



Treatment as a State

Advantages and hurdles to TAS

NTFAQ – 2019



What It Is & How It Came To Be

- Authorization for eligible, federally recognized Indian tribes to implement and manage portions of the Clean Air Act (CAA).
- Tribes may carry out those programs, or even portions of programs, that are most relevant to their air quality needs
- Tribal Authority Rule (TAR) establishes the authority for tribes to be treated in a similar manner as a state (TAS) when found eligible. It also provides the process for tribes to request eligibility.

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What It Allows

- Develop and apply selectable portions of the CAA
- Increased opportunity for notice and comment
- Develop Tribal Implementation Plans (TIPs)
- Administer regulations over entire reservation
- Implement and enforce tribal air quality rules
- Reduced match for a Section 105 grant
- Other CAA programs that are important to tribes



The 4 Requirements for TAS Eligibility – 1/4

- **The tribe must be a federally recognized tribe.**
- Provide a statement that the tribe is recognized and a recent copy of the Federal Register which provides a list of federally recognized Indian tribes.



The 4 Requirements for TAS Eligibility – 2/4

- **The tribe must have a governing body carrying out substantial duties and powers.**
- Provide a statement demonstrating that the tribe is currently carrying out substantial governmental duties and powers over a defined area.
 - Describe the form of the tribal government.
 - Describe the types of government functions currently performed by the tribal governing body.
 - Identify the source of the tribal government’s authority to carry out the governmental functions currently being performed.

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The 4 Requirements for TAS Eligibility – 3/4

- **Statement of tribe's authority to regulate air quality.**
- Include a statement from legal counsel (or equivalent official).
- Indicate the tribe's jurisdiction showing the exterior boundaries of the reservation with a map or legal description.
- For areas outside of the reservation where the tribe has jurisdiction, show the boundaries with a map or legal description.

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The 4 Requirements for TAS Eligibility – 4/4

- **Capable of effectively administering the CAA program for which the tribe is seeking approval.**
- Provide a narrative statement that demonstrates the tribe’s capability is consistent with the applicable provisions of the CAA and implementing regulations.
 - Previous management experience.
 - List of tribal environmental or public health programs and associated laws, policies, and regulations.



The 4 Requirements for TAS Eligibility – 4/4 (cont'd)

- **Capable of effectively administering the CAA program for which the tribe is seeking approval.**
- Provide a narrative statement that demonstrates the tribe's capability is consistent with the applicable provisions of the CAA and implementing regulations.
 - A description of the entity(s) that exercise the executive, legislative, and judicial functions of the tribal government.
 - A description of the existing, or proposed, agency of the Indian tribe that will assume primary responsibility for administering a CAA programs.
 - A description of how the tribe will develop capacity to implement the program if they don't have it yet.

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TAS 105 Hurdles


- TAS determination requires delineation of Tribal boundary.



TAS 105 Advantages

- Continued funding is anticipated, but not guaranteed. With TAS, a reduction or revocation of funding requires prior notice and a public hearing.
- If TAS eligibility has been established under another EPA program, the Tribe only needs to provide information not previously submitted.
- Tribal match reduced to 5%-10%.

Tribes Approved for TAS



Program	Tribes
CAA § 110 - Tribal Implementation Plan	6
CAA § 111 - New Source Performance Standards	1
CAA § 112 - National Emissions Standards for Hazardous Air Pollutants	1
CAA Title V - Operating Permit Program	4
CWA §§ 303(c) / 401 - Water Quality Standards Program	60
SDWA § 1413 - Public Water System Supervision Program	1
SDWA § 1425 - Underground Injection Control Program	2
TSCA §§ 402, 404, 406 - Lead Abatement and/or Renovating, Repair, and Painting Program	4
Administrative Functions under the CAA (§ 107(c)-(e); 107(d)(3); 110(a)(2)(D); 112(r)(7)(B)(iii); 126; 169B; 176A; 184; 319; 505(a)(2))	33

Discussion

