State Visit Packet

This packet contains pieces of the Program and Permit Quality Review standard operating procedures that are most useful to the EPA staff conducting the state visit portion of the PQR. It is intended as a resource that can accompany staff on the state visit. This packet contains:

1. PQR Quick Guide
2. Opening interview tips
3. PQR Interview Questions (Advance Questionnaire and Opening Interview Questions)
4. Tips for conducting a file review
5. Preparing for and conducting the close-out interview

In addition to these materials, the following are suggested items to compile for the state visit:

1. Copies of completed checklists for all core review permits
2. The state's answers to the Advance Questionnaire
3. 40 CFR 100-135 (and/or other relevant parts)
4. Clean Water Act
5. The state's water quality standards
6. Any state implementation procedures available

PQR Quick Guide

This PQR Quick Guide identifies the steps in the PQR process in the manner in which they are most commonly performed. The details and flexibilities within the PQR process are outlined in Part IV of this PQR SOP document.

Planning (at least two months prior to state visit)

- Identify PQR lead and any additional staff needed to conduct all elements of PQR
- Prior to conducting any portions of the review, meet internally to walk through the process and planned timing with all personnel in the EPA Region (and EPA Headquarters, if applicable) involved in the review process
- Select one or more Regional Topic Areas to review for the state, if applicable
- Select permits for review
    - ten (10) permits for Core Review (see PQR SOP Part IV, section 3.1)
    - additional permits for National Topic Area reviews (see PQR SOP Attachments G, H, and I)
    - additional permits for Regional Topic Area reviews (see PQR SOP Part IV, section 5.1)
- Send kickoff letter to the state (or equivalent communication such as formal meeting or conference call; *Sample State Informational Letter* is included as PQR SOP Attachment B)
- Send state *PQR Advance Questionnaire* (see PQR SOP Attachment C), and ask for response to be provided with enough time to review prior to the state visit
- Collect information on progress toward completing action items identified in prior PQR (see PQR SOP Part IV, section 2.2)
- Coordinate with state (and EPA Headquarters and/or Regional enforcement, if applicable) to establish dates for state visit

Review permits and fact sheets prior to state visit (desktop reviews)

- Review permits, fact sheets, and any other available background materials using the checklists
- Conduct National Topic Area reviews using materials for each topic (see PQR SOP Attachments G, H, and I)
- Conduct Regional Topic Area reviews (see PQR SOP Part IV, section 5.0), if applicable

State visit

- Review *State Visit Packet* (see PQR SOP Attachment K)
- Conduct initial interview (use *PQR Opening Interview Questions*, see PQR SOP Attachment J)

- Review files for Core Review permits in order to complete remainder of *Core Review Checklist* questions; may review files for National or Regional Topic Area permits if desired
- Conduct exit interview (for tips on conducting exit interview, see PQR SOP Part IV, section 6.4.1 or the *State Visit Packet*, PQR SOP Attachment K)

Report

- Establish a report development timeline to ensure sufficient time for development and review steps. Inform any reviewers (including EPA Headquarters) of anticipated review dates to ensure expedient reviews.
- Draft report using the *Report Template* (see PQR SOP Attachment L)
  - ☐ **Send EPA Headquarters** the draft report. The report must be reviewed by EPA Headquarters prior to sending to the state for review.
- EPA Headquarters reviews draft report and provides comments to Region (approximately 3 weeks)
- EPA Regions incorporate comments from EPA Headquarters
- Provide updated draft report to state for correction of factual inaccuracies
- Address state comments to produce draft final report
  - ☐ **Send EPA Headquarters** the draft final report if EPA Headquarters has requested second review.
- Provide final report to state
  - ☐ **Send EPA Headquarters** the final report.
- **EPA Headquarters posts** review results on the NPDES PQR web page.

If you have any clarifying questions at any point in the process, please contact your PQR coordinator at EPA Headquarters.

Opening Interview Tips

The PQR state visit generally begins with a discussion with state permitting staff and management. Typically, two or three senior permit writers and permitting management are present; TMDL and water quality modeling staff are sometimes present as well. It is important to include state permit writing staff in the interview and not restrict the interview to management-level participation. The purpose of the opening interview is to discuss the background information provided by the state and to walk through their permit development process.

The questions to ask during the interview should follow a general progression, covering topics as broad as the permitting universe and as narrow as the requirements for sufficiently sensitive analytical methods for certain parameters. EPA's list of questions provides a general guide, but the interviewer should acknowledge the interview will address tangential topics not listed explicitly in the interview questions, based on answers given to the questions presented in the list.

While many regional staff are very familiar with state programs, it is important to closely follow the interview questions to the greatest extent possible. Many assumptions are often made about various aspects of the permit development process; however, asking the state to walk through their process can only help the interviewer gain an even better understanding of current practices in the program.

To gain a clearer understanding of the health of the state's NPDES program, detailed and focused questions should be asked as necessary, based on the flow and direction of the interview. Because each permitting program has unique issues, the interviewer may ask questions more specific than those included in EPA's *PQR Advance Questionnaire and Opening Interview Questions*. EPA personnel conducting the interview at the state visit should take careful notes for use in preparation of the PQR report.

Once the interview is complete, regional staff participating in the PQR should have a better understanding of the state's permit development process, as well as any external challenges the state may face in implementing their NPDES program.

PQR Advance Questionnaire

State
Date received by EPA

These questions gather information to help EPA understand the scope, organizational structure, and function of the state's NPDES permitting program. This information will be included in the PQR report only as necessary to provide background and context.

Please feel free to provide additional documentation or attach additional pages as necessary.

1. State's Individual NPDES permit universe *(*Should equal total of 1a, 1b, 1c)*? _____

   a. <u>POTWs</u>

      i. Major _____

      ii. Non-major _____

   b. <u>Non-municipal</u>

      i. Major _____

      ii. Non-major _____

   c. <u>Individual Stormwater</u> (number of permittees) _____

   d. Data accurate as of (date) _____

2. What are the significant industries in the state? _____

   _____

   _____

3. a. List the General Permits administered by the State *(continue list on additional pages as necessary)*

NPDES Permit No.	Permit Name/Category	Number of Permittees

   b. How are NOIs tracked? _____

   c. Are the permits available online? _____

4. How many State permits are administratively continued?

   a. Major permits

   b. Non-major permits

   c. General permits

5. State NPDES permitting authority structure:

   a. What is the location of the main office?

   b. What are the responsibilities of the main office?

   c. Are there regional or field offices? Locations?

   d. What are the responsibilities of the regional or field offices?

   e. If the regional office drafts and issues permits, which types of permits are drafted and issued at the regional offices?

   f. Are any categories of NPDES permits administered by other agencies within the state? Please specify.

6. Staff available for NPDES permit development:

   a. How many NPDES permit writers does the state have?

   b. On average, how many permits are drafted per year by each permit writer?

   c. Describe other staff that support NPDES permitting (e.g., water quality modeling, administrative support).

7. What training programs and tools are available for new or inexperienced permit writers (e.g., internal mentoring, EPA NPDES Permit Writers' course)?

8. How are permit writing responsibilities assigned to staff (e.g., geographical, by facility type)?

9. Does the state have written procedures or guidance for developing NPDES permits (e.g., RPA procedures, TMDL implementation, mixing zones, etc.)? Describe. *(Please provide any such documents to the EPA reviewers)*

10. Data systems used to support NPDES permit development and implementation

   a. Does the state have in-house data systems to support permit development (e.g., ambient data, assessment and listing data, TMDL status)? Please describe.

   b. Does the state primarily use an in-house permit and compliance data system or ICIS?

11. Permitting tools and systems

   a. Does the state use templates for permits, fact sheets, public notices, correspondence, etc.? Describe.

   b. Does the state use a database or information system to generate draft permits? Describe.

   c. Does the state use standard spreadsheets or programs to calculate reasonable potential? Describe.

   d. Does the state use models to calculate mixing zones? Describe.

12. QA/QC process for permit development

   a. Are there peer and/or management QA/QC processes? Describe.

   b. Are checklists used in the QA/QC process? Describe.

   c. Do all permits undergo the same QA/QC process? If not, describe differences.

13. How and where are NPDES permit administrative record and related files maintained?
Consider both paper and electronic files.

    a.   Permit development documentation.

    _____

    b.   Correspondence.

    _____

    c.   Monitoring and reporting.

    _____

    d.   Compliance records.

    _____

    e.   Other.

    _____

14. If there any areas/concerns the state would like to discuss, please provide a description.

    _____

PQR Opening Interview Questions

Use these questions to guide the discussion of state permitting policies and procedures. Then, use the responses to guide the subsequent file reviews (i.e., do the permits and files reflect the processes that the state described?).

Begin the entrance interview by discussing the answers the permitting authority provided in the PQR Advance Questionnaire (see PQR SOP Attachment C).

1. **NPDES Permit Application Process:** Please walk through the state NPDES permit application process.
   Questions to consider:
   a. Describe state procedures for obtaining **timely permit applications**.
   b. Does the state use EPA or state **permit application forms**?
      i. If state forms are used, are there significant differences between the state and EPA forms? When did the state last update their forms?
   c. Are permit application forms reviewed for **completeness**? If so, by whom?
   d. How does the permitting authority receive, process, and **assign** applications to staff?

2. **Permit Development Process:** Please describe the draft permit development process.
   Questions to consider:
   a. **Describe the team** that develops the draft permit. What other staff does the permit writer consult with during the permit development process? What role do the WQS, TMDL, and WQ modeling staff play in permit development? How is information shared across units, if these staff are in different units?
   b. What is the **timeline** for draft permit development?

3. **Technology-Based Effluent Limits (TBELs):** How do permit writers develop TBELs?
   Questions to consider:
   a. Describe any specific **tools or state policies** used in the development of TBELs.
   b. How are TBELs based on **BPJ** developed? How do you document BPJ?

4. **Water Quality-Based Effluent Limits (WQBELs):** Describe how the permitting authority develops water quality-based effluent limits (WQBELs).
   Questions to consider:
   a. How does the permitting authority conduct **reasonable potential analyses (RPA)?**
      i. Who conducts the RPA?
      ii. Is there state guidance for conducting RP?
      iii. How are **Pollutants of Concern** (POCs) identified?
      iv. For what **parameters** does the permitting authority conduct an RPA?
      v. How does the state decide what **effluent data** will be used in an RPA? Does the state consider all application and discharge monitoring report (DMR) data?
      vi. Is there a prerequisite for a **minimum number of data points** before the permitting authority conducts an RPA?
      vii. Are data points ever removed from the analysis?
      viii. Does the RPA address **effluent variability**?
      ix. Are the **calculations and results** of the RPA included in the fact sheet? In the administrative record?

    x. Are the permitting authority's **RPA rationale and determinations** included in the fact sheet or elsewhere in the record?

  b. What **other data** are considered?

    i. When are **ambient data** used? What is the source of the ambient data?

    ii. What is the default value for **background concentration**?

    iii. Is ambient data used for the RPA? Limit calculations? How?

  c. How are **limits** developed?

    i. What is the state's **dilution**/mixing policy? How is it implemented?

    ii. Does the policy impose **mixing zone size** constraints?

    iii. Is complete **mixing** assumed?

    iv. How is the use of mixing zones **documented in the fact sheet**? In the administrative record?

  d. Describe any **specific tools** (e.g., spreadsheets, models) used in the development of WQBELs.

  e. Describe how permit writers **document** WQBEL calculations in the administrative record.

5. **Antidegradation**: What are the state's antidegradation implementation procedures?
  Questions to consider:

  a. **When** is antidegradation considered?

  b. How is the antidegradation process **documented** in the fact sheet or permit record?

6. **Anti-backsliding:** When are anti-backsliding requirements triggered?
  Questions to consider:

  a. How is consideration of anti-backsliding **documented** in the fact sheet or record?

7. **Impaired Waters & TMDLs:** How does state address impairments pre/post-TMDL?
  Questions to consider:

  a. How do permit writers identify if a receiving water is impaired or has a TMDL?

  b. How are impaired downstream waters considered during permit development?

  c. How are impaired receiving waters (**pre-TMDL**) addressed during permit development?

  d. How are impaired receiving waters (**post-TMDL**) addressed during permit development?

  e. How does the State track **TMDL implementation** in permits?

8. **Sufficiently Sensitive Methods:** Do state requirements specify the use of the appropriately sensitive analytical methods?
  Questions to consider:

  a. For **application data**?

  b. For **monitoring**?

9. **Pathogens**: What does the state use as pathogen water quality criteria?

  a. **Fecal coliform.** If so, does the state intend to adopt the *2012 Recreational Water Quality Criteria* in the future? Is the state collecting E. coli and enterococcus data from facilities to inform future permitting decisions?

  b. **E. coli** (freshwater)

  c. **enterococcus** (marine waters)

10. **Monitoring Requirements**: Describe how the state develops monitoring requirements.
  Questions to consider:

      a.   What **tools** or resources do permit writers use to develop monitoring requirements, including frequency, location, and sample type?

11. **Reporting Requirements:** What are the typical reporting requirements in a permit? How does the state determine if additional reporting requirements are needed?

12. **Narrative Conditions**: What types of narrative conditions do permit writers include in NPDES permits?
    Questions to consider:
    a. **Special conditions** (e.g., special studies)
    b. **Pretreatment**
    c. **Biosolids**

13. **Standard Conditions**: Do permit writers use standard conditions boilerplate language? When was it last updated?

14. **Fact Sheets**:
    a. When do permit writers draft the fact sheets (i.e., before or after the permit has been drafted)?
    b. Does the state draft fact sheets (or statements of basis) for any non-major permits?
    c. Do permit writers use a **template** to draft fact sheets?

15. **401 Certifications,** if applicable:
    a. For what categories of EPA-issued NPDES permits or other federally-issued permits, does the state complete **401 certifications?** (e.g., FERC and NRC licenses; Army Corps of Engineers CWA § 404 permits)?
    b. **Who** performs the 401 certification process?

16. **Administrative Process:**
    a. Describe the administrative process.
        i.   **Public notice**
        ii. **Comment**
        iii. **Comment response**
        iv. **Hearings**

17. **Appeals**:
    a. How often are permits appealed? Who hears appeals?

18. **Administrative Records:**
    a. What is the **content** and **location** of the final administrative records?

19. **Other state-specific areas of interest**:
    a. Any **priorities** the state would like to discuss?
    b. Current permitting **initiatives**?
    c. Other **concerns** the state would like to discuss?
    d. Is there anything the state would like to see from the EPA Region or Headquarters? Policies/rules? **Assistance** in specific areas?

Tips for Conducting a File Review

Remember that you likely have a maximum of 2–3 hours to complete the permit file review for all selected permits, including documenting any information found in the files. Budget your time appropriately and try not to get delayed by too many details.

As you review the file, periodically scan through the permit review checklist to reinforce what questions and issues are unclear, and which elements to focus on during the review. Prior to starting the file review, make sure to clarify with state staff where all relevant information is located. This should generally be covered during the interview process. Specifically, make sure to determine the following:

- What data and information are in hard copy and what data and information are electronic?
- How are files organized? (e.g., permit, correspondence, administrative record)
- Have they provided *the full permitting record*?

Once you've gathered the complete file, spend 5–10 minutes to quickly leaf through it front to back and see what is available. Get the big picture first by identifying:

- Previous permit and fact sheet;
- Most recent permit application;
- Current permit and fact sheet;
- Reasonable Potential (RP) and limit calculations (if not in fact sheet); and
- Administrative record information (e.g., public notice, response to comments).

If anything is absent, make a note and follow up with state staff. Ask early in the review process to allow sufficient time for state staff to respond. Take care not to assume information is lacking, only to find out too late that it's in a different file. After identifying the key components of the record, try to follow the chronology of the permit application and development. Remember to consider the information provided during the interview regarding the state's permit development process to see if the files indicate consistent implementation of state procedures. The permit review checklists should lead you through this process.

- Review the permit application to confirm it was submitted on time and contained all required data and information. Note any correspondence that may have affected the application process.
- Review the fact sheet to see if it describes the permit development process.
- Review any comments and response to comments to see how these may have influenced the permitting decisions.
- Review the final permit to ensure that it is consistent with the fact sheet and response to comments.

- Check the administrative elements to ensure that the permit was properly public noticed and that all comments were appropriately addressed.

Depending on where and how the RP and limit calculations are located (e.g., in the fact sheet, supplemental spreadsheets, WQ memos or reports), try to work through the logic of the limit calculation process. The fundamental question to answer is: "Can I recreate the limits in the final permit based on the information provided in the record?" The permit review checklists should lead you through this process. Again, also consider the process as described by the state during the interview. Some specific things to assess include:

- How did the state decide what pollutants to evaluate?
- Does the record explain how TBELs were developed (e.g., federal secondary treatment standards, ELG applicability, production data used, BPJ applicability)?
- What data was used for the RP calculations?
- How were ambient/background data incorporated?
- What dilution/mixing assumptions were used?
- Do the calculations or spreadsheets follow accepted EPA or state WQS implementation procedures?
- Are final limits established for all pollutants where RP was identified?
- Are final limits consistent with values calculated in the supporting documents?
- Is the state's process transparent and reproducible?

Throughout the review process, use the permit review checklist to make notes and flag issues or concerns identified during the review. Also note where the state has done a particularly good job addressing a particular issue.

Preparing for and conducting the close-out interview

At the conclusion of the site visit, the EPA and contractor participants should gather their notes and convene a brief meeting to discuss the preliminary findings of the PQR. This meeting typically takes about 30-45 minutes. The output from this meeting should be a list of fairly "high level" bullets summarizing the key findings of the PQR that will be verbally communicated to the state representatives during the exit interview.

The PQR Team should then select the individual that will lead the exit interview, and clarify how other team members should participate during the exit interview discussion. The PQR team then reconvenes with the state representatives and conducts the exit interview. The exit interview typically takes 30 minutes to 1 hour.

Tips for the exit interview:

- Thank the state for taking the time to meet with the PQR team and for providing all of the files and information. Tailor as necessary to the support provided.

- Discuss the timing of the written PQR report, and when and how the findings will be transmitted to the state.

- Discuss whether and how the state will be provided the opportunity to review and provide comments on the draft PQR report.

- Provide the "high level" findings to the state representatives
  - Caveat the discussion by indicating that the findings presented during the exit interview are "preliminary" and that the final written report may differ based upon subsequent review of the detailed notes and file reviews.
  - The level of detail provided in the exit interview may vary widely depending on the nature and sensitivity of the findings. For example, if there are issues where the PQR team determines that Regional or Headquarters management should be consulted prior to issuing a finding, then these issues would generally not be discussed in detail during the exit interview.
  - Findings should be general in nature, but the PQR lead and team members may wish to provide examples observed during file reviews or staff interviews.
  - Findings should be presented by first highlighting positive aspects of the state's program (e.g., robust technical analyses, high quality permits or fact sheets, good documentation, well organized files, dedicated staff, QA/QC processes, training, electronic tools and templates, etc.)
  - Relate the significant deficiencies noted during the PQR, providing as much detail as the team determines appropriate. During this process, try to be constructive and perhaps chart a preliminary path forward to resolve issues acknowledged by the state representatives.

- At the conclusion of the discussion of findings, ask the state representatives if they have any additional questions or comments.

- o Provide contact information so that the state can follow up if they think of additional questions.
- o Confirm the process and schedule to obtain any additional information or records that the PQR team and state identify during the discussion.
- Thank everyone again for their time and effort in supporting the PQR.