



National Association of Wetland Managers and  
Saint Mary's University GeoSpatial Services



Saint Mary's  
University  
GEOSPATIAL SERVICES

*Tribal Clean Water Act Training Module #5*

# Introduction to Tribal Water Quality Standards

---

# Welcome!

---

If you have any technical difficulties during your online training experience, please send your question to Portia Osborne at [portia@nawm.org](mailto:portia@nawm.org) or call (207) 892-3399.



# Online Training Modules

---

## **Welcome**

### **Introduction to Online Course and Optional Quiz**

(7 knowledge questions)

### **Trainer Introduction**

### **Training Presentation**

(2 sections)

### **How to Access the Online Quiz and Receive a Certificate of Completion**

(For use in obtaining CEUs)



# *Tribal Clean Water Act Training Module #5*

## Introduction to Tribal Water Quality Standards

---

### **Target Audience:**

Tribal water quality and aquatic resources staff who want to learn more about water quality standards, both under the federal Clean Water Act (CWA) and tribal law.

### **Learning Objectives:**

*By taking part in this online training, participants should be able to:*

1. Understand how water quality standards fit into the broader CWA statutory scheme.
2. Know the different parts of a water quality standards, and what roles Tribes, federal agencies, and states may play in play in developing those standards.
3. Become familiar with the process for a Tribe to receive “treatment in a manner similar to a state” (TAS) for water quality standards.
4. Be able to discuss considerations for receiving TAS for water quality standards developed under the CWA, as opposed to developing and implementing standards under tribal law.
5. Understand how water quality standards for wetlands might look different than for other types of resources.



# What is on the Quiz?

---

Seven questions related to key takeaways from the online training presentation.

This module will provide information on how to access the quiz after the presentation is complete (2 sections).

On average, the quiz takes less than 15 minutes to complete.



# Trainer Introduction

---



**Donna Downing**  
Senior Legal Policy Advisor  
National Association of  
Wetland Managers

# Overview of this Presentation

---

How water quality standards fit into the broader Clean Water Act (CWA) statutory scheme.

Water quality standards:

- Different parts of a standard.
- Roles for Tribes and the U.S. Environmental Protection Agency (EPA).
- Recent EPA rulemaking on Tribal reserved rights.

Process for a Tribe receiving “treatment in a manner similar to a state” (TAS) for water quality standards.

Development of water quality standards under TAS versus development and implementation only under Tribal law.

Wetland water quality standards.

Available resources to help with water quality standards development.



# Goals of the CWA

---

Primary CWA goal: restore and maintain the physical, chemical, and biological integrity of the nation's waters.

Additional goals emphasize importance of improvement, and of respecting states' primary authority to protect environmental resources.

- Make waters fishable and swimmable.
- Zero discharge by July 1985.





# How the CWA Achieves Its Goals

---

Relies on “cooperative federalism,” where federal and state agencies have specified authorities and obligations.

CWA §518 establishes “treatment in a manner similar to a state” (TAS), that allows Tribes to have the same authorities and obligations as a state.



# Water Quality Standards

---

- Water quality standards are a more detailed expression of the water quality goal and designated use for a particular water.
  - Standards serve as a benchmark from which CWA and other water quality protection programs are implemented.
- Under the CWA, standards have three parts:
  - Designated use for the water.
  - Scientific criteria indicating a concentration of pollutant consistent with the designated use.
  - An anti-degradation policy to guide decisions when a water is cleaner than required by a water quality standard.



# Designated Uses

---

Initial step for developing water quality standards: identify designated uses.

- Designated uses reflect Tribal goals for the waterbody.

Often a waterbody is designated for several uses.

- Level of quality necessary to support the most sensitive designated and existing uses must be maintained.
- Tribe may designate a use that is anticipated or desired but not yet achieved.

To learn more: [Water Quality Standards Handbook Chapter 2 – Designation of Uses \(epa.gov\)](#)



# Water Quality Criteria

---

After establishing a water's designated use, a Tribe then identifies the corresponding water quality criteria.

- Criteria reflect a concentration of a pollutant that science shows is consistent with the designated use.

Criteria might be narrative or numeric.

A Tribe might use its own science to develop criteria, or use or adapt EPA criteria.

To learn more: [EPA Water Quality Standards Handbook Chapter 3 Criteria](#)



# Anti-Degradation Policy

---

An anti-degradation policy serves a framework for when water quality is higher than needed to meet existing and designated uses.

EPA regulations establish a three-tiered approach to anti-degradation:

- Tier 1: existing uses maintained and protected.
- Tier 2: high quality waters.
- Tier 3: outstanding natural resource waters (ONRWs)

To learn more, go to: [Water Quality Standards Handbook Chapter 4 - Antidegradation \(epa.gov\)](#)



# Tribal Roles in Water Quality Standards

---

When developing standards, a Tribe identifies the designated use, the criteria, and an anti-degradation policy.

- May decide to submit the standards to EPA for approval as CWA standards.
- Alternatively, may design and implement standards solely under Tribal law.

Tribal standards may be more stringent than standards in neighboring states or Tribes.

If a Tribe submits its standards to EPA and they are approved, the Tribe will need to do a triennial review of the standards.



# EPA Roles in Water Quality Standards

---

EPA serves as a source of technical assistance, whether or not a Tribe is developing standards for submission to EPA for approval.

The Agency:

- develops criteria for potential use by Tribes and states.
- Reviews Tribal standards as they are submitted for approval as CWA standards.



# Examples of Tribal Water Quality Standards

---

- **Pueblo of Isleta** standards protecting ceremonial practices.
- The **Fond du Lac Band of Lake Superior Chippewa** standards including narrative standards for wetlands.
- The **Confederated Salish and Kootenai Tribes** (CSKT) standards helping reduce pollution from diffuse nonpoint sources.
- The **Seminole Tribe of Florida**'s standards addressing nutrient loadings from agriculture.
- The **Sokaogon Chippewa Community** standards helping prevent off-reservation resource extraction producing mining wastewater discharges.





# New Regulation Protecting Tribal Reserved Rights

---

New EPA regulation establishes a framework for EPA and states to consider Tribal treaty and reserved rights when establishing water quality standards for state waters.

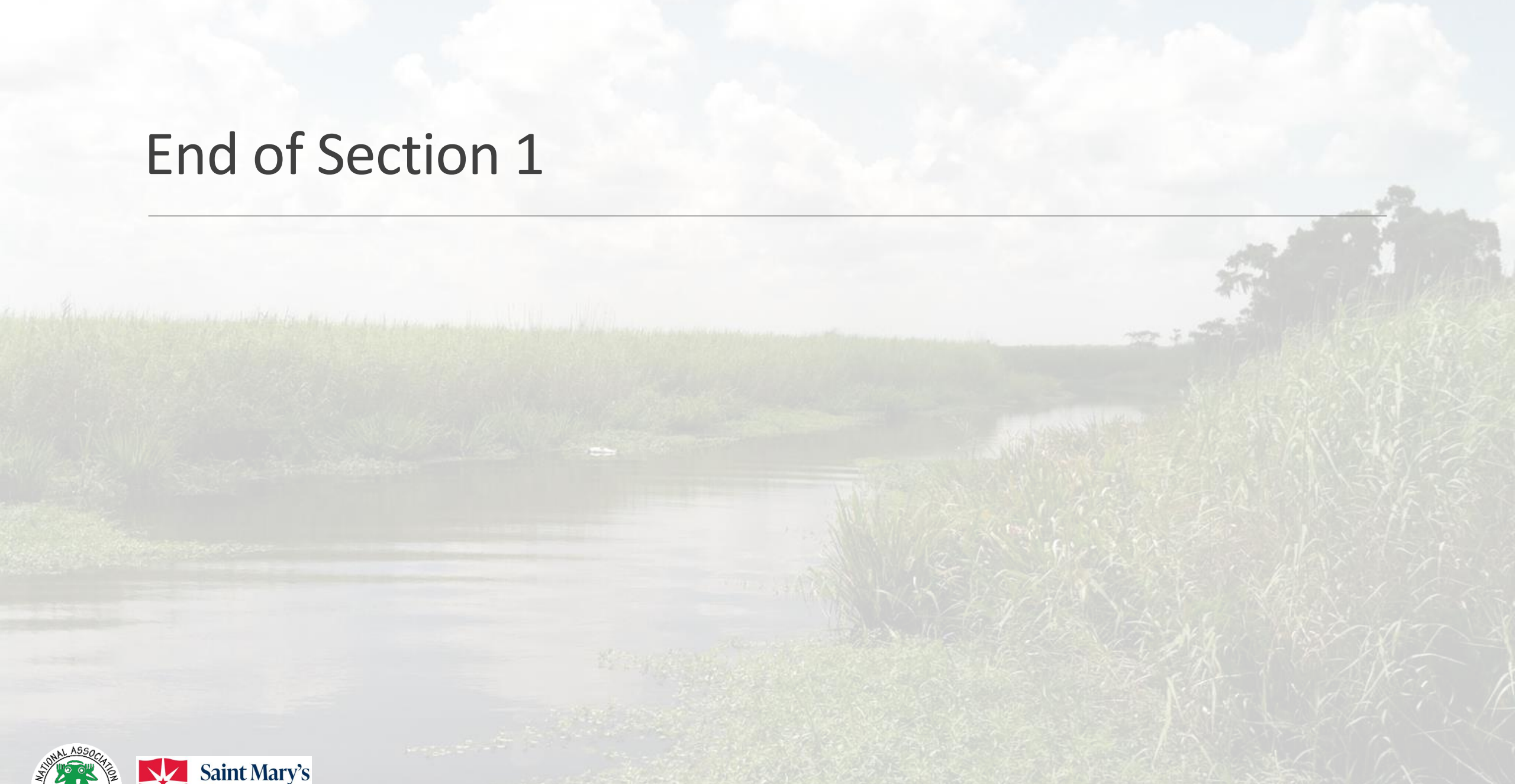
Goal is to more effectively protect waters that Tribes for fishing, gathering wild rice, cultural practices, and other uses.

This new regulation provides a national framework instead of a case-by-case approach, increasing predictability and reducing uncertainty.



# End of Section 1

---

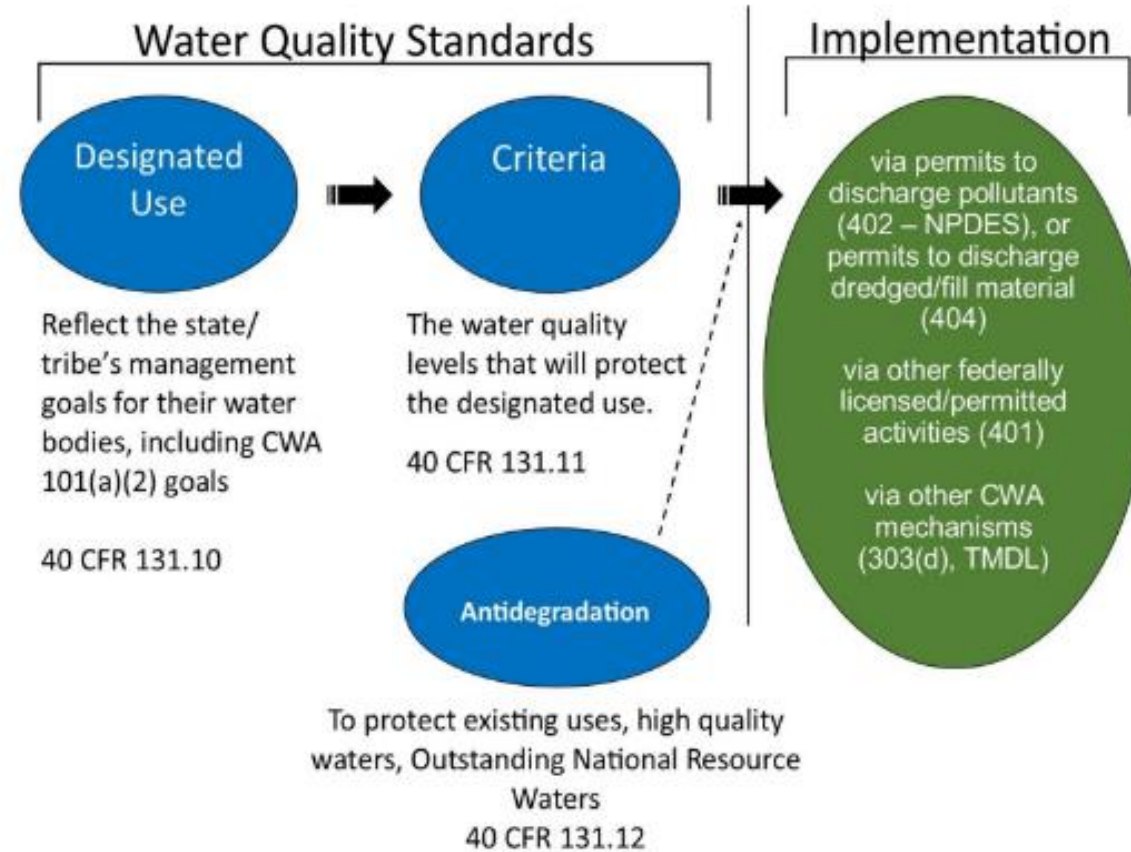


# Section 2

---



# Implementing Water Quality Standards



# TAS for Section 303(c) Water Quality Standards

---

- Under CWA §303(c), EPA can authorize eligible Tribes to set their own water quality standards that, once approved by EPA, define tribal water quality goals and serve as a basis for limits on pollutant discharges into waters on reservation lands.
- To receive TAS for water quality standards, a Tribe must apply to EPA and show that they meet the basic requirements for TAS: the Tribe is federally recognized, has a government, has authority to manage and protect water resources within a reservation, and is or will be capable of running the program.
- Once authorized for TAS under §303(c), a Tribe can seek federal approval of its water quality standards.
  - This requires that a Tribe comply with EPA's implementing regulations at 40 CFR part 131 by developing all elements of its water quality standards (designated use, criteria, anti-degradation policy, etc.)
  - Upon EPA approval, the tribe's WQS will be effective for CWA purposes.
- Currently, 84 Tribes have received TAS to administer a water quality standards program, and of those 47 Tribes to date have adopted standards and submitted them to EPA for review and approval.



# Considerations: CWA Standards or Solely Tribal Standards?

---

- Considerations include factors such as:
  - Time and effort to get TAS.
  - Cultural, ceremonial, and religious uses potentially could be more explicitly addressed under Tribal standards.
  - Neighboring jurisdictions must act in a way that is consistent with CWA standards, where there may be cross-border effects on Tribal water quality.
  - TAS legal framework anticipates differences among sovereigns, providing processes for resolving those differences.



# Wetland-Specific Standards

---

How might wetland-specific standards differ from standards for other waterbody types?

- Differences in reversibility of impacts.
- Differences in roles of protecting other waters.
- Numbers of wetland waterbodies.
- Sensitivity to small changes in precipitation and water levels.
- Designated uses and criteria reflecting unique wetland functions.



# Benefits of Wetlands-Specific Standards

---

- Wetland standards:
  - Inform permitting decisions affecting wetlands.
  - Provide a strong basis for CWA section 401 water quality certification decisions.
  - Establish a benchmark against which monitoring data can be used to assess wetland functions and condition.
  - Serve as a basis for guiding restoration and protection efforts, and gauging their effectiveness.





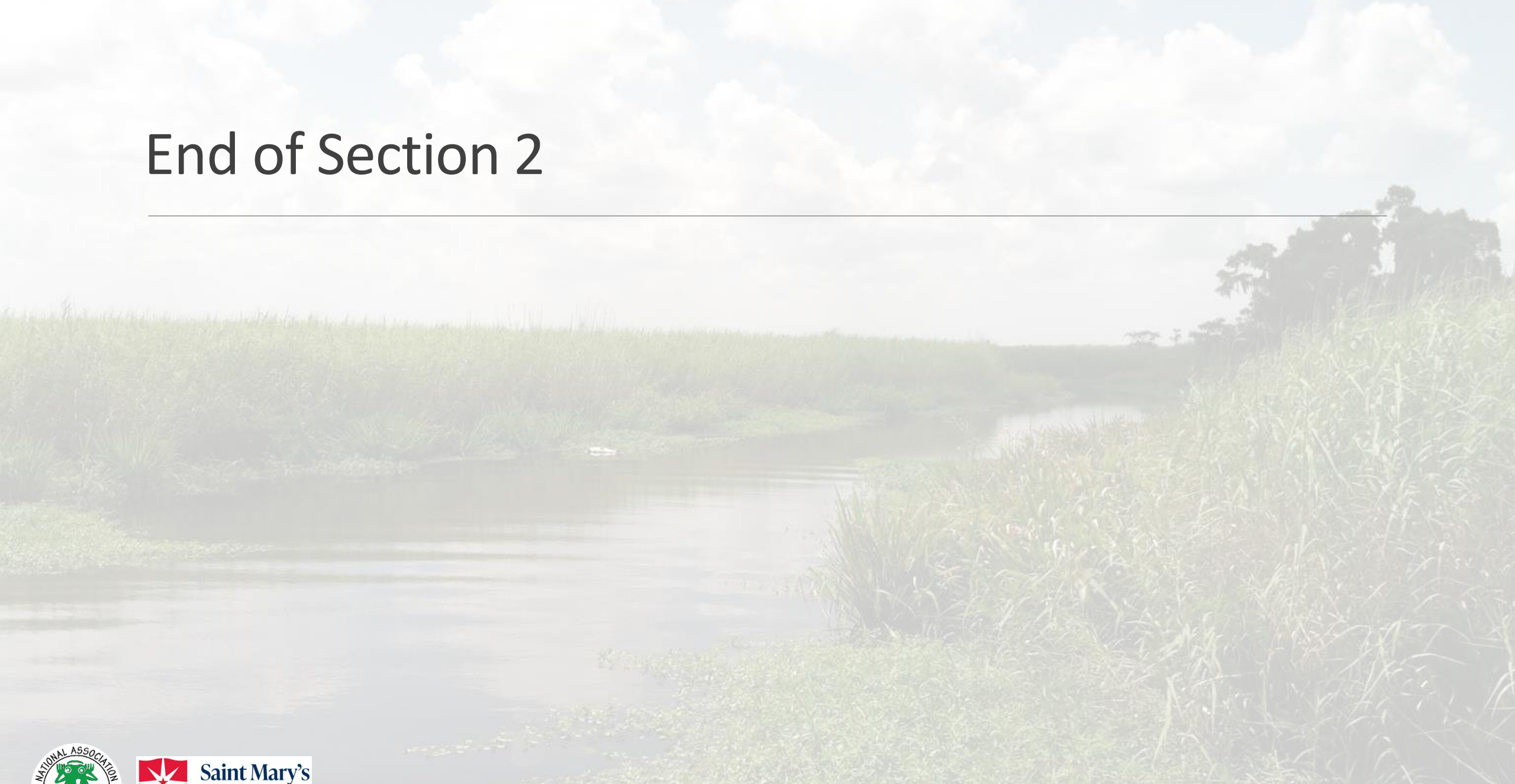
# Example Resources for Water Quality Standards Development

- EPA website for Tribal water quality standards: [Water Quality Standards Tools for Tribes | US EPA](#)
- EPA Water Quality Standards Academy: <https://www.epa.gov/wqs-tech/water-quality-standards-academy>
- Model Tribal Water Quality Standards Template: <https://www.epa.gov/wqs-tech/water-quality-standards-tools-tribes#tab3>
- Model TAS application template: [TAS Application Template for Water Quality Standards and Water Quality Certifications \(docx\)](#)
- EPA Regional Office Tribal Standards Coordinator: <https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts>



# End of Section 2

---



# Optional Online Quiz

---

## Thank you!

Thank you for listening to this online training from the National Association of Wetland Managers and Saint Mary's University of Minnesota. We hope you found the presentation interesting and informative.

## Optional Online Quiz

We invite you to take an optional online quiz for this training module. To take the quiz, you will need to return to the NAWM online training page on the NAWM.org website and select the link to the quiz for this module.

## To Receive Your Certificate of Completion

In order to receive a Certificate of Completion to submit to an accrediting organization for continuing education credits or units (CEUs):

- You must complete the quiz; and
- You must receive a score of 80% or higher.

You will have the opportunity to retake the quiz one additional time if you do not pass.



# Certificates of Completion

---

**Certificates of Completion** are available to you when you successfully complete the training module. Participants who both view the module presentation and complete the module quiz are eligible for a NAWM Certificate of Completion for 1 hour of training.

You will need to create a unique username and password in *ClassMarker* for each certificate. After completing the module quiz, you will be prompted to download your certificate.

**You are responsible for sending the NAWM certificate to your accrediting organization.**

Certificates are **free** for NAWM members and for tribal members and staff.

- For tribal members or tribal staff who are not a member of NAWM: if you are interested in taking the module quiz to earn a certificate, please contact Laura Burchill at the NAWM office at [laura@nawm.org](mailto:laura@nawm.org) or (207) 892-3399.
- For non-members: there is a \$25 administrative fee per certificate that must be paid before you can access the quiz.

For complete details, please return to the NAWM online training modules webpage.

