**Key Differences Between the Variance and UAA Application Processes**

While the justification factors for requesting a variance are the same as those for requesting a Use Attainability Analysis,[[1]](#footnote-2) DEQ believes there are some key differences between the variance and UAA processes which are important to recognize. For purposes of this document, the differences highlighted are between the process of granting an individual variance versus a UAA.

Because variances apply to individual dischargers and individual pollutants for a limited time period, and because the underlying water quality standards for the water body are maintained, development of the variance application and subsequent Department review are expected to be less time-consuming and less resource-intensive than would be expected for a UAA or site-specific criteria application. Further, the Department believes that revisions to the variance rule will create a more efficient variance process as compared to the current UAA process.

Key Differences Between the “Streamlined” Variance Process Being Developed by DEQ and the Current UAA Process:

* For variances, the focus of the application is on the infeasibility of an individual discharger to achieve the limits necessary to meet the WQS in a defined location or stream reach, not the attainability of the use within the waterbody as a whole, which requires a more comprehensive and time consuming review.
* UAAs change the designated use and associated criteria for the waterbody. As such, more detailed analyses, such as a Waterbody Survey, may be required as part of the UAA process.
* Variances do not alter underlying use or other criteria, these would remain as the long term goal, and all other elements of the WQS remain in force. As such, the technical support for a variance application will usually focus on following more limited inquires:
  + The inability of the facility to meet the water quality criterion (including the consideration of applicable treatment technologies or other appropriate alternatives) and the reasons for that;
  + If applicable, the costs and needs associated with meeting the current water quality standard for the facility requesting the variance; and
  + Whether granting the variance will impact the maintenance and protection of existing uses.
  + Actions the facility will undertake to make progress toward meeting the water quality standards, as appropriate.
* Rulemaking would not be necessary to issue individual variances; rather, it would be accomplished by a Commission Order or by the Director, and therefore, would be accomplished with fewer DEQ administrative resources and within a shorter timeframe.
* DEQ can process variance applications in coordination with the NPDES permit renewal process.

Similarities Between the Variance and UAA Application Processes:

* The justification for granting either a variance or a UAA must rely on one of the same six factors found at 40 C.F.R. § 131.10(g).
* In order to demonstrate substantial and widespread economic or social impact under 40 C.F.R. § 131.10(g)(6), both processes require information necessary to show costs of standards attainment, though at a different scale.[[2]](#footnote-3)
* Both processes will consider possible restoration/mitigation as part of the application process. DEQ acknowledges that better protection of the resource could be achieved through habitat restoration, or by offsets/trading.[[3]](#footnote-4)

DEQ is still formulating the strictures of the variance process. While DEQ expects that the review and approval procedures for granting variances will be tailored to the situations for which they are being considered, it believes that the procedures will be much less intensive than that required for a UAA application.

1. 40 C.F.R. § 131.10(g) [↑](#footnote-ref-2)
2. *See Use Attainability and Site Specific Criteria - Internal Management Directive*, Oregon Department of Environmental Quality, 2007, Chapter 4 (DEQ UAA IMD). [↑](#footnote-ref-3)
3. DEQ UAA IMD, pg. 48. [↑](#footnote-ref-4)