

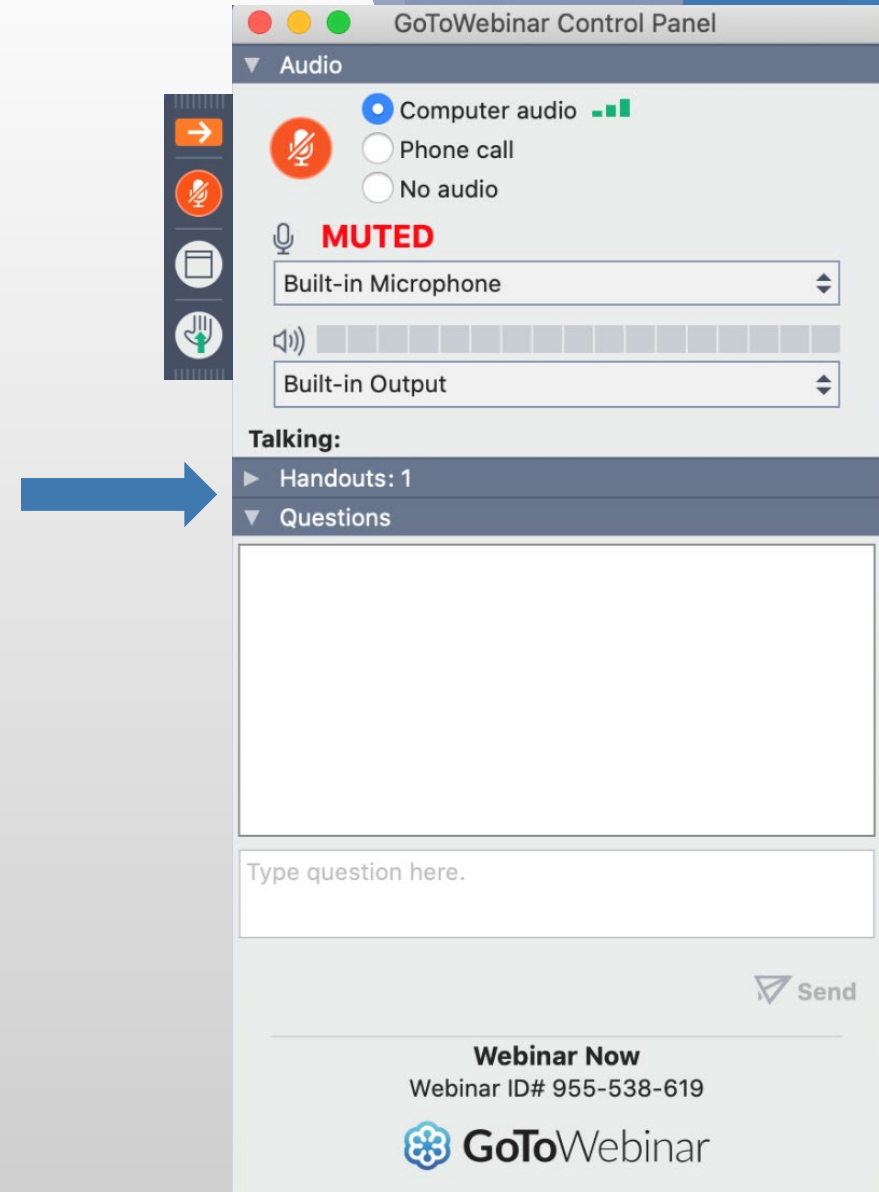
Tribal Consultation Informational Webinar for the CWA Section 106 Tribal Guidance Revision

Robyn Delehanty
Laura Shumway
Jennifer Wintersteen

February 11, 2021

Webinar Housekeeping

- ▶ Please familiarize yourself with the webinar panel on your screen
 - ▶ Handouts
 - ▶ Questions
- ▶ Q&A Sessions
- ▶ WebcastInfo@cadmusgroup.com
- ▶ This webinar will be recorded for internal purposes



Welcome from EPA OWM

Wynne Miller,
Deputy Director

Overview of Consultation Process

- ▶ Consultation letter was sent January 13, 2021
- ▶ Consultation will remain open throughout the revision process
 - ▶ Two planned comment periods:
 - ▶ January 13, 2021 – March 15, 2021: Comment on the initial recommended approaches for revising the Guidance (60 Days)
 - ▶ Fall 2021: Comment on the draft revised Guidance
- ▶ EPA will establish opportunities for individual tribal representatives to participate in the revision process

Agenda

- ▶ Introduction
- ▶ EPA Work Group Recommendations
- ▶ How to Engage in Revision Process
- ▶ Q&A Session
- ▶ Comment from Tribal Representatives
- ▶ Next Steps

Introduction

CWA Section 106

- ▶ Currently, 281 tribes are eligible for Section 106 Grants
- ▶ The 2007 Section 106 Tribal Grants Guidance provides critical information tribes use to develop and expand their water pollution control programs
 - ▶ 15 years old
 - ▶ Outdated
- ▶ EPA initiated a work group in March 2020 to lead the revision of the current Guidance
- ▶ Purpose of the revision: provide tribes with more accurate, comprehensive, and up-to-date information to support tribal water programs

EPA Work Group

- ▶ Project organizers
 - ▶ Robyn Delehanty, OWM Section 106 Coordinator
 - ▶ Laura Shumway, OWOW Biologist
 - ▶ Jennifer Wintersteen, Region 8 Tribal Programs Manager
- ▶ 27 EPA members
 - ▶ At least one representative from each EPA Region
 - ▶ Representatives from EPA HQ
- ▶ Held a series of calls to discuss topics related to the Guidance revision and tribal engagement
- ▶ Developed initial goals and recommendations for revision

Tribal Comment Opportunity

- ▶ EPA is engaging early with tribes prior to making revisions to ensure that the revised Guidance will:
 - ▶ Address tribal needs
 - ▶ Effectively support tribes as they develop, maintain, and expand their water quality programs and increase staff capacity
- ▶ EPA work group developed general goals and recommendations which are intended to propose an overall direction for revisions to the Guidance
- ▶ EPA would like tribal feedback during this first comment period on initial recommendations for the four topic areas
- ▶ Tribes may also submit comments on any other aspect of the current Guidance that they believe EPA should consider during the revision

EPA Work Group Recommendations

<https://tcots.epa.gov>

Goals of the Revision

▶ **Work Group Recommended Goals:**

- ▶ Develop clear, comprehensive, updated, and succinct language that is relevant and applicable to tribes
- ▶ Describe the Section 106 program and provide context around the CWA generally
- ▶ Describe the benefits of water quality program development and implementation
- ▶ Provide practical guidance for program implementation
- ▶ Provide consistent messaging on national program requirements to help tribes negotiate workplans

▶ **Area of Interest:**

- ▶ Do these goals and objectives effectively address tribal needs?

The revision will not develop new policy or change the allocation formula.

Update the Content

- ▶ **Current Guidance:** Provides important content and technical direction for tribal water quality programs but includes outdated information
- ▶ **Work Group Plan:** Update the existing grant and programmatic information and include scientific and technical content in addendums
 - ▶ Update links and include information that is no longer publicly available
 - ▶ Focus on the national level information that does not change from year to year
 - ▶ Include general information on all TAS authorities (e.g., 303c and 303d)
 - ▶ Update grant information and expand information on quality assurance
 - ▶ Include scientific technical content that is subject to change in addendums (e.g., assessment methodologies and ATTAINS)
- ▶ **Area of Interest:**
 - ▶ EPA has not identified a specific area of interest, but tribes can comment on any aspect of the Guidance.

Topic Area 1: Structural Change to Establish Foundational Activities and Options to Grow Programs

- ▶ **Current Guidance:** Organizes activities as fundamental, intermediate, or mature (F/I/M)
 - ▶ The F/I/M activity terminology was developed to support the Program Assessment Rating Tool assessments, which are no longer being conducted
 - ▶ Tribal programs do not fit into only one F/I/M activity
 - ▶ EPA Regions do not consider the F/I/M activity terminology when negotiating work plans
 - ▶ Some tribes were focusing on completing all the F/I/M activities listed rather than identifying activities necessary to support individual program goals
- ▶ **Work Group Recommendation:** Establish a more flexible program development approach, which would identify common program activities that make up the foundation for tribal programs. For tribes that have established these common program activities, the Guidance would provide options and examples for how tribes can grow their programs to meet their water quality needs.
- ▶ **Area of Interest:**
 - ▶ Does identifying foundational program activities and demonstrating how tribes can grow their programs support your program objectives?
 - ▶ If so, what should be considered when identifying foundational program activities?

Topic Area 2: Structural Change to Update Guidance to Reflect How Tribes Implement Their Programs

- ▶ **Current Guidance:** Key sections are divided into subsections for each of three tribal program approaches: non-regulatory, tribal regulatory, and EPA regulatory
 - ▶ Many tribes use a combination of these approaches to implement their programs effectively
 - ▶ The current structure leads to repetition across sections of the Guidance
- ▶ **Work Group Recommendation:** Remove the structural divisions from the Guidance but retain basic information about the three approaches. The revised Guidance would continue to indicate EPA's support for tribes that use any of the three elements in their programs and would leave tribes flexibility to craft programs that support water quality needs.
- ▶ **Area of Interest:**
 - ▶ Does presenting the regulatory activities conducted under the tribal law and EPA-approved approaches together support your current water quality program and allow for growth?

Topic Area 3: Retain and Add More Information on Other EPA Programs and Topics

- ▶ **Current Guidance:** Provides information on other EPA programs, describes how funds and activities can be coordinated across programs, and explains their relationship to Section 106 grants (e.g., Section 319, GAP, Wetlands)
- ▶ **Work Group Recommendation:** Add general information about the CWA and how the various sections work together in addition to retaining information on how funds can be coordinated across CWA activities
- ▶ **Area of Interest:**
 - ▶ How much do the tribes rely on the Section 106 Guidance to understand other CWA programs?
 - ▶ Should we consider limiting the Guidance to Section 106-funded activities only?

Topic Area 4: Increase Tribal Flexibility in Meeting Reporting Requirements

- ▶ **Current Guidance:** Provides limited flexibility to meet tribal programmatic reporting requirements
- ▶ **Work Group Recommendation:** Provide more flexibility for some reporting requirements as follows
 - ▶ Support tribal programs by working collaboratively to determine which parameters the tribe should sample and assess based on the tribe's program needs
 - ▶ Retain the three basic programmatic reporting requirements (monitoring strategy, water quality assessments, data submission) but consider additional flexibility when determining reporting frequency for monitoring strategies and assessment reports
 - ▶ Require data submission through WQX but allow temporary waivers from electronic submission on a case-by-case basis (for example, tribes who are building or re-building this capacity)
- ▶ **Area of Interest:**
 - ▶ What criteria should we consider for waiving the WQX electronic data submission requirement?

How to Engage in Revision Process

How to Provide Comment

Tribes can provide comments any one of three ways:

1. Email Jennifer Wintersteen at Wintersteen.Jennifer@epa.gov

2. Mail to the following address:

CWA Section 106 Tribal Program

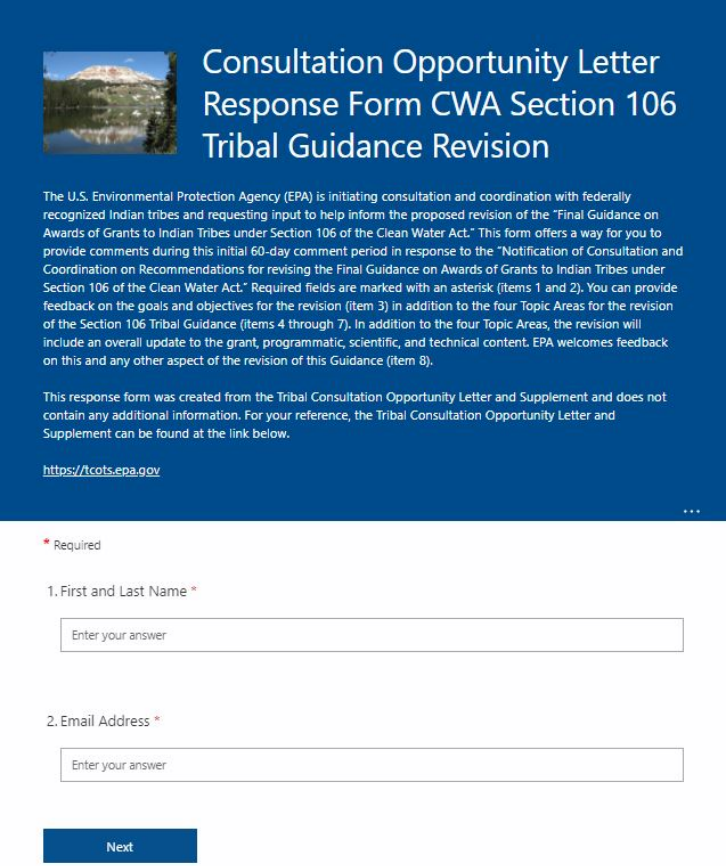
U.S. EPA

1200 Pennsylvania Ave, NW (MC 4201M)

Washington, DC 20460

How to Provide Comment cont'd

- ▶ Submit comments online at this link:
<https://forms.Consultation> letter was sent January 13, 2021
- ▶ Consultation will remain open throughout the revision process
 - ▶ Two planned comment periods:
 - ▶ January 13, 2021 – March 15, 2021: Comment on the initial recommended approaches for revising the Guidance (60 Days)
 - ▶ Fall 2021: Comment on the draft revised Guidance
- ▶ EPA will establish opportunities for individual tribal representatives to participate in the revision process [ONEdRMzVUOTE4OTREOFILTSQIQCN0PWcu](https://www.epa.gov/tribal/onedrmzvuvote4otrefiltsqiqcn0pwcu)
 - ▶ EPA developed this electronic form as a new way to provide comment for this consultation



**Consultation Opportunity Letter
Response Form CWA Section 106
Tribal Guidance Revision**

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally recognized Indian tribes and requesting input to help inform the proposed revision of the "Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act." This form offers a way for you to provide comments during this initial 60-day comment period in response to the "Notification of Consultation and Coordination on Recommendations for revising the Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act." Required fields are marked with an asterisk (items 1 and 2). You can provide feedback on the goals and objectives for the revision (item 3) in addition to the four Topic Areas for the revision of the Section 106 Tribal Guidance (items 4 through 7). In addition to the four Topic Areas, the revision will include an overall update to the grant, programmatic, scientific, and technical content. EPA welcomes feedback on this and any other aspect of the revision of this Guidance (item 8).

This response form was created from the Tribal Consultation Opportunity Letter and Supplement and does not contain any additional information. For your reference, the Tribal Consultation Opportunity Letter and Supplement can be found at the link below.

<https://tcots.epa.gov>

* Required

1. First and Last Name *

2. Email Address *

Next

Q&A Session

Please continue typing your questions into the “Questions” box.

If you are joining via phone, you can email your question to WebcastInfo@cadmusgroup.com

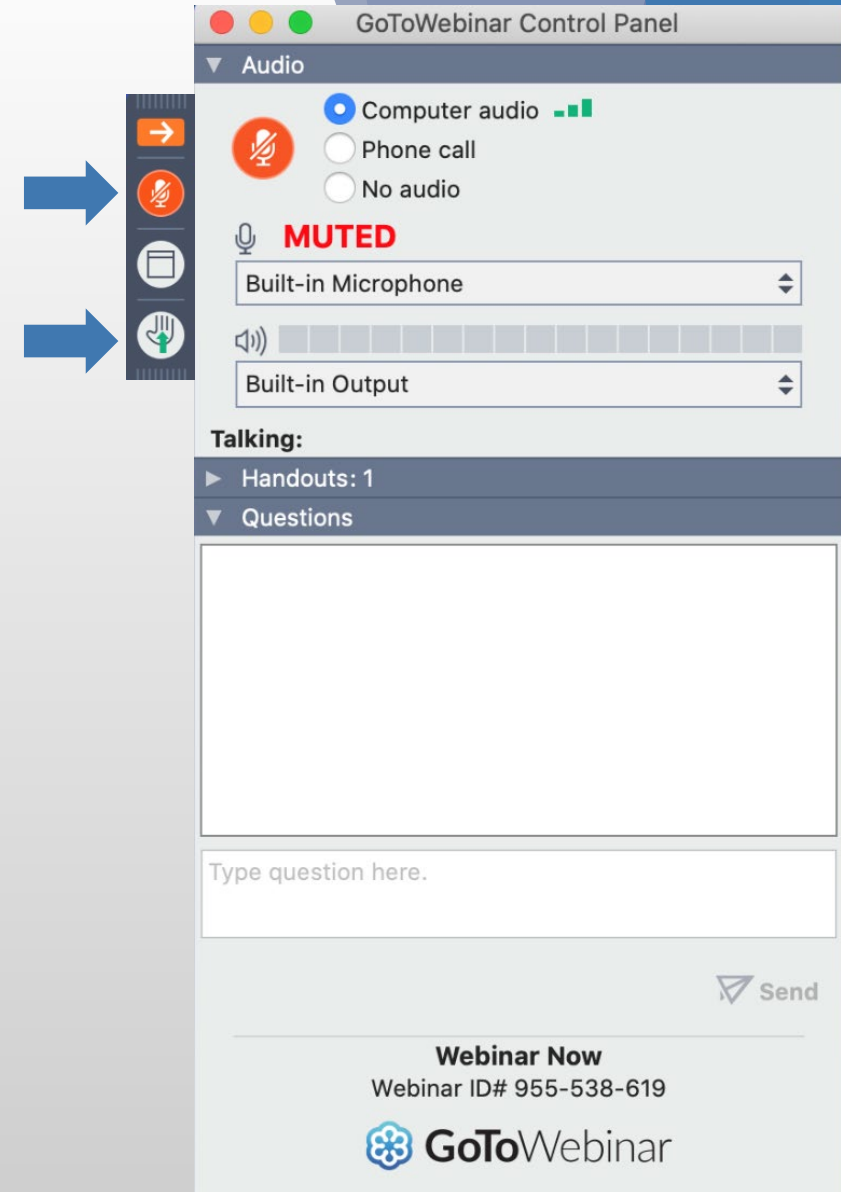
Comment from Tribal Representatives

To request to unmute:

1. Click the “raise hand” button
2. When we call on you, click the orange “unmute” button to speak

If you are joining via phone, you can email your comment to

WebcastInfo@cadmusgroup.com



Next Steps

- ▶ A Q&A document will be developed and distributed
- ▶ Work group is on hold during this first 60-day comment period
- ▶ Work group will collect, compile, and respond to comments
- ▶ Will be establishing sub-work groups to prepare for revisions after completion of first comment period
 - ▶ Opportunity for tribal representatives to participate on some of the sub-work groups (more information to come)
- ▶ A draft revised Guidance will be made available for comment during the second comment period (Fall 2021)

Thank You!

For more information

Visit EPA's Tribal Consultation
Opportunities Tracking
System (TCOTS)

<https://tcots.epa.gov>

Contact information

Jennifer Wintersteen

Wintersteen.Jennifer@epa.gov

(406) 457-5006