Final Section 106 Supplemental Grant Guidance to States, Interstate Agencies, and Tribes
Fiscal Years 2020 and 2021

This guidance supplements the FY 2020 and 2021 *National Water Program Guidance* and provides additional guidance for state, interstate and eligible tribal recipients of Section 106 grants for Water Pollution Control Programs.

Grant recipients are expected to conduct their programs to help achieve the goals, objectives, subobjectives, strategic targets, and measures specified in this FY 2020 – 2021 NWPG and this supplemental guidance.

Section 106 grant guidance covers the core Clean Water Act water pollution control activities: water quality standards, water quality monitoring, impaired waters listing and total maximum daily loads development, National Pollutant Discharge Elimination System permitting and enforcement and compliance.

Water Quality Standards

WQS[1] are the regulatory and scientific foundation of programs to protect water quality under the Clean Water Act. The Act recognizes the primary role of states and authorized tribes in setting the standards. EPA is committed to assisting them in adopting standards that support designated uses and keeping them updated. The EPA encourages recipients of Section 106 grants to prioritize the following water quality standards program activities:

- Continue to enhance the quality and timeliness of the triennial standards reviews required by the Act. To facilitate timely EPA actions on standards submissions and timely triennial reviews, EPA recommends that states and tribes coordinate their priorities, schedules, and actions with EPA at critical points. See OW Core Measures for Water Quality Standards actions in backlog and Number of States completing triennial reviews on time.
- Adopt new or revised water quality criteria where appropriate to reflect the latest scientific information, including EPA's recently updated national recommended water quality criteria for protecting human health (94 criteria updated in 2015 alone), for protecting recreational uses, and for protecting freshwater aquatic life (acrolein, aluminum, ammonia, cadmium, carbaryl, copper, and selenium).
- Adopt numeric water quality criteria for nitrogen and phosphorus where appropriate to help address nutrient pollution affecting human health and aquatic ecosystems. Visit EPA's nutrient pollution site[2] for more information.

[1] Please see http://epa.gov/wqs-tech .
[2] Please see https://www.epa.gov/nutrient-policy-data.

- Continue to implement actions specified in the 2015 revisions to the Water Quality Standards Regulation. These include:
    - Providing an explanation where a triennial review does not result in adoption of new or revised water quality criteria for pollutants for which EPA has published new or updated Clean Water Act section 304(a) criteria recommendations.
    - Where necessary, update implementation methods for the state or tribe's antidegradation policy and make them available to the public.
    - Follow requirements when removing or revising designated uses, when issuing water quality standards variances, when implementing antidegradation policies, or when authorizing issuance of compliance schedules.
    - Conducting one or more public hearings consistent with 40 CFR 25.5 when conducting a triennial review or adopting any new or revised water quality standards.
- Engage early with EPA, U.S. Fish and Wildlife Service, and National Marine Fisheries Service when developing new and revised water quality standards to ensure consideration of endangered and threatened species when developing water quality standards, per EPA's recommendation.
- Consider using tools, where applicable, that EPA has provided on its website to address issues such as downstream protection, natural conditions, wetlands protection, and variances.

Water Quality Monitoring, Assessment Impairment Identification and Total Maximum Daily Load (TMDL) Development

Water quality monitoring is fundamental to implementation of Clean Water Act Programs and an eligibility requirement for distribution of Section 106 State and Tribal Assistance Grants. The EPA will continue to support efforts to achieve greater integration of federal, regional, state, tribal, and local level monitoring efforts to connect monitoring and assessment activities across geographic scales, in a cost-efficient and effective manner, so that scientifically defensible monitoring data is available to address issues and problems at each of these scales. States, interstate agencies and eligible tribes will continue to conduct monitoring and assessment to develop statistically representative assessments of the nation's waters, identify priorities for protection and restoration, and support sound decision making across Clean Water Act programs.

Building on the experience gained over the past two decades in assessing and reporting on water quality and in developing tens of thousands of TMDLs, the EPA and states are implementing a new 303(d) Program Vision[3] that encourages states to identify priority waters and to develop tailored strategies to carry out their CWA 303(d) program responsibilities in the context of their water quality goals. With this new vision, the EPA and states will continue to work with other partners and stakeholders to develop and implement activities

[3] Read more on the 303(d) Program Vision at: https://www.epa.gov/tmdl/new-vision-implementing-cwa-section-303d-impaired-waters-program-responsibilities

and watershed plans to restore identified waters. In 2016, the EPA finalized a rule establishing procedures for tribes to be authorized to implement 303(d) program responsibilities in a manner similar to states.

Historically CWA programs have focused on restoring impaired waters; the healthy watersheds program helps put focus on maintaining and protecting healthy waters. Current activities in support of state and Tribal partners involve assessing watershed health and vulnerability, analyzing effective protection policies and approaches, and promoting protection in high quality watersheds.

EPA will continue to collaborate with states and tribes to:

- Implement National Aquatic Resource Surveys to assess the quality of the nation's coastal waters, lakes and reservoirs, rivers and streams, and wetlands using a statistical survey design.[4]
    - Complete the field sampling for the Coastal Condition Assessment in FY20 and the National Wetlands Assessment in FY21.
    - Complete analysis and reporting results from National Lakes Assessment 2017 in FY20 and National Rivers and Streams Assessment 2018/19 in FY21.
- Support the Water Quality Framework (WQF) to better integrate the EPA's data and information systems to more effectively support water quality decision makers and better inform the public.[5]
    - The EPA will support states, tribes and other organizations using WQX and WQX Web to submit data to the Water Quality Portal through technical assistance and Exchange Network grants.
    - The EPA will support state transition to and implementation of the new ATTAINS data flow for submission of 2018 Integrated Reporting under CWA Sections 303(d) and 305(b) through technical assistance and Exchange Network Grants.

The EPA encourages recipients of Section 106 grants to prioritize the following monitoring and assessment activities:

- States will maintain monitoring programs with the appropriate devices, methods, systems, and procedures necessary to monitor and to compile and analyze data on the quality of navigable waters in the state, and provision for annually updating the data and including it in the Section 305(b) report.[6]
- States, territories, and interstate commissions should continue to use a combination of Section 106 monitoring funds, base Section 106 funds, and other resources available to implement and enhance their monitoring activities and meet the objectives of the Elements Guidance.[7]

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[4] For more information on NARS visit: https://www.epa.gov/national-aquatic-resource-surveys
[5] Reade more on WQF: https://www.epa.gov/waterdata/water-quality-framework
[6] See Section 106 (e) of the Clean Water Act: http://uscode.house.gov/view.xhtml?path=/prelim@title33/chapter26/subchapter1&edition=prelim
[7] EPA issued the 2003, "Elements of a State Water Monitoring and Assessment Program" (Elements Guidance) as a recommended set of basic components of a state water monitoring program to aid in improving monitoring and assessment programs. Read more at: https://www.epa.gov/water-pollution-control-section-106-grants/elements-state-water-monitoring-and-assessment-program

- States, and tribes where applicable, will transmit their water quality data to the Water Quality Portal using the WQX framework to satisfy the general obligation to report water quality data annually.[8]
- States will submit their 2020 Integrated Report using the new ATTAINS system as the system of record for 303(d) lists of impaired waters needing TMDLs to achieve water quality standards.

National Pollutant Discharge Elimination System (NPDES) Permitting

EPA, in partnership with the states, ensures the quality of the nation's waters is protected from the potential impacts of point source discharges through clear, effective, and timely issuance of NPDES permits.

The EPA encourages recipients of Section 106 grants to prioritize the following NPDES permitting activities:

- States are to either update their NPDES permit application forms to incorporate the changes to EPA's application regulations that were finalized on February 12, 2019 (84 FR 3324) or transition to the new EPA forms which become effective June 12, 2019. States with state-specific forms should also evaluate whether the instructions and formatting of the state forms should be modified to increase the clarity of required information.
- States should continue to implement significant actions identified during regional reviews and PQRs to assure effective management of the permit program and to adopt efficiencies to improve environmental results.
- EPA and states should work together to optimally balance competing priorities, schedules for action items based on the significance of the action, and program revisions.
- States are expected to ensure that stormwater permits are reissued on a timely basis and include clear and enforceable requirements, as well as ensuring implementation of changes as specified in the NPDES MS4 General Permit Remand Rule.
- States should consider incorporating green infrastructure into all stormwater permits.
- States are encouraged to work with municipalities to develop integrated permitting approaches to satisfy multiple clean water objectives.
- States are encouraged to seek opportunities to incorporate efficiency tools, such as trading and linking development of WQS, TMDLs, and permits.
- States are expected to ensure that permits include nutrient monitoring requirements and limits where appropriate.
- States should continue to implement the CAFO rule through permitting and work closely with their inspection and enforcement programs to ensure full implementation of NPDES CAFO regulations.
- State NPDES permit writers should have knowledge of the pretreatment program in order to establish appropriate discharge limits in POTW permits.
- States are expected to ensure data availability by fully populating the Integrated Compliance Information System (ICIS)- NPDES with the data elements in Appendix A to 40 CFR 127 (NPDES Electronic Reporting).

[8] Read More on STORET and WQX at: https://www.epa.gov/waterdata/water-quality-data-wqx

- States should electronically receive reports from regulated entities as specified in 40 CFR 127 (NPDES Electronic Reporting).

Source Water (Surface Water and Ground Water):

CWA Section 106 grant funds are an essential funding mechanism for source water protection activities. The Agency recommends that states and tribes continue to direct a portion of their CWA Section 106 funding for source water protection and wellhead protection actions that protect both ground water and surface water used for drinking water. EPA regions, states, and tribes that administer EPA-approved WQS programs should ensure that there are protective WQS in place, and being attained, for each waterbody being used as a public water supply. Also, EPA encourages states and tribes to allocate a reasonable share of water quality monitoring resources to assess attainment of the public water supply use, and, consider using water quality or compliance monitoring data collected by public water systems in assessing water quality and determining impairment. EPA regions, states, and tribes should consider placing a high priority on:

- waterbodies where state, tribal, or local source water assessments have identified highly threatening sources of contamination that are subject to CWA, and
- the development and implementation of TMDLs to address impairments of the public water supply use.

EPA regions and states should consider the hydrologic relationship between point source dischargers and drinking water intakes in setting permit requirements and inspection and enforcement priorities. EPA also encourages state programs to leverage the tools and resources of the National Source Water Collaborative[9]. EPA also encourages states and tribes to integrate source water into updates of watershed assessments and plans, including incorporating ground water and the ground water / surface water interchange, and in the course of doing so consider the effects of extreme weather on fresh water resources. See Section II.B. for additional discussion on the Source Water and Ground Water. Tribes should refer to the *Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act*, Understanding Source Water Protection and Conducting a Source Water Assessment sections.

Non-point Source: States, interstate agencies, and tribes may use CWA Section 106 funds to develop watershed-based plans and to conduct monitoring on a watershed basis. States' and where appropriate, tribes' integrated monitoring designs should use a combination of statistical surveys and targeted monitoring to cost-effectively evaluate the health of watersheds and the effectiveness of protection and restoration actions, such as nonpoint source implementation projects. In addition, EPA encourages broader efforts to protect and maintain healthy watersheds, so that costly implementation measures are not required to restore water quality and aquatic habitat.

Protecting Wetlands: Some states and tribes have utilized CWA Section 106 funds for wetland program activities such as wetlands identification and monitoring. Section 106 funds may be used to develop

[9] : http://www.sourcewatercollaborative.org/

Section 404 dredged and fill permitting programs and implement the programs once they are assumed by the state or tribe.

Other Guidance: Guidance for the Tribal Program, the Monitoring Initiative, and Enforcement is provided separately and can be found at:

- Tribal water pollution control programs. See https://www.epa.gov/water-pollution-control-section-106-grants/final-guidance-awards-grants-indian-tribes-under-section.
- State and interstate use of Monitoring Initiative funds. See https://www.epa.gov/water-pollution-control-section-106-grants/monitoring-initiative-grants-under-section-106-clean.
- Associated Program Support (APS) Costs. APS authority is used to provide support for the common goals of the requesting state(s) and tribe(s) and/or promote administrative efficiency and cost savings to the recipients. See https://www.epa.gov/water-pollution-control-section-106-grants/final-guidance-use-associated-program-support-costs.

Core Program Measures: CWA Section 106 funding supports many of the Office of Water Core Measures listed in the *National Water Program Guidance*. These measures include:

Water Quality Standards actions in backlog

Number of States completing triennial reviews on time.

Watersheds with surface waters not meeting standards.

Watersheds with surface waters not meeting standards because of nutrients

Progress in putting priority TMDLs alternative restoration plans and protection approaches in place.

Backlog of EPA actions on TMDLs

Backlog of EPA action on priority TMDLs

Backlog of EPA action on 303(d) lists

Number of primarily NPS impaired waterbodies partially or fully restored by NPS program

Report on the quality of the nation's waters – number of samples processed

EPA Permit Backlog - Existing NPDES

EPA Permit Backlog - Existing Non-Tribal NPDES

EPA Permit Backlog - Existing Tribal NPDES

EPA Permit Backlog - New NPDES

EPA Permit Backlog - New Non-Tribal NPDES

EPA Permit Backlog - New Tribal NPDES

Average process time for requests for coverage under NPDES general permits