

Module 21

Water Quality Standards and Tribal Lands

1991 AMENDMENTS TO WQS REGULATION

Main Components:

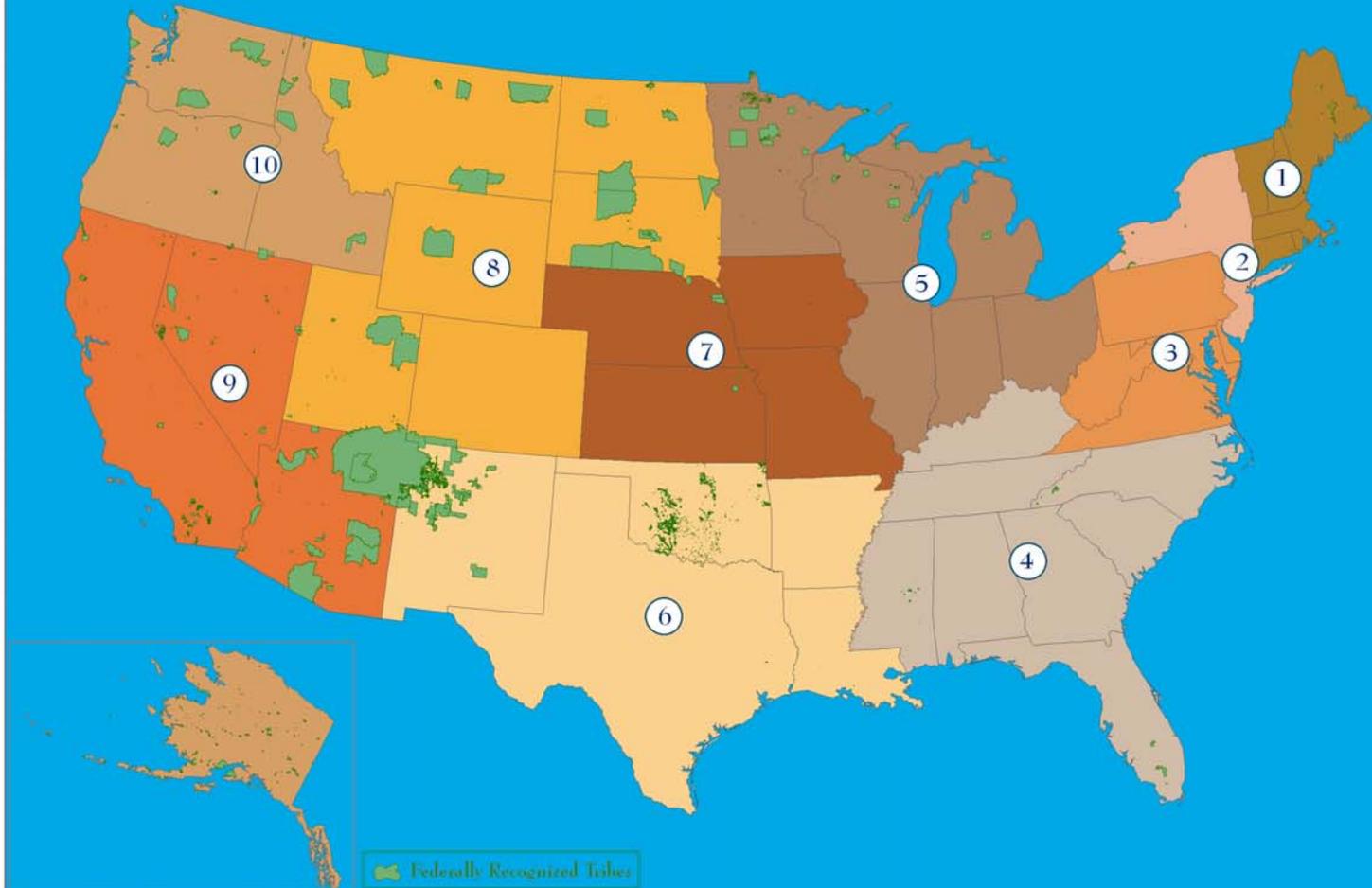
- Sets Procedures for Tribes To Become Eligible to Administer the Water Quality Standards Program
- Creates Dispute Resolution Mechanism

DEFINITIONS

- **Tribe = Indian Tribe, Band, Group, or Community federally recognized by the Secretary of the Interior**
- **Indian Country =**
 - **All Land Within Exterior Boundaries of any Reservation under U.S. Jurisdiction**
 - **All Dependent Indian Communities Within the Borders of the U.S.**
 - **All Indian Allotments**

INDIAN COUNTRY

Map of Indian Country within EPA Regions 1 through 10



This map is intended to provide a general understanding of the location of Indian Country, but is not intended as a legal representation.

WQS SCENARIOS IN INDIAN COUNTRY

- **If a Tribe has no WQS...**

EPA can write discharge permits informed by adjacent jurisdictions' standards

- **If a Tribe develops WQS independently of the federal government...**

Tribe's WQS apply to Tribal Lands only

WQS SCENARIOS IN INDIAN COUNTRY

continued

- **If a Tribe has federal TAS ('Treatment in a Similar Manner as a State') status for Clean Water Act purposes**
 - **Tribe can develop WQS that apply to Tribal Lands and also to adjacent upstream dischargers**
 - **EPA can write discharge permits using that Tribe's standards OR Tribe can apply for TAS for NPDES and issue discharge permits directly**

STEPS TO ADMINISTER THE WQS PROGRAM: 40 CFR 131.8

Step 1: Tribe gets TAS Approval

- ☑ Recognized by DOI**
- ☑ Governing Body**
- ☑ Authority to Regulate Water Quality**
- ☑ Management Capability**

CRITERIA TO ADMINISTER THE WQS PROGRAM: 40 CFR 131.8

Step 2: Tribe develops their WQS

- ✓ **Same Requirements for Developing WQS as for States**

Step 3: Tribe gets Water Program Approval

- ✓ **Submit WQS to EPA**
- ✓ **Same review process as for states' WQS***

* different procedures apply to tribes located within the boundaries of Oklahoma

TAS STRATEGY

EPA recently developed new “TAS Strategy” that focuses on close cooperation between EPA Headquarters and Regions during processes of:

TAS approval

and

Tribal Water Program Approval

EPA'S APPROACH TO DISPUTE RESOLUTION

**Mechanism for Resolving Unreasonable
Consequences That Arise as a Result
of Different WQS Set by States and Indian
Tribes on a Common Body of Water**

- **Mediation**
- **Arbitration**
- **Default Procedure**



WQS IN INDIAN COUNTRY

As of early 2007, approximately 40 Tribes have TAS for Water Programs.

Most of those ~40 Tribes have adopted WQS; others are in the process of developing WQS.

Several more Tribes are currently going through the TAS submission/approval process.

Additional Information

- **Tribal Water Quality Standards**

<http://www.epa.gov/waterscience/tribes/>

- **EPA's Tribal Programs and Policies**

<http://www.epa.gov/Indian/>