

CWA Section 106 Tribal Guidance Revision

Provide Tribes with more accurate, comprehensive, and up-to-date information to support their water quality programs

Agenda

- ▶ Revision Process
- ▶ Revised Guidance
- ▶ Comment Period Logistics
- ▶ Next Steps

Revision Process

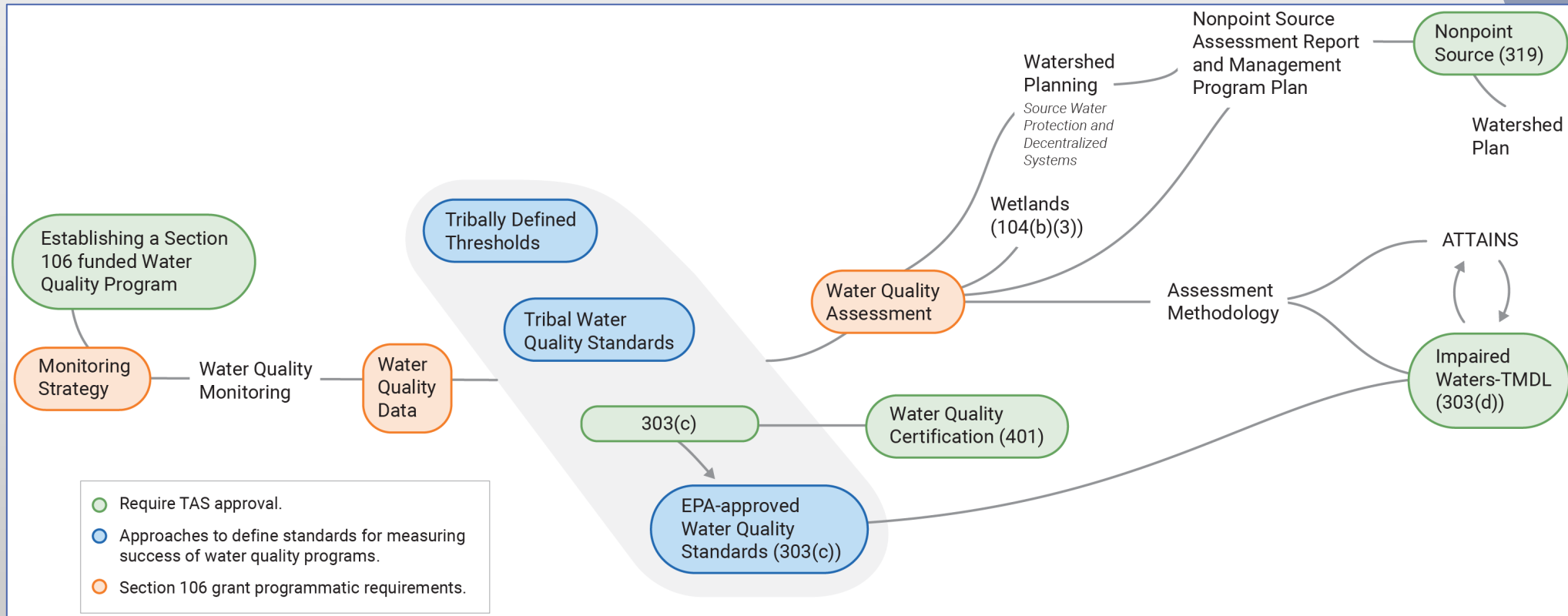
- ▶ The 2007 Section 106 Tribal Guidance provides critical information Tribes use to develop and expand their water quality programs but is 15 years old.
- ▶ EPA initiated a work group in March 2020 with 27 regional and HQ staff to make recommendations for the Guidance revision
- ▶ EPA began tribal consultation in January 2021 with the first comment period to gather feedback on the recommendations
 - EPA received general agreement on the recommendations during the first comment period

Revision Process cont'd

- ▶ The work group expanded to include 24 tribal participants and additional EPA subject matter experts
- ▶ Formed 6 sub-work groups to draft the major chapters
 - Grant Requirements (EPA-only)
 - Program Development
 - Development and Implementation of a Monitoring Program
 - Programmatic Reporting Requirements
 - WQ Program Expansion – Regulatory Authorities
 - Other Funding Options
 - WQ Program Expansion – Additional Activities (updated existing information, no sub- work group)
- ▶ EPA coordinated with the NTWC to develop a section on ITEK

Revised Guidance cont'd

- ▶ Eliminated the fundamental, intermediate, and mature structure
- ▶ Updated links and program references, and added training and tools available
- ▶ Added a framework for establishing, developing, and expanding water quality programs based on the needs of the individual Tribes



Revised Guidance cont'd

▶ Chapter 1: Introduction

- Provides an overview of the CWA Section 106 Program, the purpose of this Guidance, and the chapters ahead
- Explains how to use the Guidance based on unique tribal water quality program needs
- Includes a graphic illustrating how tribal programs have expanded to date

▶ Chapter 2: Overview of CWA (new chapter)

- Describes the CWA and explains how its sections work together, including how Tribes can use Section 106 funds to support other program activities and how other programs can support Section 106 activities
- Sections of this chapter are those that are important for tribal water quality programs and that are described in more detail in later chapters

Revised Guidance cont'd

- ▶ Chapter 3: Grant Requirements (new stand-alone chapter)
 - Provides information on grant requirements and guides Tribes through the process of applying for Section 106 TAS, conducting pre- and post-award activities, and closing out grants
- ▶ Chapter 4: Program Development (new stand-alone chapter)
 - Provides more information on how to develop a water quality program
 - Provides a list of eligible Section 106 activities, includes new information on:
 - ▶ Using Section 106 for groundwater protection activities
 - ▶ Sampling locations
 - Describes some of the activities that are consistent across all tribal water quality programs including: identifying tribal water resources and water quality needs, developing program milestones, and conducting community education

Revised Guidance cont'd

- ▶ Text Box Between Chapter 4 and 5: Indigenous Traditional Ecological Knowledge (new section)
 - Recognizes the value ITEK adds to water resources management
 - Establishes the Section 106 Program's responsibilities and commitment to the inclusion of ITEK in water quality programs
 - Identifies opportunities to utilize Section 106 grant funding to support inclusion of ITEK into water quality programs
 - Acknowledges tribal flexibility in adopting ITEK into water quality programs
 - Provides case studies on how ITEK has been incorporated into water quality programs
- ▶ Chapter 5: Development and Implementation of a Monitoring Program
 - Helps Tribes establish and implement a foundational water quality monitoring program to meet their program goals
 - Includes updated and expanded information on program implementation: monitoring, data management, and assessment activities
 - Includes information on expanding monitoring activities and making electronic assessment decisions

Revised Guidance cont'd

▶ Chapter 6: Programmatic Reporting Requirements

- Discusses the three required Section 106 programmatic reporting deliverables (Monitoring Strategy, Assessment Report, and WQ Data) and the resources available to assist with their development
- Retains but decouples the three deliverables to allow for more flexibility in the reporting frequency
- Adds a requirement for Tribes to upload all tribal WQ data to WQX, along with a waiver provision
- Includes a table summarizing all Section 106 deliverables, including QA, programmatic, and performance reports

▶ Chapter 7: Water Quality Program Expansion – Additional Activities

- Contains information on additional activities that programs can implement to expand their water quality protection efforts:
 - ▶ source water protection,
 - ▶ on-site wastewater treatment systems, and
 - ▶ watershed planning

Revised Guidance cont'd

▶ Chapter 8: Water Quality Program Expansion – Regulatory Authorities

- Updates and adds information on the benefits of expanding tribal water quality standard programs to include tribal law and regulatory activities eligible for Section 106 funding
- Adds information that Tribes may want to consider when expanding their water quality program activities by seeking other CWA authorities and describes how to use available funding to address their specific goals and priorities.

▶ Chapter 9: Other Funding Options (new stand-alone chapter)

- Information on common government programs that provide technical and financial assistance to support tribal water quality programs
- Covers over 10 EPA funding programs as well as funding programs from 4 other federal agencies

Comment Period Logistics

- ▶ Continuation of Consultation letter sent on June 13, 2022
- ▶ Letter initiated a 60-day comment period
- ▶ Draft revised Guidance is available here:
<https://www.epa.gov/water-pollution-control-section-106-grants/revisions-final-guidance-awards-grants-indian-tribes>
- ▶ We're specifically requesting feedback on
 - Additional flexibilities EPA should consider
 - Inclusion of information on ITEK
 - Tools and technical assistance EPA should consider to support tribal data flow
 - If any content is overly- or insufficiently-detailed
 - Other feedback on individual chapters
- ▶ EPA welcomes any relevant case studies and pictures, including ITEK



Guidance for Clean Water Act Section 106 Tribal Grants 2022 *DRAFT*



How to Provide Comment

Please provide comments any one of three ways:

1. Submit comments online at this link:
<https://forms.office.com/r/XK1G8xVAHq>
2. Email Draft_Section_106_Tribal_Guidance@epa.gov
3. Mail to the following address:

CWA Section 106 Tribal Program

U.S. EPA

1200 Pennsylvania Ave, NW (MC 4201M)

Washington, DC 20460

Next Steps

- ▶ EPA will collect comments on the revised Guidance through August 15, 2022
- ▶ EPA will revise the draft Guidance in consideration of the feedback
- ▶ EPA will document and respond to comments
- ▶ The final revised Guidance will be published (CY 2022)
- ▶ The supplements work group is updating the three supplemental guidances
 - Developing and Selecting a Tribal Monitoring Strategy
 - Data Management
 - Data Assessment and Reporting

Thank You!

For more information

Visit EPA's Tribal Consultation Opportunities Tracking System (TCOTS) <https://tcots.epa.gov>

Draft CWA Section 106 Tribal Guidance Revision
<https://www.epa.gov/water-pollution-control-section-106-grants/revisions-final-guidance-awards-grants-indian-tribes>

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