



FAQs: Water Quality Standards and the Clean Water Act

A Fact Sheet for Tribal Wetland Programs



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Q: What is the Purpose of Water Quality Standards?

A: Water quality standards developed under Clean Water Act (CWA) §303 are the foundation from which CWA programs achieve the primary goal of the Act, restoring and maintaining the chemical, physical, and biological integrity of the nation's waters. An interim CWA goal is to achieve "whenever attainable ... a goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water." CWA §303 requires standards for all "waters of the United States," including jurisdictional wetlands.

Q: What Does a Water Quality Standard Include?

A: A water quality standard has three components: designated uses for the water, water quality criteria to protect those uses, and an anti-degradation policy to maintain water quality. Designated uses establish the environmental management objectives and water quality goals for an authorized Tribe's waters. Under EPA's water quality standards regulations, designated uses might include uses such as: protection and propagation of fish, shellfish, and wildlife; use as a drinking water source; or for recreation in and on the water, among others. EPA has proposed baseline water quality standards for waterbodies on Indian reservations that lack standards which would explicitly include as a designated use the protection of cultural and traditional uses of reservation waters. Water quality criteria to protect designated uses must be based on sound scientific rationale and may be expressed in either narrative or numeric form. All EPA-approved water quality standards require an anti-degradation policy. An anti-degradation policy protects existing uses and provides a framework for maintaining and protecting water quality that has already been achieved.

Q: Does a Water Quality Standard for Wetlands Look Different than Other Standards?

A: A wetland water quality standard may look different from standards for lakes or streams. For example, its designated uses and associated criteria should reflect unique wetland functions. Wetlands are particularly sensitive to small changes in precipitation and water levels, making establishment of biological criteria challenging and potentially requiring extensive field work. Other criteria, such as for dissolved oxygen, may be quite different for wetlands, with oxygen levels for a healthy wetland considerably lower than for a stream. A Tribe or state may decide to adopt standards for classes of wetlands rather than individual wetlands, because wetlands might number in the hundreds of thousands versus thousands for other types of waters.

Q: How are Water Quality Standards Implemented?

A: Water quality standards are themselves not requirements but are implemented by being reflected in other CWA programs. For example, CWA §402 National Pollutant Discharge Elimination System (NPDES) permits are required to include discharge limits sufficient to achieve compliance with applicable CWA water quality standards. Section 404 permits addressing discharge of dredged or fill material similarly must include requirements that ensure, among other things, that discharges will not cause or contribute to a violation of any applicable water quality standard. Water quality certification under CWA §401 is intended to ensure that a federally issued license or permit would be consistent with attaining applicable water quality standards and other enumerated CWA program provisions. To make implementation of CWA programs easier, EPA has proposed federal baseline water quality standards for waterbodies on Indian reservations that do not have CWA standards.

Q: May EPA Develop Federal Water Quality Standards for Tribal Lands?

A: The CWA provides EPA with authority to develop new or revised water quality standards where the “Administrator determines that a revised or new standard is necessary to meet the requirements of the Act,” or where EPA determines that a state or authorized Tribe’s new or revised water quality standard is not consistent with CWA requirements.

Q: May Tribes Develop Water Quality Standards Under the Clean Water Act?

A: Yes. Under CWA §518, Tribes may apply for “treatment in a manner similar to states,” or TAS, under which tribes can manage water resources on their reservations. Tribes first apply for TAS for §303, and after receiving TAS may develop water quality standards for review and approval by EPA. Upon EPA approval, the tribe’s WQS will be effective for CWA purposes. Of the approximately 300 tribes with Indian reservations that are eligible for TAS for the water quality standards program, 84 Tribes have applied and been approved to administer a water quality standards program, and, of those, 47 Tribes to date have adopted standards and submitted them to EPA for review and approval under the CWA.

Q: May Tribes Develop and Implement Quality Standards Under Tribal Law?

A: Yes. Nothing in the CWA prevents Tribes from developing water quality standards for their reservation’s aquatic resources with no intent to submit them to EPA for approval. A Tribe may decide to develop water quality standards for their water resource management program and implement them under tribal law, particularly where such standards are intended to protect a wide range of cultural values and other factors not traditionally covered by EPA-approved standards. However, these standards are not effective for CWA permitting and other programs. One possible exception is under CWA §401, where under a water quality certification analysis a Tribe may consider their water quality standards when evaluating the potential for a proposed license or permit to be consistent with appropriate provisions of tribal law.

Q: Must all Water Quality Standards Be Approved by EPA Before Taking Effect?

A: For CWA purposes, new and revised standards adopted by authorized Tribes and states take effect only after approved by EPA. Standards developed under tribal law are effective at the point established by tribal law.

Q: What EPA Tools are Available to Help Develop Tribal Water Quality Standards?

A: EPA has developed a number of tools to assist tribes with the adoption of new or revised water quality standards. These tools are designed to (1) simplify tribal applications for TAS to for tribal adoption and EPA approval under CWA §303(c), and (2) assist Tribes in developing standards. Tools include a TAS application template, a model water quality standards template, and a tribal human health criteria calculator that can help develop numeric human health criteria that reflect a tribe’s fish consumption rate.

Q: How Often Must Water Quality Standards Be Updated?

A: CWA §303(c) requires a state or Tribe with TAS to review EPA-approved standards at least every three years. The “triennial review” process is intended to ensure standards remain consistent with the CWA and EPA’s implementing regulations, and responsive to a Tribe’s designated uses. Meaningful and transparent public involvement is an important part of a triennial review of standards when making decisions about when and whether criteria will be adopted or revised to protect designated uses.

Q: What Changes are Being Considered for the Water Quality Standards Program?

A: In November 2022, EPA proposed regulations that describe how state and federal water quality standards must protect water and water-dependent resources reserved to Tribes through treaties, statutes, executive orders, or other sources of federal law. In May 2023, EPA proposed federal baseline water quality standards for waterbodies on Indian reservations that do not have CWA standards. Among other things, the baseline standards proposal would explicitly include as a beneficial use the protection of cultural and traditional uses of reservation waters. As of November 2023, EPA is reviewing public comments received on the two proposals and considering potential next steps.

For Additional Information

General information: [What are Water Quality Standards? | US EPA](#), [Water Quality Standards Handbook | US EPA](#), and [Water Quality Standards Academy | US EPA](#)

Information on tribal water quality standards: [Tribes and Water Quality Standards | US EPA](#)

Information on tools available for Tribes developing standards: [Water Quality Standards Tools for Tribes | US EPA](#)

Information on potential changes to water quality standards requirements: [Promulgation of Tribal Baseline Water Quality Standards Under the Clean Water Act | US EPA](#), and [Revising the Federal Water Quality Standards Regulations to Protect Tribal Reserved Rights | US EPA](#)

NAWM’s fact sheet on Treatment as A State (TAS) Authority (available to download [here](#)).