



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 131, 230, and 233**

**[EPA-HQ-OW-2016-0405; FRL-5868-04-OW]**

**RIN 2040-AF62**

### **Federal Baseline Water Quality Standards for Indian Reservations; Withdrawal of Proposed Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Environmental Protection Agency (the EPA or agency) is withdrawing the proposed rule entitled “Federal Baseline Water Quality Standards for Indian Reservations,” which published in the *Federal Register* on May 5, 2023. The EPA is electing to withdraw and not finalize the proposed rule at this time. Instead, the EPA intends to focus the agency’s resources on engaging with Tribes to support Tribes’ efforts to seek authority to administer their own water quality standards (WQS) program under the Clean Water Act’s provision for eligible Tribes to be treated in a similar manner as states (TAS). The EPA will continue to work closely with, and offer support to, Tribes that are interested in pursuing TAS to administer a WQS program and developing their own WQS under the Clean Water Act.

**DATES:** As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the proposed rule published on May 5, 2023, at 88 FR 29496, is withdrawn.

**ADDRESSES:** U.S. EPA, Office of Water (MC 4305T), 1200 Pennsylvania Avenue NW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** James Ray, Office of Science and Technology, Standards and Health Protection Division, Office of Water (MC 4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 566-1433, [ray.james@epa.gov](mailto:ray.james@epa.gov). Additional information is also available online at

<https://www.epa.gov/wqs-tech/promulgation-tribal-baseline-water-quality-standards-under-clean-water-act>.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of May 5, 2023 (88 FR 29496), the EPA issued a proposed rule to establish Federal water quality standards (WQS) for Indian reservation waters that currently do not have WQS in effect under the Clean Water Act (CWA), with limited exceptions. These WQS (referred to as baseline WQS) would establish human health and environmental objectives as the basis for CWA protections.

At this time, the EPA is withdrawing this proposed rule to focus the agency's resources on engaging with Tribes to support Tribes' efforts to seek authority to administer their own WQS program under the CWA's provision for eligible Tribes to be treated in a similar manner as states (TAS) and develop their own WQS under the CWA.

The EPA has worked closely with Tribes to provide information about the TAS and WQS approval processes and has developed materials to assist Tribes that decide to work towards EPA-approved WQS.<sup>1</sup> To date, 52 of the 84 Tribes with TAS have submitted Tribal WQS that the EPA has approved as applicable WQS for the Tribes' Indian reservation waters.<sup>2</sup> It remains the EPA's preference for Tribes to obtain TAS and develop WQS under the CWA that are tailored to the Tribes' individual environmental goals and reservation waters. The EPA will continue to work with Tribes to build their capacity and facilitate their progression through the TAS and WQS development and adoption processes.

The EPA provided a 90-day public comment period after publishing the proposed rule. The EPA received 3,314 comments, 59 of which are considered unique comments that addressed a range of issues pertaining to the proposed rule. After consideration of that input and several complex issues raised, the agency has insufficient time to issue a final rule before the end of the

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<sup>1</sup> Water Quality Standards Tools for Tribes, <https://www.epa.gov/wqs-tech/water-quality-standards-tools-tribes>; Tribes and Water Quality Standards; <https://www.epa.gov/wqs-tech/tribes-and-water-quality-standards>; Water Quality Standards Academy; <https://www.epa.gov/wqs-tech/water-quality-standards-academy>.

<sup>2</sup> The EPA's website, *EPA Actions on Tribal Water Quality Standards and Contacts*, lists these Tribes and the dates their TAS authority and WQS were approved: <https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts>. The EPA updates this list continually.

current Administration, and independently, as explained above, is choosing to shift its focus to supporting the development and adoption of WQS by Tribes for their reservation waters.

**Michael S. Regan,**  
*Administrator.*

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