WATER DIVISION
UPDATES

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Water Division Director
WATER DIVISION UPDATES

1. Commitment to Consultation
2. Water Program Funding
3. New Water Rules
4. Water Infrastructure
5. Status of TAS approvals
6. Training
7. Your Questions!
Commitment to Consultation

EPA Region 9 Water Division
Tribal Consultation Standard Operating Procedures
September 24, 2019

I. Purpose
To provide expectations and procedures for consulting with tribal governments on water program actions that affect tribal interests.

II. Background
The Water Division uphold its trust responsibility to federally recognized tribes and governments through implementation of all water programs consistent with the 2011 EPA Policy on Consultation and Coordination with Tribal and State Entities, and 2013 Region 9 Implementation Plan.

Fundamental to the Policy is meaningful communication and coordination with appropriate tribal leadership prior to EPA taking action or making decisions that may affect tribal interests, including but not limited to tribal lands, water resources, or treaty rights. This means the Water Division will offer tribal leaders a timely, substantive, and good-faith exchange of ideas on our actions; it is not required that the tribes agree to engage or agree with EPA’s proposed decision or proposal.

Water Division Programs should consider their consultation objectives and plans early in their processes as predictable and engage the tribes in the development of the consultation plan. Although the tribes face the types of actions that may affect their consultation are intentionally broad, examples of Water Division actions include:

- Reinterpretation of how programs will be implemented in Indian country
- Permit issuance or reissuance
- Water quality certifications for federally-permitted or licensed projects
- Decision on a state or tribal application for delegation/assignment of authority or function
- Approval of state water quality standards or TMDLs where up- or downstream tribal interests may be affected
- Changes to Division procedures that impact the allocation of federal funds to tribes
- Any action that the Water Division has reason to believe may be controversial or precedent-setting to tribal communities
- Any action, including state actions under a federally-delegated program, where a tribal government requests a consultation rule for EPA in writing

III. Procedures
Consultation has four phases: Identification, Notification, Input, and Follow-up. The Office of the Regional Administrator’s Tribal, Intergovernmental, and Policy (TIP) Division is responsible for personnel for tracking consultations across Region 9s’ water programs and for providing policy

1 “Consultation” is always voluntary and to the best of the best interest. Any number of tribal programs and/or personnel in consultation “consultation” may be the subject of the second opportunity. A third practice consistent with the ETIP/Interagency 1 tribal/water consultation and execution of the steps of the scope of the 2011 Water Division’s procedures in such consultations will notify the party and will be provided with an opportunity to be heard.

In some cases, “tribal lands” may refer to the boundaries of a formal reservation.

Program | Offers | Accepted
---|---|---
EPA 401 WQ Certifications | 34 | 0
State WQ Standards | 141 | 6
Tribal TAS for WQ Standards | 1 | 1
Tribal WQ Standards | 15 | 1
UIC Permits | 23 | 11
Ocean Dumping Site Expansion | 10 | 3
State Nonpoint Source Plans | 152 | 1

Total 2020 to date: 376 | 23
Funding Our Programs
~$39 MILLION

Multipurpose Funding
~$577,778

Clean Water Indian Set-Aside, ~$14 M

Drinking Water Tribal Set-Aside, ~$11 M

Wetlands Program Development Grants, ~$624,795

CWA 106, Water Pollution Control, ~$8.7M

CWA 319 Nonpoint Source*, ~$4.2M

* CWA 319 funding includes 15 competitive awards
NEW WATER RULES

• Navigable Waters Protection Rule
  • Effective June 22, 2020
  • Excludes certain waters
  • Flow duration tools in development

• Clean Water Act Section 401 Rule
  • Effective September 11, 2020
  • Sets time limits and defines scope of state/tribal certifications
Water Infrastructure Updates

• DW Infrastructure Needs Survey

• Infrastructure: ‘20 Award and ‘21 Solicitation

Sanitary Surveys

• Sanitary Survey Field work in 2020/2021

- September Time-Frame
Tribal “TAS”
The Authority to Oversee CWA Programs
Total # of Eligible Tribes: 148

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<tr>
<th>Program</th>
<th>R9 Tribes with</th>
<th>NEW in 2020</th>
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<td>CWA 106: Water Pollution Control Program</td>
<td>114</td>
<td>• Upper Lake</td>
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<td>• North Fork</td>
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WATER TRAININGS

Upcoming

• September 1 & 3, 2020: Tribal Water Resiliency Workshops
• February 2021 (TENTATIVE): Tribal Water Quality Standards Academy
• CA Tribal Water Systems Public Safety Power Shutoff (PSPS) Virtual Workshops

Past

• Water Reuse Action Plan Training (June 2020)
QUESTIONS??