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# Federal Baseline Water Quality Standards for Indian Reservations Proposed Federal Promulgation

Tribal Wetland Workshop

September 22, 2021

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U.S. Environmental Protection Agency  
Office of Water, Water Quality Standards Program



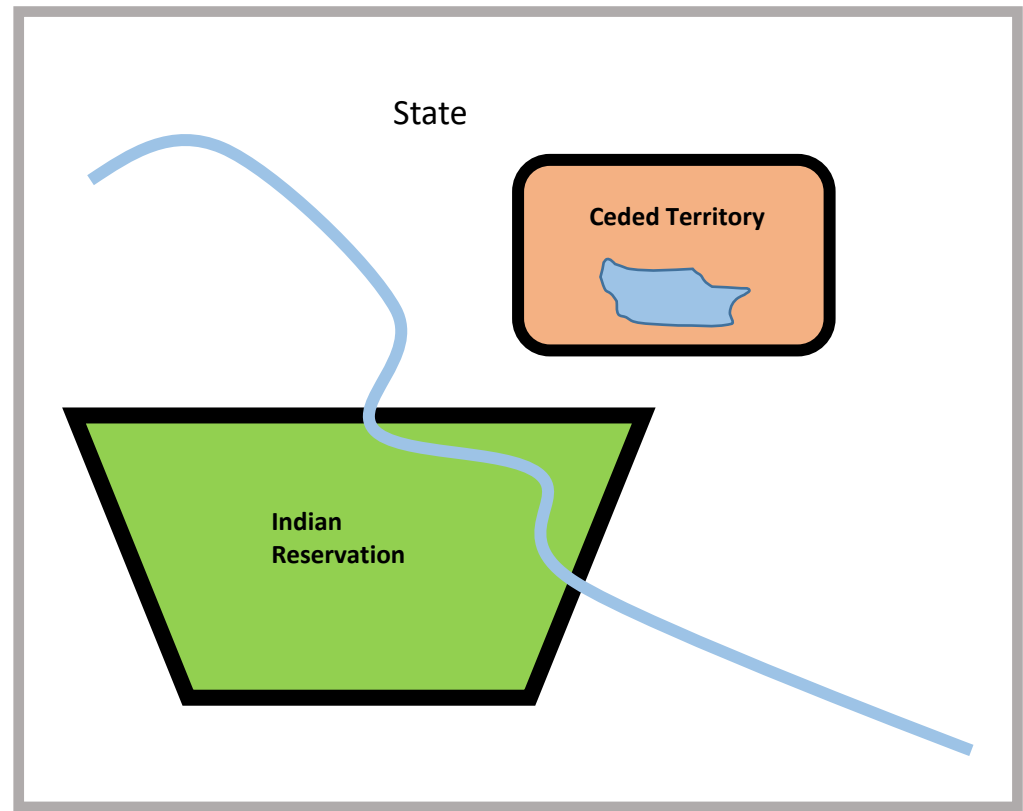
# Scope of Baseline vs. Tribal Reserved Rights Rules

## Federal Baseline WQS Rule:

EPA is proposing to promulgate baseline WQS on Indian reservations that currently do not have Clean Water Act-effective WQS in place.

## Tribal Reserved Rights Rule:

EPA is proposing to promulgate revisions to its WQS regulations to require that state WQS protect resources reserved to tribes in waters under state jurisdiction (e.g., in ceded territory) through treaties and equivalent legal agreements.





# Potential benefits of this rulemaking

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- Establishing water quality goals for reservation waters
- Facilitating tribal participation in managing water quality
- Providing basis for enforceable NPDES and other discharge permits
- Protecting reservation waters from upstream discharges
- Providing basis for determining watershed impairments



# Where would Potential Baseline Standards Apply? Current Thinking:

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- Baseline WQS would apply to Indian reservation waters (including tribal trust and Pueblo lands) where EPA has not:
  - promulgated other federal WQS or
  - approved tribal or state WQS
- Baseline WQS would not apply to:
  - off-reservation allotments and
  - tribes that elect to “**opt-out**”



# Potential Baseline Standards

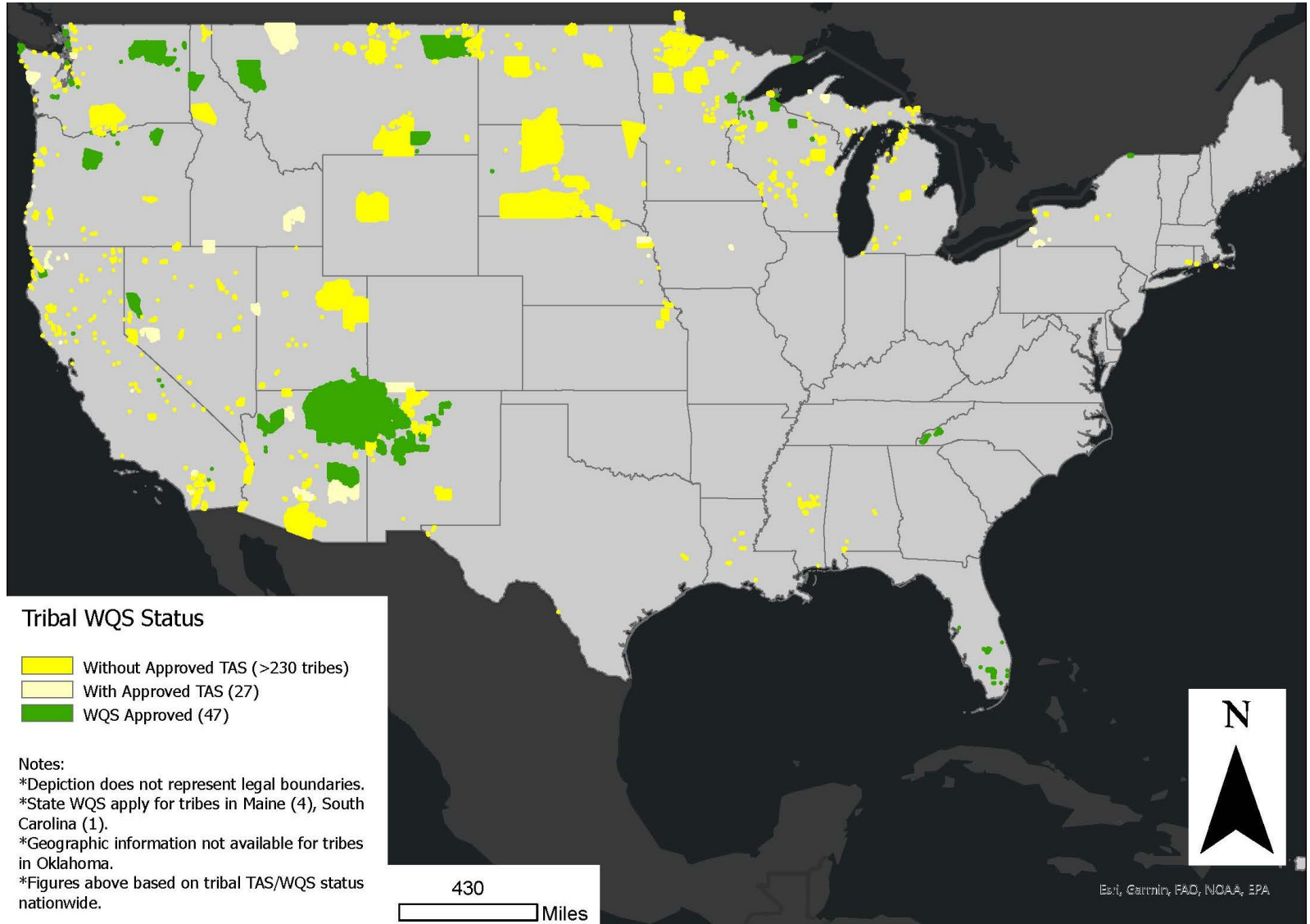
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1. Designated uses – Protection of uses such as fish propagation, fish consumption, and recreation as well as cultural and traditional uses.
2. Water quality criteria – Exploring combination of narrative criteria and numeric criteria to protect designated uses.
3. Antidegradation provisions – Providing a framework for maintaining and protecting high quality waters.

Implementation – Standards could include implementation flexibilities and allow for tribal engagement opportunities during EPA's implementation actions such as establishing appropriate water quality-based effluent limits in NPDES permits.



# Location of Potential Baseline WQS





# Next Steps

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- Tribal consultation and coordination period concluded September 13, 2021.
- Pending outcome of tribal consultation, EPA anticipates proposing this rule in spring 2022. This will provide an additional opportunity for EPA to offer government-to-government consultation and for public comment on the proposal.
- EPA has also begun outreach to states.



# For More Information

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- EPA's website for this rulemaking:  
<https://www.epa.gov/wqs-tech/tribal-baseline-WQS>