



WATER QUALITY STANDARDS FOR TRIBAL WATERS

VIRTUAL WQS ACADEMY

FEBRUARY 2026

DISCLAIMER

This Presentation does not:

- Impose any binding requirements
- Determine the obligations of the regulated community
- Change or substitute for any statutory provision or regulatory requirement
- Change or substitute for any Agency policy or guidance
- Control in any case of conflict between this discussion and statute, regulation, policy, or guidance

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OVERVIEW

- Tribal Waters and CWA Coverage
- WQS Examples
- Administering the CWA 303(c) WQS Program
- Tools and Resources

DEFINITIONS

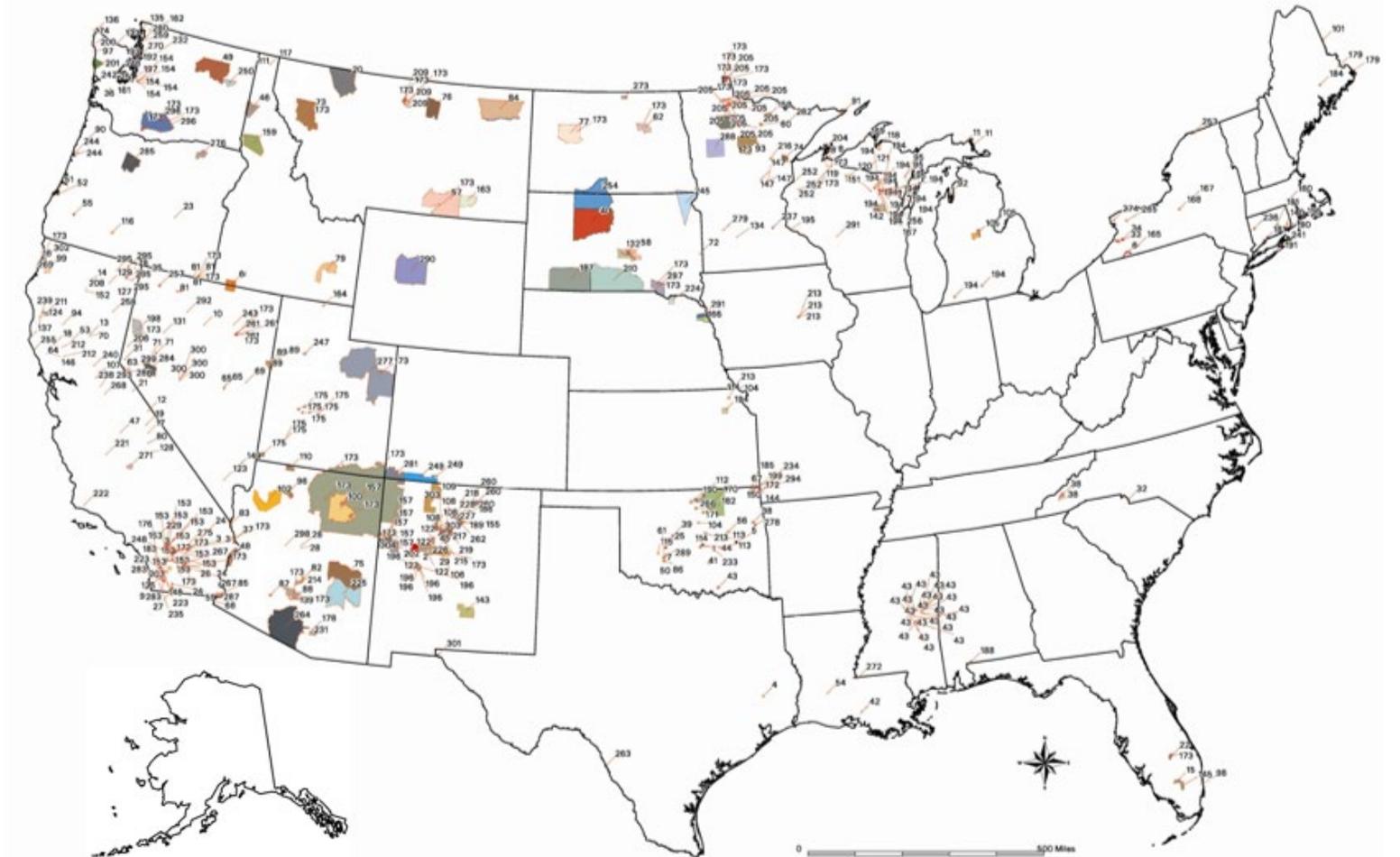
- **Tribe** – One of the 574 entities (e.g. ,Tribe, Band, Nation, Rancheria, Community, Pueblo) federally recognized by the Secretary of the Interior
- **TAS** – Treatment of Tribes in a similar manner as states for the purposes of administering EPA programs under CWA Section 518
- **Reservation** – All land within the limits of any Indian reservation under the jurisdiction of the United States government
- **Tribal Trust Land** – Land held in trust by the United States for the Tribal government (also referred to as “informal reservations”)



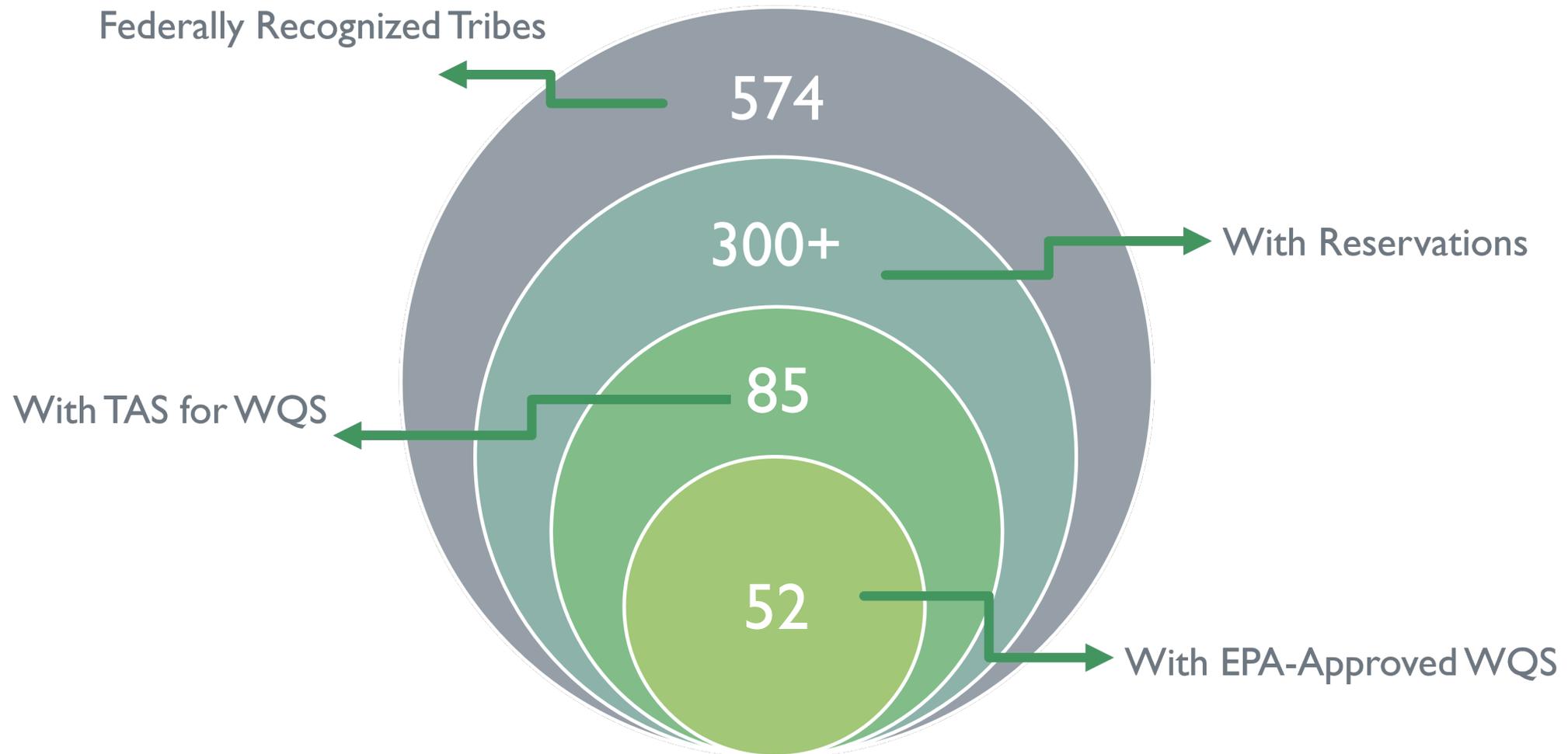
TRIBAL WATERS AND CWA COVERAGE

TRIBAL LANDS

This map is intended to provide a general understanding of the location of federally recognized reservations but is not intended as a legal representation.



WQS IN INDIAN COUNTRY





WQS EXAMPLES

SECTION 303(C) WATER QUALITY STANDARDS

Why might a Tribe want to adopt CWA-effective WQS?

- Provide protection of designated water uses that are unique to Tribes
- Provide legal basis under the CWA to protect water quality
- Provide tools to improve water quality where it is already degraded

Three main components of WQS:

- Designated Uses
- Criteria
- Antidegradation

DESIGNATED USES

- **101(a)(2) Uses**

- Protection of Fish and Wildlife (can include fishing, hunting, gathering activities)
- Recreation

- **Examples of Unique Designated Uses**

- Protection of Wild Rice
- Frogging

HUMAN HEALTH CRITERIA

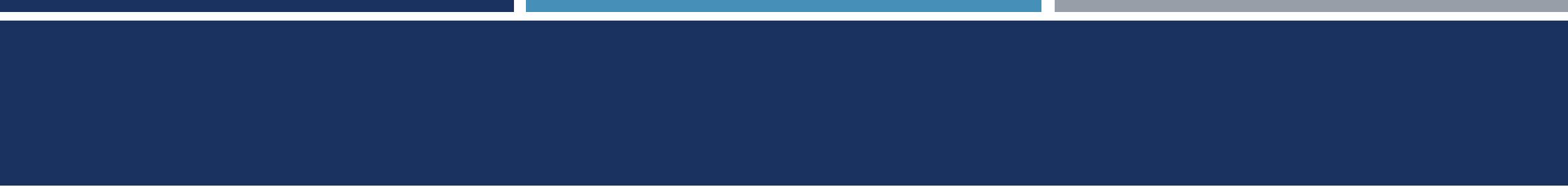
$$= \frac{\text{Toxicity factors} \times \text{Exposure}}{\text{Water} + \left(\text{Fish} \times \text{Bioaccumulation factors} \right)}$$

The diagram illustrates a formula for Human Health Criteria. The numerator consists of 'Toxicity factors' multiplied by an 'Exposure' icon (a grey protective suit). The denominator consists of a 'Water' icon (a glass of water) plus a term in large parentheses: a 'Fish' icon (highlighted with a red square) multiplied by 'Bioaccumulation factors'.

ANTIDEGRADATION POLICY

Antidegradation requirements provide a framework for maintaining and protecting water quality that has already been achieved, including three tiers of maintenance and protection.

The highest tier of protection is for Outstanding National Resource Waters (ONRWs).



ADMINISTERING THE CWA 303(C) WQS PROGRAM

TREATMENT IN A SIMILAR MANNER AS STATES (TAS)

Clean Water Act Section 518 establishes TAS for certain **CWA** programs:

- 303(c) WQS, and 401 water quality certification
- 106 and 319 grants
- 303(d) listings and TMDLs
- 402 NPDES permits
- 404 dredge and fill permits

STEPS TO ADMINISTER THE WQS PROGRAM: 40 CFR 131

- **Step 1:** Tribe applies for TAS
- **Step 2:** EPA finds Tribe eligible for TAS
- **Step 3:** Tribe develops WQS
- **Step 4:** EPA reviews and approves Tribe's WQS if Tribe meets same requirements for WQS as states

STEPS TO ADMINISTER THE WQS PROGRAM: 40 CFR 131.8

■ **Step 1:** Tribe applies for TAS

- Recognized by DOI and has reservation lands (formal reservation and off-reservation trust lands)
- Governing body
- Authority to regulate water quality (note: different procedures apply within certain states, e.g., Oklahoma)
- Capability

STEPS TO ADMINISTER THE WQS PROGRAM: 40 CFR 131.8

■ **Step 1:** Tribe applies for TAS

- Recognized by DOI and has reservation lands (formal reservation and off-reservation trust lands)
 - The Department of the Interior maintains a list of all federally recognized Tribes
- Governing body
 - Describe the governing body and what substantial duties and powers they carry out
- Authority to regulate water quality (note: different procedures apply within certain states, e.g., Oklahoma)
- Capability

STEPS TO ADMINISTER THE WQS PROGRAM: 40 CFR 131.8

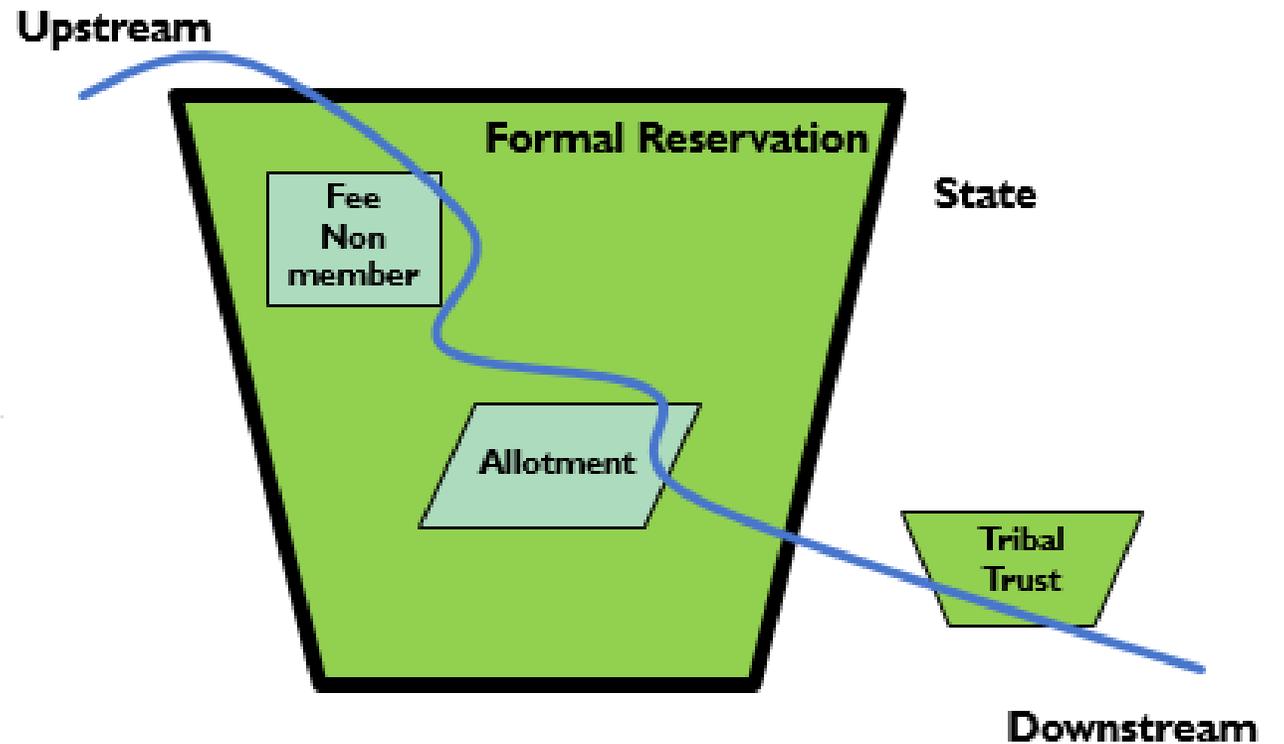
■ **Step 1: Tribe applies for TAS**

- Recognized by DOI and has reservation lands (formal reservation and off-reservation trust lands)
- Governing body
- Authority to regulate water quality (note: different procedures apply within certain states, e.g., Oklahoma)
 - Provide legal counsel's statement identifying basis of authority (can generally rely on congressional delegation of authority)
 - Provide a map or legal description of the area over which the Tribe asserts authority
- Capability
 - Can describe successful grant applications, appropriate technical and management staff, **OR** a plan for acquiring capability

TRIBAL LANDS ELIGIBLE FOR TAS

Tribes can be authorized to establish water quality standards only for reservation areas, including waters:

- Within the exterior boundaries of the reservation, including allotments and nonmember-owned fee lands
- Tribal trust lands not located within the boundaries of a formal reservation



TAS APPLICATION REVIEW: 40 CFR 131.8(C)

- **Step 2:** EPA finds the Tribe eligible for TAS.



STEPS TO ADMINISTER THE WQS PROGRAM: 40 CFR 131

- **Step 1:** Tribe applies for TAS
- **Step 2:** EPA finds Tribe eligible for TAS
- **Step 3:** Tribe develops WQS
 - Public comment
 - Adopts WQS
 - Submits WQS to EPA
- **Step 4:** EPA reviews and approves Tribe's WQS if Tribe meets same requirements for WQS as states



TOOLS AND RESOURCES

WQS TOOLS

Water Quality Standards Tools for Tribes website:

- Streamlined TAS Application
- Model WQS Template
- Tribal/State Human Health Criteria Calculator

WQS RESOURCES

- **Contact the Tribal WQS Coordinator in the EPA Regional Office:** <https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts>
 - More Information
 - Technical Support



REVIEW QUESTIONS

REVIEW QUESTION #1

- True or False. A Tribal application for the water quality standards program should include a listing of surface waters for which water quality standards will be proposed.

REVIEW QUESTION #1

ANSWER: TRUE

- The application must include a descriptive statement of the Tribe's authority to regulate surface water quality and should identify the surface waters for which the Tribe proposes to establish water quality standards.

REVIEW QUESTION #2

- True or False. A Tribe must have managed comparable programs before it is eligible to administer a water quality standards program.

REVIEW QUESTION #2

ANSWER: FALSE

- EPA looks for indications that the Tribe is capable of administering a water quality standards program. This could include the Tribe's experience in helping run other federal programs. Or, the Tribe can show that it has a plan for gaining capability.

REVIEW QUESTION #3

- Where can Tribes be authorized to establish water quality standards?
 - A. Within the boundaries of the reservation
 - B. Nonmember-owned fee lands within a reservation
 - C. Allotments within a reservation
 - D. Tribal trust lands, wherever located
 - E. All of the above

REVIEW QUESTION #3

ANSWER: E – All of the Above*

- Tribes can be authorized through the TAS process to establish WQS only for reservations, including for allotments and nonmember-owned fee lands as long as they are within reservations. This also includes Tribal trust lands that may not lie within a formal reservation because Tribal trust lands are considered “informal reservations” for the purposes of the Clean Water Act.

*Fee lands and allotments not within the external boundary of the reservation cannot be included.



CONTACT INFORMATION

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