UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Ms. Barbara S. Taylor, Director
Office of Environmental Health
West Virginia Department of Health and
Human Resources
Capitol and Washington Streets
1 Davis Square, Suite 200
Charleston, West Virginia 25301-1798

Dear Ms. Taylor:

Enclosed is the Review of the West Virginia Department of Health and Human Resources (WVDHHR), Bureau of Public Health, Office of Environmental Health Services, Environmental Engineering Division (EED) by the Environmental Protection Agency, Region III (EPA) for Mid-
Year 2005. This review covers the Public Water System Supervision Program (PWSS), Drinking Water State Revolving Fund (DWSRF) set-aside funded activities, Water Protection Coordination (Security) and Operator Certification Expense Reimbursement (ERG) federally funded assistance agreements. The DWSRF infrastructure project loan program and financial management systems are evaluated in a separate Program Evaluation Report.

The enclosures consist of a comprehensive report and the Mid-Year 2005 program guidance/reporting checklist and evaluation tool (without attachments). This report incorporates information from the semi-annual progress reports submitted by the EED, telephone and email follow-up, and communication within EPA covering the activities from Federal Fiscal Year (FY) 2004 through Mid-Year 2005.

This report highlights WVDHHR's strengths and significant improvements within the Capacity Development Program, Ground Water Under the Direct Influence (GUDI) determinations, adoption of new drinking water regulations and data quality enhancements in SDWIS/Fed.

EPA has concerns in the following areas and each is discussed more fully within the report:

- EED receiving timely statements from the Attorney General for recently adopted revised regulations;

- the lack of detailed reporting to EPA on all assistance agreements, including expenditures; and
- data management and reporting to SDWIS/Fed.

Finally, EPA has been looking at ways to measure the success of our programs through realistic environmental measures. Beginning in FY 2005, EPA must measure environmental results of grant-funded program activities. In light of this, our national goals were provided in the FY 2005/2006 PWSS Program guidance. Another tool for your use is the PWSS Program key performance indicators included in previous program guidance. We are committed to continuing our efforts to gather this information from SDWIS, but also encourage the states to perform their own frequent program evaluations.

If you have any questions regarding the enclosed report, please do not hesitate to call me (215) 814-5757 or have your staff contact Wanda F. Johnson at (215) 814-3249.

Sincerely,

Victoria Binetti, Associate Director
for Municipal Assistance

Enclosures
bcc (without encls.):
W. Johnson (3WP22)
M. Brewster (3WP21)

Review of the
West Virginia Department of Health and Human Resources
Bureau of Public Health
Office of Environmental Health Services
Environmental Engineering Division
Federally Funded Drinking Water Activities
Mid-Year 2005

Introduction

This Mid-Year Review provides a review and evaluation of the West Virginia Department of Health and Human Resources (WVDHHR) Environmental Engineering Division's (EED) performance, in meeting its commitments for Mid-Year 2005. This review covers the Public Water System Supervision Program (PWSS), Drinking Water State Revolving Fund (DWSRF) set-aside funded activities, Water Protection Coordination (Security) and Operator Certification Expense Reimbursement (ERG) federally funded assistance agreements. The report is presented in two parts: 1) a discussion of the EED strengths and those areas where the Environmental Protection Agency (EPA) has concerns, as well as any recommendations, and 2) a detailed checklist that provides the mid-year status on each commitment/activity for the EED. WVDHHR is invited to submit an addendum to this report if it deems that such an addendum is necessary to clarify or counter EPA's findings.

Purpose of Review

The purpose of this review is to highlight program strengths, areas of progress, and significant accomplishments as well as indicate areas of concern regarding WVDHHR's performance. Where an "Action Item" is identified, EPA will require a response no later than one month after receipt of this report unless specified otherwise. This review is also intended to:

1) Ensure that the commitments contained in the work plan/application under the grant awards are being performed on schedule,
2) Ensure that all programmatic terms and conditions are met,
3) Assess available funding to ensure commitment/activity completion,
4) Ensure all programmatic statutory and regulatory requirements are met, and
5) Ensure equipment purchased under the award is properly managed and accounted for.

Method of Review

A file review was conducted during Mid-Year 2005 including consultation with EPA's Drinking Water Branch, Safe Drinking Water Act Branch and Municipal Financial Assistance Branch staff. Additional telephone conversations and email follow-up occurred between EPA and WVDHHR.

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Contents of this Report

- PWSS Program Activities
- Drinking Water State Revolving Fund (DWSRF) Set-Aside Funded Activities
- Operator Certification Program
- Expense Reimbursement Grant (ERG)
- Water Protection Coordination (Security) Grant
- Conclusion, Recommendations and Reminders

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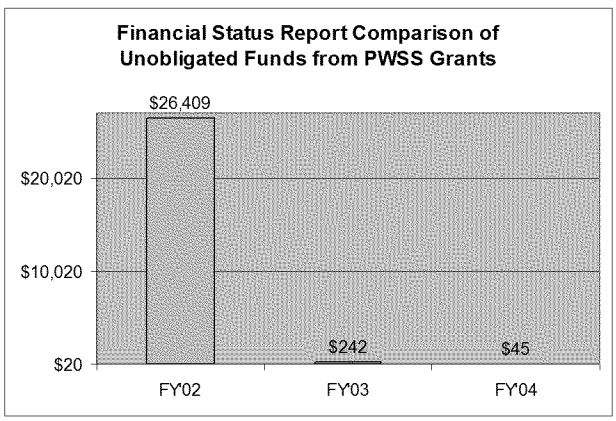
Public Water System Supervision (PWSS) Program

Financial Summary

EPA approved the WVDHHR's FY'05 PWSS grant in the amount of $834,700. A partial award of $476,800 was made on November 29, 2004, and the second and final award for $357,900 was made on March 11, 2005. WVDHHR utilizes federal funds to pay for 18 full time employees (FTEs) out of the 31 FTEs under this program. WVDHHR continues to improve on their spending of PWSS Grant funds. A look at the past three financial status reports reveal that the state's unobligated funds have been reduced drastically (from $26,409 in FY'02 to $45.20 in FY'04).

In light of annual federal budget rescissions in FY'03 and FY'04, WVDHHR has been able to utilize monies left over from previous grant awards. With the uncertainty for future federal budget cuts, EPA advises WVDHHR to monitor spending closely in FY'05 and when projecting budgets for future PWSS Grants, continue to plan appropriately and utilize funds efficiently.



FY'05 Grant Expenditures - as of June 2005

Funds Awarded	Funds Expended	Percent Expended

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$834,700	$575,358	69%

Each year, EPA works closely with WVDHHR to ensure that grant funds can be provided as early as possible for state use. This is often difficult with budget uncertainties. It is our expectation that the move to a state fiscal year budget cycle for the PWSS grant will assist EPA with promptly awarding funding to the state and ease the financial worries on the part of the state. EPA is aware that WVDHHR plans to request an amendment to the FY'05 grant to add a portion of the FY'06 funding and to extend the budget period until June 30, 2006. Once reviewed, if approved, this places the state on the state fiscal year cycle for future grants. EPA will work closely with the EED as this will impact the timing of semi-annual progress reports and future grant applications. West Virginia is encouraged to consider two-year grant budget periods in the future. Advantages include reduced level of paperwork and an expected early awarding of funds to the state.

Personnel/Staffing

WVDHHR has recently undergone a major transition in key personnel. In May 2004, Mr. Victor Wilford, Director of the Environmental Engineering Division for many years retired and Mr. Walter Ivey who was managing the Infrastructure and Capacity Development Program was selected as his successor. Two managers from the Regulatory Development and Compliance Section have resigned. WVDHHR used this as an opportunity to reorganize the structure of their central office staff. Compliance and enforcement staff are managed by the District Office Coordinator, with an assistant manager, to improve compliance and enforcement work efforts between the central and district offices. Currently, WVDHHR has seven (7) vacancies that they are in the process of filling. One vacancy is that of Nancy Fleming who retired from her position as Secretary to the Office of the Division Director after many years. WVDHHR is considering the cost benefits of contracting for a toxicologist as opposed to refilling that vacancy.

Reminder

EPA reminds the state to continue to report as per the 1998 Corrective Action Plan on its staffing levels along with the PWSS semi-annual progress report. This should be a separate report consisting of 1) a written summary of the status on filling each vacancy (i.e., reviewing applications, interviewing, etc.) and desired time frame for filling positions and 2) a current organization chart to show stability of staffing levels. All vacancies should be associated with the funding source (i.e., PWSS, DWSRF set-aside grant funds, etc.), if other than state funds.

New Regulation Development

WVDHHR has been diligent in adopting new and revised regulations. EPA approved revisions

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to West Virginia's PWSS Program for the following rules:

- Public Notification Rule (revised) - November 7, 2003
- Lead and Copper Rule Minor Revisions - November 7, 2003
- Filter Backwash Recycling Rule - December 26, 2003
- Radionuclide Rule - February 17, 2004
- Long Term 1 Enhanced Surface Water Treatment Rule - September 10, 2004
- Arsenic Rule - May 31, 2005

Highlight

WVDHHR is to be commended for being the first state in Region III to obtain primacy for the Filter Backwash Recycling Rule, the Radionuclide Rule and the Long-Term 1 (LT1) Enhanced Surface Water Treatment Rule.

Concern

WVDHHR has had difficulty obtaining the Attorney General (AG) Statement which is required by EPA in order to consider the primacy application complete and final. This was evident with the revised Arsenic Rule, the Lead and Copper Rule Minor Revisions and the Radionuclide Rule Primacy applications. In August 2001, EPA sent a letter to the Department expressing its concern about delays within the West Virginia Office of the Attorney General because at the time, WVDHHR had requested approval for three provisions (Operator Certification Program, revised definition of a public water system and the Administrative Penalty Authority Provisions) which EPA was unable to approve for lack of or an insufficient AG statement. The support of the AG is critical if WVDHHR is to meet its primacy and other program requirements. EPA has offered to lend assistance in the past and offers it now, in order to prevent a repeat of this circumstance in the future.

Earlier this year, the Attorney General assigned General Counsel to the Bureau for Public Health (BPH), in addition to the General Counsel already assigned to WVDHHR where the Bureau resides. Since the Bureau has been assigned its own General Counsel, the state does not foresee any future delays in obtaining the required AG statements.

Action Item

The state will need to provide EPA the appropriate documentation to support the delegation of the authority to the General Counsel of the WVBPH, to provide Attorney General statements on the enforceability of WV law and regulations. EPA looks forward to prompt support of primacy applications from the WVBPH General Counsel in the future.

Sanitary Surveys

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Groundwater Under the Direct Influence (GUDI) Determinations

WVDHHR continues to forge ahead to complete the Ground Water Under the Direct Influence of Surface Water (GUDI) determinations. All determinations for community water systems (CWS) identified prior to 2004 are complete. The forty-seven (47) systems (nontransient noncommunity (NTNC) and transient noncommunity (TNC)) that remain to be evaluated are currently testing. Evaluations will be made on these systems as soon as possible. The district staff is to be commended for making a tremendous impact on unresponsive/orphan systems. The number of these systems has decreased drastically from ninety (90) systems in 2003 to only nine (9) systems in 2004. There are many factors that come into play for WVDHHR completing their GUDI determinations. One factor is that systems go off line or become inactive because they are connecting to another public water system. There are those systems that have already been tested and classified as GUDI but have recently added a new well which is now being tested. There are a few systems that are in non-compliance for not testing. The Bureau is considering other measures to bring these systems back into compliance. One idea is to work with the county officials to disallow renewal of other licenses to entities that are in non-compliance.

WVDHHR identified two systems (a community and transient noncommunity) that chlorinate into the well. The main tests used to make a GUDI determination are the bacteriological analysis and review of the water temperature stability. Discontinuation of chlorination to collect the raw water samples from the well is necessary. Since this would be difficult to do with the community water system without posing a risk to public health, WVDHHR used the turbidity data to make a GUDI determination. The data showed the well was under direct influence of an adjacent stream. At the transient non-community water system, a sanitarian from the WVDHHR Philippi District Office was onsite to direct the sampling. The chlorination was discontinued and the well was flushed of all chlorine before taking water samples. This system was determined not to be under the direct influence of surface water because of the test results and the stable water temperature.

Reminder

WVDHHR is reminded to continue to report as per the 1998 Corrective Action Plan on its GUDI status. This should be a separate report consisting of 1) a written report detailing all activities and 2) a summary chart broken out by system type (CWS, NTNC and TNC) showing the number and percentage of systems testing, evaluated, unresponsive, etc. The GUDI Report should be submitted along with the PWSS semi-annual progress reports.

Capacity Development

WVDHHR's Capacity Development Program is now fully staffed, which is key to making sure water systems get the assistance they need to strengthen their capability to deliver safe potable water. Assistance provided to water systems through field staff and the Capacity Development

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Team include the development of: Capital Improvement/Financial Plans, a generic Health & Safety Plan, a generic, fill-in-the blank diskette to generate the annual Consumer Confidence Report, and a Cross-Connection and Backflow Prevention Policy Manual.

In addition, water systems were referred to third party assistance providers via existing contractual agreements or to other state, federal or non-profit entities. Assistance is provided through on-site, hands-on assistance; workshops, seminars and training sessions; and self-help guidance documents. The primary third party assistance providers available to West Virginia water systems include: Public Service Commission of West Virginia (PSC), West Virginia Rural Water Association (WVRWA), National Environmental Service Center (NESC), the Rural Community Assistance Program (RCAP), and the WV Environmental Training Center (WVETC).

The number of public water systems in the state has been decreasing over the last few years. The number has decreased by about 13% (from 1,414 systems in FY 2001 to 1,231 systems in FY 2004). This is mostly due to systems merging. Only three new systems are still active since beginning operation in October 1999. Two new systems (Barnhart States Subdivision and Locust Knoll Farm) and one existing system (Ben's Run Industrial Park) were issued permits to construct in 2004.

Highlights

With a full staff, the state is taking a pro-active approach to assisting water systems by developing management tools. The distribution of educational materials (brochures, handouts) are aimed primarily at water systems, their managers, operators, employees and the general public to educate them on the Capacity Development Program and inform them of available assistance and what they should expect from their water system.

WVDHHR continues to work with Eastern Wyoming PSD in Eastern Wyoming County to ensure the success of consolidating five (5) separate water systems. Phase I of this project, which began in Spring 2004, includes a regional water treatment plant sized to meet current and future needs, new water storage tanks, and a new distribution system to provide clean, safe water to local residents. Construction is expected to be complete by Fall 2005.

Reminder

As a reminder, the report to the Governor on the efficacy of the Capacity Development Strategy and progress toward improving the capacity of water systems in the state is due to EPA by October 1, 2005. Failure to submit the report and make it available to the public could result in the withholding of 20% of the state's DWSRF.

WVDHHR is scheduled to reassess its Baseline Priority Ranking to assess the overall effectiveness of the Capacity Development Program and to see what measurable improvements have been made at water systems. This report is due to EPA by December 31, 2005.

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Data Management

Status of Action Items from 2002 Data Verification

Most issues from the last data verification conducted in June 2002 have been addressed through semi-annual progress reports during FY '03 and '04. The remaining issue was failure of systems to comply with the 3-year monitoring period for sampling for lead and copper. WVDHHR worked with a few systems to bring them back into compliance and then focused on transitioning all systems that are on a 3-year sampling period to sampling at the same time (06/01 - 09/30). The transition was complete as of December 2004.

WVDHHR's most recent data verification was held during the week of July 11, 2005. EPA expects a draft report from The Cadmus Group, Inc. in the near future. At such time, EPA will submit a copy to the state for review and comment. Upon issuance of a final report, WVDHHR will be asked to develop an action plan to address any deficiencies.

Highlights

WVDHHR has worked hard to address data errors. The staff have done a good job in submitting quarterly updates and have been very cooperative in their attempts to alleviate data problems. They completed data input of all missing/incorrect latitude/longitude data in SDWIS/Fed and reduced many errors by providing treatment objectives and processes for treatment plants. WVDHHR is currently testing the FedRep v 1.2 validation tool with XML data (new format) for inventory, violations and enforcement actions and samples. FedRep is part of the modernization of SDWIS/Fed and works as a data edit check program, checking data prior to it going into SDWIS/Fed and noting any errors that the state should correct. This assists states in submitting error-free reports to SDWIS/Fed.

EPA expects to receive XML data <u>only</u> from the state by November 15, 2005 (standard 45 days after the end of the 4th quarter). EPA will work with WVDHHR through December 31, 2005, to process corrections. During this time, EPA will be processing XML data files to the new Operational Data Storage (ODS) Warehouse.

We appreciate in particular, the work of WVDHHR's Compliance and Enforcement Unit to meet both EPA and State goals. Their efforts to bring facilities into compliance and to submit files to address small data matters have contributed to the improvement of the state's data in SDWIS/Fed.

There have been no major changes in the number of systems on the Significant Non-Compliance (SNC) List. For FY'04, the average number of SNC systems was ninety-two (92). It should be noted that the SNC statistics reported by EPA are always one quarter behind because of the lag time in transmitting data. By the time data is sent from the state and processed in SDWIS/Fed, a number of systems may have already returned to compliance.

The March 8, 2004 memo from the EPA Office of Ground Water Drinking Water regarding state non-reporting to SDWIS stated that West Virginia's data for the Lead and Copper Rule (LCR)

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showed no sampling results for the 90th percentile determinations for the period January 2000 through September 2003 for large and medium public water systems. It was determined that this problem was occurring because WVDHHR was reporting the 90th percentile results in SDWIS/State but was not using the module that uploads the data to SDWIS/Fed. The state responded, with the assistance of a contractor, to have the data loaded into SDWIS/Fed. Now that the LCR data is current, EPA encourages WVDHHR to maintain the accuracy of data in SDWIS/State and ensure timely uploads to SDWIS/Fed.

Action Item

EPA expects to receive XML data only from the state by November 15, 2005 (standard 45 days after the end of the 4th quarter). EPA will work with WVDHHR through December 31, 2005, to process corrections. During this time, EPA will be processing XML data files to the new Operational Data Storage (ODS) Warehouse.

Recommendation

EPA recommends that the state perform a post-migration validation step to SDWIS/State when reviewing the SDWIS/Fed error report for lead and copper sampling data and avoid resending data that has already been accepted by SDWIS/Fed. This should prevent future data problems. Staff may contact the SDWIS/State hotline at (703) 292-6298 for additional assistance.

Annual Compliance Reports

WVDHHR submitted the state's Annual Compliance Report for 2003 in June 2004, according to the required schedule. Although the Maximum Contaminant Level (MCL) violations are relatively few, the monitoring and reporting violations for the Surface Water Treatment Rule, in particular, are significantly higher in comparison to the 2002 report. The violations are occurring at small systems. WVDHHR is working with these systems through technical assistance and education. Consolidation of smaller systems into larger, regional systems may also be possible. Regional systems would have more capacity (financially, technically and managerially) to operate a system and meet federal requirements.

Laboratory Certification

EPA issued its annual certification status report of WVDHHR's Drinking Water Laboratory Certification Program on January 27, 2005. There were no discrepancies found in the report. The laboratory retains full certification for all required Safe Drinking Water Act (SDWA) methods.

Quality Assurance Monitoring Plan (QAMP)

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WVDHHR submitted its response to EPA comments regarding its QAMP on February 15, 2005. EPA has granted conditional approval with further comments to the state. Response to EPA is due by July 31, 2005.

Drinking Water State Revolving Fund (DWSRF)
Set-aside Funded Activities

DWSRF Financial Summary

Since 1998, EPA has awarded $50,732,500 in Federal funds with $38,324,625 allocated to the project fund, $1,720,736 for administration of the fund and $10,687,139 to support set-aside activities. A total of thirty (30) FTEs are funded for SRF activities with federal funds supporting eighteen (18). The remaining twelve (12) FTEs are funded by state appropriations in accordance with the state match requirement for the 10% set-asides. Over half of the set-aside funding has been utilized to date. WVDHHR's gradual draw-downs reflect appropriate spending. Draw-downs have improved over the grant periods due to their ability to maintain staffing levels, permitting more workplan activities to be accomplished.

Set-aside Funded Expenditures

WEST VIRGINIA SET-ASIDE UTILIZATION FOR ALL GRANTS Cumulative as of June 2005				
	Technical Assistance 2%	Program Management 10%	Local Assistance 15%	Total
CUMULATIVE AWARDED	$1,002,571	$4,314,892	$5,369,676	$10,687,139
EXPENDED	$985,035	$3,724,401	$3,836,759	$8,546,195
% EXPENDED	98.3%	86.3%	71.5%	80.0%
CASH DRAWN	$985,035	$3,516,575	$3,726,088	$8,227,698

Source Water Assessment & Protection Programs

WVDHHR is working on various source water assessment and protection projects. They completed 691 source water assessments for small systems. This exceeded their goal of 450 assessments for establishing and implementing wellhead protection activities. They have sponsored five (5) water awareness symposiums this year throughout the state bringing together federal, state and local entities to encourage networking and information sharing, and to join efforts in providing safe groundwater sources.

The first phase of the Underground Injection Control (UIC) Program contract with the Department of Environmental Protection (DEP) is complete. DEP has completed 1,308 site assessments which involved inspections and inventories of any/all potential Class 5 injection

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wells and underground storage tanks within the source water areas. The second phase, now in progress, is to evaluate the potential risk to drinking water sources being contaminated from these injection wells and taking the necessary regulatory action to eliminate that risk.

Work is underway by the U.S. Geological Survey (USGS) to evaluate the distribution of methane gas in ground water, associated with public and other types of water supplies. The USGS will publish a one-page fact sheet that may be used to inform the public of potential dangers of methane gas in ground water.

Future projects include establishing and developing local wellhead protection programs for ground water sources through a one-time grant to recipients and developing a contract to purchase ten (10) ground water flow models to be used by teachers in the classrooms.

Highlight

EPA congratulates WVDHHR on completing their source water assessments! They have also exceeded EPA's 2005 Goal of 20% source water protection strategies implemented (some aspect). Protection strategies have been implemented at 133 community water systems, serving a total population of 214,064.

Program Management

Regulations have been revised to establish a formal cross connection/backflow prevention program and tester certification requirements. This program will require backflow prevention devices to be inspected by a certified backflow prevention tester once a year. WVDHHR developed a full certification class for backflow prevention assembly testers to be held twice a year. Five (5) courses were held in 2004.

WVDHHR assisted many water systems in preparing their Consumer Confidence Reports (CCR) through participation in booth exhibits, displaying brochures and providing training through the Public Service Commissioner's course. Outreach activities include training by District Offices on fluoride treatment to Classes ID through V operators and five (5) additional training sessions for Class I operators by the West Virginia Rural Water Association (WVRWA).

WVDHHR also developed, printed and distributed a WV Drinking Water Education and Training Coalition Semi-Annual Calendar of Training Events. The calendar is distributed twice per year to keep water system personnel informed of important drinking water education and training opportunities.

WVDHHR is making great progress in improving water systems' capacity by assessing water systems to find out the root causes of their problems. The state utilized its FY'02 Baseline Priority Ranking to select 20 systems for a detailed assessment and assistance. Each system received a detailed "reader friendly" report, explaining the status of their system with recommendations on how to improve and a list of sources for assistance.

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Other program management activities include:

- developing strategies to address needs for database maintenance;
- planning to post SDWIS/State on the Internet by Summer 2005 to give access to other state agencies;
- reviewing continuing education hour (CEH) courses;
- distributing *Drips and Drops* newsletter quarterly
- maintaining capacity development web page
- maintaining CD library for class facilitator when instructor is unable to attend training;
- assisting the American Water Works Association (AWWA) in acknowledging operator achievements through the review and selection of candidates and presentation of the Perkins Boyton Award.

WVDHHR is an active member of the Infrastructure and Jobs Development Council (IJDC) and chairs the IJDC Technical Review Committee. This positions the state to see first hand the infrastructure needs of its water systems and enables the state to offer DWSRF funding for projects that it may not have otherwise been aware of.

Operator Certification Program

Program Review

WVDHHR is successfully implementing its operator certification program with approximately 99% of systems having a certified operator. As part of their revised Operator Certification regulations in compliance with EPA Guidelines, WVDHHR modified their education and experience requirements for community and non-transient, non-community water systems, thereby requiring operators to upgrade their classifications to meet the education requirements. As of July 1, 2004, all 225 community and non-transient, non-community water systems have been re-classified from Class ID to Class I systems. The state has increased the number of training courses and class size in order to have all Class ID operators reclassified as Class I operators in 2004. So far, 419 courses were reviewed for eligibility for continuing education credit. According to SDWIS, there are a total of 27 community and non-transient non-community water systems in non-compliance for not having a certified operator. WVDHHR has a compliance strategy to work with these systems, issuing state violation notices with a date of compliance specified.

WVDHHR has implemented a validation process for operator exams called Developing-A-Curriculum (DACUM) that involves participation from subject matter experts in the development of exam questions and job/occupational analysis. The DACUM process has been completed for Class I through Class IV water system operators. Review of curriculum and exams has begun to ensure that the training and testing meets EPA's Operator Certification Guidelines.

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Highlights

To meet the demand of managing operator data, WVDHHR has developed a new database called Safe Water Operator Certification System (SWOCS) that is designed to streamline the process of managing the operator certification process. The system manages all certification data and is compatible with SDWIS/State so the information stored in SDWIS/State is simply downloaded to SWOCS and allows additional information to be added if needed for certification purposes.

The state's second annual Operator Certification Report was submitted to EPA and approved on September 3, 2004. WVDHHR is to be commended for conducting a thorough internal review of the program which included an analysis of the current regulations, compliance, enforcement, education, budget, staffing, training and data management. The purpose of the internal review, which is the eighth element of the EPA Guidelines, is for states to look over all aspects of the program and answer the questions "Is this working?" and "How can we make it better?" Some findings from WVDHHR's internal review include:

- recommending modifications to the State Legislature regarding ambiguities discovered in the current Public Water System Operator Regulations that are difficult to enforce (e.g., definition of "on-duty"); and
- revising the compliance strategy to include informal enforcement for systems that fail to obtain certified operators for systems re-classified from Class ID.

Operator Certification
Expense Reimbursement Grant (ERG)

Financial Summary

On September 30, 2003, EPA awarded WVDHHR's Expense Reimbursement Grant (ERG) totaling $1,437,900 in support of continuous education and certification of operators at small community and non-transient non-community water systems. Since then the state has drawn down less than one percent (1%) of the funds but expects to have contracts in place in the near future.

Grant Expenditures - as of June 2005

Funds Awarded	Funds Expended	Percent Expended
$1,437,900	$7,200	<1%

Program Review

Funds from this grant will be used to reimburse operators for attending classes held in support of the Backflow Prevention & Testing Program and for contractor support for the development of the certification program and to provide training for five (5) years. Contract proposals for web-based training for small system operators are being reviewed by WVDHHR's purchase requisition department. This training is geared toward those operators who aren't able to travel to attend the traditional classroom courses and will allow them to obtain the required education hours to maintain their certification. To complement this web-based training for small system operators, funds will also be used to support in-house training of WVDHHR staff on internet training programs so by the end of the five year contract, in-house staff will be able to sustain the

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program in the future.

Concern

Over the last year and a half, WVDHHR's draw down of ERG funds has been minimal. Although the grant's project period extends to the year 2008, EPA encourages WVDHHR to secure contracts as soon as possible so that small system operators can start taking advantage of this training.

Action Item

The state must show that current funds will be used in a timely manner. WVDHHR must submit progress reports on the activities of their ERG work plan with a status of expenditures. A separate activity checklist has been provided to the state for this purpose. This checklist is to be submitted with the PWSS semi-annual progress reports.

Water Protection Coordination Grant (Security)

Financial Summary

On September 20, 2004, EPA approved WVDHHR's FY'04 grant amendment request in the amount of $50,000, bringing the total federal funding for state counter-terrorism activities in West Virginia to $357,300.

Grant Expenditures - as of June 2005

Funds Awarded	Funds Expended	Percent Expended	Funds Encumbered	Percentage Encumbered
$357,300	$146,194	41%	$44,000	14%

Program Review

Grant funds are being used for coordination activities for critical water infrastructure protection efforts. This includes work with water systems as well as with other state, local and federal agencies to provide and coordinate technical assistance, training and education on homeland security issues related to ensuring the quality of drinking water vulnerability assessments and associated security enhancements, and developing and overseeing emergency response and recovery plans.

Development of Emergency Response Assistance Materials

WVDHHR has assisted eighty-seven (87) systems with self-assessments for vulnerability and responded to telephone questions regarding submission of vulnerability assessments. Security Kits have been mailed to 555 community water systems. These "kits" assist water systems with vulnerability self-assessments and development of emergency response plans. WVDHHR is in

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the process of selecting a contractor for the printing and mailing of one thousand (1,000) assistance packages, including e-versions. Once the contractor is obtained, these assistance packages will go out to all public water systems.

Public Water System Owner Training

Over the past two years, WVDHHR has held twenty (20) security training sessions for owners of medium and small-sized water systems on security issues using the AWWA Field Guide and video. All sessions were completed by November 2004. At these sessions, Drinking Water Security promotional packages were distributed. These packages included various items that WVDHHR believed would raise security awareness on a daily basis in the public water system's office such as, a water bottle, computer mouse pad, clipboard and pen. The items were created with a red and white color scheme and the slogans, "Get a Lock on Drinking Water Security," and "Water Security Begins With You," in order to maintain a consistent reminder of their drinking water security message. Five (5) emergency planning workshops were also provided in 2004 and five (5) mock drills are being planned.

Rapid Communication Process

WVDHHR has purchased cell phones and pagers for key staff in the field for rapid communication. Development of a communication database to transmit emergency information between WVDHHR's district and central offices and the public water systems has been completed and is being maintained by an intern.

Concerns

WVDHHR's sparse spending over the past two (2) years causes concern for EPA. EPA recognizes that some funding has been encumbered for contracts, which brings the expenditures up to 55% with approximately a year and a half remaining on the current project period. WVDHHR has reassured EPA that they plan to spend all grant funding.

A large sum of the funding ($64,700) is planned for the tablet PCs, software and training to be used for entering sanitary survey data in SDWIS/State from the field. There was a delay in identifying SDWIS/State compatible software for use with the PCs, thereby delaying the purchase of the PCs. Now that they have compatible software, two PCs have been ordered. Once it is determined that this tool will meet their needs, more will be ordered.

Action Item

The state must show that current funds will be used in a timely manner. EPA reminds the WVDHHR to submit semi-annual progress reports on the activities of this security grant with a status of expenditures. A separate activity checklist has been provided to the state for this purpose. This checklist is to be submitted with the PWSS semi-annual progress reports.

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Conclusions, Recommendations and Reminders

Overall, WVDHHR is implementing their program effectively. For additional information please refer to Attachment 1, WVDHHR Reporting Checklist, which details the EED program activities for FY'04 through mid 2005. The following is a consolidated list of recommendations and a few reminders on upcoming reporting deadlines. Page numbers provide locations in the report for more details.

Action Item

- Provide the appropriate documentation to support the delegation to General Counsel of WVBPH the authority to provide statements on behalf of the Attorney General on the enforceability of WV law and regulations. (page 4)

- Submit XML data only to EPA by November 15, 2005 (standard 45 days after the end of the 4th quarter). (page 8)

Recommendations

- EPA recommends that the state perform a **post-migration step** to SDWIS/State when reviewing the SDWIS/Fed error report for lead and copper sampling data. (page 8)

Reporting Reminders

- Semi-Annual Progress Report to include:
  1. Checklist for all grant workplans (PWSS, DWSRF Set-aside, ERG and Security)
  2. Written summary of status on filling each vacancy (i.e., reviewing applications, interviewing, etc.) and desired time frame for filling positions. (page 3)
  3. Current organization chart to show stability of staffing levels. All vacancies should be associated with the funding source. (page 3)
  4. A written report detailing all GUDI activities and a summary chart broken out by system type (CWS, NTNC and TNC) showing the number and percentage of systems testing, evaluated, unresponsive, etc. (page 5)
  5. A status of expenditures with the ERG checklist. The state must show that current funds will be used in a timely manner. (page 13)
  6. A status of expenditures with the Security Grant checklist. The state must show that current funds will be used in a timely manner. (page 15)

WVDHHR is reminded that beginning in FY 2006, states must include discussion of progress toward meeting outputs and outcomes in the semi-annual progress report, including explanations as to why outputs or outcomes were not achieved and actions planned to address this.

- QAMP response to EPA comments - July 31, 2005. (page 9)

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- Capacity Development Report to the Governor - October 1, 2005. (page 6)
- Update Baseline Priority Ranking - December 31, 2005. (page 6)

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