Criteria (NPDES Permit Program): Instructions and Explanation Guide

QUALITY CRITERIA[1]

1. *PQR action items adequately addressed.*
   This criterion relates to category 1 action items from EPA Region 9 (EPA R9) PQR report, which for CA is available at https://www.epa.gov/sites/production/files/2015-09/documents/pqr_california_report.pdf. California's last PQR was completed in 2014, and EPA R9 reviewed the State Board and Regional Boards 2, 4, 5, and 9.

   The outstanding category 1 action items also are milestones in the 106 Workplan. These include training for antidegradation and antibacksliding considerations, training on developing and documenting compliance schedules, and ensuring consistency of permitting and data management procedures among the Regional Boards.

2. *RPA results in WQBELs developed consistent with water quality standards.*
   EPA R9 will evaluate whether the appropriate standards are implemented in permits (i.e. Basin plan, CTR, Ocean plan, etc.) as well as how WQBELs are expressed (i.e. total recoverable concentrations for metals, limits expressed in concentration and mass as well as monthly and daily max limits, as appropriate). EPA R9 will use the section III of its central tenants document as a guide, available at https://www.epa.gov/sites/production/files/2015-09/documents/tenets.pdf.

3. *Wasteload allocations (WLAs) properly applied to wastewater, stormwater, and industrial permits.*
   EPA R9 notes that TMDLs could be adopted by either the State Board or Regional Board as well as the Agency itself. EPA R9 will review permits to evaluate whether TMDL pollutants have numeric effluent limits and review factsheet language for justification and explanation of how the effluent limit is consistent with WLAs.

4. *RPA conducted for WET and limits established consistent with WQS & monitoring requirements included.*
   EPA R9 will evaluate whether numeric toxicity limits are included in permits and if not, whether monitoring requirements are required. EPA R9 noted in the CA 2014 PQR that most non-ocean permits did not include numeric effluent limits.

5. *Antidegradation and anti-backsliding analyses conducted consistent with WQS and documented in the factsheet.*
   EPA R9 will review factsheets for justification and explanation for whether limits were removed consistent with antidegradation and antibacksliding requirements, including justification and explanation for any site-specific objectives or variances.

6. *Mixing zones calculated properly and in accordance with WQS.*
   EPA R9 will review factsheet language for sample calculations and an explanation.

7. *Compliance schedules established properly and in accordance with WQS.*
   EPA R9 will review permit language to determine whether compliance schedule incorporate action-based interim milestones and included a final WQBEL. EPA R9 will also look for an appropriate justification in the factsheet. Compliance schedules should not be used to provide time for a TMDL or site-specific objective to be finalized. Compliance schedules are also not authorized for NTR or CTR pollutants.

8. *Pretreatment requirements applied appropriately in permits.*
   EPA R9 will use the results from the PQR report, as well as review template language for compliance with 40 CFR 122.42(b); 122.44(j); and 40 CFR 403 requirements.

ADMINISTRATION CRITERIA

9. *Rules reflect Clean Water Act requirements (i.e. E-Reporting, including biosolids use and disposal, SSM Rule, NPDES updates, public notice, dental amalgam, etc.).*
   This criterion applies to both legal requirements (i.e. on the books) as well as implementation. For implementation, EPA R9 will evaluate whether requirements are being implementation through permit template language, statewide policies or plans, or through other means.

10. *NPDES permits are updated when reissued to meet new requirements (i.e. updating WLA-based limit after TMDL approved, updating trash/toxicity/etc. to be in accordance with new policy, etc.).*

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[1] If no permits were issued in the given year, the state will be evaluated based on only administration and issuance criteria.

Permits are updated to reflect new legal or policy requirements. The permit language should have included proper reopeners to allow for the permit to be reopened and modified to update requirements based on newly adopted standards, policies, or updated reasonable potential calculation.

11. *Program adheres to MOA conditions, including providing EPA proper time to review permits and providing appropriate forms and reports to EPA (e.g. biosolids/pretreatment, if applicable).*
This criterion is met if State Board or Regional Boards provide pre-drafts of NPDES permit in accordance with MOA timelines, follows proper public notice procedures, and provides for stakeholder participation. The MOA outlines 30 days upon receipt of a prenotice draft individual permit and 90 days of a prenotice draft general permit.

12. *Permit writers provided with basic and advanced technical training.*
EPA R9 will evaluate this criterion by assessing the amount of training provided either by the State, contractor, or other entity to permit writers during a given year. Any training beyond the week-long permit writer's training will be considered advanced technical training. The main audience for the training needs to be permit writers to count as advanced technical training.

13. *Permit writers able to defend permits petitioned to the State Water Board or litigated in court.*
EPA R9 will evaluate this criterion by assessing the amount of technical support requested (i.e. all contractor written permits, request for EPA R9 legal/technical support) and whether the state addressed all public comments during the public notice period (i.e. administrative record).

ISSUANCE CRITERIA

14. *Permit renewal % current improved from previous two years.*
This criterion evaluates backlog trends and criterion is met if state makes progress in reducing the permit backlog.

15. *Permit renewal % current consistent with national objective (>83%).*
EPA R9 will use the state's annual performance reports, and the 106 reporting to determine whether this criterion is met.

16. *Permit renewal % current consistent with regional objective (>78%).*
Same as number 15 above.

17. *Meets state-proposed and EPA-agreed upon permit issuance 106 workplan commitments and committed priority permits.*
EPA R9 will use its the 106 workplan reports to determine whether this criterion is met. For reporting, the 106 workplan requires that the State Board submits PSTS reports (i.e. permit tracking sheet with updates to annual issuance plan), the number of enrollees under each non-stormwater general permit, and annual list of permits under administrative or judicial appeal. EPA R9 understands that extenuating circumstances such as staff attrition, retirement, vacancies, etc., may affect when and how commitments are fulfilled.

18. *Contractor/In-kind supported permits issued in a timely manner (within approximately 6 months).*
The 106 workplan identifies that contractor/in-kind supported permits are to be proposed for final adoption within approximately 6 months. EPA R9 will consider permit complexity, including whether multiple workshops or hearings were held, amount of public interest/comment, and multiple discharge points/receiving waters if permits are delayed beyond this timeframe.

INNOVATION CRITERIA[1]

The innovation criteria are above and beyond statutory requirements. They provide "extra credit" in that an additional 4 points can be given.

19. *Program demonstrates improvement in receiving water quality as a result of NPDES program (e.g. 303(d) de-listing or any other improvement in receiving water).*

20. *Permit program supports technical, managerial and financial capacity (TMF) of small systems through outreach and training.*

21. *Asset management planning required for wastewater or stormwater permits.*

22. *Permit implements innovative monitoring program (i.e. special studies for CECs, watershed monitoring, etc.).*

23. *Permit writers coordinate with related programs (i.e. TMDLs, enforcement, WDRs, etc.).*

24. *MS4 permits include numeric WLAs as effluent limits.*