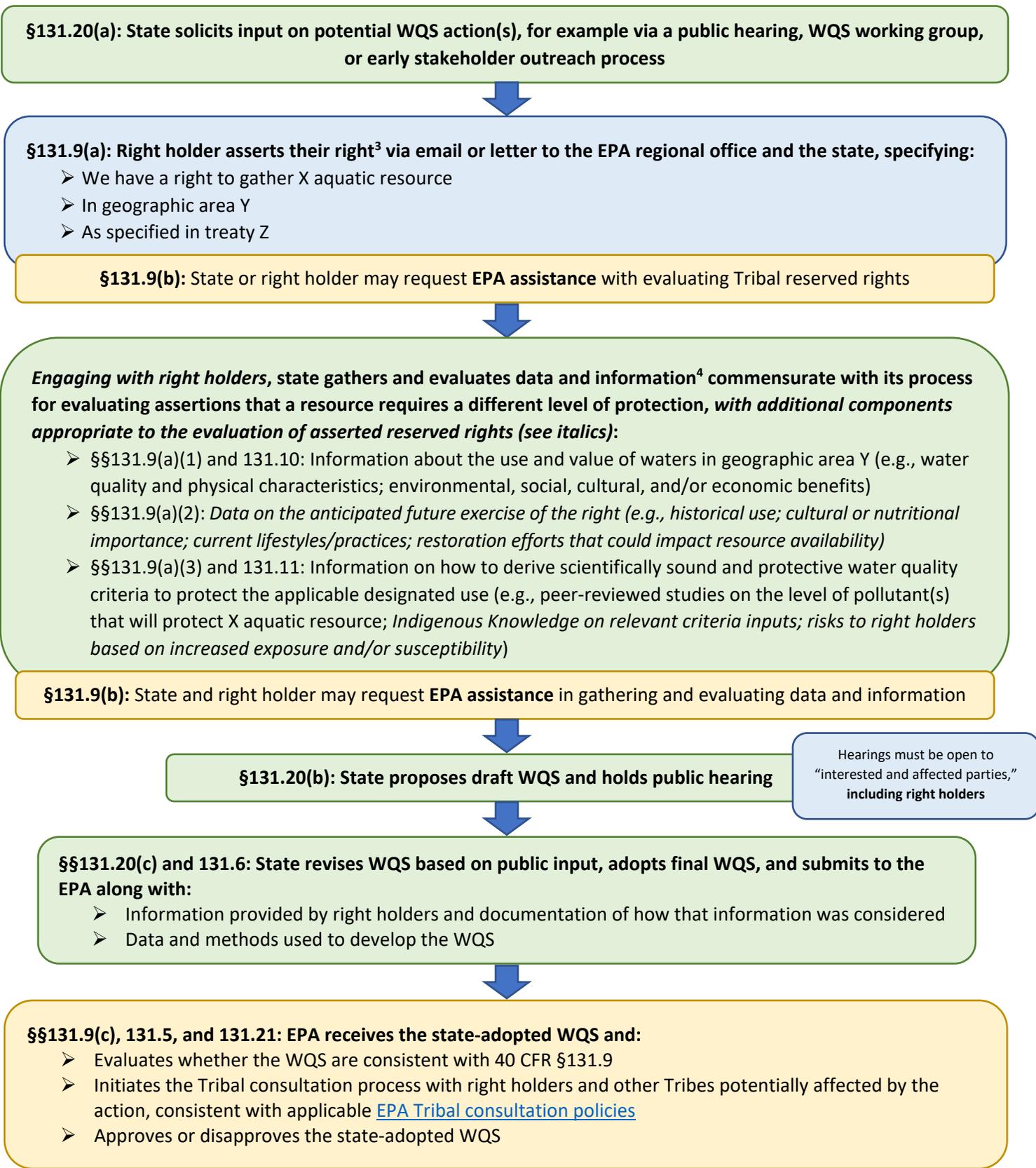


WQS Regulatory Revisions to Protect Tribal Reserved Rights: Example Implementation Scenario¹

The example below illustrates possible steps and the role of the **State²**, **Right holder** and **EPA** in each step.



Hearings must be open to “interested and affected parties,” including right holders

¹ This example implementation scenario does not impose legally binding requirements on the U.S. Environmental Protection Agency (EPA), states, Tribes, or the regulated community, nor does it confer legal rights or impose legal obligations upon any member of the public. The EPA regulations referenced in this document contain legally binding requirements. This example implementation scenario does not change or substitute for any Clean Water Act (CWA) provision or EPA regulation. The example provided here may not apply to a particular situation based upon the circumstances. This document is not intended to bind any EPA decisionmakers as they review WQS under CWA section 303(c). Notwithstanding anything in this document, each WQS action must be evaluated on a case-by-case basis in accordance with the CWA and the EPA’s implementing regulation at 40 CFR part 131.

² Pursuant to 40 CFR 131.3(j), “states” include the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and Indian tribes that the EPA determines to be eligible for purposes of the WQS program.

³ A decision not to raise a right in a specific WQS context does not amount to a general waiver or disclaimer of that right in the WQS context or in other contexts, including with respect to other state or federal actions that may impact Tribal reserved rights. Additionally, a decision not to raise a right during a specific state WQS development process does not preclude the right holder from raising that reserved right during another WQS development process or during another process addressing expressed Tribal interests, as long as the assertion relates specifically to WQS.

⁴ There may be circumstances where data and information are not available in a specific state WQS development process, such as where additional time is needed to gather data and evaluate the results. In such cases, the triennial review process exists to ensure that any new information that was not previously addressed is considered and incorporated in a future WQS revision, as appropriate. In the interim, the state, the right holder, and the EPA should discuss next steps for a future WQS revision to address the new information, as needed, as well as how the right could be protected until that future WQS revision occurs.