

MODULE 18



Submittal And Review Of New And Revised Water Quality Standards

What We'll Discuss...

- 
- What are the requirements and procedures for submission of new and revised standards?
 - How does EPA review a State or Tribe's adopted Water Quality Standards?
 - What happens if a State or Tribe fails to submit approvable standards?
 - When must EPA promulgate federal standards, and how do they do it?

Clean Water Act Section 303(c)(2)(A)



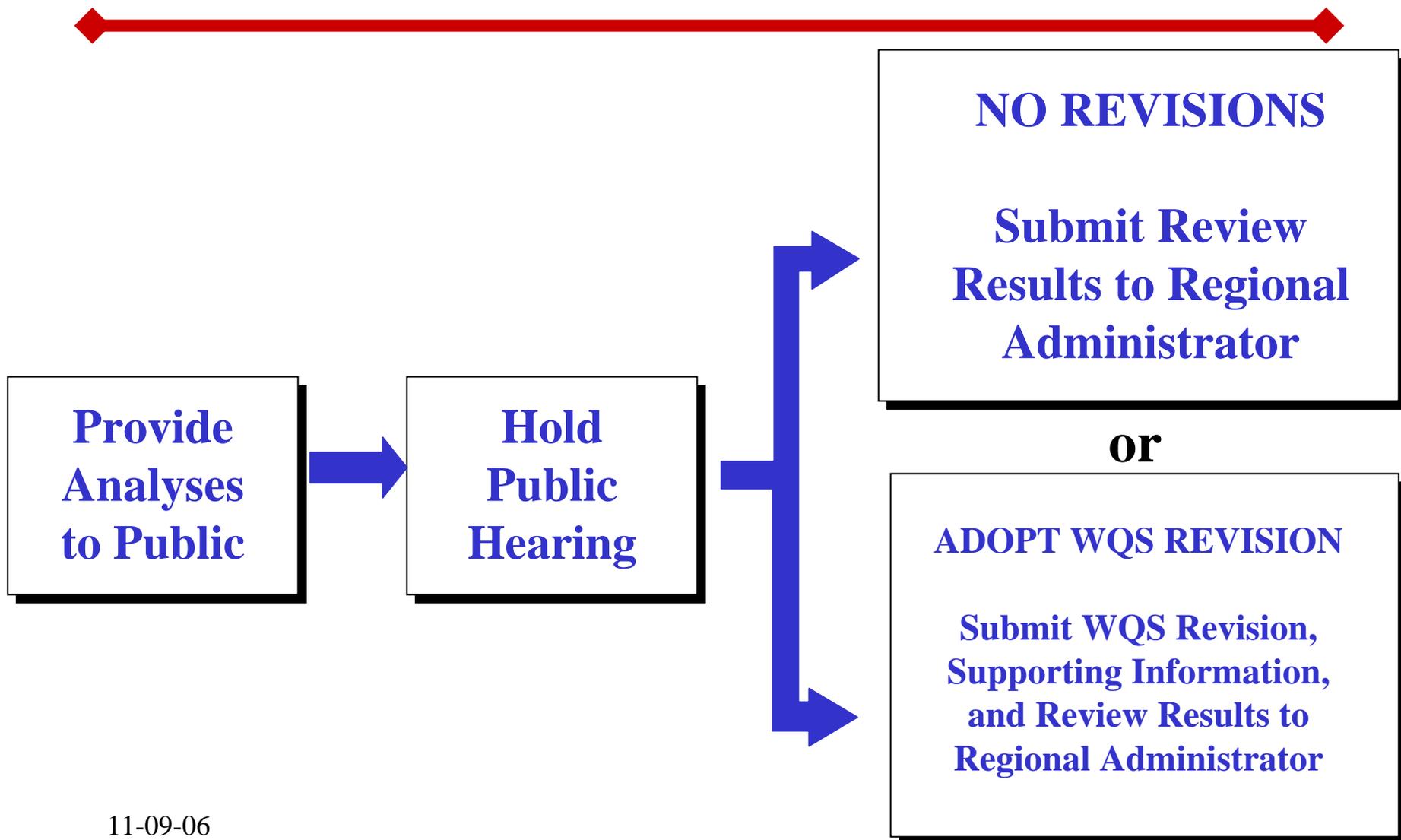
“Whenever the State (or authorized Tribe) Revises or Adopts a new Water Quality Standard, such revised or new standard Shall Be Submitted to the Administrator.”

Submittal and Approval "Musts"

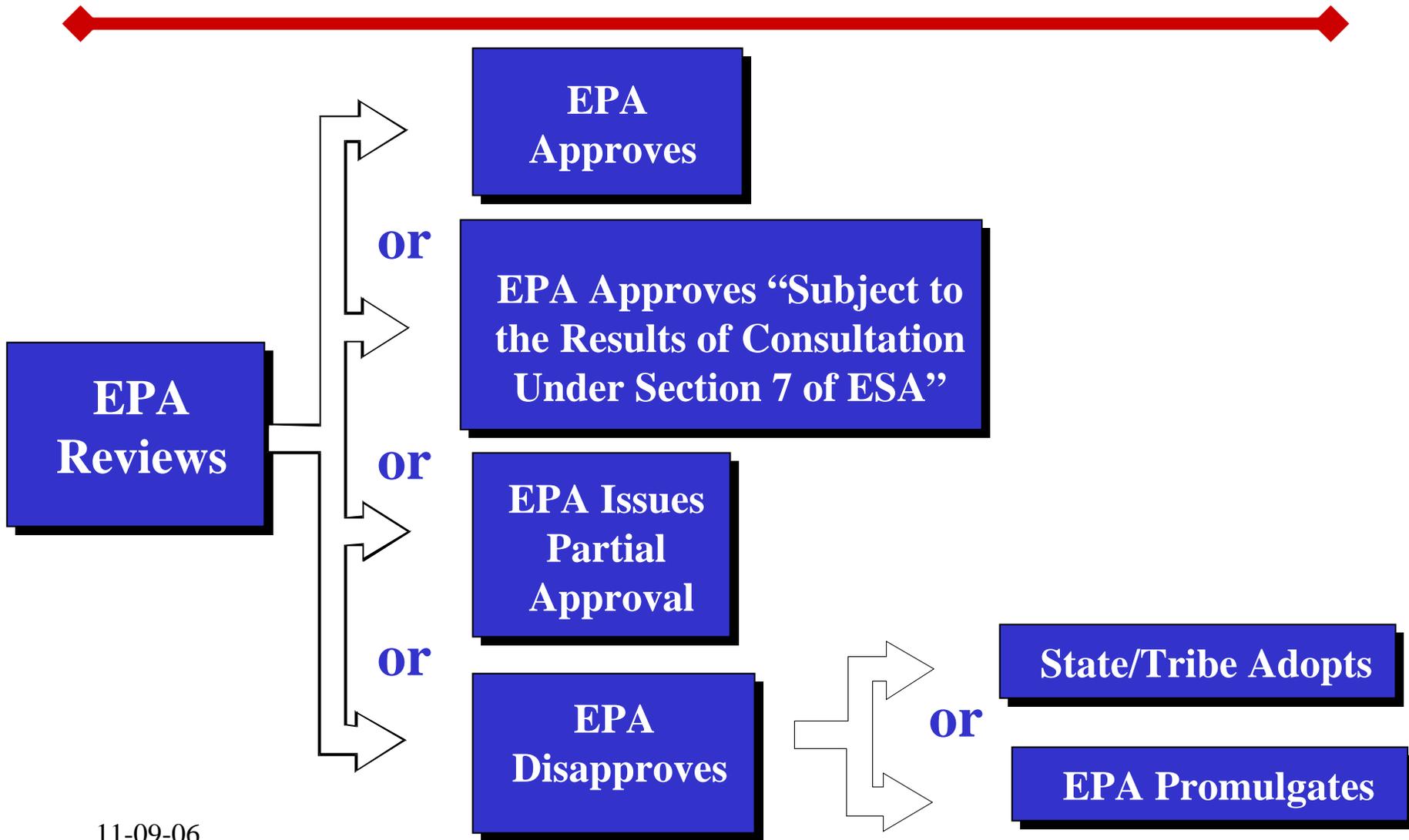
40 CFR 131.20

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- At least once every 3 years, hold a Public Hearing for reviewing applicable standards
 - Re-examine any segments with uses less than 101 (a)
 - Submit review results and supporting analyses to the EPA Regional Administrator

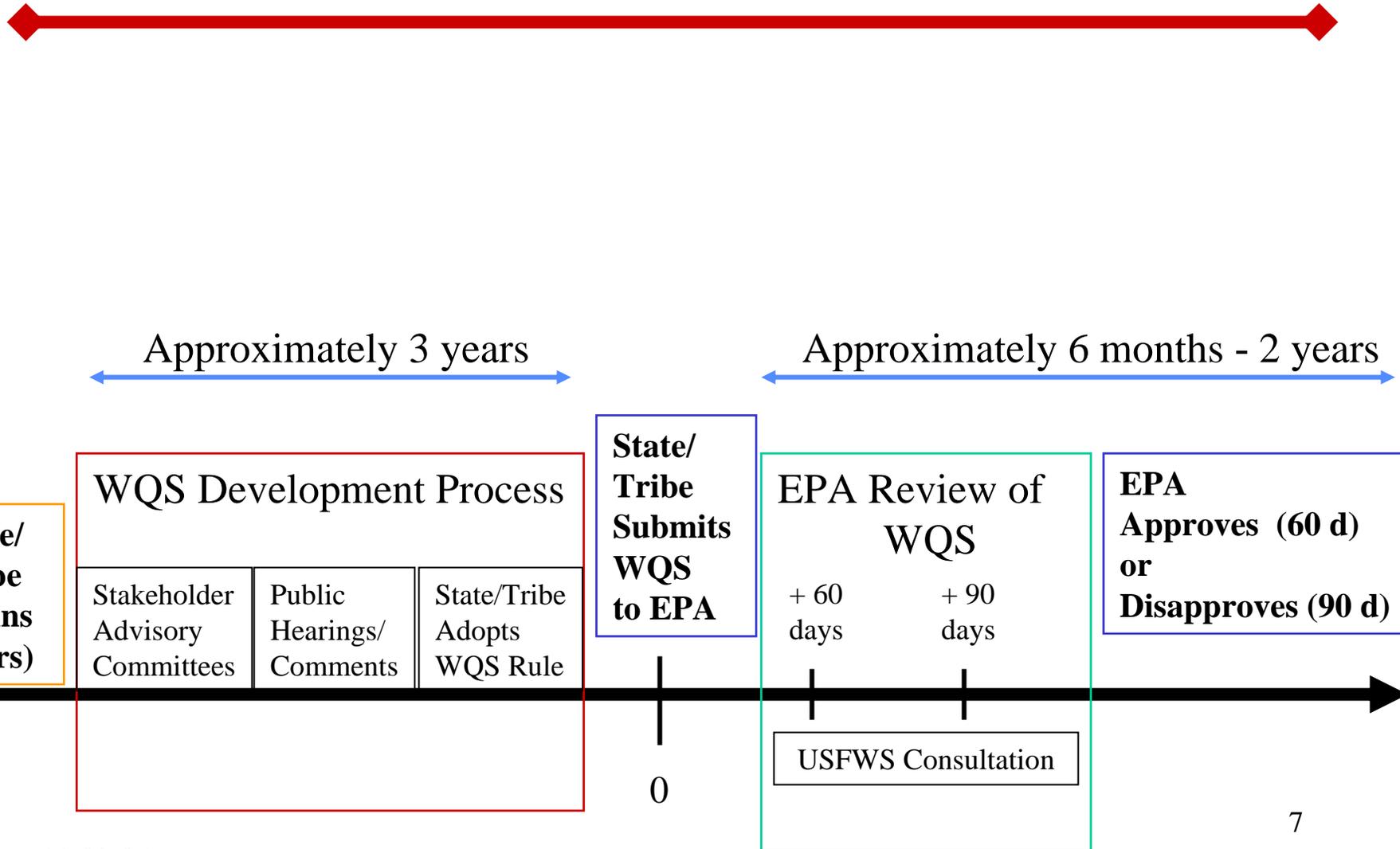
State and Tribal Review and Revision (40 CFR 131.20)



EPA Review And Action (40 CFR 131.21)



Water Quality Standards Development/Review Process



Submittal & Approval Hint



The State or Indian Tribe should confer with the EPA Region and, as necessary, the Services throughout development & review process

WQS Review: Regulatory Timelines



3 years (approx):

- States/Tribes develop and adopt new or revised WQS (40 CFR 131.20(a))

45 days notice:

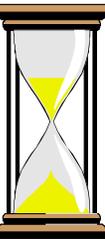
- Before conducting a hearing, State will notify public of the hearing and where to review documents. (40 CFR 25.5(b))

30 days notice IF:

- No complex or controversial issues occur.
- No substantive documents must be reviewed to have an effective hearing. (40 CFR 25.5(b))

30 day period:

- States must submit adopted WQS to EPA. (40 CFR 131.20(c))



EPA Review And Action Timeline



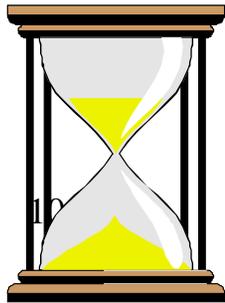
After Submission, EPA has...

60 days:

- To approve the WQS.
(40 CFR 131.21(a)(1))

90 days:

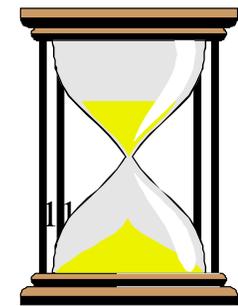
- To disapprove the WQS.
(40 CFR 131.21(a)(2))



EPA Promulgation Timeline

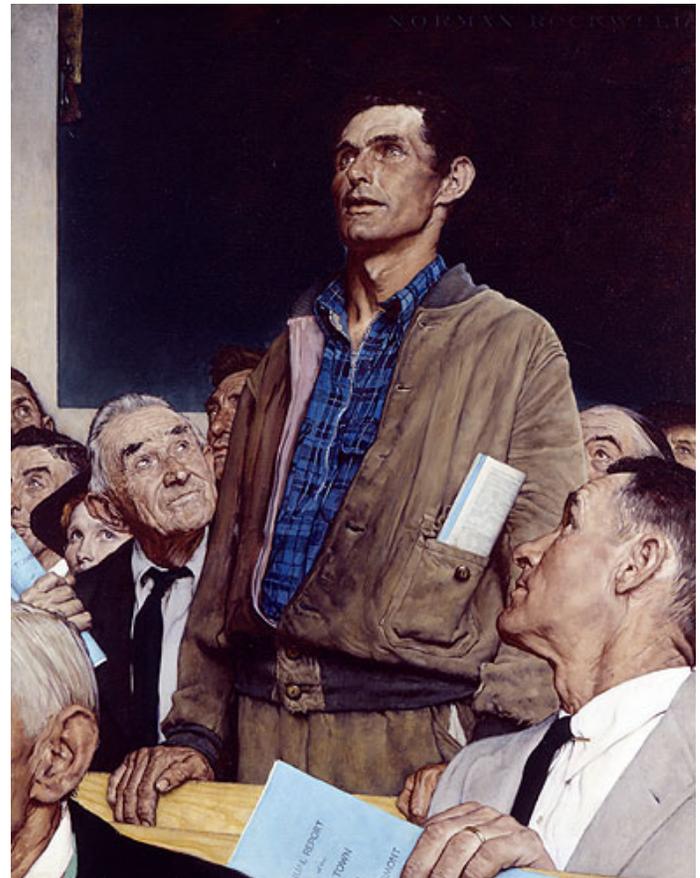
90 days:

- If the State does not adopt the changes specified by EPA within 90 days after notification of EPA's disapproval, EPA will promptly propose and promulgate the changes specified by EPA (40 CFR 131.22(a))
- EPA will finalize/promulgate the WQS once EPA proposes federal WQS in the Federal Register. WQS (CWA Section 303(c)(4))



Public Hearings

A Public Hearing Must Be Held When a State/Tribe Changes Any Element of a Standard



Public Hearings

Formal Public Hearing Requires a Notice 45 Days Prior to the Hearing, Which Includes:

- Time
- Location
- Agenda
- Major Issues
- Location of Supporting Documents

Hearings Must Be in Accordance with BOTH State and Federal Laws

Minimum Requirements For WQS Submission 40 CFR 131.6

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1. Use Designations Consistent with the Act
 2. Methods and Analyses Used
 3. Water Quality Criteria to Protect Uses
 4. Antidegradation Policy and Implementation Procedures
 5. Attorney General Certification or Tribal Legal Authority
 6. Information to Support Uses Not Specified in Section 101(a)(2) of the Act
 7. General State Policies Affecting Application and Implementation

State/Indian Tribal Standards Submission Must Include:

1. Use Designations Consistent with the Act

- NO Waste Transport or Waste Assimilation Use Classification
- Use Designations for All Waterbodies
- Adequate Use Attainability Analysis

State/Indian Tribal Standards Submission Must Include:



2. **Methods Used and Analyses Conducted
to Support WQS revisions**

State/Indian Tribal Standards Submission Must Include:



3. Criteria Adequate to Protect Designated Uses

- Adequate "Free from" Narrative Criteria
- Adequate Numeric Criteria
- Criteria for Priority Toxic Pollutants
- Downstream Uses Protected

State/Indian Tribal Standards Submission Must Include:



4. Antidegradation Policy and Implementation Procedure:

- Antidegradation Policy That Meets
Minimum Requirements of 40 CFR 131.12

State/Indian Tribal Standards Submission Must Include:



5. Attorney General Certification or Tribal Authority

- *Attorney General's or Indian Tribal Legal Authority Certification that Legal and Administrative Procedures Were Followed*

State/Indian Tribal Standards Submission Must Include:



6. Information to Support Uses Not Specified in Section 101 (a)(2) of the Act
 - *Information on Appropriate Technical and Scientific Data/Analyses To Support Changes in Designated Uses*

State/Indian Tribal Standards Submission Must Include:



7. General State Policies that Affect Application and Implementation

- Mixing Zones
- Low Flows
- Variances

What is EPA's question for approval?



Do the submitted standards meet the requirements of the Act and the implementing regulations at 40 CFR 131?

EPA does NOT review or act on...



Elements of State/Tribal WQS that are not subject to Clean Water Act Authority, e.g.

- groundwater criteria
- water flow regulations

When do the Adopted State or Tribal Standards become applicable?

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- WQS Submitted to EPA Do Not Become the “Applicable” WQS for CWA Purposes Until Approved by EPA
 - “Applicable” WQS Remain the CWA WQS Until EPA Approves Revisions or Promulgates Replacement WQS
 - Standards and Supporting Documents Generally on file in Regions
 - Repository of WQS at:
www.epa.gov/waterscience/standards/wqslibrary
 - EPA's review/comments on submittals are not subject to formal public review and comment

Partial Approvals Can Be Granted



If Portion(s) of the Standards
Meet Requirements of the Act
and Regulations

If The State/Indian Tribe Fails To Revise Its Standards



EPA Promulgates Federal Standards

Federal Promulgation Includes:



Coordination with EPA Headquarters

Coordination with Other Agencies

- OMB, USFWS...

Publication of Proposed Standard

Public Hearings

Public Comments

Publication of Final Standard

What About Existing WQS?

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- EPA Administrator may publish proposed regulations when necessary to meet the requirements of the Act
CWA 303(c)(4)(B)

Take Home Messages:

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- States/Tribes provide for a WQS Public Hearing every 3 years
 - EPA WQS Review occurs in the Region
 - EPA has 60 days to approve, 90 days to disapprove
 - New/Revised WQS not effective until approved
 - EPA promulgates Federal WQS to meet the requirements of the Act, if necessary