Differences between 2015 federal variance rules and Oregon state variance rules

Topic	Federal	State	DEQ Proposal
Term of the variance	As long as needed to meet highest attainable condition with re-evaluation at least every 5 years	Duration of the permit, including any administrative extension	Make consistent with federal rule
Variances for new permits	Allowed	Allowed only under limited circumstances	Remove current language to make consistent with federal rule
Types of variances	Individual discharger, multiple discharger variances or waterbody	Authorizing language only addresses individual variances, but does not prohibit multiple discharger or watershed variances	Change rule language to identify and define multiple discharger variances and watershed variances, both of which would require adoption by the EQC.
Variance requirements	Requirements shall represent the highest attainable condition, expressed as one of the following: 1.) Highest attainable interim criterion. 2.) The interim effluent condition that reflects the greatest pollutant reduction achievable; 3.) The interim criterion or interim effluent condition that reflects the greatest pollutant reduction achievable with the pollutant control technologies installed at the time of the WQS variance, and the adoption and implementation of a pollutant minimization plan.	1.) An interim concentration based permit limit or requirement representing the best achievable effluent quality based on discharge monitoring data and that is no less stringent than that achieved under the previous permit. For a new discharger, the permit limit will be calculated based on best achievable technology; 2.) A requirement to implement any pollutant reduction actions approved as part of a pollutant reduction plan submitted in accordance with section (4)(e) above and to make reasonable progress toward attaining the underlying water quality standard(s);	Make consistent with federal rule

	Shall not result in lowering of currently attained water quality, with limited exceptions.		
Limits on variance	Variance not allowed if effluent limit can be attained by technology-based effluent limits; in this case a compliance schedule is the appropriate compliance tool	Variance not allowed if: 1. Effluent limit can be attained by technology-based effluent limits and by implementing cost-effective and reasonable best management practices for nonpoint sources under control of the discharger. 2. Variance will jeopardize ESA-species or destroy or adversely harm critical habitat 3. Conditions would result in an unreasonable risk to human health. 4. It is for a new permit, with limited exceptions	Revise current state language to be consistent with the federal regulations, but retain items 2 and 3.
Nonpoint source controls	For a waterbody variance only, identify and document any cost-effective and reasonable best management practices for nonpoint sources that could be implemented to make progress toward the underlying standard.	Variance application for ANY variance must contain description of any cost-effective and reasonable best management practices for nonpoint sources under the control of the discharger that addresses the pollutant the variance is based upon.	Make consistent with federal rule.