

# Water Quality Standards Variance Building Tool: U.S. Environmental Protection Agency Announces Availability



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

08/30/2017

The United States Environmental Protection Agency (“EPA”) announced on August 23rd an online Water Quality Standards Variance Building Tool (“tool”) that it says can help states better understand whether a water quality standard (“WQS”) variance is an appropriate tool for a particular situation.

The federal agency states that the tool can be used to determine whether WQS variances can provide for water quality improvement opportunities prior to downgrading a water body’s designated use.

Section 303 of the Clean Water Act requires that each state develop WQS for jurisdictional waters of the United States within their borders. WQS serve a dual purpose. They establish the water quality goals for a specific body of water and also serve as the regulatory basis for the development of water-quality based effluent limits and strategies for individual point source discharges.

A WQS consists of three parts:

- The designated uses of a water body
- The water quality criteria that are necessary to protect existing uses to attain the beneficial uses designated by the state
- An anti-degradation statement or policy to protect existing uses and high quality water

The tool is described as being intended to facilitate the use of WQS variances.

The variance is a time-limited designated use and criterion for a specific pollutant’s water quality parameters that are stated to reflect the highest attainable condition during the term of the variance. Agency documents referencing the tool provide guidance for the user that are stated to result in the creation of draft regulatory language a state or authorized tribe can use as a starting point to develop and adopt a WQS variance consistent with 40 CFR Part 131.14. The referenced draft regulatory language that results from the use of the tool is described as intended as a regulatory framework for the state, territory, or authorized tribe to use as a starting point when drafting a legally binding WQS variance.

[A link to the Water Quality Standards Variance Building Tool, along with Frequently Asked Questions and a Checklist for Water Quality Standards Variance Supporting Documentation Requirements can be found here.](#)