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## 40 C.F.R. § 121.11

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### Requirements for Indian Tribes to administer a water quality certification program.

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- (a) The Regional Administrator may accept and approve a Tribal application for purposes of administering a water quality certification program if the Tribe meets the following criteria:
- (1) The Indian Tribe is recognized by the Secretary of the Interior and meets the definitions in § 121.1(d) and (e);
  - (2) The Indian Tribe has a governing body carrying out substantial governmental duties and powers;
  - (3) The water quality certification program to be administered by the Indian Tribe pertains to the management and protection of water resources that are within the borders of the Indian reservation and held by the Indian Tribe, within the borders of the Indian reservation and held by the United States in trust for Indians, within the borders of the Indian reservation and held by a member of the Indian Tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of the Indian reservation; and
  - (4) The Indian Tribe is reasonably expected to be capable, in the Regional Administrator's judgment, of carrying out the functions of an effective water quality certification program in a manner consistent with the terms and purposes of the Clean Water Act and applicable regulations in this chapter.
- (b) Requests by an Indian Tribe for administration of a water quality certification program should be submitted to the appropriate EPA Regional Administrator. The application shall include the following information, provided that where the Tribe has previously qualified for eligibility or “treatment as a state” under another EPA-administered program, the Tribe need only provide the required information that has not been submitted in a previous application:

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