

Clean Water Act Section 404(g) Tribal and State Assumption Program Final Rule – December 2024

Clean Water Act Section 404 establishes a permitting program to regulate the discharge of dredged or fill material from a point source into waters of the United States. The 2024 Rule for the *Clean Water Act Section 404(g) Tribal and State Assumption Program* clarifies the procedures and requirements for states, territories and authorized Tribes to assume and administer the Clean Water Act Section 404 permitting program in some waters of the United States. Since the program was enacted in 1977, many Tribes and states have expressed interest in administering the program. Tribes, states and other stakeholders have identified several barriers to assumption and requested that EPA clarify the program's requirements and procedures.

Overview of the Final 2024 Rule

The 2024 *Clean Water Act Section 404(g) Tribal and State Assumption Program* rule facilitates assumption and creates new opportunities for meaningful engagement by:

- **Clarifying program assumption requirements.** The 2024 Rule responds to longstanding requests from Tribes and states to streamline and clarify the requirements for a Tribe or state to assume and administer a CWA Section 404 permitting program.
- **Establishing transparent time frames and procedures.** The Tribe or state may assume Section 404 permitting authority over some, but not all, waters of the United States. The U.S. Army Corps of Engineers retains permitting authority over certain waters of the United States. The 2024 Rule establishes a clear process for identifying which waters of the United States the Corps retains. Establishing these procedures makes the process of determining and modifying the scope of retained waters more collaborative and provides sufficient detail to ensure transparency without being overly prescriptive.
- **Ensuring Tribal and state programs meet CWA requirements.** The 2024 Rule establishes certain areas of flexibility where Tribe and state programs may determine how best to ensure compliance with Clean Water Act requirements, including with respect to compensatory mitigation and enforcing water quality protections.
- **Enhancing Tribal engagement opportunities.** The 2024 Rule establishes clear and accessible mechanisms for Tribal participation in the permitting process. This approach will make it easier for Tribes to review and comment on state-issued permits.
- **Creating new opportunities for meaningful public engagement.** The 2024 Rule creates a new public input period on the scope of waters retained by the Corps and guarantees the opportunities for judicial review of Tribal and state permitting decisions.

For more information visit the [CWA Section 404g website](#) or contact us at cwa404g@epa.gov. Available implementation resources include a frequently asked questions and fact sheets. The docket for the final 2024 Rule (Docket ID No. EPA-HQ-OW-2020-0276) can be found at [Regulations.gov](https://www.regulations.gov).