



REGION 6

DALLAS, TX 75270

May 27, 2026

TRANSMITTED VIA EMAIL

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Re: EPA Action on the Oklahoma 2024 Clean Water Action Section 303(d) List

Dear Director Russell:

Thank you for the February 4, 2026, electronic submission of the State of Oklahoma's 2024 Clean Water Act Sections 303(d) and 305(b) Integrated Report and list of water quality limited segments through the online Assessment and Total Maximum Daily Load Tracking and Implementation System. The U.S. Environmental Protection Agency reviewed the submission and supporting documentation and determined that the 2024 Section 303(d) list meets the requirements of the Clean Water Act and the EPA's implementing regulations. By this action, the EPA approves Oklahoma's 2024 Section 303(d) list of water quality limited segments and associated pollutants still needing total maximum daily loads and the associated priority rankings for development of total maximum daily loads. A detailed discussion of the EPA's action is included in the Record of Decision document enclosed with this letter.

The EPA's action regarding the State of Oklahoma's 303(d) list does extend to waterbodies that are within certain areas of Indian Country as defined in 18 USC 1151 pursuant to the EPA's approval of the State's request to administer its 303(d) program in these areas under Section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users ("SAFETEA"). However, the list does not extend to other waterbodies, or portions of waterbodies, within certain areas of Indian country that were excluded from the State's request and the EPA's approval as described below. The EPA is taking no action to approve or disapprove the State's 303(d) list with respect to these excluded waters, or portions of waters. For more information, please refer to the Record of Decision document included in the enclosure.

The EPA Region 6 looks forward to continuing to work closely with the Oklahoma Department of Environmental Quality on future 303(d) lists and other program activities. Thank you again for your efforts in developing Oklahoma's 2024 Section 303(d) list. If you have any questions, please contact me at (214) 665-8138.

Sincerely,

Troy C. Hill, P.E.
Director
Water Division

Enclosure: State of Oklahoma 2024 Section 303(d) List Record of Decision

cc: Joe Long, Environmental Programs Manager, ODEQ
Nicole Newcomer, Environmental Programs Specialist, ODEQ

State of Oklahoma 2024 Section 303(d) List Record of Decision

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1. Introduction

This document sets forth the U.S. Environmental Protection Agency's (EPA) reasoning for approving the State of Oklahoma's 2024 Clean Water Act (CWA) Section 303(d) list ("303(d) list"). The EPA received the State of Oklahoma's 2024 303(d) list on February 4, 2026, through email and via upload to the EPA's Assessment, Total Maximum Daily Load (TMDL) Tracking and implementation System (ATTAINS), which is the EPA's electronic system for receiving and tracking 303(d) submissions.¹

The EPA has conducted a complete review of the state's 2024 303(d) list and supporting documentation and information, including changes from the previous 303(d) list. The 303(d) list is located in Appendix C of the state's Integrated Report submission which was uploaded to ATTAINS. Based on this review, the EPA has determined that the state's 303(d) list of water quality-limited segments (WQLSs)² still requiring TMDLs (i.e., Category 5 of the state's Integrated Report (IR)) satisfies the requirements of Section 303(d) of the CWA and the EPA's implementing regulations. Therefore, the EPA hereby approves the State of Oklahoma's 2024 303(d) list.

Integrated Report Categories

Category 1: All designated uses are supported, and no use is threatened.

Category 2: Available data and/or information indicate that some, but not all of the designated uses are supported.

Category 3: There is insufficient available data and/or information to make a use support determination.

Category 4: One or more designated uses are impaired or threatened but establishment of a TMDL is not required for the particular cause.

Category 5: Available data and/or information indicate that at least one designated use is not being supported or is threatened, and a TMDL is needed.

Although the State of Oklahoma's IR describes the status of all of the state's waters, the EPA is only acting on the waters listed in Category 5 of the IR, which is the State of Oklahoma's 303(d) list.

The EPA's action regarding the State of Oklahoma's 303(d) list does extend to waterbodies that are within certain areas of Indian country as defined in 18 USC 1151 pursuant to the EPA's approval of the State's request to administer its 303(d) program in these areas under Section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users ("SAFETEA").³ However, the list does not extend to other waterbodies, or portions of waterbodies, within certain areas of Indian country that were excluded from the State's request and the EPA's approval as described below. The EPA is taking no action to approve or disapprove the State's 303(d) list with respect to these excluded waters, or portions of waters. For more information regarding impacts to Indian country, please see Section G of this document.

¹ ATTAINS data is publicly accessible via the EPA's How's My Waterway online tool and ATTAINS web and geospatial services. For more information, see <https://www.epa.gov/waterdata/get-data-access-public-attains-data>.

² The EPA uses the term, WQLS, to reflect the combination of a water segment and an applicable WQS that is not attained or is threatened. For example, if a segment is not meeting three applicable WQSs then there are three WQLSs for that segment.

³ Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users, Pub. L. 109-59, 119 Stat. 1144 (August 10, 2005), <https://www.govinfo.gov/content/pkg/PLAW-109publ59/pdf/PLAW-109publ59.pdf>.

2. The EPA’s Analysis of Oklahoma’s Submission

Section 303(d)(1) of the CWA and the EPA’s implementing regulations at 40 CFR 130.7 require states, territories, and authorized Tribes (herein referred to as “states”) to identify waters for which effluent limitations required by CWA Section 301(b)(1)(A) and (B) are not stringent enough to implement any applicable water quality standard (WQS). States need not identify on their lists waters where the following controls are adequate to implement applicable standards: 1) technology-based effluent limitations required by the Act, 2) more stringent effluent limitations required by state or local authority, and 3) other pollution control requirements required by state, local, or federal authority. 40 CFR 130.7(b)(1) and (2). CWA 303(d) lists must identify WQLSs still requiring TMDLs. 40 CFR 130.7(b). The definition of “water quality limited segment” in 40 CFR 130.2(j) includes any segment where it is known that water quality does not meet applicable WQSs (referred to as “impaired waters”), and any segment that is not expected to meet applicable WQSs (referred to as “threatened waters”), “even after the application of the technology-based effluent limitations required by” the Act. The term “applicable WQSs” refers to those WQSs established under Section 303 of the Act, including numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements. 40 CFR 130.7(b)(3). An impaired or threatened water must be on the 303(d) list and requires a TMDL unless the state can demonstrate that no pollutant(s) causes or contributes to the impairment⁴ or one or more of the three types of requirements described earlier in this paragraph become stringent enough to implement applicable WQSs. In addition, in developing their CWA 303(d) lists, states must meet several procedural, submission, and content requirements as described in this decision document.

States must submit their 303(d) lists to the EPA on April 1 of every even-numbered year. 40 CFR 130.7(d)(1). The EPA must approve or disapprove the 303(d) list not later than 30 days after submission. The EPA approves a list only if it meets the requirements of 40 CFR 130.7(b). 40 CFR 130.7(d)(2). If the EPA approves the listing(s), the state must incorporate the listing(s) into its current Water Quality Management (WQM) plan. If the EPA disapproves a listing decision(s), the EPA must, not later than 30 days after the date of such disapproval, identify waters for inclusion on the 303(d) list. The EPA then must promptly issue a public notice seeking comment on the listing(s). After considering public comment and making any revisions the EPA deems appropriate, the EPA must transmit the listing(s) to the state, and the state must incorporate the listing(s) into its WQM plan. Id.

The statutory and regulatory requirements, and the EPA’s review of the state’s compliance with the requirements, are described in detail in this document. To the extent that any EPA-approved listing decisions are unchanged from prior approved 303(d) list actions, the EPA incorporates the reasoning of those previous list actions unless otherwise noted.

A. Supporting documentation for making listing determinations

The EPA regulations at 40 CFR 130.7(b)(6) require states to include, as part of their submissions to the EPA, documentation to support the state’s determination to include or not include waters on its 303(d) list. Such documentation must include, at a minimum, the information discussed in the subsections below.

⁴See CWA Sections 303(d)(1)(A) and 303(d)(1)(C); 40 CFR § 130.7(b)(4); 2006 Integrated Reporting Memorandum, page 60; 2024 Integrated Reporting Memorandum, pages 18-19. EPA Integrated Reporting Memoranda may be found at <https://www.epa.gov/tmdl/integrated-reporting-guidance-under-cwa-sections-303d-305b-and-314>.

i. Description of the methodology used to develop the 303(d) list. 40 CFR 130.7(b)(6)(i).

The EPA regulations at 40 CFR 130.7(b)(6) require states to include a description of the methodology used to develop the 303(d) list.⁵ The EPA does not approve or disapprove assessment methodologies. Instead, in acting on CWA 303(d) lists, the EPA evaluates whether the state, territory, or authorized tribe met listing requirements in determining whether applicable WQSs are met and included waters requiring TMDLs on its 303(d) list. 2024 Integrated Reporting Memorandum (IR Memo) at 15.

The EPA finds that the State of Oklahoma has provided a description of its methodologies used for determining whether its waters are achieving the state's WQSs, satisfying the regulatory requirement to provide a "description of the methodology used to develop the list." 40 CFR 130.7(b)(6)(i). The methods can be found in the "Assessment Methodology" section of the state's 2024 IR, which begins on page 35. The EPA considered the state's methodology as part of its review of the state's 303(d) list.

ii. Description of the data and information used to identify waters. 40 CFR 130.7(b)(6)(ii).

The EPA regulations at 40 CFR 130.7(b)(6)(ii) require states to provide a description of the data and information used to identify waters, including a description of the data and information used by the state as required by 40 CFR 130.7(b)(5). The EPA finds that the State of Oklahoma has provided a description of the data and information that it assembled and evaluated. 40 CFR 130.7(b)(6)(ii). A description of the sources of data can be found in the "Synopsis" section of the state's 2024 IR, on page 8, and a description of the general data requirements can be found in the "Data Requirements" section, beginning on page 35. The EPA has considered the state's description as part of its review of the state's 303(d) list.

iii. A rationale for any decision to not use any existing and readily available data and information for any one of the categories of waters as described in 40 CFR 130.7(b)(5). 40 CFR 130.7(b)(6)(iii).

The EPA regulations at 40 CFR 130.7(b)(6)(iii) require states to provide a rationale for any decision to not use any existing and readily available data and information for any one of the categories of waters as described in 40 CFR 130.7(b)(5). 40 CFR 130.7(b)(6)(iii). The EPA evaluates whether a state provides a technical, science-based rationale for decisions not to use data or information in developing the list.⁶ The State of Oklahoma provided a rationale for not using certain existing and readily available data and information to develop its list. 40 CFR 130.7(b)(6)(iii).

iv. Other reasonable information requested by the Region.

The EPA regulations at 40 CFR 130.7(b)(6)(iv) require states to provide any other reasonable information requested by the EPA. Upon request by the EPA, each state must demonstrate good cause for not including a water or waters on the list. Consistent with 40 CFR 130.7(b)(6)(iv), good cause includes, but is not limited to:

- assessment and interpretation of more recent or accurate data in the record demonstrate that the applicable WQS is met;
- more sophisticated water quality modeling;
- flaws in the original analysis that led to the water being listed;
- changes in conditions.

⁵ The EPA's Integrated Reporting Memoranda provide more information on assessment methods. See 2006 Integrated Reporting Memorandum at page 29.

⁶ 2024 IR Memo at FN 15 (citing court cases); 2006 IR Memo at page 37 (EPA evaluates whether there is a "reasonable technical rationale").

Good cause may also include, for example (see, e.g., 2006 IR Memo at pages 58-59):

- existence of an EPA-approved or EPA-established TMDL;
- demonstration that the impairment is being addressed through more stringent effluent limits or other pollution control requirements; or
- demonstration that the impairment is not caused by a pollutant.

The EPA finds that the State of Oklahoma provided additional reasonable information when requested by the EPA. When requested by the EPA, the state provided data and justifications for waters being delisted from the 2024 303(d) list. This is described further in Section D.ii of this document. The data that the state provided is available as part of the administrative record. The EPA has considered this information as part of its review of the state's 303(d) list.

B. Public participation

EPA regulations require states to provide for public participation in the development of their 303(d) lists, including describing their process for involving the public and other stakeholders in their Continuing Planning Processes (CPPs). 40 CFR 130.7(a). States are expected to demonstrate how they considered public comments in their final decisions. The EPA considers the public comments and state responses as appropriate in its actions on 303(d) lists in determining whether a state has provided reasoned support for its submission. See 2006 IR Memo at 25-26.

The public notice was posted on May 9, 2025, on the ODEQ's website,⁷ and was distributed via email and published in the newspaper, *The Journal Record*.⁸ The 30-day public comment period opened on May 9, 2025, and closed on June 11, 2025, at 4:30 pm. The state hosted a hybrid virtual and in-person public meeting on June 4, 2025, at 2:00 pm.

On August 1, 2023, the State of Oklahoma sent out a notice titled "Public Solicitation for Water Quality Information for the Water Quality in Oklahoma 2024 Integrated Report". This notice was posted on the ODEQ's website and distributed via mail and email. The notice requested that members of the public send water quality-related data and information to be considered for the development of the 2024 303(d) List and IR. The state provided a 30-day window to submit data, which ended on September 1, 2023, at 4:30 pm. A copy of the notice can be found on page 66 of the 2024 IR.

The state's 2024 303(d) list submission to the EPA included a full list of public comments that were received and the state's responses to those comments. The public comments and responses can be found in Appendix J of the 2024 IR.

The State of Oklahoma received comments on Oklahoma's Draft 2024 IR from the Quapaw Nation, the Oklahoma Farm Bureau, and from citizens concerned with water quality of the Arkansas River in Tulsa, Oklahoma. The Quapaw Nation submitted comments regarding waterbodies in northeast Oklahoma and requested that "Beaver/Rock Creek" (OK121600070060_00) be added to the 2024 303(d) list. The ODEQ added this waterbody to the 303(d) list as the Nation requested. The state received multiple

⁷ Oklahoma Department of Environmental Quality, *PUBLIC NOTICE*. Page 66.

https://oklahoma.gov/content/dam/ok/en/deq/documents/water-division/2024_IR_Public-Notice.pdf.

⁸ "(MS4042168) PUBLIC NOTICE", *The Journal Record* (Oklahoma City, OK), May 13, 2025, <https://journalrecord.com/public-notice/search-detail/?indexgroup=business&detail=4046691>.

comments that expressed support for the state's inclusion of the Arkansas River, in Tulsa, (OK120420010010_10) on the 2024 303(d) list for the impairment to its Primary Body Contact Recreation use.

The EPA concludes the State of Oklahoma provided an opportunity for public comment on its 303(d) list consistent with 40 CFR 130.7(a). The state followed the process for public participation as described in Chapter 4 of its 2012 CPP⁹, satisfying requirements of 40 CFR 130.7(a). In addition, the state demonstrated how it considered public comments in its final decision.

C. Assembling, evaluating, and using data and information

i. Assemble and evaluate data and information

States must assemble and evaluate all existing and readily available water quality-related data and information to develop the CWA 303(d) list. 40 CFR 130.7(b)(5). In reviewing a state's 303(d) list submission, the EPA considers whether the state has satisfied the requirements under 40 CFR 130.7(b)(5) to assemble and evaluate all existing and readily available water quality-related data and information when developing their CWA 303(d) list. This includes, at a minimum, all existing and readily available data and information about the following categories of waters: (1) waters identified as partially meeting or not meeting designated uses, or as threatened, in the state's most recent CWA Section 305(b) report; (2) waters for which dilution calculations or predictive modeling indicate non-attainment of applicable WQSs; (3) waters for which water quality problems have been reported by local, state, and federal agencies; members of the public; and academic institutions (these organizations and groups should be actively solicited for research they may be conducting or reporting); and (4) waters identified as impaired or threatened in any CWA Section 319 nonpoint source assessment submitted to the EPA. In addition to these minimum categories, states are required to assemble and evaluate any other water quality-related data and information that is existing and readily available. 40 CFR 130.7(b)(5).

The EPA has reviewed the state's submission, including the state's description of the data and information that it assembled and evaluated and finds that the state satisfied the requirement to assemble and evaluate all existing and readily available water quality-related data and information to develop its list under 40 CFR 130.7(b)(5).

As stated above, on August 1, 2023, the State of Oklahoma sent out a notice titled "Public Solicitation for Water Quality Information for the Water Quality in Oklahoma 2024 Integrated Report". This notice was posted on the ODEQ's website and distributed via mail and email. The notice requested that members of the public send water quality-related data and information to be considered for the development of the 2024 303(d) List and IR. The state provided a 30-day window to submit data, which ended on September 1, 2023, at 4:30 pm. A copy of the notice can be found on page 66 of the 2024 IR.

The state of Oklahoma utilized data from multiple sources for the development of the 2024 IR and 303(d) list, which is summarized in the "Synopsis" section of their 2024 IR, on page 8. Only data collected prior to April 30, 2023, was utilized for the report. Data for the report was collected by the

⁹ Oklahoma Department of Environmental Quality. *Continuing Planning Process – 2012 Version*. Chapter 4. 2012. <https://oklahoma.gov/content/dam/ok/en/deq/documents/water-division/2012-OK-CPP.pdf>.

Oklahoma Water Resources Board (OWRB), Oklahoma Conservation Commission (OCC), Oklahoma Department of Environmental Quality (ODEQ), Oklahoma Corporation Commission (Corp Comm), Oklahoma Water Survey at the University of Oklahoma, United States Geological Survey (USGS), City of Tulsa, City of Oklahoma, and the Tribal Nations.

ii. Use of data and information

States must use existing and readily available water quality-related data and information in developing the CWA 303(d) list, 40 CFR 130.7(b)(5), unless they provide a rationale not to use them, 40 CFR 130.7(b)(6)(iii). The state's IR provided a description of the state's use of data. See state's 2024 IR, page 8. The EPA evaluates whether a state provides a technical, science-based rationale for decisions not to use data or information in developing the list.¹⁰ The State of Oklahoma provided a rationale for not using certain existing and readily available data and information to develop its list. 40 CFR 130.7(b)(6)(iii).

D. Identification of waters for inclusion on the 303(d) list

As noted above, EPA regulations at 40 CFR 130.7(b)(6) require states to provide documentation to support the state's determination to include or not include its waters on the 303(d) list. The EPA has reviewed the state's submission, including its assessment methodology and additional supporting documentation for its listing determinations.

i. Approval of identification of waters for inclusion on the 303(d) list

The EPA determined that the waters included on the State of Oklahoma's 2024 303(d) list are listed consistent with the CWA 303(d) and 40 CFR 130.7 requirements, and the EPA is approving all waters the state included on the 303(d) list. The EPA's approval of the 303(d) list is based on the EPA's review of the state's submission including the description of the data and information concerning individual waters, documentation to support decisions to rely or not rely on particular data and information, and a description of how data and information were applied to make WQS attainment status determinations. The EPA also considered applicable public comments and responses. The state's 2024 303(d) list of impaired waters can be found in full in Appendix C of the 2024 IR.

ii. Approval of exclusion of waters identified on previous 303(d) lists

The State of Oklahoma's 2024 303(d) list submission delists 111 WQLSs. In reviewing the state's 2024 303(d) list, the EPA carefully considered the state's decision to remove these WQLSs from the 303(d) list submission, its justification for those removals, any applicable public comments and responses, and the methodology used in making those decisions. The EPA concludes that the state's decisions to remove WQLSs previously identified as part of the 303(d) list are reasonable, based on all existing and readily available water quality-related data and information, applicable WQSs, and sound science, and the removal decisions are properly justified.

Consistent with the EPA's regulations at 40 CFR 130.7(b), the state appropriately moved 32 WQLSs to Category 4a of the IR where an EPA-approved TMDL is now in place. The state delisted 72 WQLSs where data showed that the applicable WQS associated with the impairment were now being attained.

¹⁰ See FN 6.

E. Identification of pollutants causing or expected to cause a violation of applicable WQSs (40 CFR 130.7(b)(4))

As part of their CWA 303(d) lists, states are required to identify the pollutants causing or expected to cause violations of the applicable WQSs. 40 CFR 130.7(b)(4). This includes a pollutant that by itself or in combination with other pollutants causes or is expected to cause violations of applicable WQSs. States must identify on their 303(d) lists all pollutants that are known to be causing or are expected to cause violations of the applicable WQSs. 40 CFR 130.7(b)(4), see also, 2024 IR memo on pages 17-19. For listed waters, if the available data and information do not support identification of pollutants causing or expected to cause the exceedance, list submissions would identify the pollutant as “unknown.”

In the sections “Causes of Non-Attainment” and “Sources of Non-Attainment” from the state’s 2024 IR, page 57, the state describes how it addresses potential pollutants causing or expected to cause impairments to waterbody designated uses. For waters where the available data and information did not support identification of pollutants causing or expected to cause the exceedance, the state indicated this through application of a “Source Unknown” code in ATTAINS. The EPA encourages the state to reassess and potentially refine that determination when additional data and information become available. See e.g., 2024 IR Memo.

F. Priority ranking and two-year TMDL development (40 CFR 130.7(b)(4))

The CWA and the EPA’s regulations, require states to establish a priority ranking for the waters on their CWA 303(d) list “taking into account the severity of the pollution and the uses to be made of such waters.” CWA Section 303(d)(1)(A); 40 CFR 130.7(b)(4). The regulations at 40 CFR 130.7(b)(4) provide that this priority ranking must include “all listed water quality limited segments still requiring TMDLs” and further require that states submit their priority rankings to the EPA as a component of their biennial CWA 303(d) lists. Additionally, the regulations require that the priority ranking identify the waters targeted for TMDL development in the next two years. 40 CFR 130.7(b)(4).

The State of Oklahoma’s description of how all listed WQLSs are prioritized for TMDL development, including identification of waters targeted for TMDL development in the next two years, is included within the state’s 303(d) list submission. In addition, the State of Oklahoma described how its priority ranking took into account the severity of pollution and the uses to be made of such waters.

The State of Oklahoma’s prioritization framework is outlined in the “Prioritization of TMDL Development” section of its 2024 IR, starting on page 63. Waters in Category 5, which make up the state’s 303(d) list, are grouped and ranked by eleven-digit hydrologic unit code (HUC11) watershed. Within each HUC11 watershed, Category 5 waters receive a priority ranking from 1 to 4 for TMDL development, based on three main factors: 1) the vulnerability of waters to degradation; 2) the risks to public health; and 3) the threat to aquatic life. Waters that receive a priority ranking of 1 are targeted for TMDL development in the next two years.

The outline below identifies the criteria used by the state for assigning priority rankings. Please refer to the “Prioritization of TMDL Development” section of the 2024 IR for a full description of the state’s prioritization process.

- 1) Vulnerability of waterbodies to degradation

- a) Percent Stream Length/Lake Area Impaired
- b) Pollutant Priority Score (Pairwise pollutant comparison rating)
- c) Pristine Waters
 - i) Scenic Rivers
 - ii) Outstanding Resource Waters
 - iii) High Quality Waters
 - iv) Sensitive Water Supplies
- d) EQIP Local Emphasis Area
- 2) Risks to public health
 - a) Public Water Supply Customers
 - b) Public Water Supply Intakes
- 3) Threat to aquatic life and other water-dependent wildlife
 - a) Presence of threatened and endangered species.
 - b) Area of Waters of Recreational and/or Ecological Significance (Appendix B)
 - c) Wetland Area
 - i) Presence of USFWS Priority Wetlands
 - ii) Change in Wetland Area

The EPA's review of the State of Oklahoma's submission finds that the state established a priority ranking for all waters on the CWA 303(d) list, taking into account the severity of the pollution and the uses to be made of such waters.¹¹ In addition, the state identified the waters targeted for TMDL development in the next two years.

G. Impacts to Waters in Indian Country and Tribal Consultation

i. Waters in Indian Country

Following the U.S. Supreme Court decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020),¹² the Governor of the State of Oklahoma requested approval under Section 10211(a) of SAFETEA to administer the State's federally approved environmental regulatory programs in certain areas of Indian country (as defined by 18 USC 1151) that were previously approved by the EPA for areas outside of Indian country.

The EPA approved the State of Oklahoma's SAFETEA request to administer all of the State's EPA-approved environmental regulatory programs, including the CWA Section 303(d) program, in requested areas of Indian country. The State's request, which was approved by the EPA, excluded certain areas of Indian country lands, including rights-of-way running through the same, that:

- (1) qualify as Indian allotments, the Indian titles to which have not been extinguished, under 18 USC 1151(c);
- (2) are held in trust by the United States on behalf of an individual Indian or Tribe; or

¹¹ In addition to these two statutory factors, states may also consider other factors when prioritizing TMDLs. See page 57 of Fed. Reg. 33040, 33,044-45 (July 24, 1992).

¹² *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020), https://www.supremecourt.gov/opinions/19pdf/18-9526_9okb.pdf.

- (3) are owned in fee by a Tribe, if the Tribe (a) acquired that fee title to such land, or an area that included such land, in accordance with a treaty with the United States to which such Tribe was a party, and (b) never allotted the land to a member or citizen of the Tribe.

The areas described above are collectively referred to as “excluded Indian country lands”.

The EPA’s approval of the State of Oklahoma’s SAFETEA request expressly provided that to the extent the EPA’s prior approvals of Oklahoma’s environmental programs excluded Indian country, any such exclusions are superseded for the geographic areas of Indian country covered by the SAFETEA request approval. The approval of the State of Oklahoma’s SAFETEA request also provided that future revisions or amendments to the State of Oklahoma’s approved environmental regulatory programs would extend to the covered areas of Indian country, without any further need for additional requests under SAFETEA.

As explained above, the EPA’s action regarding the State of Oklahoma’s 303(d) list will only apply in areas of Indian country that are covered by the state’s SAFETEA request approval. The EPA is approving the state’s 303(d) list as to waters within the areas of Indian country that were covered under EPA’s approval of Oklahoma’s SAFETEA request. However, the EPA is taking no action on the waters, or portions of waters, on the list that are located within the excluded Indian country lands.

ii. [Consultation and Coordination between the EPA and Tribes](#)

The EPA’s approval of the State of Oklahoma’s 303(d) List will apply to certain areas of Indian country throughout Oklahoma as discussed above, and therefore has tribal implications as specified in E.O. 13175 (65 FR 67249, November 9, 2000). However, this action will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. This action will not impose substantial direct compliance costs on federally recognized tribal governments because no actions will be required of tribal governments. This action will also not preempt tribal law as no Oklahoma tribe implements a CWA 303(d) regulatory program and thus does not have applicable or related tribal laws.

Consistent with the *EPA Policy on Consultation with Indian Tribes* (December 7, 2023),¹³ it is the EPA’s policy to consult on a government-to-government basis with federally recognized Tribal governments when the EPA’s actions and decisions may affect Tribes. To promote coordination and consultation, all Tribes that may be affected by the EPA’s upcoming action on the state’s CWA 303(d) list were identified, offered the opportunity to engage in consultation with the EPA, and notified when the state’s list submission was received by the EPA for action.

On August 27, 2025, the EPA sent a formal consultation offer letter via email to all Tribes in Oklahoma. The letter stated that Tribes were invited to engage in government-to-government consultation with the EPA regarding the EPA’s action on Oklahoma’s upcoming list submission. The window to initiate consultation would remain open as of the date of the letter and would close 14 days after the EPA received the state’s 303(d) list submission for action. The consultation offer was also posted on the EPA’s Tribal Consultation Opportunities Tracking System (TCOTS) website.

¹³ U.S. Environmental Protection Agency, *EPA Policy on Consultation with Indian Tribes*, December 7, 2023. www.epa.gov/system/files/documents/2023-12/epa-policy-on-consultation-with-indian-tribes-2023.pdf

On September 17, 2025, the EPA hosted an informational webinar that provided an overview of the state of Oklahoma's draft 2024 303(d) list and IR, and the EPA's review process. Invitations to the webinar were sent to all Tribes in Oklahoma. The webinar was attended by members and/or representatives of Chickasaw Nation, Choctaw Nation of Oklahoma, Eastern Shawnee Tribe of Oklahoma, Kaw Nation, Muscogee (Creek) Nation, Ottawa Tribe of Oklahoma, Pawnee Nation, Peoria Tribe of Indians of Oklahoma, Iowa Tribe of Oklahoma, and Quapaw Nation.

In addition, the EPA held calls with the following Tribal Nations regarding the State of Oklahoma's 2024 303(d) list:

- On September 3, 2025, the EPA received a request for government-to-government consultation from the Quapaw Nation. A consultation meeting was held with the Nation on October 2, 2025.
- On September 19, 2025, the EPA contacted the Choctaw Nation, asking if they were interested in initiating consultation, which they accepted. A consultation meeting was held with the Nation on September 25, 2025.
- On December 4, 2025, the EPA received a message from the Chickasaw Nation that requested additional information on issues regarding the State of Oklahoma 303(d) List. A consultation meeting with the Nation was held on December 17, 2025.

The EPA coordinated with Tribes to be responsive to requests for information, receive input, and discuss whether and how to engage in government-to-government consultation.

On February 4, 2026, when the State of Oklahoma's 2024 303(d) list submission was received for approval, the EPA notified Tribal Nations via email on the same day. This email notification informed Tribes that the list had been submitted, and that the EPA would have 30 days to act on the submission. If Tribes were interested in initiating government-to-government consultation with the EPA regarding Oklahoma's 303(d) list, they had until February 18, 2026, 14 days after list submission, to do so. This timeline was consistent with prior communications from the EPA. The EPA attached copies of the State of Oklahoma's list submission and associated documents for Tribes to review. No further requests for consultation were received.

3. Summary of the EPA's decision on the 2024 CWA 303(d) list

After careful review of the State of Oklahoma's final CWA 303(d) list submission package, the EPA has determined that the State of Oklahoma's 2024 303(d) list meets the requirements of Section 303(d) of the CWA and the EPA's implementing regulations. Therefore, the EPA approves the State of Oklahoma's 2024 303(d) list.