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

JUN 0 6 2007

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 2007. 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 2007 Program Guidance/Reporting Checklist and evaluation tool (without attachments). This report incorporates information from the semi-annual progress reports submitted by the EED, findings from the Data Verification information gathered from our on-site visit on July 11-14, 2005, on-site Program Review on September 19, 2006, telephone and email follow-up, and communication within EPA covering the activities from Mid-Year 2005 through Mid-Year 2007.

We are pleased that EED responded to the discrepancies identified in the 2005 Data Verification Report with an Action Plan in a timely manner. We also congratulate the Department on final approval of the Quality Management Plan which is good until 2010.

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EPA has concerns in the following areas which are discussed more fully within the report:

- delay in cost allocation of PWSS grant funds, and
- slow draw-downs of ERG and Security grant funds.

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 2007/2008 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 P. Binetti

Victoria Binetti, Associate Director
Office of Drinking Water & Source Water Protection

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Enclosure 1

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 2007

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 2007. 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 '05/'06/'07 progress reports, the draft and final report of the June 2005 Data Verification (DV), the state's action plan submitted in response to the final DV report, the on-site Program Review on September 19, 2006 and the on-site Laboratory Evaluation Report dated October 24, 2006. 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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Enclosures
bcc (without encls.):
W. Johnson (3WP21)
M. Brewster (3WP50)
J. Pine (3WP30)
M. Conicelli (3WP30)
D. Campanelli (3WP30)

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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

SDWIS indicates for the year 2006, 91.2% of the population served by West Virginia's community water systems received drinking water that met all health based standards. The 2005 National Baseline is 88.5%.

In FY 2005, EPA began measuring environmental results of grant-funded program activities. In light of this, EPA has been working with WVDHHR to revise grant workplans to reflect outputs and outcomes. This has been completed for the Drinking Water State Revolving Fund Grant. Since the PWSS workplan is also the reporting tool, EPA determined that it was necessary to revise this workplan to reflect better defined results/progress for reporting purposes. EPA worked with the state on revisions and submitted the finalized reporting tool to WVDHHR on January 11, 2007 to be used for this reporting period.

Public Water System Supervision (PWSS) Program

Financial Summary

Effective August 17, 2006, EPA approved WVDHHR's request to extend the project period of the FY'05 PWSS grant application to June 30, 2006. This places the state on the state fiscal year (SFY) cycle for future grants. With the amendment in place, WVDHHR continued spending FY'05 funding into the new federal fiscal year.

EPA approved WVDHHR's SFY'06 PWSS grant in the amount of $811,100. Due to the switch in grant cycles, state activities covered a 9 month period (Oct'05 - June'06). Partial awards were made (September 28, 2005, December 19, 2005 and May 5, 2006) to reflect 75% ($608,325) or 9 months of activities of the total SFY'06 grant funds awarded. An interim Financial Status Report (FSR) was submitted to cover FY'05 and three quarters (9 months) of SFY'06. Total PWSS funding awarded to WVDHHR for the '05/'06 reporting period was $1,443,025.

EPA approved WVDHHR's SFY'07 PWSS grant in the amount of $811,145. Two partial awards have been made (August 23, 2006 and January 28, 2007) totaling $527,778 to date. EPA

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will provide increment funding of the remaining grant funds approved ($283,367) to the state as federal funds become available. WVDHHR utilizes federal funds to pay for 15 full time employees (FTEs) out of the 20 FTEs under this program.

WVDHHR submitted a revised FSR in January 2006 for the FY'04 PWSS grant in the amount of $16,723.11. This was a result of finalizing timesheets from prior periods after submission of the original FY'04 FSR. The original FY'04 FSR reported $45.20 unobligated which EPA recertified for use by the state in the SFY'06 PWSS grant. The $16,723.11 was recertified for use by the state in the partial award made to the state in January 2007. WVDHHR does not anticipate a reoccurrence of under reporting as cost allocations are now performed on a monthly basis.

WVDHHR was granted a time extension of October 31, 2006 to submit its final '05/'06 FSR. Due to incorrect/incomplete information provided, the state had to resubmit its final '05/'06 FSR which was received by the Las Vegas Financial Center on December 11, 2006. Closure of this grant was pending WVDHHR's repayment to EPA of the $33,367.33 reported on the final FSR. This refund is due to cost allocations of salary. WVDHHR had an employee that worked for another agency as a second job and had inadvertently paid the employee against the PWSS grant instead of the other agency. This was not caught until the final FSR had been submitted. The costs were reallocated and repayment to EPA was made. The '05/'06 grant was closed out on January 3, 2007.

SFY'07 Grant Expenditures - as of March 2007

Funds Awarded	Funds Expended	Percent Expended
$527,778	$202,820	38%

A look at the data from EPA's Financial Data Warehouse reveal that all prior year grants have been closed out. WVDHHR has spent less than half of the SFY'07 funds awarded (38%) with four months of activities remaining. However, the majority of the PWSS grant is used for salaries which are prepaid out of WVDHHR's general revenue and later drawn down from grant funding. Remainder of funds to be spent is $324,958 or 62% of "Funds Awarded" with an additional 35% of funds that have not been awarded yet (see graph below). Recent discussion with the state noted that the slow draw down of grant funds is due to state internal processing delays. Actual draw down of grant funds can take two months or more for the state to process.

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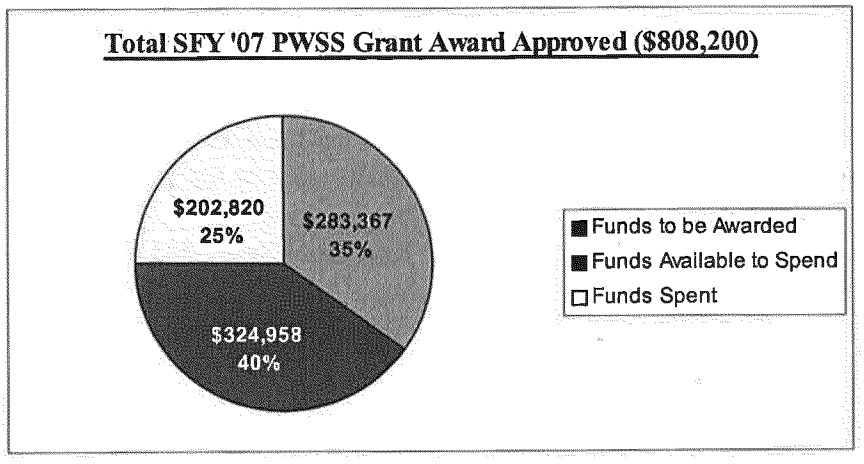

Concern

The state has been experiencing difficulties with timely and appropriate cost allocations. If cost allocations are said to be done on a monthly basis, the state's draw down of PWSS grant funds should reflect this. The delay in the state's internal processing may cause a sudden need for EPA to process a partial grant award. If draw downs aren't reflected in EPA's Financial Data Warehouse, it will be difficult for EPA to anticipate funding needs and the state will be unable to notify EPA in the appropriate timing for processing a grant award. EPA cautions the state to update cost allocations as soon as possible and perform cost allocations in a timely manner.

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. Previously, EPA has discussed the option of the Department to switch to a two-year grant budget period. Potential advantages include reducing level of paperwork and an early awarding of funds to the state for the second half of the budget period. The state does not wish to convert to a two-year grant budget period and believes staying on a one-year budget period is best for accounting purposes.

Personnel/Staffing

WVDHHR continues with all diligence in filling vacancies. Most of the vacancies are due to promotions within the Central Office as a result of the EED reorganization and resignations to take outside employment. There have been a few candidates who after being selected decided to remain in their current employment. These positions have been filled. Other factors in delays to fill vacancies is the lack of suitable candidates and the inability to compete with salaries of

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private industry. Despite the many challenges, WVDHHR recently filled eight (8) positions. All other vacancies are in the solicitation process. In light of this, WVDHHR continues to reevaluate the structure of its Central Office and seize the opportunity to reorganize to improve the functioning of the Program. They have decided to keep the toxicologist position as opposed to contracting out. This position has been filled and will reside in the Radiation Toxics and Indoor Air Division of the Office. Fifty percent (50%) of this position is funded by the DWSRF 10% Set-aside. The vacancy for an Environmental Resources Specialist III has been filled and now resides in the Compliance and Enforcement group. After reevaluating the vacancy for a Geologist I position currently located in the Central Office, this position, once filled, will reside in the Kearneysville District Office.

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 obtaining a healthy staff level which is a direct correlation to the state's ability to implement federal and state regulations and thereby maintaining state primacy. WVDHHR has made extensive progress over the years to obtain and maintain a sufficient level of staff to meet key requirements of program implementation like conducting sanitary surveys. Therefore, EPA has determined that the state has met this CAP requirement.

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). 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 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

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.

WVDHHR submitted draft revisions of their Public Water System Operator Regulations to EPA in February 2006 for review. EPA held a conference call with the state to discuss revisions and submitted follow-up action items for the state in March 2006. Draft revisions have been

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submitted to the WV State Legislature for consideration during the 2007 session. Refer to the Operator Certification Program section of this report for more details.

WVDHHR obtained primacy for the Variance and Exemptions Rule on August 21, 2006. The state does not allow variances, only exemptions. EPA believes the state's regulation on this Rule is more stringent than federal regulations.

State Response to Previous Action Item

The previous EPA evaluation report noted WVDHHR's past difficulty in obtaining Attorney General (AG) Statements for primacy program revision applications. Since the Bureau has been assigned its own General Counsel, the state does not foresee any future delays in obtaining the required AG statements.

On February 21, 2006, EPA received documentation from the WV Assistant Attorney General verifying the delegation of the authority to the General Counsel of the WVBPH to provide AG 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.

Action Item

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

Groundwater Under the Direct Influence (GUDI) Determinations

WVDHHR moves closer each year to completing 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. There are eleven (11) systems (3%) remaining (nontransient noncommunity (NTNC) and transient noncommunity (TNC)) to be evaluated and they are currently testing. Evaluations will be made on these systems as soon as possible. The GUDI status of systems activated or testing new wells after 2004 are five (5) NTNCs and twenty-six (26) TNCs. Challenges to completing determinations have been unresponsive systems and dry weather conditions. GUDI determinations continue to be a priority for the state.

Reporting Reminder

WVDHHR is reminded to continue to report on its GUDI status until all determinations have been made as per the 1998 Corrective Action Plan. This should be a separate report or included in the next progress report consisting of 1) a narrative 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.

Capacity Development

West Virginia's FY 2006 inventory consists of 1,164 public water systems including: 516 CWSs, 143 NTNCWSs, and 505 TNCWSs. This represents approximately 18% decrease from the

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FY 2001 inventory of 1,414 water systems. The decrease in the number of water systems is due to consolidation and 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

WVDHHR maintains a list that tracks the compliance status of new systems that started operation during the period October 1, 2003 through September 30, 2006.

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. Nine (9) out of nineteen (19) new "proposed" systems (nearly 50%) have chosen to connect with a more viable system. One (1) system started operation and then decided to connect to a neighboring system. Out of the remaining nine (9) systems that applied for permits, six (6) systems are in operation.

However, the remaining active new systems have had difficulty understanding and implementing required monitoring. 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 which was updated in 2005 to help evaluate the Capacity Development Program. 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.

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

- 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 also developed a Disinfection Status Component, identifying and ranking systems experiencing difficulty meeting disinfection byproducts requirements.
- Developed Capital Improvement/Financial Plans using spreadsheets developed in Excel and Lotus.

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- Developed 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.
- Developed a generic, fill-in-the blank CCR diskette to generate the annual Consumer Confidence Report.
- Developed 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 WV 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 list of systems on the historical SNC list covering the period 2003-2005 was received from West Virginia by the due date.

Highlight

On May 8, 2006 EPA approved the implementation of WVDHHR's Capacity Development Program. Each year a determination is made as to whether the state's program meets EPA guidance and statutory requirements. This determination influences the decision to withhold 20% of the state's Drinking Water State Revolving Fund capitalization grant.

Last year, WVDHHR initiated a new outreach activity called the Capacity Assistance Partnership Developing Essential Viability (CAPDEV) outreach initiative. This 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. The CAPDEV kickoff meeting was held in September 2006 immediately before the WV RWA's annual conference. The meeting was open to all drinking water personnel and was announced through a mass mailing prior to the meeting. Drinking water personnel statewide are being

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encouraged to participate in this initiative. The initial theme is Getting to Know Your Neighbor. The first meeting's goals were:

- Distribute CAPDEV information
- Gather support
- Identify and discuss drinking water issues
- Help water system personnel get to know neighboring system personnel

The initial meeting attendees believed this effort would help water systems identify and address common problems. Tentative future meeting dates are December 2006, March 2007, and June 2007. CDP personnel will plan the meetings and facilitate meeting activities.

WVDHHR has decided to expand its pro-active assistance efforts and initiated new efforts by making follow-up calls to water systems and scheduling site visits to provide direct assistance developing needed management tools/programs. Staff responsibilities were modified, increasing outreach, follow-up, and assistance activities.

Eastern Wyoming Public Service District (EWPSD) water systems continue to make progress anticipated since the EWPSD was formed.

- Phase I of the project is expected to be completed by April 2007.
- The design of Phase II of the project is complete. Most project funding is included in the FY2008 Abandoned Mined Lands (AML) grant. However, Small Cities Block Grant funding was not obtained. Therefore, additional project funding is being pursued. The project is still scheduled for bid and construction in 2008.
- EWPSD will be receiving a DWSRF Award for Sustainable Public Health Protection.

Schedule Reminder

The next baseline re-evaluation is scheduled for 2008.

Source Water Assessment & Protection Programs

WVDHHR continues to complete source water assessments for new sources, as required by §1543 of the SDWA. They are also making progress in putting all the existing assessments on the internet, with security precautions to safeguard sensitive information. WVDHHR has completed assessments for all baseline systems as required by statute.

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

a) WVDHHR participated in various activities of the Potomac Partnership as an active member. EPA notes that WVDHHR was also a co-sponsor of the Emerging Contaminants Conference in 2005 and hosted the conference.

b) WVDHHR hosted the statewide 2005 SWAP/WHP stakeholder meeting. This is an important way in which the state continues cross-program integration between public and private partners.

c) Continued participation with the WV DEP Project WET (Water Education for Teachers), a nonprofit water education program for educators and young people ages 5-18. The SWAP coordinates by loaning groundwater models to schools that complete Project Wet training.

d) The West Virginia Bureau for Public Health (WVBPH) website continues to provide information on the SWAP/WHP programs and guide municipalities, water suppliers, or other groups through developing a local SWAP program.

e) WVDHHR cosponsored (with the USGS and West Virginia University) the West Virginia Water Conference held at Stonewall Jackson State Park in West Virginia during October 11-13, 2006.

f) WVDHHR developed a source water protection-tracking database. Revisions, protection activities and enhancements to the SWAP/WHP assessments (implemented and/or have substantial implementation status determination) are entered into this database.

g) WVDHHR continues to implement the Source Water Protection Grants Program.

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

Status of Action Items from 2005 Data Verification

WVDHHR's last data verification was held in July 2005. During the audit, EPA observed that the state files were very well organized and the support from the West Virginia personnel was excellent. State and Regional comments for the draft report were submitted. EPA received the final report from The Cadmus Group, Inc. in February 2006 and submitted a copy to the state. WVDHHR submitted an action plan to address discrepancies in the report in March 2006. EPA submitted comments to the action plan on April 13, 2006, and received the state's response on April 17, 2006. Overall, discrepancies were due to lack of staff to ensure compliance. WVDHHR has hired an additional compliance officer which should address most of the discrepancies.

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The following are Strategic Measure Goals reported as of September 2006:

a) GPRA: Number and percent of population and CWS with **substantial implementation** of a strategy to achieve minimized risk to public health.

- **GW based CWS/SWA for CWS - 66%, population protected 80%**
- **SW based CWS/SWA for CWS - 54%, population protected 66%**

This reporting is acceptable to EPA because the state has the programmatic lead to define "substantial implementation."

b) GPRA: Number and percent of CWS with a **protection strategy in place.**

- **GW based CWS/SWA for CWS - 6%, population protected 33%**
- **SW based CWS/SWA for CWS - 43%, population protected 73%**

Highlight

WVDHHR is to be commended for their efforts in working with the local communities and public water systems to emphasize the development of protective strategies. The state met all reporting requirements set by the EPA Source Water Protection Program (SWPP), both at HQ and in Region III. These include completing the national program matrix for 2005, which includes the GPRA goals. WVDHHR has also been highly responsive to Regional requests for information throughout the year. WVDHHR successfully prepared and transmitted a GIS database of all Source Water Area polygons to HQ. This transmittal meets the national policy to obtain polygons for building a national coverage of this important data.

As of June 30, 2005, the Source Water Assessment and Protection (SWAP) program has completed assessments for 100% (delineation through public availability) of the community and non-community public water supply systems.

- The Wellhead Protection/ Source Water Protection Program Annual Report was completed and submitted as required in September 2006.
- Staff continues to receive Global Positioning System (GPS) locational data associated with the public wells and correct when necessary. GIS continues to be used to prepare maps displaying geographic, geologic and monitoring data in support of source water/ wellhead protection. GIS is a fundamental tool used to support the delineations, inventories and susceptibility analyses required by the Source Water Assessment Program.
- WVDHHR personnel review new well permits for new groundwater sources for water systems.
- WVDHHR personnel coordinates SWAP activities with the WV Rural Water Association.

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Highlights

West Virginia routinely submits quarterly updates and has been very cooperative in their attempts to alleviate data problems. They have successfully transitioned to the Modernized SDWIS, and they are using the EPA supplied FedRep application to upload modernized files to EPA with the Central Data Exchange (CDX). In the modernized SDWIS, West Virginia has been submitting XML files for inventory, actions, and samples, in a highly organized manner. WVDHHR uses SDWIS/State as its primary database for loading SDWA data. The latest data update for 1st Quarter FY2007, has been submitted and processed into the national SDWIS data base.

As a result of the SDWIS modernization, the SDWIS SNC generation software was updated to include Stage 1 DBP, Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Consumer Confidence Report (CCR). This resulted in an increase in the number of SNCs reported. However WVDHHR has met the challenge, responding in a timely manner to any unaddressed SNCs and identifying errors in the report. During the test phase, the state assisted EPA in reviewing test data and noting problems and discrepancies. The state identified several problems which assisted EPA HQ in making major changes to the new SDWIS. Early in the year, WVDHHR began focusing on the DBP data and verifying the information with SDWIS/State. This allowed the state to be one step ahead of other states with the next update because they were addressing discrepancies early on.

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.

Concern

WVDHHR's data verification action plan mentions a strategy in place to address late TCR sampling. When EPA requested further documentation, the state commented that this "strategy" was a verbal discussion between the central and district offices. EPA cautions the state to formalize implementation plans that address program policies and procedures. This would be a safeguard against losing knowledge and information of procedures when staff transition out of the central and/or district offices due to promotion, resignation, etc.

Over the past year SDWIS/Fed underwent a major modernization. The new system went on-line during the 4th quarter of FY'05. EPA HQ discovered "glitches," i.e., errors in a programming code which has caused inaccurate reporting on the number of actual SNC systems. Glitches continue to be discovered by EPA HQ and are being corrected as soon as possible. EPA encourages the WVDHHR to continue reviewing SNC lists for accuracy and to address any issues/concerns with EPA in a timely manner.

Schedule Reminder

Next Data Verification is planned for 2008.

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Enforcement

In FY'05, sixteen (16) systems were referred to EPA for assistance. EPA received the SNC report for the 4th quarter of FY'06 on February 16, 2007. WVDHHR addressed thirty-one (31) systems with valid violations, two (2) of which have been referred to EPA. EPA is addressing these cases by Notice of Violations or Administrative Orders. Forty-six (46) systems returned to compliance. EPA will schedule a quarterly conference call to discuss the FY'06Q4 report in the near future.

Annual Compliance Reports

WVDHHR submitted its Annual Compliance Report (ACR) for 2005 in August 2006. The report now includes violations for the IESWTR which were not reported previously. Overall, the total number of violations in the state for the 2005 reporting period decreased by approximately 30% from 2004. This reflects the success of the state's assistance to water systems through various program initiatives, i.e., operator certification and training, sanitary surveys, inspections, technical assistance, etc.

Laboratory Certification

EPA issued its annual certification status report of WVDHHR's Drinking Water Laboratory Certification Program on December 20, 2006. There were no discrepancies found in the report. The laboratory retains certification for sampling methods of inorganic contaminants, microbiological techniques and lead and copper contaminants. EPA issued its On-Site Evaluation of Region 3 drinking water laboratory certification programs on January 3, 2006. Noteworthy findings in WV were:

- Organic analyses are contracted to commercial laboratories which are certified by another State. EPA accepts this certification via reciprocity.
- Significant improvements have been made since the last management systems review in 2004.
- On-Site assessments of laboratories are back on schedule and certificates are being issued in a timely manner.
- WV's database is now current and accurately reflects the certification status of laboratories.

On September 19-20, 2006, EPA conducted an on-site review of WVDHHR's SDWA Lab Certification Program. There were no findings. The state has a good program for the SDWA laboratory certification that keeps on track with the required schedule of on-site assessments, assessment reports and follow-up, as well as, with PT tracking and follow-up. Certificate issuance provides the necessary information for updating of the WV web site (laboratory's certification status), which is kept current to accurately reflect certification status of laboratories.

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Concern

During the site review, state lab personnel indicated that there is a discrepancy with the information provided on TCR samples between the state lab's paper documentation and its database. The form used by the state lab annotates a "Not valid for SDWA compliance reporting" flag. The purpose of this "flag" is to inform the state that the water system needs to resample and that the "flagged" sample can not be used for compliance status. The state lab database does not contain this particular flag to indicate a "not valid" sample and therefore, lab personnel were concerned that the EED would be unable to identify valid TCR samples from invalid samples when reporting compliance to SDWIS/State. EPA discussions with EED indicated that the design of the database the state lab uses is identical to the format in SDWIS/State and that the form also requires other information that provide reasons for rejecting results for SDWA compliance which are input in the database and used for reporting into SDWIS/State. EPA is satisfied at this time with the check and balance EED has to ensure TCR samples are reported properly. The EED has planned a meeting with its lab personnel to address their concern.

Action Item

Provide EPA with outcome of meeting with state lab personnel scheduled for March 2007.

Quality Management Plan (QMP)

EPA granted final approval of WVDHHR's Drinking Water Program QMP in September 2005. Approval is valid until October 1, 2010.

Operator Certification Program

Program Review

On September 20, 2006, EPA approved the implementation of WVDHHR's Operator 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

WVDHHR is in the process of revising their Public Water System Operator Regulations. EPA held a conference call with the state to discuss revisions and submitted follow-up action items to the state in March 2006. Some noteworthy revisions are:

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- WVDHHR switched from a point rating system where each classification was given a number based on its complexity and treatment technique to a narrative rating. WVDHHR believes a written description is best for clarity;
- The owner of a public water system will be required to submit annual personnel status reports by July 15th;
- The certified operator will be responsible for submitting renewal applications as opposed to the chief operator;
- Chief operators will be required to take chief operator training; and
- The level of education required for Class I-D systems has been increased.

Starting with the next reporting period, EPA will be requesting states to 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. discussing 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. all systems are required to have certified operators.

Details of the minimal content for reporting was provided to the State Directors at the September 2006 State Directors Meeting and will also be provided in the Reporting Reminder Memo to the states in May.

Schedule Reminder

- Annual Operator Certification Report is due June 30, 2007.
- External review on program implementation should be conducted for June 2007 reporting period.

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

DWSRF Financial Summary

Since 1998, EPA has awarded $75,325,200 in Federal funds with $55,293,588 allocated to the project fund, $2,704,444 for administration of the fund and $17,327,168 to support set-aside activities. This includes the most recent grant award of $8,285,500 on 09/27/2006. A total of thirty-five (35) FTEs are funded for SRF activities with federal funds supporting twenty-two (22). The remaining thirteen (13) FTEs are 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 Years 1997 to 2002 have been spent. These grants have been closed. According to the DWSRF Workplan Supplemental Guidance, WVDHHR's current spending rate should reflect at a maximum 250% or a total balance of $5,561,244. Per Table A, the total balance of set-aside funds remaining is $6,238,944. This exceeds the current spending rate by 12% or $677,700.

Table A
Set-aside Funded Expenditures

WEST VIRGINIA SET-ASIDE UTILIZATION FOR ALL GRANTS Cumulative as of March 2007				
	Technical Assistance 2%	Program Management 10%	Local Assistance 15%	Total
CUMULATIVE AWARDED	$1,494,425	$6,774,162	$9,058,581	$17,327,168
EXPENDED	$1,269,137	$4,563,467	$5,255,620	$11,088,224
% EXPENDED	84.9%	67.4%	58.0%	64.0%
REMAINING BALANCE	$225,288	$2,210,695	$3,802,961	$6,238,944

The Level Spending Chart provided in the Guidance establishes the following spending rate with regard to WVDHHR's funding: FY'03 - 25%, FY'04 - 50%, FY'05 - 75%, FY'06 - 100%. According to this spending rate, the FY'04 and FY'05 budget periods exceed their percentage threshold (i.e., FY'04 by $234,938 and FY'05 by $442,752). See Table B.

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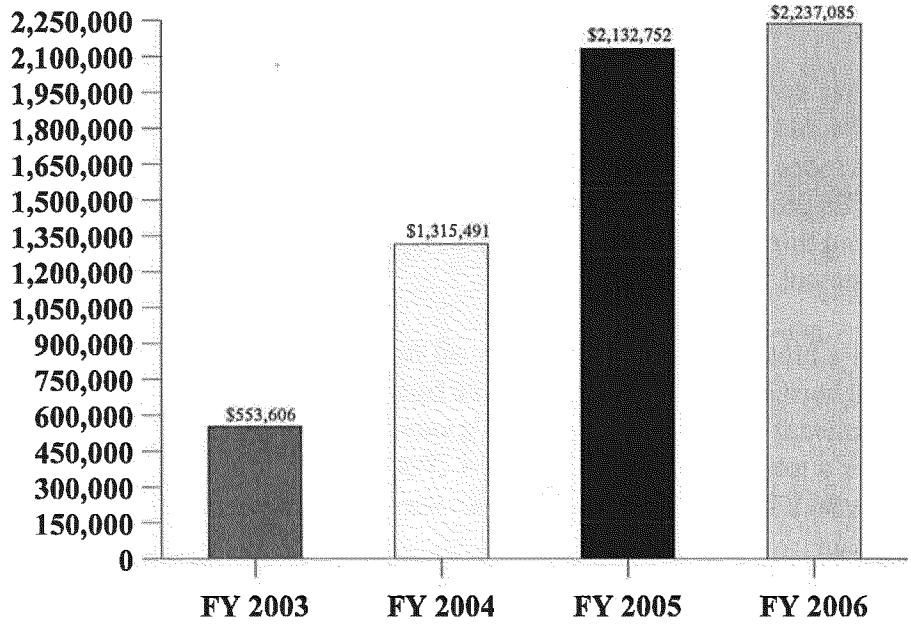
Table B

Total DWSRF Set-Aside Funds Remaining (as of March 2007)



In addition to the excess of funds in FY'04 and FY'05, the project period for FY'03 funds will end June 30, 2007 (i.e., $22,471 - 10%; $532,136 - 15%). The state expects to expend all of the FY'03 funds by the project period end date which would leave a balance of $124,094 ($677,700 minus $553,606) in excess that needs to be spent or redirected to projects. This would put the state at the 250% threshold. In order to apply for 100% of FY'07 funds, the maximum balance the state can carry over of previous year grant funding (FY'04-'06) is 150% or $11,674,971.

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 to the state on January 31, 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. EPA is planning a teleconference in March to discuss the schedule for expending older funds. EPA is also aware that the remaining balances reflected in the Financial Data Warehouse are highly unlikely the actual balances in the state. This is a direct correlation to the delay in state internal processing mentioned previously.

Reminders

The state should be spending oldest monies first and is not encouraged to maintain the 250% threshold each year but to spend prior year grant funds expeditiously. The project period for FY'04 funds will end June 30, 2008. The state should plan activities accordingly to expend all

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funds, consider extending the project period or redirect unspent funds to other activities or projects.

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. EPA worked with WVDHHR to develop a Request for Proposals (RFP) for grants to community water systems. The state has developed a sound RFP with clear requirements for applicants. This RFP process reflects the state's progress in developing their source water protection strategy.

Highlights

- WVDHHR issued four (4) WHPP grants, estimated at $54,377.
- Planning for the second round of applications is scheduled for March 2007.
- The instructional report (pamphlet) on pump yield and draw-down test methods is expected to be completed in 2007/2008.

WVDHHR continues to partially fund the DEP Class V program and maintain the SWAP website. 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".

Action Items

- EPA requests that the state provide a list and description of the WHPP grantees in the next progress report.
- EPA requests a copy of the instructional report (pamphlet) on pump yield and drawdown test methods upon completion.

Capacity Development Assessments - 15% Local Assistance

WVDHHR conducted 24 capacity development assessments and issued 24 reports to water systems which provide each system with a detailed evaluation and recommendations to improve system viability.

Program Management - 10%

WVDHHR continues to implement grant activities through contracts for services such as: providing training for cross-connection control and back flow prevention, making necessary revisions to SDWIS/State for tracking compliance with drinking water regulations and revising protection zones for surface water intakes. Site visits are conducted throughout the year to provide relevant information to operators via inspections, sanitary surveys, etc. As part of the Develop-A-Curriculum (DACUM), exam validations have been completed for water operators for classifications I - IV. During the next reporting cycle, WVDHHR will evaluate the pass/fail rate on exams.

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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 schedule 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 138 sanitary surveys to be conducted for Subpart H systems. WVDHHR completed 141 to date which exceeds their projection. The state expects to conduct another 53 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. Based on EPA discussions with the state at the September site visit and teleconferences, the state has a 90% confidence level that they are meeting the 3-year schedule for completing all evaluations. WVDHHR has begun a quality control practice which distributes more accountability to the district engineers and supervising engineers to address problem systems. EPA will monitor the state's progress on the new quality control practice to evaluate if this is effective for ensuring compliance.

Area Wide Optimization Program (AWOP)

WVDHHR is a voluntary participant of the Region 3 Area Wide Optimization Program (AWOP): a multi-state effort in which states work together to develop and implement individual state programs to optimize particle removal and disinfection capabilities of conventional surface water treatment plants in each respective state. State programs are based on the AWOP model of Status Component, Targeted Performance Improvement Component, and the Maintenance Component. AWOP is designed to provide state drinking water staff tools to assist water systems to work toward optimizing their existing treatment processes in an effort to increase public health protection. It also helps prioritize state resources by identifying systems that would benefit the most from assistance.

Performance Based Training (PBT), one of the AWOP tools, is a 15-month long program that teaches plant operators leadership skills and problem solving techniques to assist them in optimizing plant performance. WVDHHR staff serve as facilitators to each of these plants. The facilitators work with the systems between PBT sessions (5 in all) by providing advice and coaching to ensure the operators complete their assignments prior to the next session. Operators receive Continuing Education Units (CEUs) for their participation.

Highlights

- In 2007, five (5) PBT seminars are being presented at different locations state-wide highlighting "filter optimization & optimization, and the current status of the WV-AWOP program", six hours total.
- WV provides the overall state status component rankings to individual systems. This includes: the overall ranking (1 thru 127), the appropriate "Public Health Risk Category" (high/moderate/low), the yearly (OAS software) TurbOPT graph, and a copy of the annual report.

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- Data for 2006 will be summarized by March 2007 in an annual report. WVDHHR staff are coordinating for a PWS attendance at R3-PBT – *Charles Town Water Dept. which serves 18,500 people.*

Goals

- WVDHHR will likely implement performance based training (PBT), state wide, upon completion of the current multi-state PBT. Collaboration with the WV Rural Water Association trainers, possibly retired water operators, and state agency personnel is anticipated.
- The 95th percentile combined filter effluents (CFE) turbidities and the individual T/F/M component of the 2005 Capacity Development scores will be added to the yearly AWOP spreadsheet. This spreadsheet is generated by the district staff and summarizes the AWOP data for each year.

Schedule Reminder

Next Region 3 AWOP Planning Meeting and PBT Session 4 will be held in Hagerstown, MD on April 17-18,2007.

Other program management activities include:

- providing financial support to locate Underground Injection Control Class V wells;
- providing public education;
- 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 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 support, WVDHHR has provided for 6,365 Continuing Education Hours (CEH) of training which included classes for procedures for testing backflow preventors, education programs, and resources for the public on SDWA topics, (e.g., drinking water educational program for an elementary school, brochures and handouts to distribute at conferences and to civic organizations, training videos, public library resources and articles for water system trade magazine(s)). Through the various classes, 608 small systems participated.

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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 seven percent (7%) of the funds.

Grant Expenditures - as of March 2007

Funds Awarded	Funds Expended	Percent Expended
$1,437,900	$100,488	7%

Program Review

A contract is now in place to provide scheduled training in support of the Backflow Prevention & Testing Program. Web-based training for small system operators is being provided through this contract. 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. WVDHHR will consider additional contracts pending evaluation of the current training. WVDHHR is developing a proposal for contract services to develop in-house internet training programs to support in-house training of state staff so that by the end of the five year contract in-house staff will be able to sustain the program in the future.

At the September 2006 on-site Program Review, WVDHHR discussed with EPA other activities the state is considering for utilization of the grant, (i.e., contracting with WV Rural Water Association (RWA) to fund a training trailer). EPA referred the state to DE RWA who is utilizing ERG funds from DE Health and Social Services for a training trailer. The state is at the preliminary stages for writing proposals for card swipe technology to be utilized by operators for security purposes; for tracking continuing education units; and for providing circuit riders to do training, including security training through a contract. EPA informed the state that the ERG workplan needs to be revised to include the new activities.

Concern

Over the past two and a half years, WVDHHR's draw down of ERG funds has been minimal. Although the grant's project period extends to the year 2008 and contracts are now in place, EPA remains concerned that over $1M will need to be spent by next year. WVDHHR submitted a supplemental workplan to EPA in January 2007. The state also plans to request a one year time extension. EPA submitted comments in March 2007 and awaits feedback from the state. EPA will continue to monitor state spending closely.

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Reporting Reminder

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

Action Item

The state must show that current funds and estimated future expenditure rates will be used in a timely manner. Report on the status of expenditures in the end of year report due August 15th.

Water Protection Coordination Grant (Security)

Financial Summary

On September 16, 2005, EPA awarded WVDHHR's FY'05 grant amendment request in the amount of $50,000, bringing the total federal funding for state counter-terrorism activities in West Virginia to $407,300.

Grant Expenditures - as of March 2007

Funds Awarded	Funds Expended	Percent Expended
$407,300	$248,040	61%

Program Review

Coordination activities continue 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.

Emergency Preparedness

As a result of WVDHHR's instructional activities the Clarksburg Water Board implemented a "Water Watchers" group to involve citizens of the community to heighten water security awareness relative to their water system facilities.

Emergency Communications

WVDHHR is in the process of purchasing "Do Not Tamper" signs for posting at CWS and NTNCWS, booster pumping stations, water storage tanks and raw water reservoirs. These signs will be used as deterrents to would-be vandals, notifying them of related federal and state penalties.

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WVDHHR purchased Personal Digital Assistants (PDAs) for all district office staff for rapid access to the CWS emergency contact database. PDAs will enable district staff to have 24 hour access to contact information. The communication database to transmit emergency information between WVDHHR's district and central offices and the public water systems is being maintained by an intern. WVDHHR will continue to maintain existing communication methods, i.e., cell phones and pagers.

Highlight

Although not specifically funded under the Water Protection Coordination Grant, WVDHHR has been actively involved in other security and emergency preparedness projects. The state participated in the Mid-Atlantic States Pandemic Planning workshop in Winchester, Virginia from January 31 to February 1, 2007 at which the states mutually developed a drinking water specific emergency response plan annex outline for utility and state use for pandemic planning purposes. Laboratory staff from the Office of Laboratory Services participated in the Regional Laboratory Response Plan meeting held on January 9, 2007 at EPA's Environmental Science Center at Ft. Meade. This plan encourages state laboratories and drinking water utilities to provide mutual aid during incidents of national significance.

EPA also appreciates recent efforts on the part of WVDHHR to undertake compliance assistance with those water systems that had not completed the requirements of the Bioterrorism Act of 2002 related to vulnerability assessments and emergency response plans. Only a few remaining water systems in West Virginia have not complied with these requirements.

WVDHHR has done great work to collect information on emergency back up power capabilities. The goal is to provide backup generator specifications (e.g., size, wiring, compatibility, etc.) for all of the state's community water systems that do not currently have backup generators installed or are not knowledgeable of their technical requirements for backup power generators during emergency events. Having knowledge of this information helps prepare systems to provide minimal power needs and quickly maintain/restore drinking water volumes during emergencies. To date, WVDHHR has determined specifications of 484 generators for 200 systems.

Concerns

EPA continues to have concerns regarding WVDHHR's slow spending of grant funds. EPA's April 28, 2006 letter to WVDHHR, discusses 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.

Reporting Reminder

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

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Action Item

The state must show that current funds and estimated future expenditures will be used in a timely manner. The state should provide a status of expenditures with the end of year report due August 15th.

Conclusions, Action Items 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 mid-year FY'05 through mid-year 2007. 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 6)
- Continue working towards the national 2011 goal of 50% of CWS and associated population protected through substantial implementation of source water protection strategies. (page 11)
- Provide EPA with outcome of meeting with state lab. (page 14)
- Submit copy of the pamphlet on pump yield and drawdown test methods upon completion. (page 18)
- Provide list and description of WHPP grantees once awards are made. (page 18)
- Provide status of expenditures for the ERG. (page 22)
- Provide status of expenditures for Security grant. (page 24)

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 5)
  3. Current organization chart to show stability of staffing levels. (page 5)
  4. The funding source associated to each FTE (filled and vacant). (page 5)
  5. Detailed information on all GUDI activities. (page 6)
  6. GUDI summary broken out by system type (CWS, NTNC and TNC) showing the number and percentage of systems testing, evaluated, unresponsive, etc. (page 6)

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.

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Schedule Reminders

- Baseline re-evaluation scheduled for 2008. (page 9)
- Data Verification scheduled for 2008. (page 12)
- Annual Operator Certification Report - June 30, 2007. (page 15)
- Conduct external review to be reported in June 2007 Report. (page 15)
- Region 3 AWOP Planning Meeting and PBT Session 4 - April 17-18, 2007. (page 20)