWING INFORMATION:

- ☐ Identification and documentation of any cost-effective and reasonable best management practices for nonpoint source controls related to the pollutant(s) or water quality parameter(s) and waterbody or waterbody segment(s) specified in the WQS variance that could be implemented to make progress towards attaining the underlying designated use and criterion. A State must provide public notice and comment for any such documentation (*40 CFR 131.14(b)(2)(iii)(A)*); and,
- ☐ Any subsequent WQS variance for a waterbody or waterbody segment must include documentation of whether and to what extent best management practices for nonpoint source controls were implemented to address the pollutant(s) or water quality parameter(s) subject to the WQS variance and the water quality progress achieved (*40 CFR 131.14(b)(2)(iii)(B)*).

¹ Any use specified in Section 101(a)(2) of the CWA, or subcategory of such a use. Examples include but are not limited to: cold-water aquatic life use and primary contact recreation use.

² Defined in 40 CFR 131.3(q) as any use unrelated to the protection and propagation of fish, shellfish, and wildlife or recreation in or on the water.