

**NATIONAL TRIBAL WATER COUNCIL COMMENTS  
FY 2020-2021 NATIONAL WATER PROGRAM GUIDANCE**

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><b>Section I: Explanation of Key Changes</b></p> <p><i>General comment - Under the Agency’s streamlining outreach effort, the NTWC identified thirteen (13) core tribal measures that are vital for tracking tribal water program results and management activities. Each of these priorities were categorized and ranked for consideration as core measures under the ELMS process. None of the tribal measures identified by the NTWC were considered as core measures and eleven (11) of the thirteen (13) tribal specific measures have been removed from the draft NWPG. Of the remaining three measures that mention tribes or Indian country, the two (2) related to tracking the backlog of NPDES permits did not rank on any tribal priority list, including the NTWC’s listing.</i></p> <p><i>The NTWC is particularly concerned of the removal of measures related to tribal access to safe drinking water and basic sanitation, as well as tribal priorities related to monitoring, protecting and improving the quality of tribal waters. We encourage the Office of Water (OW) to reconsider the removal of these extremely important tribal measures and reinstitute some of the tribal measures which the NTWC identified as “Absolutely Essential” and “Highly Significant” (SDW-22, SDW-SP3, WQ-23, WQ-24, WQ-SP14a, and WQ-SP14B).</i></p>	<p><i>Page 1 of NWPG</i></p>	<p><i>OW</i></p>	<p><i>National Tribal Water Council (NTWC)</i></p>

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<p><b><u>Section II: Operationalization of Strategic Measures</u></b>  <i>“Key Strategies” are identified to implement the strategic measures to reduce community water system non-compliance with health-based standards. The phrase that identifies tribal strategies needs further clarification. Specifically, the portion of the sentence which reads...“to included implementation of <u>disparate</u> tribal drinking water programs.” The NTWC understands the challenges of implementing tribal drinking water programs, perhaps word “distinct” would better service the definition.</i></p>	Page 2 of NWPG	OW	NTWC
<p><b><u>Priority Actions for EPA/State/Tribal collaboration</u></b>  <i>General comment -The strategic measure to reduce the number of square miles of watershed with surface water not meeting standards by 37,000 square miles. Despite strong collaboration between Federal, State and Tribal Partnerships, the NTWC believes that this measure would be difficult to achieve given the current effort underway to narrow the definition of jurisdictional waters.</i></p>	Page 4 of NWPG	OW	NTWC
<p><b><u>Address Nonpoint Source (NPS) Pollution</u></b>  <i>General comment- The NTWC support all the strategies identified in addressing nutrient pollution impacting our nation’s waters, including reinstating funding to the tribal NPS 319 program in the FY 2020 President’s budget.</i></p>	Page 4 of NWPG	OW	NTWC

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<p><b><u>Focus on Rule of Law and Process</u></b>  <i>General comment – The NTWC recommends that the 404 program assumption language which clarifies which waters can be assumed under approved state jurisdiction explicitly require that permit processes within ceded territory not present an onerous burden on tribes’ exercise of treaty-protected rights, including activities designed to conserve and protect those rights.</i></p>	<p>Page 4 of NWPG</p>	<p>OW</p>	<p>NTWC</p>
<p><b><u>Communicate with Partners-</u></b>  <i>Comment recommendation – include continual engagement with the National Tribal Water Council and National Tribal Caucus as organizations that assist the agency, states, and tribes in environmental matters affecting tribal jurisdictions.</i></p>	<p>Page 4 of NWPG</p>	<p>OW</p>	<p>NTWC</p>
<p><b><u>Program Specific Guidance</u></b>  <i>Comment recommendation – The last sentence of the first paragraph, referencing reliance on ETEPs to assist in conducting federal environmental program activities in Indian country, including direct implementation and technical and financial assistance, should be removed.</i>  <i>If the Agency wants to broaden its reliance on ETEPs to define the relationship between various offices including OW and Tribes, it should proceed in an action separate from the NPMG process, after thorough and meaningful government-to-government consultation has occurred.</i></p>	<p>Page 6 of NWPG</p>	<p>OW</p>	<p>NTWC</p>