



Overview of Treatment as a State

Kelli Williams

EPA Region 9

ROAD MAP FOR TODAY...

Overview of Treatment in a Similar Manner as a State

- What is TAS?
- TAS eligible programs
- What are the requirements for a TAS application?
- TAS application process

Treatment in a Similar Manner as a State (TAS)

What is it?

- Clean Water Act (CWA) Section 518(e) expressly provides for Indian Tribes to play essentially the same role in Indian country that states do within state lands, authorizing EPA to treat eligible federally recognized Indian Tribes in a similar manner as a state for implementing and managing certain environmental programs.

Water TAS Eligible Programs

Regulatory

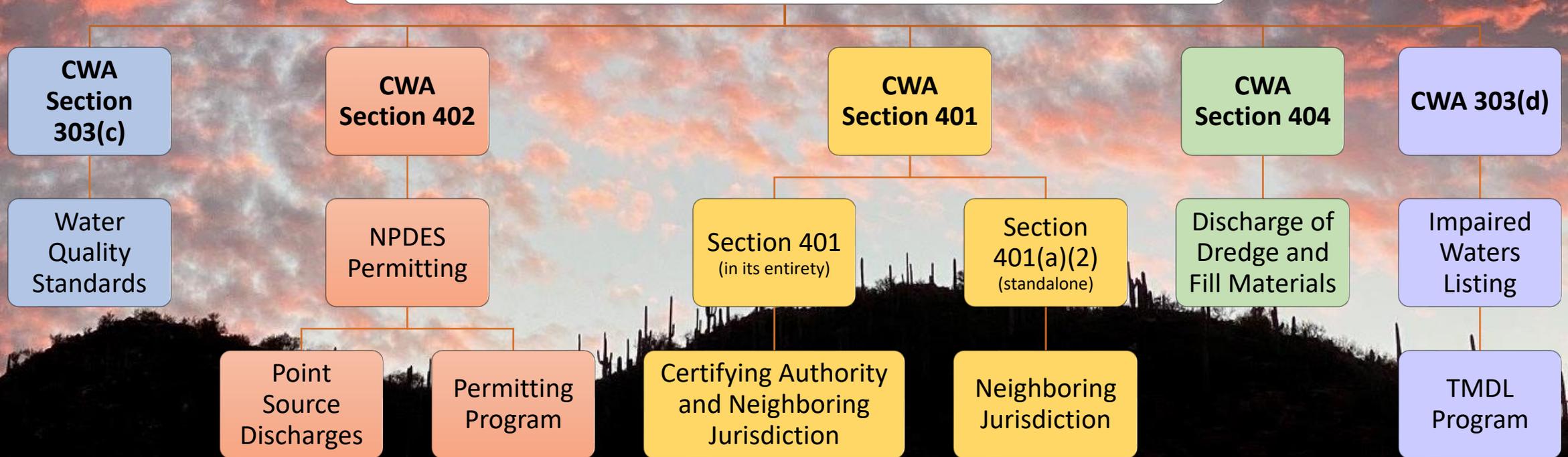
- Clean Water Act (CWA)
 - Water Quality Standards (303(c))
 - Water Quality Certification (401)
 - Impaired Waters (305) and TMDLs (303(d))
 - NPDES (402) Permits
 - Fill Permits (404)
- Safe Drinking Water Act (SDWA)
 - Public Drinking Water System Supervision (PWSS)
 - Underground Injection Control (UIC)
 - Toxic Substance Control Act (TSCA)
 - Lead (Pb) Program

Financial Assistance Eligibility (FAE)

- CWA 106: Water Pollution Control
- CWA 319: Nonpoint Source Management*

*requires matching

Clean Water Act Regulatory TAS



Water Quality Standards - CWA Section 303(c)

Water quality standards (WQS) protect the conditions of lakes, rivers, estuaries and other water bodies for fishing, swimming and other uses.

WQS provide the regulatory and scientific foundation for protecting water quality.

WQS not only set water quality goals for a Tribe's water bodies, but also serve as the regulatory basis for establishing water quality-based treatment controls and strategies.

National Pollutant
Discharge
Elimination System
(NPDES) Permitting
- CWA Section 402

The NPDES permit program addresses water pollution by regulating point sources that discharge pollutants to waters of the United States.

The NPDES permit program is authorized to perform permitting, administrative, and enforcement actions.

Water Quality
Certifications -
CWA Section 401
and/or
CWA Section
401(a)(2)

CWA section 401

Responsible for acting as a certifying authority for projects that may result in a discharge into waters of the United States on their Indian reservations

CWA section 401(a)(2)

Accorded the status of “neighboring jurisdiction” for purposes of section 401(a)(2)

Dredge and Fill
Permitting - CWA
Section 404

Establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands.

Impaired Waters
Listing - CWA
Section 303(d)

Authorizes Tribes in listing impaired waters and developing Total Maximum Daily Loads (TMDLs) for waterbodies.

A TMDL establishes the maximum amount of a pollutant allowed in a waterbody and serves as a starting point or planning tool for restoring water quality.

TAS Approvals to Operate Regulatory Programs

Regulatory Program	Number of Authorized Tribes
CWA §§ 303(c) / 401 - Water Quality Standards (WQS) Program	84
SDWA § 1413 - Public Water System Supervision (PWSS) Program	1
SDWA § 1425 - Underground Injection Control (UIC) Program, Class II Wells	2
Total number of water regulatory program approvals	87



How do I get TAS?

- 1) Meet these four requirements (listed below)
- 2) Submit a completed application to EPA

1



FEDERAL RECOGNITION

Recognized by the U.S. Department of the Interior and meets the definitions in §121.1(d) and (e)

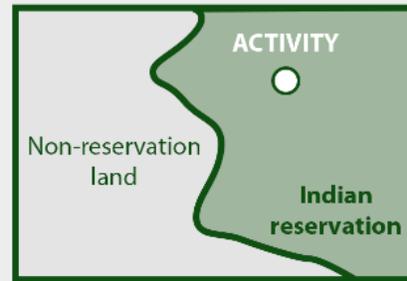
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GOVERNING BODY

Tribe has a governing body carrying out substantial governmental duties and powers

3



RESERVATION WATERS

Activities must pertain to management/protection of reservation water resources and tribe must have any appropriate authority

4



FUNCTIONAL CAPACITY

Tribes must be reasonably expected, in the Regional Administrator's judgement, to be capable of administering a section 401 water quality certification program

1



FEDERAL RECOGNITION

Recognized by the U.S. Department of the Interior and meets the definitions in §121.1(d) and (e)



electronic manifests originated in the e-Manifest system as the legal equivalent to paper manifests; (2) require manifest users to submit paper copies of the manifest to the system for data processing; (3) collect manifests in the e-Manifest system for hazardous waste subject to federal or state law; and (4) set up user fees to offset the costs of developing and operating the e-Manifest system.

Pursuant to the Act, EPA modified the manifest regulations on February 7, 2014 (the e-Manifest "One Year Rule"), to authorize use of electronic manifests (or e-Manifests) for tracking offsite shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. On January 3, 2018, EPA finalized the e-Manifest User Fee Final Rule which established the fee methodology that EPA uses to determine the user fees applicable to the electronic and paper manifests submitted to the national system. EPA launched the e-Manifest system on June 30, 2018. TSDFs and other receiving facilities must submit manifests, both paper and electronic, to EPA. In addition to fees for RCRA wastes, EPA is charging TSDFs and other facilities receiving state-only regulated wastes a fee for each manifest submitted to the system. Regulations regarding copy submission requirements for interstate shipments and the applicability of e-Manifest system and fees to facilities receiving state-only regulated wastes are found in 40 CFR part 260 (Hazardous Waste Management System). Regulations regarding imposition of user fees on receiving facilities for their manifest submissions, with references to key fee methodology, fee dispute, and fee sanction requirements are found in parts 264 and 265.

Form Numbers: Form 8700-22 and 8700-22A.

Respondents/affected entities: Business or other for-profit.

Respondent's obligation to respond: Mandatory (RCRA 3002(a)(5)).

Estimated number of respondents: 106,136 (total).

Frequency of response: Each shipment.

Total estimated burden: 2,362,089 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$118,940,729 (per year), includes \$29,043,234 annualized capital costs and operation & maintenance costs.

Changes in the Estimates: There is a decrease of 140,411 hours in the total estimated respondent burden compared with the ICR currently approved by OMB, resulting from EPA's updates to

the annual number of manifests offered into transportation. Based on its recent analysis of e-Manifest data, EPA estimates a decrease in the annual number of paper and electronic manifests from the currently approved ICR. In addition, there is an increase of \$3,273,919 in the total respondent costs compared with the currently approved ICR. This increase resulted primarily from an improved methodology and updated data for estimating the user fees paid by destination facilities.

Courtney Kerwin,

Director, Regulatory Support Division,

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BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKCO01030/
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Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the current list of 574 Tribal entities recognized by and eligible for funding and services from the Bureau of Indian Affairs (BIA) by virtue of their status as Indian Tribes.

DATES: The list is updated from the notice published on January 30, 2020 (85 FR 5462).

FOR FURTHER INFORMATION CONTACT: Ms. Laurel Iron Cloud, Bureau of Indian Affairs, Division of Tribal Government Services, Mail Stop 3645-MIB, 1849 C Street NW, Washington, DC 20240. Telephone number: (202) 513-7641.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to Section 104 of the Act of November 2, 1994 (Pub. L. 103-454; 108 Stat. 4791, 4792), and in exercise of authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8. Published below is an updated list of federally acknowledged Indian Tribes in the contiguous 48 states and Alaska. Amendments to the list include formatting edits, name changes, and name corrections.

To aid in identifying Tribal name changes and corrections, the Tribe's previously listed or former name is included in parentheses after the correct current Tribal name. We will continue to list the Tribe's former or previously

listed name for several years before dropping the former or previously listed name from the list.

The listed Indian entities are acknowledged to have the immunities and privileges available to federally recognized Indian Tribes by virtue of their government-to-government relationship with the United States as well as the responsibilities, powers, limitations, and obligations of such Tribes. We have continued the practice of listing the Alaska Native entities separately for the purpose of facilitating identification of them.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

Indian Tribal Entities Within the Contiguous 48 States Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs

Absentee-Shawnee Tribe of Indians of Oklahoma

Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California

Ak-Chin Indian Community [previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona]

Alabama-Coushatta Tribe of Texas [previously listed as Alabama-Coushatta Tribes of Texas]

Alabama-Quassarte Tribal Town Alturas Indian Rancheria, California

Apache Tribe of Oklahoma

Arapaho Tribe of the Wind River Reservation, Wyoming

Aroostook Band of Micmacs [previously listed as Aroostook Band of Micmac Indians]

Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana

Augustine Band of Cahuilla Indians, California [previously listed as Augustine Band of Cahuilla Mission Indians of the Augustine Reservation]

Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin

Bay Mills Indian Community, Michigan

Bear River Band of the Rohnerville Rancheria, California

Berry Creek Rancheria of Maidu Indians of California

Big Lagoon Rancheria, California

Big Pine Paiute Tribe of the Owens Valley [previously listed as Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California]

Big Sandy Rancheria of Western Mono Indians of California [previously listed as Big Sandy Rancheria of Mono Indians of California]

Big Valley Band of Pomo Indians of the Big Valley Rancheria, California

Bishop Paiute Tribe [previously listed as Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California]

Blackfeet Tribe of the Blackfeet Indian Reservation of Montana

2

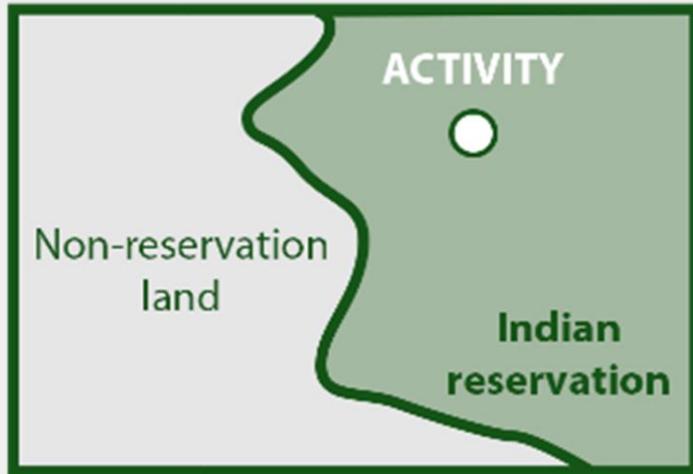


GOVERNING BODY

Tribe has a governing body
carrying out substantial
governmental duties and
powers

- Provide EPA copies of:
 - Tribal Constitution and/or Articles of Incorporation
 - Tribal Codes, Ordinances, and Resolutions demonstrating application of substantial governmental duties and powers.

3

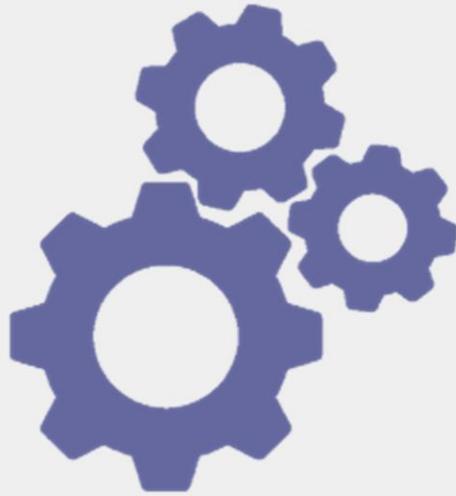


RESERVATION WATERS

Activities must pertain to management/protection of reservation water resources and tribe must have any appropriate authority

- Provide a letter from the Tribal Attorney (or equivalent official) describing the basis for authority over water resources on the Tribe's reservation
- Provide copies of:
 - Pertinent Executive Orders
 - Land Orders
 - Treaties
 - Acts of Congress, etc.
- Detailed and legible maps of reservation and waters over which the Tribe proposes to assert jurisdiction

4



FUNCTIONAL CAPACITY

Tribes must be reasonably expected, in the Regional Administrator's judgement, to be capable of administering a section 401 water quality certification program

- Description of Tribe's previous management experience
- List of existing environmental programs administered by Tribal governing body
- Description of Tribal entities that exercise executive, legislative, and judicial functions
- Description of agency that will assume primacy

If you meet these
four requirements,
you can submit an
application.

Let's talk about
how!



Getting an Application Ready...

Step 1

- Contact your CWA Regional Contact to notify of intent

Step 2

- Pre-application discussion meeting with CWA Regional Contact and EPA Office of Regional Counsel (ORC)

Step 3

- Submit draft application materials to EPA for review/feedback
- Make suggested changes from EPA (if any)

Step 4

- Submit completed application to EPA

Submitting an Application to EPA

- A complete application includes:
 - Cover letter to EPA Regional Administrator
 - Application



TAS Decision Process Timeline



Application Submission

1



**Application
Submission**

In this step:

- Tribe submits their application to EPA
- EPA reviews application and deems it either:
 - Complete and it moves to the next step
 - or
 - Incomplete and returns to Tribe for revisions
- Step takes ~30 days

EPA Provides Notice

1



Application Submission

2



EPA Provides Notice

In this step:

- EPA will send letters to Appropriate Government Entities (AGE) notifying of Tribe's application
- EPA will publish Public Notice in local newspaper
- Step takes ~60 days

Comment Period

1



**Application
Submission**

2



**EPA Provides
Notice**

3



**Comment
Period**

In this step:

- General public and AGEs have 30 days to comment on Tribe's application or request additional information
- EPA will share any comments received to Tribe
- Step takes ~30 days

EPA Review

1



**Application
Submission**

2



**EPA Provides
Notice**

3



**Comment
Period**

4

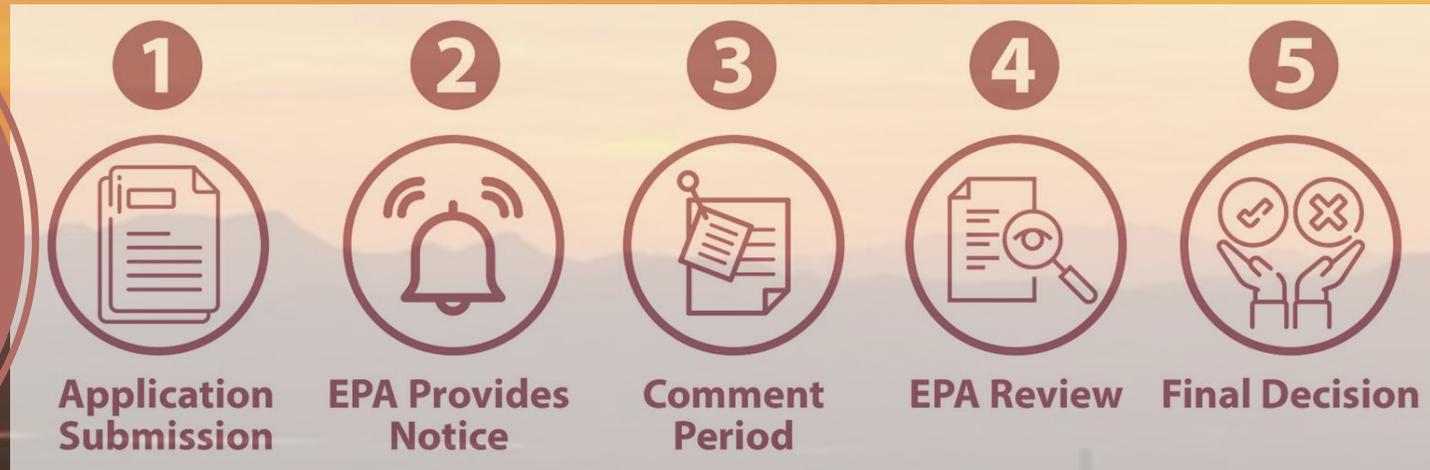


EPA Review

In this step:

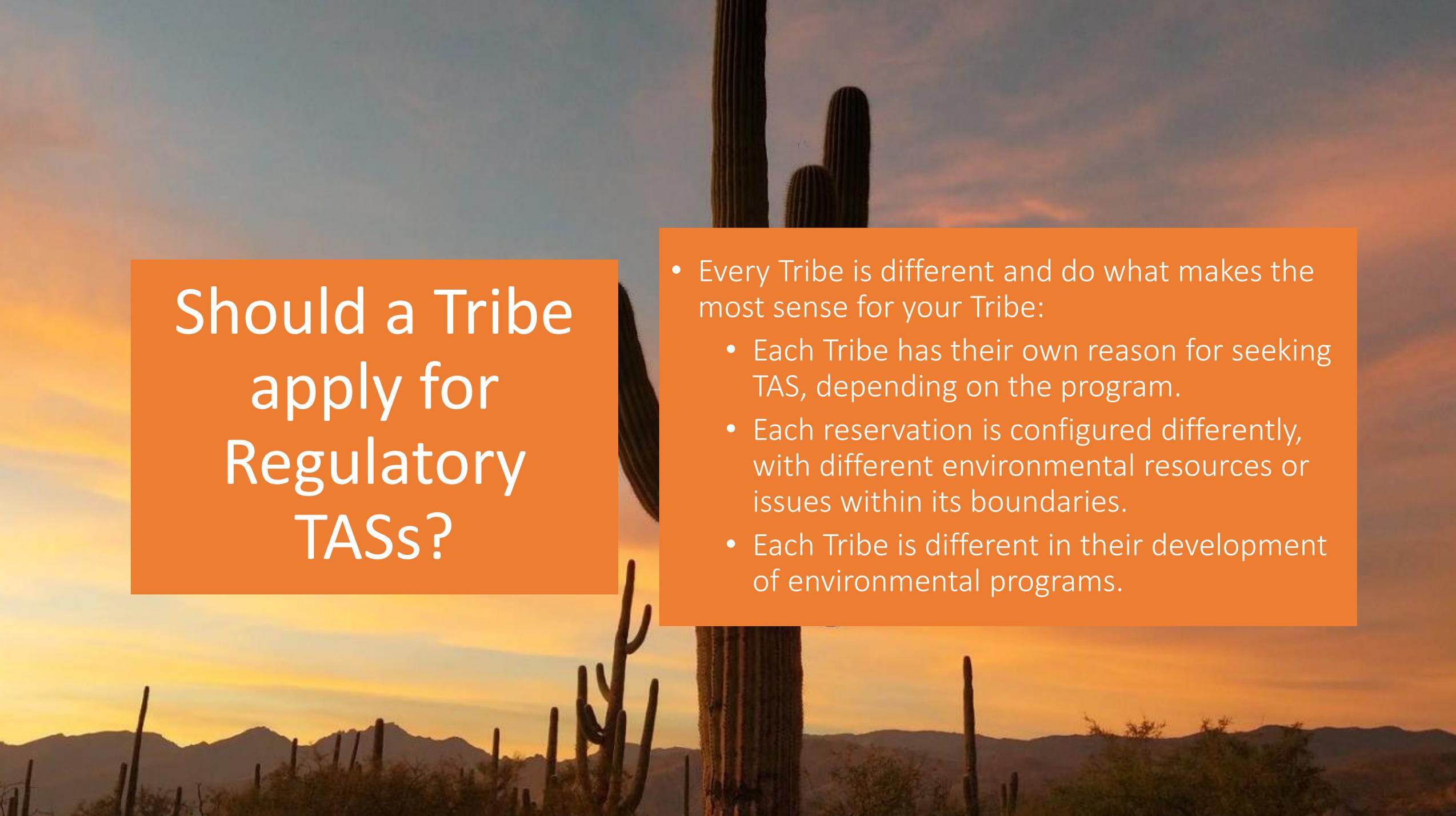
- EPA will review any public comments received
- EPA Regional office holds meetings with EPA HQ
- EPA drafts documents for EPA HQ review and approval
- Step takes ~120 days but can vary

Final Decision



In this step:

- EPA will make final decision of TAS Application
- If approved, EPA will formally notify Tribal Government
- Step takes ~90 days but can vary



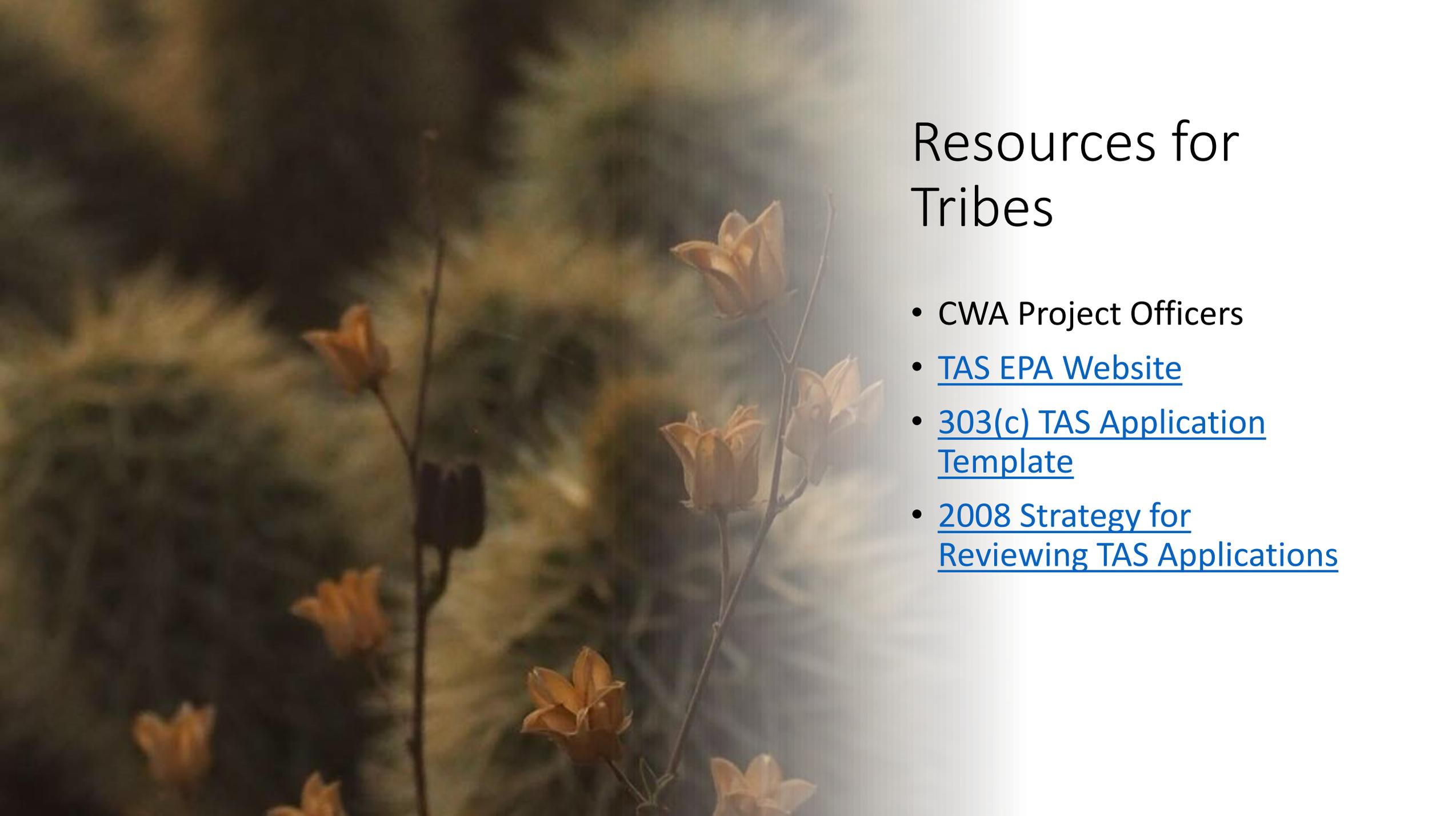
Should a Tribe apply for Regulatory TASs?

- Every Tribe is different and do what makes the most sense for your Tribe:
 - Each Tribe has their own reason for seeking TAS, depending on the program.
 - Each reservation is configured differently, with different environmental resources or issues within its boundaries.
 - Each Tribe is different in their development of environmental programs.



Tips for Tribes seeking TAS

- Encourage open communication between EPA contact and Tribal partners.
- Reach out, when appropriate, to other Tribal governments.
- Ask for help!



Resources for Tribes

- CWA Project Officers
- [TAS EPA Website](#)
- [303\(c\) TAS Application Template](#)
- [2008 Strategy for Reviewing TAS Applications](#)

Questions?

Contact info:

Kelli Williams

williams.kelli.m@epa.gov

