**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 End-
of-Year 2007 and Mid-Year 2008. 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 2008 Program Guidance/Reporting Checklist and evaluation tool (without attachments). This report incorporates information from the semi-annual progress reports submitted by the EED, on-site Program Review on August 23, 2007, telephone and email follow-up, and communication within EPA covering the activities from Mid-Year 2007 through Mid-Year 2008.

We are pleased that the state's internal processing of cost allocations for the PWSS grant has improved tremendously and timely allocations of funds are being made. We congratulate the Department on completing its GUDI determinations for systems active prior to January 1, 2004 and also for being the first to submit a primacy revision application for the Long Term 2 Enhanced Surface Water Treatment Rule and Stage 2 Disinfectant Byproduct Rule (LT2/ST2) which EPA has deemed complete and final.

EPA has concerns with the slow draw-downs of DWSRF Set-Aside and ERG grant

funds. This is discussed more fully in the report. EPA is recommending that WVDHHR not apply for set-aside funds from their 2008 DWSRF allotment due to the large amount of unexpended funds already awarded to the state.

EPA is now requesting more detail on outputs and outcomes in the state's grant reporting. One section that was lacking this information is Section 3, the DWSRF set-aside funded activities. This additional information is needed to meet EPA's "Drinking Water State Revolving Fund Program Set-Aside Workplan Supplemental Guidance" dated August 2006. To address this need, EPA has revised the Checklist format to encourage more narrative on outputs/progress and outcomes/benefits as well as future plans.

Finally, EPA has been looking at ways to measure the success of our programs through realistic environmental measures. In FY 2005, EPA began measuring environmental results of grant-funded program activities. In light of this, our national goals are provided in the FY 2008/2009 PWSS Program Guidance. To the extent that DWSRF funds are used to achieve these goals, they must also be included in the DWSRF set-aside workplans. 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
Office of Drinking Water & Source Water
Protection

Enclosures
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W. Johnson (3WP21)
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J. Pine (3WP30)
M. Conicelli (3WP30)
D. Campanelli (3WP30)

**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 2008**

## 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 2008. This review covers the activities conducted under 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 accounted for and properly managed.

## Method of Review

This is a comprehensive review of the FY '08 progress reports and the on-site Program Review on August 23, 2007. Consultation included conversations with EPA's Drinking Water Branch, the Office of Standards, Assessments and Information Management, the Office of Infrastructure and Assistance and the Office of Analytical Services and Quality Assurance staff and additional telephone conversations and email follow-up 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, Action Items and Reminders



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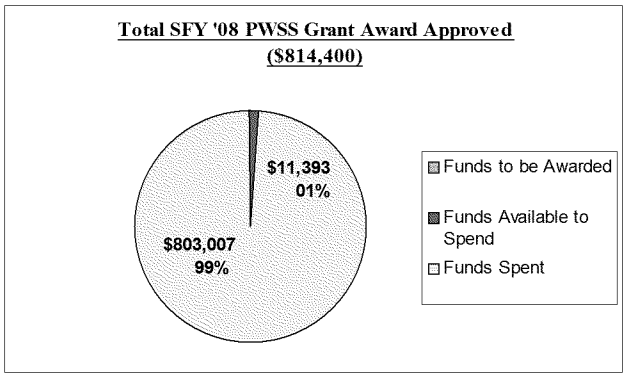
## Public Water System Supervision (PWSS) Program

**Financial Summary**




EPA approved WVDHHR's SFY'07 PWSS grant in the amount of $811,145. Partial awards were made (August 23, 2006, January 28, 2007, and April 23, 2007) to reflect 100% of the total SFY'07 grant funds awarded to WVDHHR. A final Financial Status Report (FSR) was submitted on September 17, 2007. A surplus of $5,432 was reported on the final FSR. This surplus was deobligated for use toward the SFY'08 PWSS grant. The SFY'07 grant was paid in full and closed out effective November 16, 2007.

EPA approved WVDHHR's SFY'08 PWSS grant in the amount of $814,400. Partial awards were made (September 27, 2007, December 19, 2007 and March 7, 2008) to reflect 100% of the total SFY'08 grant funds awarded to WVDHHR. The final FSR will be submitted September 2008. WVDHHR utilizes federal funds to pay for 15 full time employees (FTEs) out of the 20 FTEs under this program.

Due to a surplus of funds from previous years ($260,209) that the EPA was able to deobligate and recertify for use by WVDHHR, both the FY'07 and FY'08 PWSS grant awards are greater than final fiscal year allotments for the state. EPA expects to award the remaining balance ($241,509) as part of the state's 2009 federal funding.

**SFY'08 Grant Expenditures - as of June 2008**

| Funds Awarded | Funds Expended | Percent Expended |
|---|---|---|
| $814,400 | $803,006.91 | 99% |



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A look at the data from EPA's Financial Data Warehouse reveals that all prior year grants have been closed out. WVDHHR is on schedule for drawing down all SFY'08 funds awarded by the end of the project period (June 30, 2008) with only one percent of funds available. This is a major improvement since the last reporting period and reflects timely cost allocations by the state.

Future Funding

In light of previous federal budget rescissions and the potential for future federal budget cuts, EPA advises WVDHHR to monitor spending closely. When projecting budgets for future PWSS grants, the state should continue to plan appropriately and utilize funds efficiently.

Each year, EPA works closely with WVDHHR to ensure that grant funds can be provided as early as possible for state use. EPA is working closely with the EED to ensure timely submission of semi-annual progress reports and future grant applications.

Schedule Reminder

Submit final FSR for SFY'08 to EPA by September 30, 2008.

**Personnel/Staffing**

WVDHHR continues with all diligence in filling vacancies. Most of the vacancies are due to resignations to take outside employment or with another branch of state government. Delays to fill other vacancies are due to the lack of suitable candidates and the inability to compete with salaries of private industry. These positions have been re-posted. Despite the many challenges, WVDHHR recently filled six (6) positions and have made job offers for four (4) others. Effective May 1, 2008, the State of WV reclassified engineer jobs which provided for a 10% increase in salaries. WVDHHR employees will also receive a 3% general pay increase effective July 1, 2008. This is promising for the Environmental Engineering Division in filling vacancies and maintaining adequate staffing levels.

Reporting Reminder

WVDHHR is reminded to continue to report semi-annually on staffing levels especially where vacancies affect workplan activities (e.g., compliance, conducting training and sanitary surveys). This should be a separate narrative or included in progress reports 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; 2) a current organization chart to show stability of



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staffing levels; and 3) a list showing the funding source for all FTEs (filled and vacant), i.e., associate positions to funding source (i.e., PWSS, DWSRF set-aside grant funds, state funds, etc.).

**New Regulation Development**

Highlight

WVDHHR submitted their revised primacy application for the Long Term 2 Enhanced Surface Water Treatment Rule and Stage 2 Disinfectant Byproduct Rule (LT2/ST2) on October 15, 2007. Review by the EPA Region 3 staff found the state's application to be no less stringent than the federal regulations. The EPA Office of Ground Water and Drinking Water (OGWDW) has completed its review and also found the state's application no less stringent than the federal regulations. EPA is preparing to publish a public notice in the *Federal Register* to solicit comment and opportunity for public hearing on its tentative determination regarding the state's primacy revision request. EPA will notify WVDHHR by letter of the pending publication.

WVDHHR submitted draft revisions of their Public Water System Operator Regulations to the WV State Legislature for consideration during the 2007 session. These revised regulations became effective April 18, 2007.

The Ground Water Rule was finalized and published in the *Federal Register* on November 8, 2006. WVDHHR anticipates major changes to its existing state rule and will not meet the deadline for submission to the state legislature for its 2008 session. The state plans to request an extension from EPA for submission of their primacy application by November 2008 with its rule being published by April 2009.

EPA promulgated the Final Lead and Copper Rule (LCR) Short-Term Revisions and Clarifications on October 10, 2007. EPA issued a letter to the state dated February 29, 2008, to this effect. To obtain primacy for the implementation of this rule, the state is required to submit a primacy revision package to EPA by October 10, 2009. It is recommended that the state initiate its primacy revisions process as soon as possible to minimize the need for, or the length of, an extension request. The state may request an extension for up to two (2) years, or no longer than October 10, 2011.

Action Item

Request extension for submission of primacy application for the Ground Water Rule by November 2008.

Schedule Reminder

Primacy revision package for the LCR is due October 10, 2009.

**Groundwater Under the Direct Influence (GUDI) Determinations**



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WVDHHR has completed the Ground Water Under the Direct Influence of Surface Water (GUDI) determinations for all systems with sources that became active prior to January 1, 2004. The GUDI status of systems activated or testing new wells after 2004 are three (3) CWS, six (6) NTNCs and nineteen (19) TNCs. GUDI determinations continue to be a priority for the state.

1998 Corrective Action Plan Requirement Met

The 1998 Corrective Action Plan (CAP) was established to assist the state with areas of its PWSS program that were deficient. One area is completing GUDI determinations for all systems (community and non-transient non-community water systems by 03/2001 and transient non-community water systems by 07/2001). As new systems were being added, the challenge of completing the GUDI determinations became more difficult. For reporting purposes, the state established January 1, 2004, as a benchmark for completing GUDI determinations under the original deadlines mentioned above and thereby meeting the federal requirement. This has been accomplished. Therefore, EPA has determined that the state has met this CAP requirement.

Recommendation

EPA recommends that WVDHHR conduct GUDI determinations on new water sources prior to their going on-line.

Reporting Reminder

Continue to provide status of GUDI determinations for all new sources that became active after January 1, 2004. This information can be provided in the semi-annual progress reports or in a separate report as done previously.

**Capacity Development**

West Virginia's FY 2007 inventory consists of 1,129 public water systems including: 511 CWSs, 136 NTNCWSs, and 482 TNCWSs. The number of active water systems in West Virginia continues to decrease due to consolidation and to acquisition by larger water systems.

WVDHHR continues to successfully implement its Capacity Development Program with five (5) FTEs fully dedicated to the Program. The staff are competent and experienced which is key to making sure water systems get the assistance they need to strengthen their capability to deliver safe, potable water.

New Systems



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WVDHHR maintains a list that tracks the compliance status of new systems that started operation during the period October 1, 2004 through September 30, 2007.

The new systems permitting process is discouraging small, new water systems and encouraging proposed systems to connect to or to become part of existing, larger, more viable water systems. Through this process, new systems commonly begin to understand how complex running a water system is and partner with or connect to an existing, more viable system, when possible. This is effective in preventing formation of non-viable PWSs.

During the past three years, nine (9) out of nineteen (19) new "proposed" systems (nearly 50%) have chosen to connect with a more viable system. Three systems that have started in the last three years are still active (no systems started operation during the past year.) However, all three systems had M/R violations. All were on the SNC list but returned to compliance (RTC). The violations were due to difficulty in understanding and implementing required monitoring and reporting. Hence, WVDHHR increased its initial system start-up assistance and guidance. The increased initial monitoring oversight should improve system management's awareness and initial new system compliance with the monitoring and reporting requirements.

Existing Systems

WVDHHR conducted its initial baseline in 2002 and was updated in 2005 to help evaluate the Capacity Development Program (CDP). The data which is used to measure improvement in systems capacity, showed that existing system's assessment activities were having a positive impact on water systems. The re-assessment shows that most water systems are addressing some portion of the recommendations provided. The next baseline re-evaluation is scheduled for 2008.

WVDHHR provided assistance to water systems through field staff and the Capacity Development Team by conducting a detailed technical, managerial, and financial (TMF) water system Capacity Development Assessment (CDA). The CDA, which is considered as the CDP's first assistance step, provides the water system a complete evaluation of their TMF capabilities, identifies TMF needs, and provides recommendations to address their needs. The CDA report is a tool for the water system and implementing the recommendations will lead to long term viability. The CDP continued focusing on making the reports more "reader friendly" and helpful to the water systems.

During the reporting period, 13 water systems were assessed (fewer than previous years due to staff turnover), 63 systems were assessed over the last three years. Some assessments included multiple water systems having separate PWSID numbers (e.g., Snowshoe Water Department, Mingo County PSD, etc.). Although, they were counted as one CDA.

Additional assistance provided by WVDHHR to water systems through field staff and the Capacity Development Team includes the following:



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- Area Wide Optimization Program (AWOP): WV developed a system ranking all the state's surface water systems using conventional treatment (this is called the AWOP Microbial Status Component).
- DBP Rule: WV developed a Disinfection Status Component, identifying and ranking systems experiencing difficulty meeting disinfection byproducts requirements.
- Development of Capital Improvement/Financial Plans using spreadsheets created in Excel

and Lotus.

- Development of a generic Health & Safety Plan. The document is designed to enable creation of a Health & Safety Program by filling in the blanks and making minor modifications to the generic plan.
- Development of a generic, fill-in-the blank CCR diskette to generate the annual Consumer Confidence Report.
- Development of a Cross-Connection and Backflow Prevention Policy/Manual. The manual is flexible and can be modified, replacing the policy section with an ordinance section for municipalities and public service districts.
- Operation and Preventive Maintenance Programs
- Inventory Control Programs (asset management)
- Emergency Response Plans

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).

Highlight

In the last two years, WVDHHR initiated two additional pro-active activities:

- Capacity Assistance Partnership Developing Essential Viability (CAPDEV) outreach initiative, and
- CDA follow-up assistance calls and on-site visits.

The CAPDEV outreach initiative was created to provide technical, managerial, and financial assistance to drinking water systems staff. CAPDEV is the second phase of the Drinking Water Capacity Development Program. Through CAPDEV, WV is encouraging water system cooperation, personnel and/or equipment sharing agreements, and full or partial consolidation.



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WVDHHR has decided to expand its pro-active assistance efforts and last year initiated new efforts by making follow-up calls to water systems and scheduling site visits to provide direct assistance developing needed management tools/programs. A staff person's responsibilities were modified, increasing her outreach, follow-up, and assistance activities. The CDA follow-up has involved calling systems approximately six months following completion of their CDA report. Using these calls, CDA effectiveness is evaluated by determining the percentage of CDA recommendations the system is implementing. Part of the follow-up is also offering assistance addressing any CDA recommendations the system has not addressed yet. If the system wants additional assistance, direct assistance will be provided or third party assistance will be arranged.

As part of the more pro-active assistance approach initiated last fiscal year, WVDHHR has started contacting some long-term Historic SNCs. These efforts have been coordinated with the enforcement personnel and are typically initiated following their issuing an Administrative Order (AO). The approach is:

1. Setting up a meeting with local community officials.
2. Meeting with the local officials (the person identified in the neighborhood as the one taking care of the water system) to educate them regarding their water system responsibilities and potential non-compliance consequences. These persons, commonly refuse any correspondence from the agency. They believe accepting the correspondence (especially signing for certified mail) may make them personally responsible for the water system and any associated violations and penalties. WVDHHR staff encourage them to accept the AO and use it to help get community support to correct their water system's problems. During this step and the subsequent steps, a list of third party assistance organizations and regulatory agencies (e.g., PSC, RCAP, Regional Planning and Development Councils, adjacent water systems willing to provide assistance, etc.) is provided.
3. Encouraging local officials to set up a community meeting and helping the local contact person with this meeting. This community meeting forum is used to educate the entire community regarding their responsibilities and potential legal and health related non-compliance consequences. A list of actions is developed to be undertaken to achieve compliance and maintain a viable water system.

Schedule Reminder

The next baseline re-evaluation is scheduled for 2008.

**Source Water Assessment & Protection Programs**

West Virginia Department of Health and Human Resources (WV DHHR) has completed assessments for all baseline systems as required by statute §1453 of the Safe Drinking Water Act (SDWA). West Virginia also continues to complete source water assessments for new sources. Additionally, WV DHHR has been making progress in putting all the existing assessments on the internet, with security precautions to safeguard information.

The following are Strategic Measure Goals reported as of October 2007:



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Percent of Community Water Systems (CWS) and population **with substantial strategy implementation** to achieve minimized risk to public health.

**Total CWS/SWA for CWS - 18%, population protected 60%**

WVDHHR has met all EPA Source Water Protection Program (SWPP) reporting requirements and has continued to work with local communities and public water systems to emphasize the development of protective strategies. In support of the set-aside goals, the state has provided ongoing training opportunities for water system operators thereby improving water system operation and ensuring compliance with the SDWA. The state continues to successfully provide grants through the Source Water Protection Grants Program, to surface water and ground water community Public Water Systems (PWSs) to establish and implement water protection programs. WVDHHR has also built upon existing and new partnerships and inter-agency alliances in order to strengthen its drinking water program.

Highlight

- WVDHHR continues to support and track the education of the state's water system operators. The state has created a lending library to house training aids and reference materials as well as an Exam Database to track training and certification completion. WVDHHR personnel continue to work with West Virginia Rural Water Association (WV RWA) in order to better inform and educate water system operators.
- WVDHHR continues to participate with the Drinking Water Exam Review Committee (DWERC) in order to increase training and testing relevance and comply with EPA requirements.
- The state publishes *Drips and Drops* a biannual newsletter that is distributed to all water and wastewater operators in order to keep the water community informed of new regulations and events that impact them.
- Source Water Protection Program Annual Report was completed and submitted as required in September 2007.
- The state continues to participate in the Alternative Monitoring Strategy Program (AMSP) which determines future monitoring frequency reductions.
- WVDHHR continues to receive Global Positioning System (GPS) data associated with public wells and to use GIS in support of source water/wellhead protection.
- Revised regulations and design standards for private water wells have been submitted to the WV Legislature for review and possible approval during the 2008 session for protection of groundwater.

**Interactactions with other State programs, local governments, and other stakeholder groups**

- The West Virginia Bureau for Public Health (WV BPH) website acts as a provider of SWAP/WHP program information and guides municipalities, water suppliers and other



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interested parties through developing a local SWAP program.

- The state has created a source water protection-tracking database which records completed protection activities and enhancements to SWAP/WHP assessments.
- WVDHHR continues to work with other agencies such as the West Virginia Department of Environmental Protection (WV DEP) and partially funds the class V UIC program.
- WVDHHR continues to partake in the SWAP/WHP Memorandum of Understanding (MOU) which has been signed by multiple state ground water agencies. The MOU establishes a coordinated effort by all agencies to protect ground water in delineated SWAP/WHP areas and enhances the SWAP/WHP program's ability to protect ground water utilized by public water systems.
- WVDHHR continues to provide funding and participation with the Potomac Drinking Water Source Protection Partnership.

Reporting Reminder

EPA would like to be kept informed on the continuing development of WVDHHR's upcoming secure website that will provide such information as public supply well location and wellhead and source water protection area information. Please provide details in next progress report.

Action Item

The state needs to continue working towards the national 2011 goal which states that 50% of CWS and associated population should be protected through substantial implementation of source water protection strategies.

**Data Management/Data Analysis**

In the later part of 2007, EPA engaged in a series of dialogues with WVDHHR to discuss trends in SDWIS data as a means of identifying areas the state could work on to increase compliance. One area of focus has been the Disinfection Byproduct Rule (DBPR) as the state has identified this rule to impact GPRA numbers the most and addressing DBPR violations could produce fast results as with the Total Coliform Rule for which public water systems are in 90% + compliance with a steady decline in violations over the past several years. Target systems identified under the DBPR are very small purchase systems and small water systems. The state has begun meeting with the WV American Water Company which treats and distributes water to smaller systems, to discuss compliance and enforcement strategies to address these violations. EPA has been working on manipulating SDWIS data to produce reports which will identify specific systems and supply this information to the state. These systems will be assigned to a district office engineer who is accountable for following up with those systems and addressing compliance. Once the state knows what systems to address, the engineers can pull seasonal data to discuss with these systems what can be done to resolve non-compliance. District offices now plot data to show changes in the levels of DBPs overtime. They introduce this data to systems as a starting point to begin addressing non-compliance issues. Most of these systems, however,



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lack resources and have no engineer so they lack the knowledge of the rule and of the changes needed to the treatment process to correct elevated DBP levels.

West Virginia routinely submits quarterly updates and has been very cooperative in their attempts to alleviate data problems. They are presently using SDWIS/State Web 1 for their state database, and they are now using the EPA supplied FedRep Version 2.0 application to upload files to EPA with the Central Data Exchange (CDX). West Virginia has been routinely submitting XML files for Inventory, Actions, and Samples, in a highly organized manner. The latest data update for
4th Quarter FY2007, has been submitted and processed into the national SDWIS data base.

Highlight

A significant number of SNC violations in SDWIS have been addressed, returned to compliance, or have had data corrections and have dropped off the SNC list during FY'07. West Virginia's commitment to addressing violations and keeping the SNC report accurate and current were evident in FY'07. Below is a summary of the SNCs for FY07:

| **FY 2007** | **Q1** | **Q2** | **Q3** | **Q4** |
|---|---|---|---|---|
| **# of Violations** | 213 | 185 | 116 | 111 |
| **# of Systems** | 128 | 110 | 83 | 79 |

Schedule Reminder

Next Data Verification is scheduled for July 7, 2008.

**Annual Compliance Reports**

WVDHHR submitted its Annual Compliance Report (ACR) for 2006 in September 2007. The report now includes consumer notification violations for the Public Notice Rule (PN) which were not reported previously. This was a main contributor to the overall increase in violations from 2005. The state continues to remind water systems to inform their customers of all outstanding public notices whenever discussions are conducted concerning violations in an effort to reduce these violations.

Enforcement

In FY'06, eleven (11) Administrative Orders without penalties were issued against water systems. Five (5) of these systems returned to compliance. WVDHHR continues to work with five (5) systems while the sixth system has been referred to EPA for federal enforcement action.



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In addition to the Food Permit Suspension Request which is a request made to the county sanitarian to suspend the food permit of a public water system for non-compliance, the state recently developed a Food Permit Suspension Warning Letter that informally warns the water system of an impending food permit suspension if it does not return to compliance shortly. The letter has a fast turnaround as it does not require upper management signatures to implement, does not require action from the county sanitarian and does not disrupt the water system's business. The response from the water systems in returning to compliance has been very good.

**Laboratory Certification**

EPA issued its Annual Certification Status Report of WVDHHR's Drinking Water Laboratory Certification Program on January 23, 2008, for the 2008 calendar year. The state laboratory retains certification for analytical methods of some inorganic contaminants, microbiological techniques and lead and copper contaminants.

Concern

The EPA Environmental Science Center (ESC) notified state labs in January 2008 of the new requirement to submit National Environmental Accreditation Laboratory Program (NELAP) certificates for any laboratory to which they contract out SDWA analyses in order to meet the primacy rule requirements. ESC raised concern to the Region (EPA) that WVDHHR had not been responsive to its request to submit copies of NELAP certifications of their commercial laboratories. The state is not certified for DBPs, organic chemistry and radiochemistry and therefore, uses commercial labs to conduct sampling for these parameters. The state is certified for most inorganics and contaminants for the LCR with the exception of thallium and silica respectively.

Status

EPA held a teleconference and did followup via email with the state to address ESC's concern. Since then, the state has obtained NELAP certifications and have provided these to ESC. The state has a blanket contract with the WV Department of Environmental Protection labs that WVDHHR can tap into to get analytes done for inorganic and organic chemistry. These labs could be in or out of state. WVDHHR is in the process of verifying whether these labs are NELAP accredited. If not, the state plans to enter into contracts with various NELAP certified labs.

**Quality Management Plan (QMP)**

WVDHHR's Drinking Water Program QMP is valid until October 2010.

## Operator Certification Program

**Program Review**

On September 28, 2007, EPA approved the implementation of WVDHHR's Operator



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Certification Program. Each year a determination is made as to whether the state's program meets EPA guidance. This determination influences the decision to withhold 20% of the state's Drinking Water State Revolving Fund capitalization grant.

Highlights

Congratulations to WVDHHR on their nominee being selected as the recipient of the EPA Professional Operator Excellence Regional Award for 2007. EPA developed the Award Program in 2005 in cooperation with Region 3 states. The participation of state programs not only reflects the value states put on having highly trained, certified operators but it also speaks to the relationship state programs have with their drinking water operators. Each state nomination is written based on six (6) criteria which describes in detail what the state recognizes as outstanding work performed by the candidate. WVDHHR worked diligently with EPA to coordinate the award ceremony which was hosted by WV Governor, Joe Manchin, III and had great media coverage.

WVDHHR solicited the assistance of a review committee to conduct an external review on the implementation of their Program. The external review is a requirement of the Operator Certification Guidelines and must be performed by an entity outside of the state program agency. This can be a contractor/consultant, board or committee of stakeholders, etc. A final report was submitted to EPA. Some noteworthy findings of the committee are:

- WVDHHR was commended for the thoroughness of its exam validation process. Utilizing stakeholders to improve this area is a strength of the program.
- Recommendation was made to limit the grace period for expired certifications from 1 year to 30 or 60 days. The liability of a water utility employing operators with expired licenses should be considered as well as the issue of promoting professionalism.
- The state's database was commended for its capacity to obtain pertinent information regarding the certified operators in the state.
- The mailing list for the Drips & Drops Newsletter should include the legally responsible authority of each water utility, not just the operator. This would help improve communication to council and PSD board members.

EPA is planning a teleconference with the state to discuss possible followup actions based on the findings of the committee.

The EPA/State Eastern Regional Operator Certification Workshop held in Region 3 this year was a major success! Seventeen (17) states were in attendance including WV with guess speakers from the water industry as well as state program and EPA. As states struggle to find travel dollars each year to attend workshops such as this in addition to other program related training, WVDHHR has afforded its staff to attend this particular workshop each year. This reflects the state's commitment to improving the implementation of this Program. The next workshop is planned for June 11-12, 2008 in Region 1- Boston, Massachusetts.



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Effective 2007, EPA requests that states provide as a "minimum" more quantitative information that allows for an evaluation of progress, e.g.:

- activity progress from last reporting period;
- providing notes from stakeholder meetings or outcomes/action items, etc.;
- quantitative data, i.e.:

    1. # of public water systems;
    2. # and/or % of systems in compliance with having a certified operator;
    3. passing rate of examinations;
    4. compliance rate for continuing education and certification renewal (i.e., are operators meeting requirements on time, what's the percentage or number of operators who allow their licenses to lapse);
    5. discussion of issues, (i.e., reasons for non-compliance and plans to address those issues);
    6. types of training/exercises provided (provide # of operators taking advantage of training made available or total # of hours of training provided and;
    7. technical assistance to prepare operators for security threats like pandemic flu and new rules.

Details of the minimal content for reporting will be provided in the Reporting Reminder Memo to the states in May.

Schedule Reminder

Annual Operator Certification Report is due June 30, 2008.

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

DWSRF Financial Summary

Since 1998, EPA has awarded $83,554,500 in Federal funds with $60,971,805 allocated to the project fund, $3,033,616 for administration of the fund and $19,549,079 to support set-aside activities. This includes the most recent grant award of $8,229,300 on 09/26/2007. Thirty and one half (30.5) FTEs are funded by the SRF Set-aside funds with six and one half (6.5) FTEs funded by state appropriations in accordance with the state match requirement for the 10% set-asides.

According to EPA's Financial Data Warehouse, all federal funds awarded from Fiscal Year 2003 have now been spent. This and all grants prior to FY'03 have been closed. According to the DWSRF Workplan Supplemental Guidance, in order for WVDHHR to apply for set-asides in the



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FY'08 SRF application, the maximum allowable carryover for FYs '04-07 should reflect 150% of the average of the past four year's set-aside awards or a total balance of $3,323,228. Per Table A, the total balance of set-aside funds remaining is $6,039,315. This far exceeds the maximum unspent balance by 82% or $2,716,087.

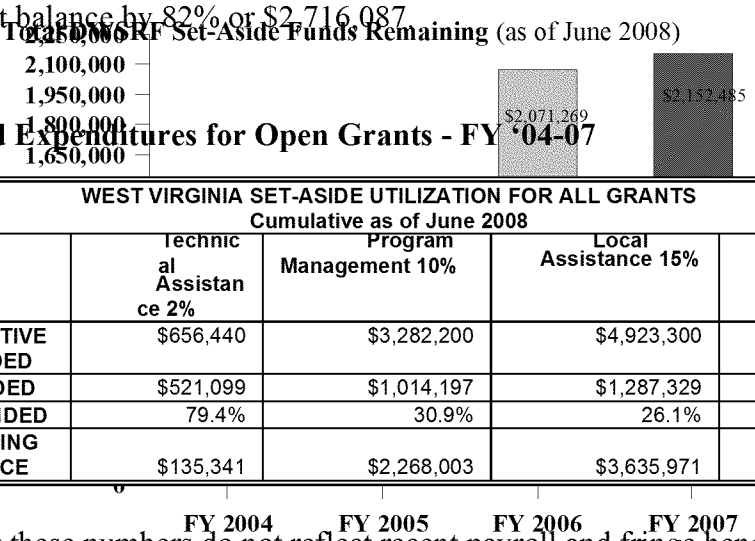


Table A

**Set-aside Funded Expenditures for Open Grants - FY '04-07**

| WEST VIRGINIA SET-ASIDE UTILIZATION FOR ALL GRANTS Cumulative as of June 2008 | | | | |
|---|---|---|---|---|
| | Technical Assistance 2% | Program Management 10% | Local Assistance 15% | Total |
| CUMULATIVE AWARDED | $656,440 | $3,282,200 | $4,923,300 | $8,861,940 |
| EXPENDED | $521,099 | $1,014,197 | $1,287,329 | $2,822,625 |
| % EXPENDED | 79.4% | 30.9% | 26.1% | 31.9% |
| REMAINING BALANCE | $135,341 | $2,268,003 | $3,635,971 | $6,039,315 |

EPA is aware that these numbers do not reflect recent payroll and fringe benefit allocations that have not been processed yet nor do they reflect the encumbered funds for workplan activities. Once theses expenses are appropriated, the FY'04 funds will be depleted. Table B shows the remaining balances of the open grants.

**Table B**



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Concerns

The project period for FY'04 funds will end June 30, 2008. EPA has approved a one month time extension which will give the state until July 31, 2008 to exhaust these funds. The state's inability to spend down set-aside funds in a timely manner is a major concern. During recent discussions with the state concerning this, the state informed EPA that it is planning to request only half of the 10% set-aside funds and 100% of its 2% and 15% set-asides in their '08 grant application. Even with the FY'04 funds spent ($734,925), the state would still need to spend another $1,981,162 to bring the unspent balance of funds below EPA's guidelines to be eligible for the set-asides from the FY'08 grant allotment. In addition to this, EPA identified a supplemental workplan activity under the 10% set-aside that is only permissible under the 15% set-aside. The state was notified of this and is working on transferring these funds accordingly. ($159K) However, this will add additional funds to the 15% set-asides which already has a surplus of unspent funds.

To improve the state's spending rate and to ensure surplus funds are spent, and to avoid adding to the unspent grant balance, EPA is recommending that WVDHHR not apply for set-aside funds from their FY'08 DWSRF grant allotment. The state may reserve the right to apply for the 2% and 10% set-asides from a future grant allotment. The state does not have this option for the 15% set-aside. EPA advised the state to submit a letter (prior to submitting their new application) that will address the slow draw down of redirected funds. The letter should provide full budget details of 1) the current funding based on the original workplan activities; 2) the redirected funds based on the supplemental workplan activities; and 3) it must include a schedule for expending these funds quickly. The letter should also describe why WVDHHR needs additional set-aside funds at this time. EPA stressed to the state this letter is necessary to assist EPA in determining whether to approve a request to set aside funds from the FY'08 DWSRF grant allotment with the upcoming grant application.

A major issue has been the slow process in procuring contracts. The state believes once contracts are in place, monies will draw down quickly. The state also anticipates a significant amount of money being issued for loans under SRF projects ($9.5M by '09 with $20M in proposed projects currently being reviewed) which will allow the state to move project funds at a faster pace. Also, with the increase in salaries, the state expects this will draw an additional $210K/year in grant funds. With regards to the transfer of $159K to the 15% set-aside, the state is confident that the funds would be easily spent on salaries and that developing another activity on which to spend these funds was not necessary.

WVDHHR submitted a draft supplemental set-aside workplan to address set-aside funds from previous project periods that have not been utilized due to staff shortages and costs for some activities that were lower than expected. EPA provided comments and approved this workplan in 2007. Supplemental activities include contract support that will significantly increase the completion of work activities that was stagnant by using only in-house staff and provide additional source water protection and technical pre-construction assistance. The state has been unable to start up most of these activities due to the delays in procuring contracts. The state



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expects to have contracts up and running by SFY 2009. WVDHHR has been implementing the WHP and SWP Grant Programs, i.e., applicants have been selected and awards have been made.

Reminder

The state should be spending oldest monies first and is encouraged to maintain a maximum allowable carryover of 150% for prior year funding in accordance with the DWSRF Workplan Supplemental Guidance. The project period for FY'04 funds will end July 31, 2008.

Action Item

- Submit a letter prior to new grant application providing 1) detailed explanation of current expenditures and schedule for spending surplus funds; 2) address redirected funds re: supplemental workplan to include detailed explanation for not meeting the 4-year schedule for expending funds and propose a new schedule for spending surplus funds already awarded; and 3) an explanation as to why WVDHHR needs more set-aside funds if it intends to apply for these funds from the FY'08 DWSRF allotment.

**Wellhead Protection Program - 15% Local Assistance**

The WV Wellhead Protection Program (WHPP), approved by EPA in 1992, is a key implementation program for source water protection.

Highlights

- WVDHHR issued four (4) WHPP grants totaling $54,000.
- Third round selection of grants are expected during 2008/2009.
- WVDHHR continues to support the WV DEP Project WET (Water Education for Teachers) by loaning groundwater models out for public education which includes a summer water workshop. Recipients are to report the use of these models by early 2008.
- The state also participated in the annual Water Festival attended by local 4th and 5th grade students.

WVDHHR continues to partially fund the DEP Class V UIC program and maintain the SWAP website. The DEP UIC Class V program inspected 111 sites with 53 sites requiring corrective actions (i.e., plugging floor drains). The website contains fact sheets, new SWAP posters, general information and an online SWAP education course, entitled "A Guide to Developing a Source Water Protection Plan."

**Capacity Development Assessments - 15% Local Assistance**

WVDHHR conducted seven (7) capacity development assessments and issued seven (7) reports to water systems which provide each system with a detailed evaluation and recommendations to improve system viability. This is less than the state projected due to expanding the CAPDEV



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activities and shortage of staff (currently the state has two (2) vacancies in the Infrastructure and Capacity Development Section).

**Program Management - 10%**

Following the finalization of revised Public Water System Operator Regulations (April 2007), WVDHHR revised all pws related forms to reflect new requirements and updated its website. The state also issued a special edition newsletter to summarize the revisions to the regulations. As part of the Develop-A-Curriculum (DACUM), the state is working with the Drinking Water Exam Review Committee (DWERC), comprised of state regulators, educators and certified operators to develop two (2) fully validated versions of each operator classification exam as opposed to having a random exam generating database or software. This will also include a reference list and content areas outlined. All information developed to aid operator training will be posted on the website upon completion.

Sanitary Surveys

States are required to conduct sanitary surveys at all surface or ground water under the direct influence of surface water (Subpart H) community water systems once every three years starting December 2004. WVDHHR schedules sanitary surveys in 3 year intervals from the date of the last survey completed. Surveys are tracked on a monthly basis to identify surveys to be completed throughout the year. For this reporting period the state projected 146 sanitary surveys to be conducted for Subpart H systems. WVDHHR completed 179 to date which exceeds their projection. The state expects to conduct another 105 by the end of the SFY. One reason for the increase in surveys conducted is the state's anticipation of the revised Ground Water Rule, regarding change in frequency of surveys for ground water system from 5 years to 3 years. During the 3-year period of 2004-2006, SDWIS Fed reported fifty-four (54) systems total in WV as either never being reported for having a sanitary survey completed (6) or not having a sanitary survey since January 2004 (48). Most of the later number of systems reported are either community water systems that purchase surface water or non-community water systems which are both on a five year frequency. Others were either inspected late but not reported by the state or were on schedule to be inspected in 2007. The state has experienced recruitment problems, in particular, backfilling engineer vacancies in their District Offices which is key to ensuring sanitary surveys are completed and reported on time. With the recent salary increase for engineers the Environmental Engineering Division hopes to backfill these vacancies soon.

Area Wide Optimization Program (AWOP)

EPA Region 3 commends WVDHHR for being an active participant in the Region's AWOP program since its inception in 2003. Currently, the state is focusing efforts toward implementation of it's initial round of "Performance Based Training" (PBT) in mid 2008. WVDHHR participated in the Region 3 AWOP Pilot PBT, which finished in 2007, and determined that implementing PBT in WV would be beneficial to the drinking water program. WVDHHR's AWOP status component and the inclusion of plants of similar make-up will be relied upon heavily to determine the PBT participants.



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District personnel continue to discuss the yearly status component ranking during on-site visits with public water systems. WVDHHR staff share status component rankings with their PWSs and this has resulted in substantial improvements of PWS-AWOP rankings after the water system was shown their undesirable position as a high risk system in a district's overall ranking. Four PWSs, on the status component which lists 27 systems, have jumped from a high risk to low risk ranking within a year.

WVDHHR also credits AWOP implementation for a significant drop in Surface Water Treatment Rule violations for very small PWSs (from 35 in '03 to 2 in '05).

Other program management activities include:

- maintaining the Safe Water Operator Certification System (SWOCS) database;
- reviewing continuing education hour (CEH) courses;
- training to surface water system operators to optimize treatment plant performance;
- distributing *Drips and Drops* quarterly newsletter;
- distributing semi-annual training calendar;
- maintaining capacity development web page;
- maintaining CD library for class facilitator when an 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; and
- being an active member of the Infrastructure and Jobs Development Council (IJDC) and chair of the IJDC Technical Review Committee.

**Technical Assistance - 2%**

Through contract with the WV Rural Water Association (WVRWA), WVDHHR provided 108 days of training through the Hours for Education and Learning Program (H.E.L.P.). Through the various classes, 201 operators participated. This included 42 certification classes with participation from 222 students.

## 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 continuing education for and certification of operators at small community and non-transient non-community water systems. Since the last reporting period, the state has drawn down nine percent (9%) of the funds.

**Grant Expenditures - as of June 2008**

| Funds Awarded | Funds Expended | Percent Expended |
|---|---|---|



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| | | |
|---|---|---|
| $1,437,900 | $148,174 | 10% |

**Program Review**

WVDHHR continues to work on getting most of the contracts in place to implement the revised workplan activities. The state anticipates award of contracts by mid 2008 including the training trailer, card swipe technology and online training. The contract for online training is in place and has proved to be successful with 69 classes held and 11 operators receiving continuing education hours towards their renewal certifications. The contract for developing and providing electronic learning activities and resources for web-based and CD-ROM delivery is now in progress. WVDHHR will consider additional contracts pending evaluation of its success. Training continues in support of the Backflow Prevention & Testing Program. Ninety-six hours of training has been provided to ninety-seven students during this reporting period.

Concern

WVDHHR's draw down of ERG funds continues to be at a very slow pace. Although there has been some progress in workplan activities, there has only been an additional 2% ($25K) of awarded funds expended since the last evaluation report. The major cause is due to the slow procurement process with getting contracts in place. In light of this, the state has requested a one-year time extension. EPA is currently working with the state on its review of the request. Since WVDHHR is only allowed to procure 1-year contracts, with the project period about to expire, all contracts are on hold until the state's request for the 1-year extension is in place. This will allow the processing of their contracts to move forward. During the August 2007 on-site meeting, EPA raised its concerns about the timing of contracts and the state's ability to expend all funds even with a time extension. EPA discussed the state's option to roll some funds over to the DWSRF grant but the state reiterated that it was confident all funds would be expended under the ERG. EPA will continue to monitor state spending closely.

EPA recently had discussions with the state to address the lack of financial detail on an annual basis utilizing the revised progress report which allows the state more space to submit such detailed information. The state explained that including this information in the progress report would extend the review process which may cause delays in submitting the report on time. EPA and the state agreed that it would be best to submit a separate financial status report as with the DWSRF Set-Aside supplemental grant funds.

Reporting Reminder

EPA reminds the state to provide <u>detailed</u> information on outputs, outcomes and future plans in the progress report.

Schedule Reminder

Prepare and submit a progress activity report covering July 1, 2008 - December 31, 2008 that reflects financial status and time schedule for expended all grant funds by the end of the project



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period. This report is due February 15, 2009.

## Water Protection Coordination Grant (Security)

### Financial Summary

Total federal funding awarded to WVDHHR for state counter-terrorism activities is $407,300. An interim Financial Status Report (FSR) was received September 2007. Since that time (6 month period), an additional $44,357 has been spent for a total of $321,484 (79%) funds expended. At the state's request the grant project period has been extended to 12/31/2008. EPA believes that 9 months (April - December) will give the state adequate time to expend the remaining balance ($85,816) at the current spending rate.

**Grant Expenditures - as of June 2008**

| Funds Awarded | Funds Expended | Percent Expended |
|---|---|---|
| $407,300 | $330,134 | 81% |

### Program Review

Coordination activities continue for critical water infrastructure protection efforts. This includes participating in conferences and sponsoring workshops, assisting public water systems with emergency preparedness and maintaining database of emergency contacts.

WVDHHR submitted revisions to their State Emergency Plan. EPA is currently reviewing this plan to provide feedback to the state.

Highlight

WVDHHR and other responding offices are to be commended for their efforts in response to the forced entry break-in at the Milton Water Treatment Plant in Milton, West Virginia in November 2007. Prompt action to issue a do-not-use order and locate sampling and analysis resources lead to a quick resolution of this event.

EPA appreciates the recent efforts undertaken by WVDHHR to meet with utilities and other groups who may be interested in working toward the development of the West Virginia Water and Wastewater Agency Response Network (WV WARN). The state is advised to inform EPA of any opportunities for EPA assistance that would further this important effort on the part of the utilities.



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Concerns

EPA has shared with WVDHHR, the following provisions of future funding in order to reduce the potential for a build-up of large amounts of funds not being used expeditiously: 1) submitting sufficient financial detail from previous-year awards; 2) plans for spending the new funds; 3) addressing outputs and outcomes in workplans; 4) providing financial information which enables EPA to assess progress being made against an approved workplan. Despite EPA's efforts, the state has yet to submit any financial detail in its progress reports. During recent discussions with the state concerning this, the state explained that including this information in the progress reports would extend review of the progress reports which may cause delays in submitting them on time. EPA and the state agreed that it would be best to submit a separate financial status report as with the DWSRF Set-Aside supplemental grant funds.

Since the grant project period ends 12/31/08, EPA requests that the state provide additional information on projected expenses by August 15, 2008, to allow EPA and the state to jointly resolve any issues before the end of the budget period. Also, include in the next progress report a statement as to whether WVDHHR is on target to spend the funds by 12/30/2008 or not, and if not, what they plan to do to address this. This will allow EPA more options for dealing with unexpended funds before the grant expires than after it expires, and since it takes time to work out the details, proactive measures are necessary.

Reporting Reminder

EPA reminds the state to provide detailed information on outputs, outcomes and future plans in the progress report.

Action Item

EPA is very much interested in WVDHHR's efforts to work with the waterworks on the development of the West Virginia Water and Wastewater Agency Response Network (WV WARN). Please provide additional details on your efforts as well as the status of the overall progress being made by the utilities to the extent that you are able.

Schedule Reminder

Prepare and submit a progress activity report covering July 1, 2007 - June 30, 2008 that reflects financial status and time schedule for expending all grant funds by the end of the project period. This report is due August 15, 2008 in addition to the bi-annual progress report. The state must show that current funds and estimated future expenditures will be used in a timely manner.

## Conclusions, Action Items and Reminders

Overall, WVDHHR is implementing their program effectively. For additional information



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please refer to Attachment 1, WVDHHR Reporting Checklist, which details the EED program activities for mid-year 2008. 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 Items**

- Request time extension for GWR primacy application. (page 5)
- Continue working towards the national 2011 goal of 50% of CWS and associated population protected through substantial implementation of source water protection strategies. (page 10)
- Submit letter addressing surplus of set-aside funds. (page 17)
- Submit progress activity report for ERG. (page 21)
- Provide additional information on WARN efforts (page 23)
- Submit progress activity report for Security Grant. (page 23)

**Reporting Reminders**

- Semi-Annual Progress Report to include:
  1. Detailed narrative on "progress" of all grant activities (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 4)
  3. Current organization chart to show stability of staffing levels. (page 4)
  4. The funding source associated to each FTE (filled and vacant). (page 4)
  5. GUDI (all systems post 01/01/04) summary broken out by system type (CWS, NTNC and TNC) showing the number and percentage of systems testing, evaluated, unresponsive, etc. (page 5)
- Provide information on upcoming secure website for public supply well locations and wellhead and source water protection areas. (page 10)

WVDHHR is reminded that beginning in FY 2007, 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.

**Schedule Reminders**

- Final FSR for SFY'08 PWSS Grant - September 30, 2008. (page 3)
- Primacy Revision Package for LCR - October 10, 2009 (page 5)
- Baseline re-evaluation scheduled for 2008. (page 9)
- Data Verification scheduled for July 7, 2008. (page 11)
- Annual Operator Certification Report - June 30, 2008. (page 14)
- Progress Activity Report on ERG - February 15, 2009. (page 21)
- Progress Activity Report on Security Grant - August 15, 2008. (page 23)



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