

1: Introduction

READ THIS CHAPTER...

- For an introduction to the CWA Section 106 Program.
- To understand the purpose of this guidance.
- For a description of the chapters ahead.

CHAPTER HIGHLIGHTS

- Scope of this guidance.
- Overview of the common pathways for a tribal water quality program.

Chapter 1: Introduction

The Clean Water Act (CWA) Section 106 authorizes the Environmental Protection Agency (EPA) to award federal grants to assist states and interstate agencies in administering water quality programs to prevent, reduce, and eliminate water pollution. Section 518(e) of the CWA authorizes EPA to treat federally recognized Tribes¹ in a similar manner as a state (TAS). This allows federally recognized Tribes that meet the CWA criteria the option to administer portions of the CWA, including to develop their own water quality programs and standards to address water quality issues using Section 106 funding. EPA sets aside a portion of the total Section 106 funds appropriated by Congress for Tribes with TAS for Section 106. EPA allocates the Section 106 set-aside funds for Tribes to the EPA regions. Each EPA region then makes Section 106 grant awards to Tribes consistent with statutory limitations, EPA regulations, and EPA guidance. Many tribal water quality programs receive some or all their funding to implement water quality protection activities through Section 106 grants.

Tribes can use Section 106 grants to fund a wide range of eligible water pollution control activities, including the following:

- Establish and implement water quality programs.
- Identify water quality priorities.
- Conduct education and outreach on the importance of protecting tribal waters.
- Develop and implement water quality monitoring and assessment programs.
- Develop water quality standards (WQS).

While there are many terms that federally recognized Indian Tribal Governments (Tribes) may use to describe their culture, history, and geography, including Tribe, Village, Nation, Band, and Pueblo, EPA uses the terms Tribe and tribal government in this guidance.

This guidance supersedes EPA's 2007 *Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act*.

PURPOSE OF THE GUIDANCE

The purpose of this guidance is to help tribal water quality program managers, staff, and other tribal environmental decision makers design and implement effective and successful water quality programs. The guidance also provides EPA regional offices with guidelines for awarding and administering grants to federally recognized Tribes under the authority of Section 106 of the CWA. EPA developed this guidance recognizing that every Tribe has unique water quality priorities, challenges, and resource limitations. Based on those circumstances, a Tribe might only need to use the parts of this guidance that are applicable and helpful in managing their program.

¹Federally recognized Tribes refer to any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village, recognized as eligible by the U.S. Department of the Interior.

EPA recognizes the importance of strong tribal water quality programs and the EPA-tribal government to government relationship that supports Tribes in implementing those programs. The guidance provides information to enhance these relationships.

This guidance recommends all tribal water quality programs develop and establish competency in a set of activities that are common across all Section 106 tribal programs. Conducting these activities is necessary to manage a water quality program before considering expanding into other Section 106-funded activities or seeking other CWA authorities. A foundational Section 106 tribal program effectively conducts activities in three areas:

- Program initiation, planning, and administration.
- Water quality monitoring and data management, assessment, and analysis.
- Grant and programmatic reporting.

The scale and complexity of these activities will vary across tribal programs depending on a variety of factors, such as the Tribe's goals and priorities, extent of water resources, interest in pursuing other CWA activities, potential threats to water resources, and availability of funding to carry out the program.

SCOPE OF THE GUIDANCE

The scope of this guidance is generally limited to issues and activities related to Section 106 grants to Tribes and the development and implementation of tribal water quality protection programs. The exception is Chapter 9, which includes general information on other federal funding programs that support water quality activities.

ORGANIZATION OF THE GUIDANCE

The chapters are designed to guide Tribes through developing and implementing successful water quality programs using Section 106 funding. The list below provides a description of each chapter.

- **Chapter 2: Overview of the Clean Water Act** describes the CWA and explains how its many sections can work together, including how Tribes can use Section 106 funds to support other program activities.
- **Chapter 3: Grant Requirements** provides an overview of federal requirements to guide Tribes through the Section 106 grant application and administration process.
- **Chapter 4: Program Development** describes the foundational activities for Tribes to establish and initiate water quality programs.
- **Indigenous Knowledge Text Box** provides information on how Tribes can use Section 106 funding to incorporate Indigenous Knowledge in their programs.
- **Chapter 5: Development and Implementation of a Monitoring Program** helps Tribes establish and implement a foundational water quality monitoring program to meet their

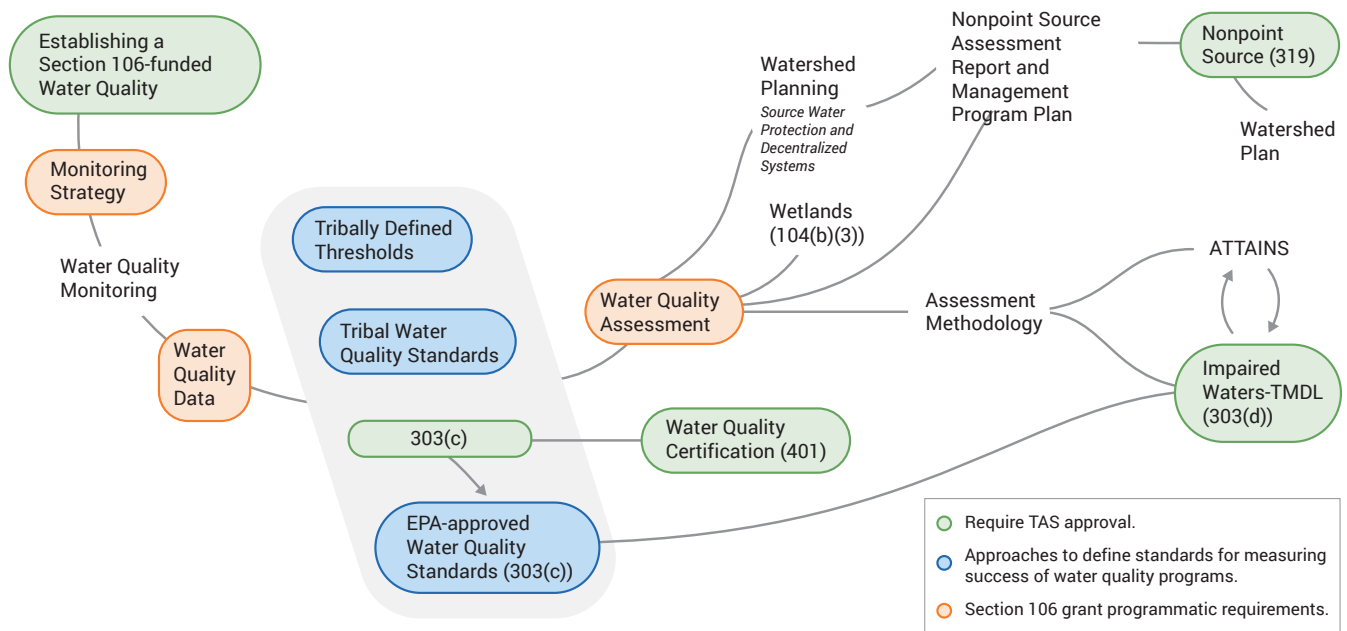
program goals. The chapter addresses water quality monitoring as well as data management, assessment, and analysis. The chapter also includes information on how Tribes can expand their water quality program activities once they have developed an effective foundational program.

- **Chapter 6: Programmatic Reporting Requirements** discusses the three required Section 106 programmatic reporting deliverables and includes a table of all grant reporting requirements.
- **Chapter 7: Program Expansion – Additional Activities** contains information on additional, optional activities that Tribes can implement to expand their water quality protection efforts.
- **Chapter 8: Program Expansion – Regulatory Authorities** includes information Tribes may want to consider when expanding their water quality program activities using Section 106 funds by seeking other CWA authorities.
- **Chapter 9: Other Funding Options** provides examples of common government programs that provide technical and financial assistance that support tribal water quality programs.

COMMON PATHWAYS FOR A WATER QUALITY PROGRAM

Figure 1 shows some of the common pathways for Tribes to implement and expand their water quality programs using Section 106 funding.

Figure 1: Common pathways for implementing CWA Section 106-funded water quality programs



ATTAINS: Assessment and TMDL Tracking and Implementation System

CWA: Clean Water Act

TAS: Treatment in a Similar Manner as a State

TMDL: Total Maximum Daily Load

Starting from the left side of the figure, a Tribe must demonstrate that they meet the TAS criteria applicable for purposes of Section 106 funding. After receiving a Section 106 grant, the Tribe will begin administering the requirements of the grant and establishing their water quality program.

The Tribe will start by developing their Monitoring Strategy which is their long-term plan for meeting water resource goals. (See Chapter 3 for more information about grant requirements, Chapter 4 for more information on establishing a water quality program, and Chapter 6 for more information about the Monitoring Strategy.)

The Tribe will then begin monitoring the quality of waters on their reservation and gather water quality data. The Tribe will also select thresholds or standards to evaluate their water quality results against. (See Chapters 5 and 8 for more information on monitoring, thresholds, and standards.)

Tribes provide their water quality data to EPA's Water Quality Exchange (WQX). Tribes use this data to develop Water Quality Assessments describing their water quality monitoring activities, their assessment decisions, and how their program is meeting the goals and objectives. Water Quality Assessments help track progress toward attaining the Tribe's thresholds or standards. (See Chapters 5 and 6 for more information about data management and the Water Quality Assessment.)

At this point, the Tribe has established a water quality program according to their needs and can consider options to expand their water quality activities. Figure 1 identifies some potential paths for expansion:

- If the Tribe chooses to pursue EPA-approved WQS, they must apply for Section 303(c) TAS and submit their WQS for EPA approval. The Tribe may also be interested in applying for TAS for other CWA authorities such as Section 303(d) listing impaired waters and developing total maximum daily loads (TMDLs), Section 401 water quality certification, and Sections 402 and 404 permitting programs. (See Chapter 8 for more information about Sections 303(c), 303(d), 401, 402, and 404.)
- The Tribe may want to start completing an assessment methodology. Creating assessment methodologies helps develop capacity to receive TAS authorization for Section 303(d). Voluntarily publishing water quality reports to the Assessment and TMDL Tracking and Implementation System (ATTAINS) helps further develop capacity. (See Chapter 5 for more information about assessment methodologies and Chapter 8 for more information on Section 303(d).)
- The Tribe may want to begin implementing strategies to address nonpoint source (NPS) pollution including source water protection, failing decentralized wastewater treatment systems, and developing an NPS Assessment Report and NPS Management Program Plan (See Chapter 7 for more information about watershed planning and Chapter 9 for more information on 319 grants.)
- The Tribe may want to apply for a Wetland Program Development Grant (WPDG) under Section 104(b)(3). A wetland program can help conserve, restore, and improve wetlands. (See Chapter 9 for more information about wetland programs.)