
40 C.F.R. § 130.16

Treatment of Indian tribes in a similar manner as states for purposes of the Clean Water Act.

(a) The Regional Administrator may accept and approve a tribal application for purposes of administering the Clean Water Act (CWA) Section 303(d) Impaired Water Listing and Total Maximum Daily Load (TMDL) 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 § 131.3(k) and (l) of this chapter;
- (2) The Indian tribe has a governing body carrying out substantial governmental duties and powers;
- (3) The CWA section 303(d) Impaired Water Listing and TMDL 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 CWA Section 303(d) Impaired Water Listing and TMDL Program in a manner consistent with the terms and purposes of the Act and applicable regulations.

(b) Requests by Indian tribes for administration of the CWA Section 303(d) Impaired Water Listing and TMDL 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” (TAS) 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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