West Virginia State-of-the-State Briefing – April 2014

System Inventory

	Systems/Population	
CWS	483	1,515,053
NTNC	102	32,413
TNC	409	30,369

Rule Adoption

- WV is up to date on rule adoption.
- Primacy package for RTCR is due Feb 2016.
  - Per Kelly Moran, RTCR Lead, calls with the states will began soon to discuss the implementation guidance that came out Feb 2014.
  - The state intends to request an extension.
    - WV usually adopts by reference. Since they will not be allowing reduced monitoring for small systems, additional time is needed to develop state regs.
    - Extension request must be submitted by August 2014.
    - Negotiations with WV re: interim implementation will be necessary (before Feb 2015).

SDWIS Training & Technical Assistance

All SOPs and training has been delivered under EPA HQ work assignment with CADMUS. WV received SOPs for the following: Inventory Updates and New Sources Data Entry, LCR, Sanitary Surveys, PN/CCR, ST1&2 DBP, Enforcement Policy, Phase II/V and GWR. On-site training occurred January 14-16, 2014. Training was based around the SOPs, targeting new and existing staff on SDWIS compliance determination, Microsoft Access query development and SDWIS data in mass mailing. March 12-13, 2014, CADMUS conducted two (2) GoTo Meetings, on generating PWS profile reports and waivers. CADMUS modified the SDWIS Reporting Services MS Access application so WV can run the reports from a network drive.

EPA awaiting last invoice for March 2014.

Lab Certification Program

Annual Certification of WVDHHR's Drinking Water Laboratory Certification Program was issued on December 14, 2013 for the 2014 calendar year. WV recently expanded their scope of certification for organic analysis and hopes to continue increasing their capabilities in this analytical area over the next several years. NELAP Certificates have been provided for all satellite and commercial labs used by the WVDHHR.

QMP/QAPP

Approved until 2015.

SWP – 74% of CWSs and 94% of associated population served have substantially implemented SWP plans. (Population served 1,416,711)

- WVDHHR continues to work with local communities and public water systems to emphasize the development of protective source water strategies through public outreach and educational activities.
- In collaboration with the Division of Highways, SWP signs (100) have been constructed, (59) have been provided to systems to post along perimeter of SWP areas.
- Continue support of early warning monitoring installations in the River Alert Information Network (RAIN) and source water security and implementation of water protection programs. Ten (10) source water monitoring panels have been installed in facilities (10) in or close to the Monongahela River Basin.
- Series of training was provided to 76 well drillers and pump installers on water well design standards and regulations across the state.
- Other work completed this reporting period: 3 initial SWA reports on new PWSs; updated 101 existing SWA reports and developed 5 protection plans.

EPA Comment (C. Kanetsky): For future reports (Task 4.4.0 – Plan for SWP and SWA Programs simultaneously), I think we could ask WV to identify their top 10 at risk water systems and ask them to do an updated assessment and/or protection plan.

OPCERT

- WV Program approved for 2013. Next program report due June 30, 2014.
- WVDHHR continues to provide training via WV RWA under the 2% SetAside: 34 days of CEH and certification classes to 203 small systems.
- Beginning February 2014, mobile training trailer has been providing training.
- Operators continue to take advantage of the free, e-training originally provided with ERG funds (103 operators this reporting period). Existing contract in place for maintenance and technical support.
- Approximately 2,416 certifications are being maintained.
- During this reporting period: 543 operator certifications (new and renewal) issued; 195 exam administered and 120 continuing education courses were reviewed (115 approved).
- Approximately 461 operators are certified Backflow and Assembly Inspector/Tester (BAITs). There were 67 BAIT certificates issued this reporting period.

CapDev

- Annual CD report submitted November 22, 2013. Program approved February 27, 2014.
- Collection of data and creation of an update to the Baseline Survey will occur prior to submission of the Governor's Report due September 2014.
- 24 CDAs conducted and reports issued.
- Viability scores improved by 50 points for systems who received a CDA as opposed to those who have not.
- Continue to work with DWTRF staff to provide recommendations regarding potential loan recipients – 6 system reviews were conducted.

- Utilization of the ETT assists WVDHHR in tracking new systems and making sure they understand reporting and sampling requirements.
  - ETT
    - Region 3's commitment to EPA HQ's is to address or resolve 203 high priority systems from the SDWIS July 2013 ETT. The total count for West Virginia on this list is 81. The SDWIS January 2014 ETT shows that WV has addressed or resolved 47 systems, which is 58% of the July 2013 ETT list.
    - EPA and WV have quarterly conference calls to discuss the status of the PWS systems on the ETT List. Any cases needing EPA compliance assistance are referred to EPA during these calls.

GRANTS

PWSS

- 2014 Award: $969,649; Final Partial Award made March 2014: $400K
- All previous grants are closed out.
- 2015 Grant application expected April/May 2014; Records indicate a surplus in-house of $31,912.47. (Anthony still to confirm)
- Next progress report due August 15, 2015.

SRF SetAsides

WEST VIRGINIA SET-ASIDE UTILIZATION FOR OPEN GRANTS ONLY Cumulative as of April 2014				
	Technical Assistance 2%	Program Management 10%	Local Assistance 15%	Total
CUMULATIVE AWARDED	*$967,660*	*$3,937,868*	*$6,312,304*	*$11,217,832*
EXPENDED	*$431,250*	*$2,434,486*	*$4,209,356*	*$7,075,091*
% EXPENDED	*45%*	*62%*	*67%*	*63%*
REMAINING BALANCE	*$536,410*	*$1,503,382*	*$2,102,948*	*$4,142,741*

- WVDHHR's drawdown of the 10% and 15% Set-asides has declined slightly since July 2013. From the chart above, they have spent 63% of their total awarded funds to date. Currently, there are four (4) grant years of funding open (2010 – 2013).
  - EPA received FFY 2014 grant application March 2014. WV applied for 100% of funding for all SetAsides (~ $1.3M).
- Recent EPA discussions with WV to address 10% and 15% ULOs conclude the following:
  - WV plans to close out 2010 and 2011 grants by August 2014.
    - EPA is aware of lag time between COMPASS ($382,302) and WV accounting ($151,076).

        - Residual funds remain on previous grant agreements or contracts that need to be paid and a lease agreement that needs to be closed.
    - Drawdowns for the 2012 Grant is 50%
        - WV will continue to draw for current salaries, fringes, and program expenses. State projects by the end of 2014 fiscal year, the balance should be down to approximately one-fourth of the original allocated budget ($556K)
    - Drawdowns for the 2013 Grant is 0%
        - WV expects to start drawdowns for salaries, fringe expenses and program activities this summer.
    - Additionally, WV plans to hire eight (8) permanent staff as a result of state legislature passing a new bill requiring source water assessments be completed for approx.. 140 water systems covered under the new bill by July 2016.
        - This will require approximately $500,000 in funding for salaries and fringe expense that are not included in our current staffing levels. The new positions will increase utilization of funds.
        - WV plans to provide future subrecipient grants to help small disadvantaged water systems to do the assessment updates. This activity will also draw down set-aside funds over the next few years.

SECURITY

- The original grant in the amount of $407,300 has been closed out. The final FSR was received with a remaining balance of $43,769.62. EPA has recertified these funds for future regional use in state grants.
    - 2009 & 2010 Awards total: $243,769; Balance remaining: ~ $80K

West Virginia State-of-the-State Briefing – July 2013

System Inventory

	Systems/Population	
CWS	483	1,514,760
NTNC	104	32,513
TNC	414	30,349

Rule Adoption

- WV is up to date on rule adoption.

SDWIS Training & Technical Assistance

CADMUS support continues via EPA HQ work assignment to develop SOPs and conduct SDWIS/Rule training. SOPs for LCR and Sanitary Surveys have been completed. Enforcement Policy and Phase II/V are being finalized. Due to conflicts with WVDHHR's schedule, SDWIS training will likely be held early fall. Training will be targeted to state staff and compliance officers.

Lab Certification Program

EPA conducted an on-site inspection of the WVDHHR Office of Laboratory Services on September 2012. As a result, the state established a CAP to address the following: reporting method for proficiency test samples, checking samples for residual chlorine and proper disposal of microbiological waste. SOPs were also developed and submitted. EPA found the state's CAP and supporting documentation to be fully acceptable. The review was closed out in Feburary 2013. Annual Certification of WVDHHR's Drinking Water Laboratory Certification Program was issued on December 13, 2012 for the 2013 calendar year. NELAP Certificates have been provided for all satellite and commercial labs used by the WVDHHR.

QMP/QAPP

Approved until 2015.

SWP – 93% of all CWSs or SWAs for CWSs have SWP strategies in place and are being implemented. (population served 1,410,925)

- WVDHHR continues to work with local communities and public water systems to emphasize the development of protective source water strategies through public outreach and educational activities.
- In collaboration with the Division of Highways, SWP signs (59) have been constructed and provided to systems to post along perimeter of SWP areas.
- The state has provided grants totaling approximately $240K to nineteen (19) systems, to support early warning monitoring installations in the River Alert Information Network (RAIN) and source water security and implementation of water protection programs.
- Series of training was provided to 109 well drillers and pump installers on water well design standards and regulations across the state.

OPCERT

- Annum program report submitted. EPA review is in progress.
- WVDHHR continues to provide training via WV RWA: 44 days of CEH and certification classes to 227 small systems.
- Operators continue to take advantage of the free, e-training originally provided with ERG funds. The state continued a contract for maintenance and technical support.
- Contracts to build mobile training trailer and purchase equipment is completed. Contract is now being developed to utilize for training statewide.
- Operator certifications (new and renewal) increased by 5%. Approximately 2,300 certifications are being maintained.
- Approximately 414 operators are certified Backflow and Assembly Inspector/Tester (BAITs)

CapDev

- Program approved May 6, 2013.
- 14 CDAs conducted and reports issued. WVDHHR is in the process of developing a CD compiling reference material and assistance to provide to systems.
- Viability scores improved by 54% more for systems who received a CDA as opposed to those who have not.
- Continue to work with DWTRF staff to provide recommendations regarding potential loan recipients – 10 system reviews were conducted.
- Utilization of the ETT assists WVDHHR in tracking new systems and making sure they understand reporting and sampling requirements.

GRANTS

PWSS

- 2013 Award: $787K; Balance Remaining: $16,048
  (grant budget was revised to reflect decrease in allotment and avoid monies unspent)
- 2014 Award: $969,649; (1) Partial Award: $500K; Balance Remaining: $469,649 (contingent upon availability)

SRF SetAsides

WEST VIRGINIA SET-ASIDE UTILIZATION FOR OPEN GRANTS ONLY Cumulative as of July 2013				
	Technical Assistance 2%	Program Management 10%	Local Assistance 15%	Total
CUMULATIVE AWARDED	*$799,240*	*$4,321,818*	*$7,505,404*	*$8,944,162*
EXPENDED	*$444,190*	*$3,297,057*	*$5,924,033*	*$5,982,980*
% EXPENDED	*56%*	*76%*	*79%*	*67%*
REMAINING BALANCE	*$355,050*	*$1,024,761*	*$1,581,371*	*$2,961,182*

- WVDHHR's drawdown of the 10% and 15% Set-asides has improved greatly. From the chart above, they have spent almost 70% of their total awarded funds to date. With three (3) grant years of funding currently open, they are below the threshold of the maximum funding allowed by 36%.

ERG

- Grant ended December 2011; officially closed April 2012
  - WV awarded $1.4M
  - Remaining funds rolled over to DWSRF $31K (projects)

SECURITY

- The original grant in the amount of $407,300 has been closed out. The final FSR was received with a remaining balance of $43,769.62. EPA has recertified these funds for future regional use in state grants.
  - 2009 & 2010 Awards total: $243,769; Balance remaining: ~ $101K

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

Walter Ivey, P.E., Director
Environmental Engineering Division
West Virginia Department of Health and
Human Resources
350 Capitol Street, Room 313
Charleston, West Virginia 25301

NOV 23 2011

Dear Mr. Ivey:

Enclosed is the U.S. Environmental Protection Agency Region III (EPA) advanced monitoring review of the West Virginia drinking water program activities in the Public Water System Supervision Program (PWSS) Grant for State Fiscal Year 2011.

The enclosure consists of a comprehensive report based on my review of the implementation of the WV PWSS grant workplan activities. This review incorporates information from the semi-annual progress reports submitted by the West Virginia Environmental Engineering Division (EED), telephone and email follow-up, communication within EPA covering the PWSS activities from July 1, 2010 through June 30, 2011, and recent on-site interviews conducted by EPA's contractor, CADMUS.

EPA would like to recognize West Virginia's drinking water program on its success in obtaining primacy for the Lead and Copper Rule Short Term Revisions and Ground Water Rule. However EPA does have concern with the high turnover of staff within EED; this is discussed further in the report.

In addition to the shared responsibility placed on responding to acute health contaminants at all public water systems, EPA will focus FY 2012 program activities on the continuation of emergency preparedness, new rule development and adoption, continuation and improvement of operator certification programs and continued improvement of data quality in SDWIS. EPA is committed to working with you on these activities to achieve these goals.

If you have any questions regarding the enclosed review, please do not hesitate to call me at (215) 814-3249.

Sincerely,

Wanda F. Johnson
WV PWSS Program Manager
Drinking Water Branch

Enclosure

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

Introduction

This review covers the activities conducted under the Public Water System Supervision Program (PWSS) federally funded assistance agreement for the period July 1, 2010 to June 30, 2011. The report is presented in two parts: 1) a discussion of the Environmental Engineering Division (EED) strengths and 2) a discussion of those areas where the EPA has concerns. The report identifies recommendations and action items. 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 report is a summary of reviews of submitted progress reports from WVDHHR for State Fiscal Year 2011, the 2011 WV Assessment from on-site interviews with EPA contractor (CADMUS); and grant draw-downs from EPA's Information Financial Management System. This report also includes commentary also provided from EPA's Drinking Water Branch, the Office of Standards, Assessments and Information Management, the Office of Analytical Services and Quality Assurance, and additional telephone conversations and email follow-up between EPA and WVDHHR.

Contents of this Report

- PWSS Grant Information
- PWSS Program Activities
- Conclusion, Action Items and Reminders

Public Water System Supervision (PWSS) Program

Financial Summary

EPA approved WVDHHR's SFY'11 PWSS grant in the amount of $829,550. Last partial award was made April 14, 2011. WVDHHR submitted the final FFR for SFY 2011 to EPA on October 3, 2011. A surplus of $216,142.63 has been reported. EPA has requested de-obligation and recertification of these funds for use by the state which may supplement possible budget cuts of federal state allotments for SFY '12.

Action Item

EPA will start reporting to EED the status of grant drawdowns and incremental funding as well as the balance of de-obligated funds at the close of grant.

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.

Personnel/Staffing

WVDHHR's EED has been experiencing significant staff turnover. The majority of vacancies are due to promotion mobility while some vacancies have been due to retirement or jobs taken outside of WVDHHR. This turnover poses significant challenges in keeping staff sufficiently trained and able to make decisions that are consistent with EED's daily operations and directions. The compliance program has been impacted the greatest. Plans to reorganize include shifting some activities to the district offices.

Reporting Reminder

WVDHHR is reminded to continue reporting on staffing levels especially where vacancies affect work plan 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 staffing levels; and

Freedom_0005779_0010

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

New Regulation Development

Highlight

WVDHHR's primacy revision request for the Lead and Copper Rule Short Term Revisions and Ground Water Rule was tentatively approved by EPA on June 24, 2010. No comments were received during the public comment period. The state's revised rules became final on July 24, 2010.

Groundwater Under the Direct Influence (GUDI) Determinations

GUDI determinations continue to be a priority for the state. WVDHHR's GUDI status of new systems activated or testing new wells after 2004 are; five (5) CWS, ten (10) NTNCs and thirty-seven (37) TNCs. The recent upsurge in the coal industry activity is the primary factor for the increase in request for NTNC systems.

Recommendation

EPA recommends that WVDHHR conduct GUDI determinations on new water sources prior to these systems 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

Program activities continue in accordance with the workplan and at a satisfactory level although they endure staff turnover. On June 2, 2011, EPA approved the implementation of WVDHHR's Capacity Development Program (CDP). 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.

WVDHHR submitted to their Governor a report on the efficacy of the CDP and progress made toward improving the TMF capacity of public water systems in West Virginia. The report was submitted by the due date (September 30, 2011) and was made available to the public. An article on the CDP's achievements was published.

Freedom_0005779_0011

New Systems

The number of active water systems continues to decrease due to consolidation and acquisition by larger water systems. The permitting process for new systems 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.

Existing Systems

Baseline re-assessment for existing water systems is underway. The data from the baseline and triennial assessments are used to measure improvement in system capacity which had previously shown that existing system's assessment activities were having a positive impact on water systems. The re-assessment conducted in 2008 shows that most water systems are addressing some portion of the recommendations provided. Findings of the 2011 assessment will be in the next reporting period.

WVDHHR continues to provide assistance to water systems by conducting Capacity Development Assessments (CDA) - a complete evaluation of their technical, managerial, and financial (TMF) capabilities and needs. WV DHHR provides recommendations to address those needs which will lead to long term viability. The CDP continues to focus on making the reports more "reader friendly" and helpful to the water systems.

Additional assistance provided by WVDHHR to water systems through field staff and the Capacity Development Team include a variety of activities related to the Area Wide Optimization Program, the Consumer Confidence Report, asset management, emergency response plans, Disinfection Byproduct Rule, etc.

Highlights

As part of the more pro-active assistance approach initiated over the last two fiscal years, WVDHHR began contacting long-term Historic SNCs. These efforts have been coordinated with the enforcement personnel and are typically initiated following their issuance of an Administrative Order (AO).

WVDHHR has continued with its Capacity Assistance Partnership Developing Essential Viability (CAPDEV) outreach initiative. The CAPDEV outreach initiative was created to

Operator Certification Program

Program Review

On September 30, 2011, 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.

Freedom_0005779_0012

Highlights

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 strengthens 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 public service district (PSD) board members.

Although state budgets nation-wide have affected travel dollars each year to attend workshops and training, WVDHHR continues to show support through attendance at various EPA forums, (i.e., the 2010 National Joint Program Conference for Operator Certification and Capacity Development and the EPA/State Eastern Regional Operator Certification Program Workshops). This reflects the state's commitment to improving the implementation of this Program and supporting EPA's efforts in protecting public health.

Planning has begun for the next EPA/State Eastern Regional Operator Certification Program Workshop, hosted by Region 5 in May 2012. The theme is "Sustainability in Economically Challenging Times."

Schedule Reminder

Annual Operator Certification Report is due June 30, 2012.

Source Water Assessment & Protection Programs

Over the past year, WV DHHR has been able to significantly increase the number of source water protection activities implemented in the state. This increase is partly due to the creation of Source Water Protection Technical Help Program (SWPTHP), where consulting engineering firms work with state drinking water systems to emphasize the development of protective strategies and to create a source water protection plan. WV DHHR has also been able to assist many surface water and ground water community public water systems through source water protection grants. Grants providing source water security are among the most popular in the state. WV DHHR also continues to build upon existing and new partnerships and inter-agency alliances in order to strengthen its drinking water and source water protection program.

Freedom_0005779_0013

Highlights

- WV DHHR's SWPTHP program has gained momentum and has assisted forty three (43) community public water systems with the development of protection plans.
- The City of Vienna, WV was awarded the EPA Region III 2010 Source Water Protection Award.
- WV DHHR's Source Water Team actively participated in meetings with the River Alert Information Network (RAIN), encouraging interstate collaboration.
- WV DHHR participated in ORSANCO and Potomac River Basin Drinking Water Source Protection Partnership meetings and activities.
- WV DHHR provided source water protection signage to public water system's municipalities and non-highway areas.

The Source Water Assessment and Protection (SWAP) Program evaluates new PWS water wells or intakes to assure they are located in areas where contamination threats are minimal. Permits for new public water wells now require an initial survey for potential sources of contamination within 2,000 feet of the proposed well location with site-specific information used when available.

An expression of interest (EOI) contract for implementing wellhead and source water protection activities for community water supplies was awarded to two vendors for work in areas covered by WVDHHR District Offices in St. Albans, Wheeling, Beckley and Kearneysville.

WVDHHR signed a contract with the U.S. Geological Survey (USGS), the West Virginia Department of Environmental Protection (WV DEP) and the West Virginia Geological Survey to study the hydrologic flow in abandoned coal mines in McDowell County.

WVDHHR continues to support the WV DEP Project WET (Water Education for Teachers) by loaning groundwater models out for public education. Project WET includes a summer water workshop for educators and youth ages 5-18.

Action Items

- 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.
- EPA would like to be kept informed of Source Water Protection Technical Help Program (SWPTHP) contract work progress.

Data Management/Data Analysis

WVDHHR continues to submit quarterly updates and cooperate with EPA to alleviate data problems.

With the change to the new Enforcement Targeting Tool (ETT) in July 2010, the criteria for becoming a priority system has changed. Systems that score above 10 are considered a national priority.

Freedom_0005779_0014

During the week of July 7, 2008, EPA assisted in an on-site data verification at WVDHHR's Central Office in Charleston, WV. The state files were very well organized and the support from the state personnel was excellent. A draft report was shared with WVDHHR in October 2008. EPA and WVDHHR discussed details of the report and combined comments were incorporated into the final report that was received by EPA Region III in December 2008 and shared with the state.

Concern

One major concern is implementation for Stage 1 DBPR and LT1 ESWTR which were noted in the report as not being fully implemented by the state. Discrepancies noted for these two rules are for compliance determinations for monitoring and reporting. The state attributes its problems in compliance determinations to a lack of staff and failure to inform compliance officers that they could utilize SDWIS State web release 1.0 (SSWR1) to compute compliance determinations. The compliance determination tool had not been working correctly in SDWIS/State. Since the state did not have the manpower to manually do calculations to determine compliance, violations were not issued.

Action Plan

To address this concern, EPA has provided an in-kind service contract via the DWSRF 10% SetAside to provide various training and develop SOPs (standard operating procedures) for WVDHHR staff on SDWIS-State and National Primary Drinking Water Regulations (NPDWR). The contract will assist WVDHHR with addressing discrepancies from the 2008 on-site data review as well as developing a strategy to fully implementing NPDWR.

The work assignment was approved April 2011. EPA continues to monitor contractor work, review deliverables and ensure WVDHHR's needs are being met.

Laboratory Certification

EPA issued its Annual Certification Status Report of WVDHHR's Drinking Water Laboratory Certification Program on March 10, 2011 for the 2011 calendar year. The state laboratory retains certification for analytical methods of inorganic contaminants (except Asbestos, Cyanide and Thallium), lead and copper contaminants and microbiological techniques. EPA has requested that WVDHHR provide proof of SDWA certification coverage for these parameters.

EPA's Environmental Science Center (ESC) recently updated the listing of key analytical capabilities for primacy based on the Code of Federal Regulations (CFR) with input from the EPA Office of Ground Water and Drinking Water in Cincinnati and the Region 3 Water Protection Division. This listing is in the Lab Certification Manual as an appendix (Appendix E). The revised listing was shared with the Primary State Laboratory (PSL) Directors and with the State SDWA Program Managers.

Freedom_0005779_0015

Highlight

WVDHHR identified a need for its PSL to be certified to test for Disinfection Byproducts. The state had not had the equipment to test for these contaminants previously. However, EPA agrees with the state that it would be beneficial to have the PSL capable of providing certified results especially if a water system lab is having difficulties or unexplained results that could affect water quality. EPA approved the state's request for $500,000 which utilized the 15% Set-aside to purchase the equipment. The state lab will provide the normal maintenance and expense to operate the lab equipment.

Quality Management Plan (QMP)

WVDHHR's Drinking Water Program QMP is valid until December 2015.

Freedom_0005779_0016

PROGRAMMATIC ACTIVITY REPORT

State:	West Virginia	**Program:**	PWSS
Activity Type:	Advance Monitoring Review	**Activity Date:**	04/30/2010
Report Date:	08/2010; 02/2011	**Closed Date:**	10/31/2011
Report Attachment:	Yes		

Grant Reviewed: Yes

Grant No (1st 8 positions):	Project Description:
F003116	Implementation of Public Water Supply Supervision Program

PROGRAM SYNOPSIS

	Yes	No	N/A
1. Is payment history consistent with progress to date? **Explanation:** Grant closed out in timely manner.	X		
2. Is the work under the agreement on schedule? **Explanation:** PWSS activities are ongoing.	X		
3. Is the actual work being performed within the scope of the recipient's workplan? **Explanation:**	X		
4. Are the recipient's staff and facilities appropriate to handle the work under the agreement? **Explanation:**	X		
5. Are the products/progress reports submitted on time? **Explanation:**	X		
6. Are the products/progress reports acceptable? **Explanation:**	X		
7. Is the recipient making adequate progress in achieving outcomes and outputs and associated milestones in the assistance agreement work plan? **Explanation:** See progress reports.	X		
8. If the recipient is experiencing significant problems meeting agreed-upon outcomes and outputs, has the recipient been required to develop and implement a corrective action plan? **Explanation:**			X
9. Has the recipient complied with the programmatic terms and conditions on the award? **Explanation:**	X		
10. Did the recipient purchase equipment as planned in the agreement? **Explanation:**			X
11. Has the equipment been used as planned in the agreement? **Explanation:**			X
12. Does this review indicate any need to amend award? **Explanation:**		X	
13. If this award includes sub-awards, is the recipient complying with the sub-award policy requirements? **Explanation:**			X

FINDINGS:

X	None		Unallowable Costs		A-133 Audit
	Possible Conflict of Interest		Payroll Problems		Noncompliance with Terms and Conditions
	Possible Lobbying		No Travel Policy		Property Management Findings
	No accounting Manual		Undocumented Cost Share		Indirect Costs Issues
	No Written Procurement Procedures		Internal Controls Missing		Labor Distribution Findings
	No Procurement Conflict of Interest Policy		Progress Reports		Cash Management
	No Cost or Price Analysis		Program Income		Subrecipient/Contract Monitoring
	Commingling of Funds		Quality Assurance		Other/Please Explain Below

Explanatory Text:

Action Against Recipient

X	No Action Required		IG Referral
	Recipient Placed on Reimbursement		On-Site Referral
	Special Award Terms and Conditions (attach below)		Internal EPA Corrective Action Required (attach specifics below)
	Stop Work Issued		Other Remedies (attach specifics below)
	Award(s) Terminated		

Specifics (Enter or attach additional information as needed.)

U. S. Environmental Protection Agency
Public Water System Supervision Program

Final Report

Program Review for the West Virginia Department of Health and Human Resources Bureau of Public Health Office of Environmental Health Services Environmental Engineering Division

Prepared by The Cadmus Group, Inc.
for
The Environmental Protection Agency
Office of Ground Water & Drinking Water
December 19, 2008

Freedom_0005779_0019

Table of Contents

		Page
I.	Introduction	
	A. Purpose of Review	1
	B. Description of Sample	2
	C. Regulations Reviewed	2
II.	Primacy Agency Program Summary	
	A. Program Organizational Structure	2
	B. Waiver Information	4
	C. State Assistance	5
	D. State Data System	7
	E. Sample Collection, Analysis, and Laboratory Certification	10
III.	Program Implementation	
	A. General Program	10
	B. Inventory	11
	C. Sanitary Survey	12
	D. Consumer Confidence Report Rule	15
	E. Total Coliform Rule	16
	F. Phase II/V Rule	18
	G. Stage 1 Disinfectant and Disinfection By-Products Rule	20
	H. Radionuclides Rule	23
	I. Lead and Copper Rule	23
	J. Surface Water Treatment Rule and Interim and Long-Term 1 and 2 Enhanced Surface Water Treatment Rule	26
	K. Public Notification	28
Appendices		
	Appendix A. Status of Previous Review Recommendations	A-1
	Appendix B. Summary of Discrepancies Identified by Rule	B-1
	Appendix C. Summary of Discrepancies Identified by System	C-1

I. Introduction

A. Purpose of Review

During the week of July 7, 2008, the "team," consisting of representatives of EPA Region 3, Dan Campanelli, and The Cadmus Group, Inc.: Jeffe Kennedy, Laurie Potter, Valerie Meiers and Kim Clemente; conducted a Program Review (PR) in the West Virginia Department of Health and Human Resources, Bureau of Public Health, Office of Environmental Health Services, Environmental Engineering Division (DHHR). The PR serves a number of purposes:

Table 1: Number of PWSs in SDWIS/Fed and Number Reviewed by the Team

	Number of CWSs	Number of NTNCWSs	Number of TNCWSs
SDWIS/Fed Inventory[1]	505	131	475
Number Reviewed	(29 total)	10	14
Small System	14		
Medium System	12		
Large System	2		
Very Large System	1		

[1]SDWIS/Fed inventory as of 4/3/2008.

Small: < 1,000
Medium: 1,001 - 10,000
Large: 10,001 - 50,000
Very large: ≥ 50,000

- To verify whether information in the primacy agencies' databases and files is correctly represented in the federal Safe Drinking Water Information System (SDWIS/Fed), Cadmus compared DHHR's data to the most recently frozen data in SDWIS/Fed;
- To evaluate whether primacy agencies are determining compliance in accordance with the National Primary Drinking Water Regulations, Cadmus compared DHHR's actions and policies to federally mandated or Region 3-approved rules and policies;
- To identify specific actions that will improve the primacy agencies' public water system supervision (PWSS) programs, Cadmus made recommendations for DHHR that should improve their program;
- To determine whether primacy agencies have implemented recommendations identified in past data verifications, Cadmus asked the states to comment on the recommendations from the previous report and reviewed the answers against the current audit findings (Appendix A contains the list of recommendations and the state answers);
- To garner information on how EPA can assist primacy agencies in implementing the National Primary Drinking Water Regulations, Cadmus solicited feedback from DHHR and made observations based on audit findings. This information should provide EPA with insight on how EPA's assistance has been most valuable and where additional assistance would be effective.

Freedom_0005779_0021

B. Description of Sample

Rather than reviewing every public water system (PWS) supervised by DHHR, the team examined a sample of those systems, with the intention that they would provide a representative insight into the PWSS program. Table 1 identifies the SDWIS/Fed inventory for West Virginia and the number of systems in the stratified, random sample reviewed by the team. The community water system (CWS) sample represents a 90-percent confidence level, with an error tolerance level of 7 percent. The noncommunity water system (NCWS) sample represents an 80-percent confidence level, with an error tolerance level of 10 percent. A detailed description of the sampling methodology can be found in Chapter 3 of the *EPA Protocol for Participation in a PWSS Data Verification*, available from The Cadmus Group, Inc.

Table 2: Periods of Review

Category	Date
Inventory	Most recent
CCR	Year 2006, due 2007
Sanitary Survey	2 most recent surveys
Total Coliform Rule	Jan. 1, 2007 - Dec. 31, 2007
Lead & Copper Rule	2 most recent samples
Phase II/V (except nitrate)	2002 - 2004
Nitrate	2006, 2007
Stage 1 DBPR	Jan. 1, 2007 - Dec. 31, 2007
Revised Radionuclides	Initial and Grandfathered samples
SWTR	Jan. 1, 2007 - Dec. 31, 2007
IESWTR	Jan. 1, 2007 - Dec. 31, 2007
LT1 ESWTR	Jan. 1, 2007 - Dec. 31, 2007
FBRR	Dec. 8, 2003 - Dec. 31, 2007
Public Notice	Per related violation

C. Regulations Reviewed

The team reviewed West Virginia's SDWIS/State Web Release 1 (SSWR1) database, hard copy files and scanned materials for updates to inventory and compliance data for the rules listed in Table 2.

The period of review for each of the regulations is shown in Table 2. Appendix B contains a table that summarizes any data discrepancies between state and federal records and errors in compliance determination that were identified during this review. Appendix C contains a detailed, system-specific list of each discrepancy identified during this review.

II. Primacy Agency Program Summary

This section outlines the program's organizational structure, its waiver program, assistance provided by the state to systems, the data system, and information about sample collection and analysis and laboratories. Each section also outlines successes and challenges from the previous and current reviews, plus recommendations, if warranted, that may help the state improve their program.

A. Program Organizational Structure

The West Virginia Environmental Engineering Division is responsible for implementing the provisions of the Safe Drinking Water Act (SDWA). It is a program within the Office of Environmental Health Services, in the West Virginia Bureau of Public Health. Laboratory certification is also under the aegis of the Bureau of Public Health, in the Office of Lab Services. Communication is good between the

Freedom_0005779_0022

two offices, with personnel talking frequently. The Office of Lab Services has two certifying officers: one for chemicals and one for microbiologicals.

DHHR is divided into five districts, with oversight from a central office. The central office performs most compliance determinations now – more so than in the past – with the district offices confirming information from which compliance determinations were made. The district offices are primarily responsible for inventory, sanitary surveys, technical assistance and construction-related activities. Compliance officers in the central office are responsible for entire districts, performing all compliance determination for all rules for systems in that district. This shift has occurred as a result of increased implementation of SSWR1: the central office now has access to all data rather than being informed of results and decisions by the district offices. DHHR has realized greater consistency from shifting all compliance determination to a single location.

Compliance determination decisions go through a series of checks among compliance officers. Systems are also encouraged to review violations and double-check that data have been received. DHHR has found that mailed and faxed analytical data sometimes are lost. Violation letters are drafted in the central office 20 days after the end of the compliance cycle.

Program Organizational Structure Successes and Challenges

- DHHR experiences a great deal of staff turnover due to salary issues. The lack of a fee program likely contributes to this problem. (Staffing issues also discussed in Sections II.B, C, D and III A, C, F, G, H and J.) In comments to the draft report, DHHR noted that: *There is adequate funding for personnel and positions. A fee schedule will not resolve the problem of a) a large portion of our personnel being at or near retirement; b) younger personnel finding advancement opportunities elsewhere; and 3) a somewhat bureaucratic hiring process for all state personnel.*

- Currently two compliance officers are responsible for all compliance determinations in the state because two other positions are empty. (One position is vacant, the other filled by a person on extended sick leave.)

- Compliance determination is sometimes performed late, which led to a number of discrepancies. The team noted in the previous review that there were many violations from 2002 through 2004 that had not yet been reported to SDWIS/Fed. Reporting was sometimes complicated by a lack of resources for the compliance staff and a lag time in the validation of violations. DHHR reported that all compliance determinations had been completed for data through 2007 and any violations or required sample results had been reported to SDWIS/Fed at the time of the review, in July. DHHR has made an effort to tighten compliance determination time in response to the previous review. However, some violations from the end of 2007 were still being rejected as late as April 2008, which is considerably after 45 days after the end of the compliance period, which would have been mid-February.

Freedom_0005779_0023

Region 3 and DHHR discussed this issue. In comments to the draft report, DHHR noted: *DHHR believes that there are two issues that caused late compliance determination at the end of 2007: one being the lack of a full staff of compliance officers and the other being the end of the triennial cycle. The end of 2007 resulted in the end of a quarterly compliance period, the end of an annual compliance period and the end of a triennial compliance period for different rules. The test results are not required to be received until the 10th of January, and allowing time for data entry, compliance reports cannot be run in SDWIS until January 15th. Two staff are limited on the amount of time to run the reports, research all the potential violations for data input accuracy, failure to input data, etc., for each rule, and for three different compliance periods. DHHR believes that once compliance officers are fully staffed and trained, most end of year compliance periods (and 4th Quarter compliance periods), all potential violations will either be rejected or validated in a timely fashion, but every third year, may still encounter difficulties in timely compliance determination.*

The two entities agreed that DHHR will move some compliance duties to district offices that have a greater number of staff.

Follow up

- Region 3 and DHHR discussed the issue of lost analytical data. DHHR noted that they have acquired a new fax machine and are looking at mailing procedures for the possibility of creating a mailing log. EPA suggested setting up a "pouch" service for data coming in from the PWS so the state can identify this particular mail from everything else.

Follow up

Recommendations

1. DHHR together with Region 3 should investigate a fee program or other funding sources to improve staffing so that West Virginia can fulfill its primacy responsibilities.

SEE Page 7

2. DHHR should continue to explore methods to accelerate compliance determination so that it meets federal timelines. Improved use of SSWR1 would greatly add to this effort (see Section II.D State Data System).

B. Waiver Information

DHHR has maintained a waiver program developed in 1995. Though this policy required vulnerability assessments every three years, the last assessments were done in 1999 and the decisions made then remained as the default waivers for the program. See more discussion in "Successes and Challenges" below.

DHHR is phasing in a new policy called the "Alternative Monitoring Program." Region 3 reviewed this new program along with the Arsenic Rule primacy package. DHHR uses exemptions, but has none active at this time. Some exemptions were granted for haloacetic acids (HAA5) and total trihalomethanes (TTHM), but those have expired.

Freedom_0005779_0024

DHHR waives sixteen contaminants statewide, all synthetic organic chemicals (SOC) plus asbestos. DHHR grants volatile organic compounds (VOC) waivers for up to six years and inorganic compounds (IOC) waivers for up to nine years. SOC monitoring had been waived entirely in the past for some systems, but DHHR is moving away from this policy as not protective enough. New SOC waivers will not reduce systems beyond once every nine years.

Consecutive systems monitor for the Total Coliform Rule (TCR), Stage 1 and 2 Disinfectants and Disinfection By-Products Rule (Stage 1 and Stage 2 DBPR) and the Lead and Copper Rule (LCR). West Virginia considers this an allowance of the rule and not a true "waiver" as CFR §141.29 allows states to consider interconnected systems as one system for monitoring purposes.

Waiver Program Successes and Challenges

- Due to inadequate staffing levels, DHHR has not renewed many individual PWS waivers since 2004. Waivers in only two of the five districts were reviewed and renewed in 2002-2004 and only waivers for two counties were reviewed for 2005-2007. For the counties and districts not reviewed, all waiver decisions made in 1999 were left in place. Region 3 asked after DHHR's course of action to review the outstanding waivers.

- The waiver program reduces the monitoring and financial burden for systems in West Virginia, but imposes a burden on DHHR staff resources that is not relieved by reduced compliance determination work.

Recommendations

1. Systems should not have monitoring waivers if those waivers have not been renewed for the current compliance cycle.

C. State Assistance

DHHR does not have a fee program. The only fees charged are permit fees for construction projects and fees charged by the Office of Laboratory Services (OLS), which charges for lab certification for contaminants tested by PWSs in West Virginia and for analysis of water samples submitted directly to OLS. DHHR does NOT charge operators for certification or training.

State Assistance Successes and Challenges

- In response to questions regarding actions taken since the previous review, specifically what steps Region 3 has taken to address recommendations, DHHR noted that no help was received from the Region. Region 3 expressed that they have no record of DHHR asking for assistance to address previous recommendations and that all recommendations from the previous review were included in the PWSS Reporting Checklist to track state progress on addressing issues.

Freedom_0005779_0025

The documented discussions between Region 3 and DHHR provided as comments to the draft report seem to reflect that a much better foundation for communication regarding the findings of this report has been created.

- Because of the high level of staff turnover, DHHR needs more access to "ground-up" training for brand-new employees. Currently, the mentoring method of training new staff consumes meager staff resources.

- District offices spend a lot of time in technical assistance visits, teaching and training.

- DHHR found Region 3's Ground Water Rule (GWR) training to be very useful and planned to attend upcoming sanitary survey trainings. The program is eager for all the training EPA can provide.

- DHHR sends a biannual newsletter to all WV certified operators. DHHR also contributes to the Public Service Commission (PSC) bimonthly newsletter, which is sent to all public water systems that are regulated by the PSC. DHHR also regularly contributes articles to the West Virginia Rural Water Association monthly magazine that is distributed to all of their members.

- DHHR has seen real improvements in system compliance due to the Area-Wide Optimization (AWOP) program. Through this program the district offices began charting turbidity values for their surface water systems. Once systems were able to visualize the patterns in the values, the operators were able to greatly improve performance and avert problems before violations were necessary.

- Because engineers in district offices are assigned to specific water systems, the DHHR staff have become very familiar with the systems and their monitoring patterns, resulting in better oversight. Engineers frequently visit systems with problems and work with the systems to resolve them. This method of working with systems has been found to be effective for overall compliance (see Section III.C Sanitary Surveys) and particularly for problem systems that tend to receive repeated violations. DHHR has found that these systems tend to have limited resources or aging operators or population, or ownership issues. Frequently capacity development staff will be recruited to step in and assist the system with applying for funding, working with PSC or other third party providers. The benefits of consolidation can also be explored, which West Virginia encourages for PWSs, especially to eliminate small, scattered systems.

Recommendations

1. None.

Freedom_0005779_0026

D. State Data System

Analytical results arrive on hard copy or are electronically transmitted via a downloadable email attachment. The state lab sends copies of data to the central office, district office and the system. The commercial labs send data only to the central office and the system, usually by fax or mail. Only one commercial lab can transmit data electronically. Sometimes labs will send data only to the systems, which results in confusion over whether data have been sent. Region 3 asked DHHR to address this issue.

Hard copy files are maintained in the central office, with copies of all information kept on file for 12 years. After this point, information is archived off-site, along with files for inactive systems. Files for inactive systems are destroyed after 12 years. Sanitary surveys are scanned into "pdf" format also. Analytical data are entered into SSWR1 by the data management section in the central office, scanned and kept on hard copy.

DHHR uses SSWR1, which is accessible on the Bureau server. DHHR was using SSWR1 exclusively at the time of the review, having switched to the program August 1, 2007.

DHHR uses Fed/Rep to transmit data to the operational data system (ODS). DHHR uses Fed/Rep job reports to check for errors quarterly. At the recommendation of Region 3, the state might check these error reports and submit corrections more frequently. Region 3 and DHHR are trying to clear up old enforcement actions for old violations. Region 3 notes that the discussions between the Region and DHHR have been extremely fruitful. DHHR is working on getting SSWR1 and SDWIS/Fed data in synch and trying to clear up all errors over time. DHHR noted in comments to the draft report: *It was discussed with Region 3 that submissions might need to be submitted more frequently to more quickly resolve issues between the SDWIS/State database and the SDWIS/Fed data; however, the corrections made between the May 15th upload and the August 15th upload substantially decreased in the number of errors. An example of this reduction, which was found to be typical, was the Action Error Report. In May, the report was 87 pages in length, where the August report was found to be 4 pages in length. There are a few remaining issues to be resolved in the November upload, but is already near maintenance levels. It now appears unlikely that additional uploads will be necessary to address discrepancies between the state and federal databases.*

Data System Successes and Challenges

- DHHR conducted a review of their data accuracy in SSWR1 and found 95-96 percent accuracy. However, data entry errors caused a number of discrepancies as noted in Sections III.F (Phase II/V) and III.I (LCR).

- DHHR is relying more heavily on SSWR1 which has aided in more consistent compliance determination. However, the program is not performing compliance determinations for rules that DHHR feels the SSWR1 calculator handles inadequately (i.e., Stage 1 DBPR), Surface

Freedom_0005779_0027

Water Treatment Rule (SWTR), Interim Enhanced SWTR (IESWTR), and Long-Term 1 Enhanced SWTR (LT1 ESWTR)) or is generating incorrect violation dates for rules for which SSWR1 has not been correctly formatted (i.e., LCR). While SSWR1 does lack some functionality in that SSWR1 cannot require, for example, TCR repeat samples to have matching chlorine residual samples, it can be used to automate compliance determination with some knowledgeable adjustments (e.g., resetting the LCR monitoring dates). Further, while SSWR1 is a useful tool, rule implementation should be conducted according to the requirements of the federal regulations, not simply within the parameters of the SSWR1 software.

Region 3 asked if DHHR had communicated this issue to the SDWIS help desk and, if so, had the SDWIS help desk responded back to DHHR with a resolution (or work around) or a schedule for a future fix.

DHHR noted in response: *There were issues in the automated compliance determinations in SDWIS/State 8.1, but those have been addressed in SSWR1. It is apparent from these comments that the changes made in SSWR1 have not been communicated with the compliance officers. There was an issue with MRDL compliance determination that did work properly with SDWIS/State 8.1, but DHHR data entry staff was, unknowingly, overwriting the SDWIS computations. Corrections had already been made at the time of the last review, but 12 months had not elapsed for SDWIS to compute true MRDL values. Training of compliance officers in how SDWIS computes compliance appears to be in order.*

- A great deal of duplication was found in the hard copy files. Several copies of the same proof of public notification (PN) would be present, or multiple copies of the same set of analytical results.

- Several instances were identified where violations had not been correctly rescinded from SDWIS/Fed. Region 3 notes that this is an ongoing activity between the state and the Region, and that it is West Virginia's responsibility to ensure that rescinded (i.e. invalidated) violations are communicated to Region 3 so that they can be deleted out of SDWIS/Fed.

- DHHR finds that SSWR1 helps with compliance determination and finds the web accessibility to be useful, but the program runs slowly, which could be attributed to the server speed.

- DHHR is waiting for the SDWIS contractor to provide new tools, such as adapted "SWMIR" and SOX (return to compliance) reports. Also, DHHR used to use SDWIS/State 8.0 to send PWSs letters with revised monitoring schedules following an maximum contaminant level (MCL) exceedance. This tool does not yet work with SSWR1. Region 3 asked DHHR to determine a schedule of when the SDWIS contractor will provide these tools.

Freedom_0005779_0028

- DHHR's biggest data management problem at this time is staff resources. The current database administrator has been "temporarily" acting in the position for the last six years. DHHR notes in comments to the draft report: *While the person that has been serving as the database administrator for the past six years isn't the person that ultimately will have that responsibility, this does provide valuable resources during times of transition between new personnel learning the position. The database administrator position has changed four times over the past six years and fortunately one person has been available to act in the temporary position.*

- In comments to the draft report, DHHR noted that SSWR1 is slower than SDWIS/State 8.0. The team notes that this can certainly be an issue with SSWR1, depending on the hardware configuration and network infrastructure.

Recommendations

1. DHHR requires training in using SSWR1 to its fullest capacity, along with assistance in tailoring the modules to perform more automated compliance determination for the program. The portion of the rules that are not implemented because DHHR feels the SSWR1 calculator does not work, can in fact have automated compliance determination, if data are correctly entered and the modules are tailored to state business practices. Region 3 agrees and encourages DHHR to schedule training for staff on SSWR1. DHHR notes that this is the same issue responded to under Data System Successes and Challenges.

2. DHHR should address the issue of labs sending data only to the systems and not copied to DHHR.

3. Data entry accuracy should be revisited. Region 3 suggested that DHHR should consider the source of the errors and address them as soon as possible to ensure data quality. Region 3 notes that this is an ongoing activity between the state and the Region, and that it is West Virginia's responsibility to ensure that rescinded (i.e. invalidated) violations are communicated to Region 3 so that they can be deleted out of SDWIS/Fed.

   DDHR noted that the recommendations and challenges described in Sections III.F (Phase II/V) and III.I (LCR) do not support the statement that data entry errors caused the discrepancies noted in these sections. DHHR takes the position that most of the errors noted are related to empty positions (vacant or absent) for the compliance officers. DHHR has recently hired a manager for the Data Management position, who has been tasked to develop a quality assurance and quality control (QA/QC) process for the data entry process.

4. Region 3 should assist DHHR further in correcting errors and ensuring that rejected violations are rescinded from SDWIS/Fed.

Freedom_0005779_0029

E. Sample Collection, Analysis, and Laboratory Certification

Systems are responsible for collecting their own samples, except for a small percentage of systems that contract with commercial labs that provide sample-collection along with analysis. DHHR only collects special-purpose samples, usually along with sanitary surveys. The West Virginia State Laboratory, which has branches in two locations, analyzes 50 to 75 percent of all bacteriological samples and charges the systems for doing so. All other analyses are conducted by commercial labs.

Sampling and Laboratory Certification Successes and Challenges

- Samples are usually hand-carried to labs, as distances are not great and the postal service poses holding time obstacles. Even using special handling services, many samples cannot be sent by mail since some rural areas do not have daily mail pick-ups.

Recommendations

1. None.

III. Program Implementation

This section outlines program implementation, successes and challenges from the previous and current reviews, and recommendations that may help the state improve their program.

A. General Program

West Virginia holds primacy for all current rules, except Stage 2 DBPR, Long Term 2 Enhanced Surface Water Treatment Rule (LT2 ESWTR), LCR Short-Term Revisions (STR LCR) and GWR. Stage 2 DBPR and LT2 ESWTR were to be adopted July 17, 2008, as soon as a 30-day public comment period ended. DHHR plans to ask for an extension agreement until 2009 for GWR as the program is not yet ready to implement the rule. DHHR plans to submit a primacy package for GWR in April 2009.

General Successes and Challenges

- Though West Virginia holds primacy for Stage 1 DBPR and LT1 ESWTR, these rules are not being fully implemented by the state at this time. Systems have been trained and are ostensibly monitoring and reporting according to the new rules, but compliance determination had not yet been done at the time of the review, due to lack of staff resources. Nor is Region 3 implementing the rules for West Virginia. Because compliance determination had not been done on these systems at the time of the review, it could not be confirmed whether all systems are monitoring and reporting according to the new rules or not.

Freedom_0005779_0030

- To improve monitoring compliance, DHHR sends reminder notices with "pre-violations" to systems one month before their monitoring deadlines. For example, notices will be sent in June for CCRs or in August for LCR. The letter describes what the violation will be if the system does not comply in time.

- West Virginia requires daily sampling of chlorine residuals in the distribution system and all systems are required to chlorinate. All systems submit a monthly operating report (MOR) with this information.

- Violations of state requirements that are more stringent than federal requirements are not reported to SDWIS/Fed.

- A number of samples were reported late, but monitoring and reporting (M/R) violations were not assigned. The previous review found that if analytical results are received more than 10 days after the end of a compliance period, DHHR deletes the violation and a return to compliance code (SOX) is entered into SSWR1. The PR team noted that this practice of deleting "reporting" violations was not acceptable. DHHR says they no longer delete violations and none were noted in the current review. Instead it seemed some late reporting violations were never assigned.

- DHHR referred to about ten systems that typically monitor for no rules and are significant non-compliers (SNCs). Region 3 and DHHR should work together to bring these systems into compliance.

Recommendations

1. Region 3 should not grant primacy for any rules that West Virginia is unable to fully implement.

B. Inventory

DHHR's inventory information is maintained in SSWR1 and also in the system files. Populations are derived from the 2000 census calculations by county. Service connection numbers are often obtained from the PSC. Other inventory information is primarily derived from sanitary surveys and secondarily from updates provided by owners and operators. District office staff also review information with the systems, especially the contact information. DHHR staff use their SDWIS contractor's program Safe Water Information Field Tool (SWIFT) to make inventory updates in the field. This information is uploaded by district office staff to a shared drive as sanitary survey reports are completed. The data are uploaded to SSWR1, using the EPA developed program, Migrate to State, on a regular basis by central office personnel.

Freedom_0005779_0031

Inventory Successes and Challenges

- In the previous review, some inventory discrepancies (for population, service connections, system type, system status, and source) were identified and it was recommended that DHHR encourage the district offices to update inventory information in SSWR1 for upload to SDWIS/Fed. DHHR reports that they are now using Fed/Rep and ODS Reports to address inventory discrepancies. This appears to be quite successful as no inventory discrepancies were identified in this review.

- DHHR now requires notification of operator certification status.

Recommendations

1. None.

C. Sanitary Survey

Primarily hard copies of sanitary surveys in the system files were reviewed, along with some scanned versions. Sanitary surveys are conducted by staff in the district offices, usually the engineers although environmental resource specialists may also be used. Engineers handle the large surface water systems exclusively, and all surveys are reviewed by engineers. The central office also spot checks the surveys.

All district offices use the same sanitary survey template, from the SDWIS contractor's "SWIFT" tool on tablet computers, which improves consistency and ensures all elements required by IESWTR and LT1 ESWTR are reviewed for all systems. The SWIFT program can download current data on the system to be inspected, including previous deficiencies. The district office supervisors meet two to three times per year to review the software, formatting issues and develop consistent definitions.

DHHR staff undergo EPA sanitary survey training, but no certification is required. A new employee will also "shadow" an experienced staff person on sanitary surveys for several months. DHHR also provides new staff with EPA's sanitary survey booklet and checklist on "how to do a sanitary survey." Training of new staff takes about six months.

Surface water and Ground Water Under the Direct Influence of Surface Water (GWUDI) systems are surveyed every three years, beginning in 2003. Ground water systems are typically surveyed every five years, while many noncommunities have been reduced to a ten-year cycle. See "Successes and Challenges" below. Frequency of surveys is tracked through SSWR1 and an MS Access schedule.

About 20 personnel across the district offices conduct the sanitary surveys, which is about 35 percent of their workload (including administrative tasks, and report writing and review). A district

Freedom_0005779_0032

office engineer will then spend the rest of his or her time on construction permits and plan review, infrastructure, funding, complaints, and technical assistance.

Most sanitary surveys are scheduled about one week ahead of time. Surprise sanitary surveys are not done, but surprise visits might be. DHHR will stop in at systems when they're in the neighborhood, partly to see if any assistance is needed, but also to check that an operator is present.

Deficiencies are discussed on-site with the system during an exit meeting. Report letters are sent to the system usually two weeks later. The cover letter identifies significant deficiencies. SWIFT will identify whether deficiencies have been resolved at a subsequent sanitary survey. Otherwise district office staff will often stop to visit a system to ascertain what deficiencies have been addressed. District offices use a database to track deficiencies and report those to the central office each month. The central office then lists all outstanding deficiencies by severity each month and circulates the list among the compliance officers and the district offices. SWIFT also breaks out deficiencies into significant and moderate default categories.

Systems have 45 days to address significant deficiencies or the system will be in violation. If corrections will take longer than this – if, for example, funding must be obtained – then the system must explain in writing to avoid a violation. DHHR can issue administrative orders (AO), both with penalty and without, if meeting with and assisting the system doesn't work. EPA might also be asked to step in. Correction of deficiencies can take anywhere from one week to five years.

Copies of sanitary surveys are routinely shared with the PSC and with local health departments. Capacity development staff sometimes use the surveys, along with private engineering consultants hired to assist PWSs to correct deficiencies. The sanitary surveys are often used as tools for PWSs to obtain funding to make needed corrections.

DHHR staff most often assign deficiencies for missing cross-connection control programs and insufficient numbers of operators.

Sanitary Survey Successes and Challenges

- Sanitary surveys for surface water CWSs are very complete and detailed. West Virginia refers to the eight elements required by IESWTR as "integral elements."

- DHHR also conducts annual inspections, which are about one-third as long as a full sanitary survey. The annual inspections are particularly focused on systems with previous deficiencies.

- DHHR has greatly improved the state of West Virginia PWSs over the last ten years. An average of ten deficiencies per system would be identified during a sanitary survey ten years ago, now the majority of systems have no deficiencies. DHHR attributes this improvement to increased dialogue with the systems.

Freedom_0005779_0033

- DHHR assigns violations for failure to provide a written response to sanitary survey deficiencies within 45 days.

- DHHR considers all non-community ground water systems as protected and disinfected. (All systems are required to chlorinate.) All non-community ground water systems are thus on ten-year sanitary survey schedules. However, according to the federal rule, there must be documentation of protected and disinfected status for a system to reduce to this schedule. While West Virginia's mandatory chlorination can be considered to ensure "disinfected" status, it's not clear how all ground water non-community systems were designated as "protected." (At least one system, however, had not had a sanitary survey within ten years.) DHHR indicated that they are now trying to increase the frequency to once every five years in anticipation of the GWR. Not all systems were receiving a sanitary survey at least every five years. It was also recommended in the previous review that DHHR ensure that systems receive a sanitary survey according to the required schedule and that the central office better track the frequency of sanitary surveys completed by the field offices. DHHR responded that more emphasis on tracking has been coming from Region 3 and the state has been making every effort to minimize systems that exceed time frames.

- Current noncommunity sanitary surveys appear to be much less detailed than ones in the past, possibly concurrent with the adoption of the "SWIFT" template.

- DHHR does not assign or report violations for failure to meet the sanitary survey schedule as required by the provisions of the TCR which refer to sanitary surveys (§ 141.21(d)). DHHR noted that since the PWS does not conduct the sanitary surveys, DHHR does not assign violations to the PWS for failure to meet the sanitary survey schedule. However, since responsibility for compliance with SDWA resides with the PWS, the violation should be assigned, regardless of how each primacy agency assists with PWS compliance.

- DHHR has about the same number of positions for staff conducting sanitary surveys as five years ago, but many of these positions are vacant. Many staff have retired or are on medical leave. There is also a dearth of qualified applicants for vacant positions, because of low salaries and competition with higher-paying coal-mining jobs, which frequently pay twice the salary the state can offer.

Recommendations

1. If West Virginia wishes to allow "protected and disinfected" status to noncomunity systems, this status should be conferred system by system, rather than as a blanket decision. In addition, chlorination alone is not enough to make a system eligible for this status. Some determination of vulnerability and also a statement that the source has been determined to be protected must also be made. DHHR responds that district office personnel are in the process of shortening the frequency for all noncommunity ground water systems on a five-year

Freedom_0005779_0034

frequency, in anticipation of the upcoming GWR, making a "protected" determination unnecessary.

2. Ground water systems should receive sanitary surveys at least once every five years unless granted specific protected and disinfected status. Region 3 agrees that an official determination of a "protected" source must be decided upon and officially documented, before a reduced (i.e. greater than five years) cycle can be allowed.

D. Consumer Confidence Report Rule

CCRs are delivered and filed on hard copy. DHHR sends CCR reminders to all systems. CCR dates are entered into an Excel spreadsheet for tracking, which is done by county and district. Late CCRs are identified in bold font.

Content is reviewed, but systems are only asked to make corrections for that year if there is time or if the errors are health-related.

Consumer Confidence Report Rule Successes and Challenges

- CCR content checklists were identified in the files that appeared to be very thorough.
- Because DHHR is in the Bureau of Public Health, the program is able to withdraw food or alcoholic beverage licenses if systems do not comply with CCR, which is a very effective compliance tool.
- DHHR allowed a three-day "grace period" for post office delivery delay of CCRs. Since July 1, 2007 was on Sunday, and July 4 was a holiday, July 5, 2007 was the last day the program would accept postal delivery as being "on-time" for 2006 CCRs.
- West Virginia policy is not to issue both 7000-71 and 7000-72 violation for the same CCR year. This is not a correct interpretation of the rule as a system might both send or certify late (7000-71) and also have insufficient content (7000-72).
- Three CCR discrepancies were assigned and nine violations assigned by DHHR were confirmed.
- In comments to the draft report, Region 3 noted that it agrees with these statements and recommendations. If the state is interested, the Region is willing to put on a training session on the CCR or PN Rules for DHHR staff.

Freedom_0005779_0035

Recommendations

1. DHHR should not allow systems a "grace period" for delivery of CCRs, as the federal rule has no allowances for it. DHHR explains that a three-day grace period was established for mail delay. As DHHR understands, whenever the post office receives a required document, the law considers the document received by the recipient, as the post office is considered an agent of the recipient. The grace period was established because of this interpretation. In other words, the public water system could mail the document on June 29th, but DHHR might not physically receive the document until after July 1st, in the view of the understood legal interpretation, the public water system met the legal definition of delivery. The team reminds DHHR that this does not meet the federal rule, which requires delivery to the state by July 1 and October 1, regardless of the delivery medium used.

2. DHHR should assign both 7000-71 and 7000-72 violations for the same CCR year when the situation warrants it. DHHR notes that they did not fully explain the procedures in place in WV and explain in comments to the draft report that if a major violation is assigned (7000-71), the violation will not be returned to compliance (RTC) until all elements are complied with. In other words, with this policy in place, a minor violation (7000-72) cannot occur in conjunction with a major violation (7000-71). If a minor violation is issued (inadequate or incorrect information in CCR or lack of certification by due date), it is obvious that a major violation cannot occur concurrently. The team agrees that if a 7000-71 remains outstanding, then a 7000-72 should not be assigned. If DHHR's policy includes not allowing an RTC until the certification is received, then this meets the federal rule. If, however, the system has been RTC'd following a 7000-71 and then fails to provide certification on time, a 7000-72 should also be assigned.

E. Total Coliform Rule

The state lab will fax the central office if a total coliform positive is detected. The central office notifies the district office, who contacts the system. The commercial labs are supposed to follow this system, but sometimes take two to three days to fax the central office. DHHR can address this by asking the lab certification officers to talk to the lab supervisor. Lab certification can be withdrawn if the lab does not comply. A log is kept of all total coliform positive samples.

DHHR district office personnel will invalidate a total coliform positive sample if the system requests it and the request meets one of the criteria for invalidation: 1) if the positive occurred at one site only and not again; 2) if sample bottles were contaminated; 3) if the sampling site is not representative of the system. The decision must be confirmed by the central office. Invalidations were observed in the files, with good documentation.

Freedom_0005779_0036

Total Coliform Rule Successes and Challenges

- In the previous review, not all systems serving more than 4,900 persons were taking all TCR samples on different days during the month. DHHR reports that all district offices have been advised of this requirement. No discrepancies of this nature were observed during this review and only one TCR discrepancy was identified overall.

- Good communication was noted between wholesalers and purchasing systems regarding Boil Water Notices.

- Total coliform positives are usually investigated by district office engineers, particularly if there are recurring problems.

- DHHR does not allow systems to reduce to annual TCR monitoring, because the program feels that monitoring schedule is not protective enough.

- DHHR allows systems 14 days to take repeat samples following notification of a total coliform positive. This is because systems do not have sampling bottles on hand and must order them. This policy does not conform with federal regulations which require repeat sampling within 24 hours.

  In comments to the draft report, DHHR explains further: *The 14 days is the time from the initial coliform collection date and the repeat sample collection date. The "best case scenario" is a sample is collected on day one, received by the laboratory on day two, the results of the total coliform test are found on day three, a fecal coliform test is run on day 4, the results are faxed to the central office on day 5, and the district office and the public water system are notified on the same day. The system collects the repeat samples on day 6. A worst case (and more typical) scenario would be that the sample is collected on day 1, the sample is mailed on day 2, the sample begins analysis on day 3, the confirmation test is done on day 4, the results are obtained on day 5, the central office is notified on day 8 (day 6 and 7 is the weekend), district office is notified on day 9, district office cannot make phone contact, and mails a letter advising the system on day 10, and the system does not receive the letter until day 12, and collects the sample on day 13. One additional day was added, in case a holiday occurs within this scenario. Please note that this scenario assumes the system has bottles on hand for collecting repeat samples. Issues occur when the spare bottles on hand are over six months old, as OLS considers these bottles "out of date," and recommends that the system not use these bottles. Most systems do not routinely get coliform-positive samples and it is typical that the system must obtain new bottles prior to repeat sampling, even if they have spare bottles on hand. Another issue in West Virginia is that the OLS does not routinely accept samples on Friday, Saturday or Sunday. A skeleton staff is on hand to complete the laboratory work for samples received on Thursday. DHHR believes that 14 days is a conservative value,*

Freedom_0005779_0037

but should be long enough to force the system to be diligent in collecting the repeat samples, but may not be liberal enough to foresee all possibilities.

- If a TCR sample is collected near the end of the month and is invalidated due to overlong holding times, the system is given time to collect a replacement sample in the following month.

- A TNCWS missed monitoring for TCR in the first quarter of 2007 because the system was closed for a period of time and reopened under new ownership on Jan 12, 2007. DHHR allows some time for compliance with new ownership, so did not assign a monitoring violation for that quarter.

- Nine violations were confirmed during the review.

Recommendations

1. DHHR should revise its policy of allowing 14 days for repeat sampling after notification of a total coliform positive. Many states require systems to keep repeat sampling bottles on hand, to avoid the time-delay introduced by acquiring bottles. Region 3 agrees with these statements and recommendations, in particular revising the state policy of allowing 14 days for repeat sampling after notification of a total colliform positive.

2. Systems on quarterly monitoring should monitor in every quarter they are open, regardless of changes in ownership.

F. Phase II/V Rule

Hard copy and electronic analytical results were reviewed. Analytical data regarding detections are typically one to two weeks old by the time the central office receives them. Usually the district office will try to call the system and follow up with a letter.

Phase II/V Rules Successes and Challenges

- As discussed previously, due to inadequate staffing levels, DHHR has not renewed many individual PWS waivers since 2004. A number of discrepancies were assigned for missing SOC monitoring in the 2005-2007 compliance period, where DHHR personnel assumed that a waiver had been renewed when it had not.

- Some M/R violations for IOCs were not found. As a result of this finding, the DHHR central office determined that noncommunity IOC violations were not being migrated to potential violations, due to a programming error. Region 3 inquired if DHHR has resolved this issue. DHHR responds in Recommendation #2 below.

Freedom_0005779_0038

- Phase II/V detections did not always elicit increased quarterly monitoring. DHHR could not find any documentation on why a system reviewed was not notified to go to quarterly monitoring in a timely fashion. DHHR takes the position that the program notifies the systems to increase monitoring prior to any violations being issued. This issue was also noted in the previous review.

- DHHR tries to get confirmation samples for all detections and MCL exceedances. The average of the two samples determines whether monitoring is increased. While a confirmation sample can be used to determine an MCL exceedance, a detection should be followed by two quarters of monitoring for a ground water system and four quarters for a surface water system, regardless of the results of a confirmation sample. The results of quarterly monitoring establish whether or not the system is reliably and consistently (R&C) below the MCL.

- A data entry error led to a mistake in nitrate compliance determination. A date had been entered into SSWR1, but no value. Investigation showed that there was no sample for that year. The erroneous date entry, however, prevented an M/R violation from being assigned.

- DHHR follows an unwritten rule that allows new systems three months of transition before beginning SDWA monitoring. Engineers in district offices are assigned the new systems to ensure correct progress.

- Fourteen violations were confirmed in this review and nine discrepancies were identified.

Recommendations

1. DHHR should ensure that a system with a Phase II/V detection should monitor for two additional consecutive quarters, if a ground water source, and four additional quarters, if a surface water source, to determine whether the system is R&C below the MCL. Confirmation samples should not be used to replace quarterly monitoring.

2. DHHR should pursue the IOC violation migration error and correct it. DHHR responds that, some time ago, it was discovered that there was a difference in the contaminants between what is required to be collected by CWSs and NTNCWSs for IOCs. A new "group" was assigned for the NTNCWS systems. The compliance officer must specify the contaminant "group" of potential violations to migrate. Based on the comments found for Zela Elementary School, it appears that the compliance officer forgot that there are two "groups" of IOCs, one for CWSs and one for NTNCWSs. This was human error, and a work process is being developed to try and prevent this error from occurring in the future.

3. DHHR should address the delays in delivery of analytical data. Federal regulations require that water systems report the results to the state within (1) the first 10 days following the

Freedom_0005779_0039

month in which the result is received, or (2) the first 10 days following the end of the required monitoring period as stipulated by the state, whichever of these is shortest.

G. Stage 1 and Stage 2 Disinfectant and Disinfection By-Products Rule

Mostly hard copy analytical DBPR results were reviewed, though DHHR enters most Stage 1 data into SSWR1. Running annual averages (RAAs) for all aspects of Stage 1 DBPR are calculated manually if at all (see "Successes and Challenges" below). Compliance officers calculate THHM and HAA5 running annual averages on an Excel spreadsheet instead of in SSWR1 because SSWR1 doesn't adjust for missed samples.

In comments to the draft report DHHR clarified their process: *SDWIS/State calculates the RAAs for TTHMs, HAA5s and chlorine residuals. The only known problem in the computations done by SDWIS/State is that if a system does not monitor all the samples as required, SDWIS/State computes an incorrect RAA. When the system is near the MCL, the compliance officer tracks the RAA on a separate spreadsheet, just in case a required sample is skipped, and a possible MCL might be missed. The RAA in SDWIS/State can be overwritten with the correct RAA if a sample is skipped, and will compute future MCL's correctly. A component of SDWIS/State, Compliance Decision Support (CDS), is run two or three times per week. One of the outputs of the report generated is that all potential MCL/MRDL violations are identified since the last run. This tool was developed to get a "jump" as early as possible on potential violations.*

DHHR asks systems on annual or triennial HAA5 and TTHM monitoring to sample in the warmest month of August. This month was chosen by reviewing water temperature data from systems across the state. Schools are allowed to sample when they open in September, as long as it's as close to the end of August as possible. Disinfection profiling and benchmarking is done only if systems change disinfection practices.

Stage 1 and Stage 2 Disinfectant and Disinfection By-Products Rules Successes and Challenges

- West Virginia has not yet been conducting compliance determination for Stage 1 DBPR. The state planned to start issuing violations for non-submittal in the second quarter of 2008. Even though general monitoring will be evaluated at that time, the compliance officers will not evaluate calculations because DHHR has determined that the SSWR1 calculator is not working correctly and resources are too limited to do manual calculations. It should be noted that DHHR can require systems to complete all calculations and report them to the state, as described in the rule. In the previous review, one system was identified that had a running annual average distribution system chlorine maximum residual disinfectant level (MRDL) of 4.2 mg/L and no violation was assigned. DHHR confirmed that violations are not assigned in these cases either, since they are not issuing MRDL violations due to limited resources.

Freedom_0005779_0040

Region 3 asked that this be clarified, contending that: *There is nothing in the report to indicate that DHHR is not enforcing the monitoring and MCL requirements for TTHMs and HAA5s, and in fact, actually describes the process by which the compliance determinations are being made for these byproducts. Also, a quick review of the discrepancies shows that the vast majority of them are related to the chlorine residual provisions.* While it is true that TTHM and HAA5 compliance determination is done and violations assigned, including MCL violations, as it was under the previous TTHM rule, it is DHHR's stated position that, at the time of the review and until the second quarter of 2008, they were not yet assigning violations for the other aspects of Stage 1 DBPR, which includes chlorine residual and Total organic compounds (TOC) monitoring, reporting and MCLs.

- In the previous review, it was found that DHHR had been receiving all raw data for Stage 1 DBPR and those data were entered into SSWR1. In September 2004, the distribution system chlorine residual results taken at the same time and place as TCR samples were overwritten with another set of data from the state requirement that all systems take a single chlorine residual sample daily in the distribution system. Because the DBPR compliance data were overwritten with the state-required data, DHHR was unable to use SSWR1 to determine compliance during the previous review's period of review. DHHR reports that steps were taken to prevent a similar accident. However, upon review, it was not clear in SSWR1 that the daily chlorine residuals were differentiated from the ones required for Stage 1. Since compliance calculations and determinations for Stage 1 DBPR are not being done, it's difficult to determine whether DHHR is truly able to distinguish these results.

- TOC monitoring is not being conducted for at least one system that West Virginia considers to be exempt. The system reviewed has a conventional treatment system. After that, the water goes through a green sand filter, then reverse osmosis treatment. When the additional treatment was added, it was believed that the need to meet the compliance criteria (e.g., precursor removal or turbidity) for the conventional treatment system was no longer required. West Virginia is taking the position that TOC monitoring is not needed on this system. EPA's position is that, while there are many ways to demonstrate compliance with the Stage 1 Precursor Removal requirement (e.g., 3x3 matrix, alternative compliance criteria, Step 2 demonstration), there are no provisions that allow a conventional system to be exempt from precursor removal compliance monitoring. If the system is using an alternative treatment technology there are no precursor removal requirements. If, however, the system is using an alternative technology in addition to conventional treatment and the conventional treatment is not bypassed, the precursor removal requirements are in effect (i.e., there must be precursor monitoring to demonstrate compliance). If conventional treatment has been bypassed, with the new treatment providing adequate control, the system would no longer be required to monitor for precursors. In the previous review, TOC compliance calculations were not always well documented, including documentation if the system was using alternate criteria for a given month. This scenario appears to be symptomatic of that same issue.

Freedom_0005779_0041

- West Virginia systems are not always collecting TTHM and HAA5 samples on the same day. DHHR has taken the position that systems may collect on different days within the designated period and be in compliance. However, the text at §141.132(b)(1) and the title of the table indicate that sampling is for both TTHM and HAA5, therefore EPA intends that the word "sample" include both and that this sampling should be done concurrently.

  In comments to the draft report, DHHR reiterated that they have taken the position that the regulations do not explicitly require that samples be collected on the same day, and so does not see this as a compliance issue as long as the samples are collected within the required monitoring period. Region 3 states that: *Although we agree that the intent of the Stage 1 Rule is that the samples be collected on the same day, we do not believe that DHHR should be required to assess a violation based on intent. If this situation were to have occurred under the Stage 2 Rule, which explicitly requires that a dual sample set be collected at each sample point, we would agree that a violation must be assessed. However, since the requirement is not explicit under the Stage 1 Rule, we do not agree that this type of discrepancy should stand.*

  EPA Headquarters, however, has directed that primacy agencies be held to the intent of the Stage 1 DBPR rule.

- Seven violations for Stage 1 DBPR were confirmed (all for TTHM and HAA5 monitoring) in this review and 56 discrepancies were identified.

- As an overall comment on the Stage 1 DBPR discrepancies, Region 3 notes: *The majority of these discrepancies involve failure to determine compliance for the chlorine residual monitoring and MRDL provisions of the Stage 1 DBPR. Region 3 will follow up with DHHR in an attempt to address resource issues and to assist them in identifying less resource intensive mechanisms with which to track chlorine residual monitoring and in calculating MRDL compliance. Other discrepancies involve late reporting (by several days to a week), and not issuing a violation for samples collected on different days (addressed above).*

Recommendations

1. DHHR should perform compliance determination for all aspects of Stage 1 DBPR. DHHR responds that the program is considering moving the determination of those elements of the Stage 1 rule that are not currently being implemented to the district offices, until personnel positions can be filled and those persons adequately trained, to address these issues.

2. As in the example of the system with conventional treatment that is either incorporated or bypassed, DHHR should determine which scenario is occurring at the plant, designate the treatment used and the compliance requirements.

Freedom_0005779_0042

3. Distribution system chlorine residual samples should be taken at the same time and place as all compliance TCR samples, including repeat samples or "extra" routine samples.

4. Stage 1 DBPR monthly and running annual averages should be calculated and reported to West Virginia as required by the regulation. If DHHR chooses, they may perform and record these calculations for the systems.

H. Radionuclides Rule

Most West Virginia systems were able to use grandfathered data to determine monitoring schedules for the revised radionuclides rule. Systems began monitoring for the revised rule in 2005, 2006 and 2007. None used compositing of samples. Compliance officers use Excel spreadsheets to calculate running annual averages for radionuclides.

No systems have been deemed vulnerable to Gross Beta.

Radionuclides Rule Successes and Challenges

- About 10 West Virginia systems have not yet monitored under the revised rule, but these ten are systems that typically monitor for no rules and thus are SNCs regardless.

- One system did not meet the grandfathering criteria for both sources and did not complete monitoring for the revised rule in 2007. No monitoring schedule had been entered into SSWR1 due to an apparent oversight on the part of DHHR, so monitoring violations were not assigned. Four discrepancies were assigned for this. No violations were confirmed.

Recommendations

1. DHHR should ensure that systems either have appropriate grandfathering data for all sources or monitor for radionuclides at all sources according to the revised rule.

I. Lead and Copper Rule

DHHR has adopted the LCRMR, and is using that method to determine compliance with optimal water quality parameters (OWQP) and is reporting "deemed" and "done" milestones. They have also submitted the STR LCR provisions for the 2009 legislative session.

SSWR1 is used to calculate some 90th percentile values for lead and copper tap sampling, while 90th percentiles for older samples were calculated manually. DHHR compliance officers used to do these calculations but no longer do so. DHHR almost never encounters action-level exceedances (ALEs). Only one West Virginia system is in the process of installing corrosion control at this time. Many systems replaced their distribution systems with plastic lines to avoid corrosion control efforts.

Freedom_0005779_0043

Lead and Copper Rule Successes and Challenges

Fixed

- It was recommended in the previous review that DHHR ensure systems take annual and triennial LCR samples during the summer months of June through September or, under the provisions of the LCRMR, establish an alternative monitoring period and adhere to it. DHHR corrected this monitoring and all systems reviewed were successfully monitoring in June through September.

- DHHR has allowed systems to collect LCR samples in any year within a triennial period. For example, one sample set was required between 2002 and 2004 and one sample set between 2005 and 2007. Because of the upcoming STR LCR, DHHR will be transitioning to enforce samples no more than three years apart, beginning in 2010. The triennial sampling requirement, however, was part of the original LCR and LCRMR; the sampling schedule was only clarified by STR LCR.

- Because DHHR uses a "compliance period" for LCR monitoring, rather than the triennial monitoring required by the rule, some M/Rs were assigned with incorrect dates. In the previous review, DHHR was advised that the violation begin date for LCR violations is the first day after the end of the compliance period. When asked if this had been corrected, DHHR responded that violation periods are automatically created by SSWR1. Because the dates in SSWR1 have been set to the "compliance period" rather than triennial monitoring, the dates have continued to be incorrect.

- DHHR has been assigning multiple routine M/R violations for LCR (5000-52) where only one violation should be assigned and left outstanding until subsequent sampling returns the system to compliance. During evaluation of ODS error reports, DHHR found that the program has routinely been handling 5000-51 (initial monitoring) and 5000-52 violations incorrectly, probably from the beginning of implementation of the rule. To correct this, DHHR has issued subsequent violations and returned all violations to compliance upon two consecutive monitoring periods. This error was discovered in April 2008, and corrections have not been made as yet to the database. It will take some time to correct. DHHR adds that compliance officers have been advised of the proper procedure and future multiple violations should be avoided. Identifying old multiple violations and deleting them from SDWIS/State will be addressed over time.

- Not all 90th percentile lead values and ALE values are being reported to SDWIS/Fed. DHHR believes that Fed/Rep is supposed to extract the information automatically from systems with populations over 3,300. In one case, the results were recorded as a summary with a 90th percentile equal to 0.00 (instead of less than the detection limit). Incorrect data entry may be the culprit.

Freedom_0005779_0044

Regarding the implication that West Virginia has a problem with entering the lead sample data, Region 3 comments on the draft report that this was true in a 2007 report on data completeness from EPA Headquarters which indicated that only 35.5 percent of PWSs greater than 3,300 in West Virginia had lead sample data in SDWIS/Fed for the 2005-2007 period. EPA Headquarter's 2008 report on data completeness for West Virginia for the same period indicates a great improvement to 100 percent complete. Region 3 would like to note that there had been a problem with the lead sample data in West Virginia and that the state has made significant corrections

- In one case a change in population was not caught by the compliance officer and the lead and copper 90th percentiles were calculated on 10 samples instead of 20. DHHR noted that enhancements to SSWR1 should notify the program when populations change, and the potential rules that may be impacted by the change.

- A system using a new source was placed on a triennial sampling schedule, but this schedule is based on results from a source no longer in use. The system should be scheduled to collect two consecutive six-month samples for compliance.

- Twenty-one LCR violations or instances of sample reporting were confirmed and 18 discrepancies identified, all related to the issues discussed above.

Recommendations

1. DHHR should discontinue the use of three-year "compliance periods" for systems on triennial monitoring. Instead, DHHR should adjust their monitoring schedules to reflect the federally-required six-month, annual or triennial cycles. These dates should be adjusted in SSWR1 to ensure that the correct violation dates are generated in the case of any M/R violations. DHHR responds that, in anticipation of the STR LCR, DHHR assigned a specific year for systems to monitor for lead and copper. Future versions of SDWIS/State will allow tracking of monitoring in specific years. DHHR notes that this recommendation was already being addressed during the on-site program review.

2. Region 3 and DHHR should investigate why not all lead sample and ALE values are reported to SDWIS/Fed. Conversely, the state should eliminate multiple monitoring violations, as only one open violation should be assigned until the system returns to compliance.

3. West Virginia systems should be reviewed to ensure that they are taking the correct number of samples given population changes that may have occurred since schedules were initially set.

Freedom_0005779_0045

J. Surface Water Treatment Rule, Interim and Long Term 1 and 2 Enhanced Surface Water Treatment Rules, and Filter Backwash Recycling Rule

Systems complete and submit MORs, which are completed on Excel worksheets and then hard copies are faxed or mailed to the central office, where they are scanned for the district engineers and most of the data are entered into SSWR1. Compliance is tracked through SSWR1.

West Virginia does not allow unfiltered surface water systems. GWUDI determinations are ongoing. In a January 2008 report to Region 3, DHHR noted that all GWUDI determinations were complete for systems that existed prior to January 1, 2004. Testing of new wells and sources was ongoing for 3 CWSs, 6 NTNCWS and 19 TNCWSs new since January 1, 2004. A GWUDI determination is now part of the start-up process for a new system.

Filter backwash recycling notifications were required of 31 West Virginia systems, though not all recycled. Several systems decided to stop recycling in order to avoid the rule requirements. No capital improvements were required of the remaining systems. District offices are responsible for reviewing FBRR information on site.

Surface Water Treatment Related Successes and Challenges

- GWUDI systems are required by DHHR to monitor in all ways like surface water systems, which is more stringent than federally required.
- Some systems did not submit FBRR notifications in time, but no violations were assigned as DHHR determined that this was only a reporting requirement and not important enough to warrant violations.
- DHHR is not performing compliance determination or assigning violations for LT1 ESWTR due to limited resources. DHHR clarifies that they are not currently issuing turbidity exceedence violations. DHHR is considering moving the determination of those elements of the rules that are not currently being implemented to the district offices, until personnel positions can be filled and those persons adequately trained, to address these issues.
- Discrepancies were assigned for four systems that failed to complete reporting requirements under LT1 ESWTR. The systems were required to conduct continuous monitoring, but only reported, for example, turbidity values three times per day or did not report the number of entry point chlorine residual samples. In two cases, the forms said only "Continuous Monitoring," with no samples recorded. This does not meet the LT1 ESWTR requirements for systems with continuous monitoring to record measurements every 15 minutes and then report the number of measurements taken. DHHR cites a checklist that is part of the MOR that indicates whether the system is performing continuous monitoring, but for a system to simply state that continuous monitoring is occurring does not meet the reporting requirements. DHHR

Freedom_0005779_0046

also referenced SWTR in explanation of this reporting system, which does not apply in these cases. In addition, it was recommended in the previous review that DHHR ensure that all SWTR sampling failures receive M/R violations. DHHR states that SWTR violations have not been assigned or reported due to limited resources and that this includes turbidity violations for non-submittal, exceedances, insufficient samples, etc. DHHR attributes this to the SSWR1 calculator not working correctly to help out.

DHHR responds: *DHHR disagrees with the requirements as outlined. It is clear in the regulations that continuous chlorine residual monitoring is not required to be reported, only the minimum residual measured each day. The instructions on the Monthly Operational Report instruct the operator to write across form EW 90-B that they are performing continuous monitoring and record the minimum residual on form EW-90. The exact requirements can be found at 40 CFR §141.75 (b)(2)(i): "for each day, the lowest measurement of residual disinfectant concentration in mg/l in water entering the distribution system." This requirement has not changed with subsequent rules (IESWTR or LT1ESWTR). It is also clear that continuous monitoring is not required to be reported for turbidity. The SWTR states that turbidity measurements (see 40 CFR 141.74 (c)(1)) "...are to be performed on representative samples of the system's filtered water every four hours...". DHHR takes the position that if water is not actively being filtered, the sample is not representative. DHHR requires samples to be collected only during the time the water is being filtered. Specific reporting requirements are found in 40 CFR §141.75 (b)(1) (i) thru (iii): The total number of filtered water turbidity measurements taken during the month, the number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified, and the date and value of any turbidity measurements taken during the month that exceed 5 NTU. Our form EW-90A has been developed to incorporate the reporting requirements listed, in addition to the actual readings measured, more than what is required by the rule. The IESWTR and LT1ESWTR did not change the reporting requirements for the combined filter effluent (it changed the turbidity treatment technique standards only), but did create new reporting requirements for individual filter monitoring. The IESWTR reporting requirements are found in 40 CFR §141.175 and for LT1ESWTR in 40 CFR § 141.570. The only time the actual continuous monitoring results are required to be reported only under the IESWTR if one of the conditions listed in 40 CFR § 141.175 (b) (1) thru (4) are met. There appears to be no parallel requirement under the LT1ESWTR. DHHR understands the combination of rules to have two reporting standards: one for the combined filter effluent, which is a minimum of one sample every four hours, where the combined filter effluent standards of 1 NTU and 0.3 NTU are applied for conventional and direct filtration (the vast majority of our subpart H systems). DHHR interpretation is that the later rules did NOT change the monitoring frequency for combined filter effluent. The checklist developed on EW-90A page 2 follows the regulations cited above, when it was developed.*

Freedom_0005779_0047

Region 3 agrees that Cadmus has provided valid comments that DHHR needs to address, although Region 3 needs to have further discussion regarding the issue of recording turbidity levels when continuous monitoring is being performed.

- No violations were confirmed and 48 discrepancies were identified, all related to the above issues.

Recommendations

1. DHHR should perform compliance determination for all aspects of SWTR, IESWTR and LT1 ESWTR.

2. Systems using continuous monitoring should be required to report according to federal regulations.

K. Public Notification

The team only reviewed Tier 1 and Tier 2 public notification violations. PN request and receipt dates are entered into SSWR1 and tracked there.

Public Notification Successes and Challenges

- Review of past PN was noted in the files. In particular, for Charles Town Water Department (WV3301905), it appeared the file had been reviewed in 2008. The system was asked to do PN for M/R violations ranging across all rules as far back as 2001. The system did so.

- DHHR assigns violations for failure to perform PN, though none were observed.

Recommendations

1. None.

Freedom_0005779_0048

Appendix A
Status of Previous Recommendations

Freedom_0005779_0049

Questions on West Virginia's Corrective Actions since the July 2005 Review

The final report for the West Virginia Department of Health and Human Resources, Bureau for Public Health, Office of Environmental Health Services, Environmental Engineering Division (DHHR) July 2005 review identified major and minor implementation concerns. Questions follow on how the recommendations of the report and from Region 3 were implemented.

Description of Issue and Recommendation	Questions	State Response
General		
Recommendations from last review	What steps have the region and state taken since the last Review to address recommendations found in the report?	7/1/08 DLW/HMC-No help was received from the Region.
Recommendations from last review	Are findings from the review included in discussions between the state and region, for instance when the PWSS Grant or annual work plan are negotiated?	CHR-Yes
The previous review found that if analytical results are received more than 10 days after the end of a compliance period, DHHR deletes the violation and a return to compliance code (SOX) is entered into SSWR1. The review team noted that this practice of deleting "reporting" violations was not acceptable.	Are reporting violations now retained in the database?	CHR-Yes

Freedom_0005779_0050

Description of Issue and Recommendation	Questions	State Response
The team noted that there were many violations from 2002 through 2004 that had not yet been reported to SDWIS/Fed during the July 2005 review. Reporting was sometimes complicated by a lack of resources for the compliance staff and a lag time in the validation of violations.	Have all compliance determinations been completed for data through 2007 and any violations or required sample results reported to SDWIS/Fed?	CHR-Yes
Inventory		
Some inventory discrepancies (for population, service connections, system type, system status, and source) were identified and it was recommended that DHHR encourage the district offices to continue to update inventory information in SSWR1 for upload to SDWIS/Fed.	Is inventory information now consistent between West Virginia's inventory, SSWR1 and SDWIS/Fed?	CHR-We are using Fed Rep and ODS reports to address discrepancies.
Sanitary Surveys		
Not all systems were receiving a sanitary survey at least every five years. It was recommended that DHHR ensure that systems receive a sanitary survey according to the required schedule and that the central office better track the frequency of sanitary surveys completed by the district offices.	Do all systems receive a sanitary survey at least every five years, or every three years, if subject to IESWTR? Were any tracking measures enacted or improved to ensure this schedule?	CHR-More emphasis on tracking has been coming from the Regional EPA Office, and we have been making every effort to minimize systems that exceed time frames.

Freedom_0005779_0051

Description of Issue and Recommendation	Questions	State Response
Total Coliform Rule (TCR)		
Not all systems serving more than 4,900 persons were taking all TCR samples throughout the month.	Do systems serving more than 4,900 persons now take TCR samples on more than one day during the month?	CHR-All district offices have been advised of this requirement.
Lead and Copper Rule (LCR)		
It was recommended that DHHR ensure systems take annual and triennial LCR samples during the summer months of June through September or, under the provisions of the LCRMR, establish an alternative monitoring period and adhere to it.	Are systems either sampling in June through September, or has an alternate monitoring period been established?	CHR-Yes
DHHR was advised that the violation begin date for LCR violations is the first day after the end of the compliance period.	Does DHHR now use the correct violation dates for LCR?	CHR-Violation periods are automatically created by SSWR1.
Phase II/V		
Some systems with detections of Phase II/V contaminants did not sample quarterly to establish if they were R&C below the MCL.	Do systems now complete the appropriate R&C determinations?	7/1/08 DLW/HMC-As of 2005, regulatory & compliance procedures have been followed. However, no look-back prior to 2005.
SWTR, IESWTR, LT1 &2 ESWTR		
It was recommended that DHHR ensure that all SWTR sampling failures receive M/R violations	Are these violations now assigned and reported?	7/1/08 DLW/HMC-SWTR violations have not been assigned/reported due to limited resources. This includes turbidity violations for non-submittal, exceedances, insufficient samples, etc. SDWIS calculator is not working correctly to help out.

Freedom_0005779_0052

Description of Issue and Recommendation	Questions	State Response
Stage 1 & Stage 2 DBPR		
In 2005 DHHR received all raw data for Stage 1 DBPR and data were entered into SSWR1. Unfortunately, in September 2004, the distribution system chlorine residual results were overwritten with another set of data from a state requirement. DHHR required that all systems take a single chlorine residual sample daily in the distribution system, in addition to the DBPR requirement to sample disinfection residual at the same time and in the same place as TCR. Because the DBPR compliance data were overwritten with the state-required data, DHHR was unable to use SSWR1 to determine compliance during the previous review's period of review.	Were steps taken to prevent a similar accident? Are all compliance calculations current and available for review?	CHR-Yes
TOC compliance calculations were not always well documented, including documentation if the system was using alternate criteria for a given month.	Are these calculations and alternative criteria now well documented?	7/1/08 DLW/HMC-HMC required PWS to submit all 2007 data in 4Q07. HMC educated PWS on TOC reporting. Starting in 2Q08, violations will be issued for non-submittal. Compliance Officer will not evaluate calculations because SDWIS calculator is not working correctly and resources are too limited to do manual calculations.

Freedom_0005779_0053

Description of Issue and Recommendation	Questions	State Response
It was recommended that DHHR ensure that systems monitor for TOC and TTHM/HAA5 when required and that violations are reported to SDWIS/Fed for systems that fail to do so.	Is TOC, TTHM and HAA5 monitoring now completed according to schedule? Are violations assigned and reported if not?	7/1/08 DLW/HMC-All DBP violations are being issued, TOC non-reporting violations will be issued starting in 2Q08. TOC TT violations will not presently be issued until resource limitation has been alleviated and/or SDWIS calculator is fixed.
DHHR was reminded that if a system fails to sample for distribution system disinfection residual, regardless of whether or not they sampled for TCR, a violation should be assigned.	Are these violations now assigned and reported?	7/1/08 DLW/HMC-No, see reasons above.
One system was identified in 2005 that had a running annual average distribution system chlorine maximum residual disinfectant level (MRDL) of 4.2 mg/L and no violation was assigned.	If MRDLs are exceeded, do systems receive violations and complete required increased monitoring?	7/1/08 DLW/HMC-No, we are not issuing MRDL violations due to limited resources.
PN		
It was recommended that DHHR staff ensure that PN is received and violations assigned if not.	Do all systems that fail to provide PN in the correct timeframe receive the appropriate violations?	CHR-Yes

Freedom_0005779_0054

Appendix B
Summary of Discrepancies Identified by Rule

Freedom_0005779_0055

Rule	Data Flow (DF)		Compliance Determination (CD)	
	M/R	MCL/TT	M/R	MCL/TT
Inventory	-	-	-	-
Sanitary Surveys	-	-	NTNCWSs: 1 TNCWSs: 13	-
Consumer Confidence Reports	-	-	CWSs: 3	-
Total Coliform Rule	-	-	TNCWSs: 1	-
Nitrate/Nitrite	-	-	TNCWSs: 1	-
Inorganics (IOCs)	-	-	CWSs: 1 NTNCWSs: 1	-
Volatile Organics (VOCs)	-	-	CWSs: 2	-
Synthetic Organics (SOCs)	-	-	CWSs: 3 NTNCWSs: 1	-
Stage 1 and Stage 2 DBPR	-	-	CWSs: 26 NTNCWSs: 30	-
Surface Water Treatment Rules (SWTR, IESWTR, LT1 ESWTR)	-	-	CWSs: 48	-
Filter Backwash Recycling Rule	-	-		-
Radionuclide Contaminants	-	-	CWSs: 4	-
Lead and Copper (LCR)	CWSs: 2	-	CWSs: 9 NTNCWSs: 7	-
Public Notification	-	-	-	-

Freedom_0005779_0056

Appendix C

Summary of Discrepancies Identified by System

Freedom_0005779_0057

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301905	CHARLES TOWN WATER DEPT	CWS	CCR	10/1/07	CCR not certified by 10/1 as required. Why wasn't a violation assigned?	Certified 11/26/07.	A 7000-71 violation was assigned, and SOX'd effective the date the certification was received WV policy is not to issue both 71 and 72 violation for the same CCR year.	Discrepancy stands.
WV3300201	G & E MHP	CWS	CCR	7/1/07	CCR not delivered by 7/1 as required. Why wasn't a violation assigned?	Copy of CCR received by state on 7/5/07.	Three day "grace period" is allowed for post office delievery delay. Since July 1 was on Sunday, July 4 was a holiday, therefore, July 5 was the last day we would accept postal delivery as being "on-time."	Discrepancy stands. Grace period not allowed by federal regulation.
WV3303604	NAVY INFORMATION OPERATIONS COMAND/MB	CWS	CCR	10/1/07	CCR not certified by 10/1 as required. Why wasn't a violation assigned?	CCR certification received 10/7/07.	It is WV policy not to issue both a 71 and 72 violation for the same CCR period. A 7000-71 violation was issued, and should be SOX'd 10/7/07.	Discrepancy stands.
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	CCR	7/1/07	Violation was assigned, but was not reported to SDWIS/Fed - why not?		SSWR1, found only one 7000-71 violation for PWS, which was for 2005 (7/1/2006). See attached screen shot.	Discrepancy changed from data flow to compliance determination - CCR was not delivered until 7/7/07 and no violation was assigned.

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3304301	CAIRO WATER DEPARTMENT	CWS	DBPR	10/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No chlorine residual sample collected in December 2007.	Required PWS to submit all 2007 data in 4Q07. Starting in 2Q08, violations will be issued for non-submittal. Compliance Officer will not evaluate calculations because SDWIS calculator is not working correctly and resources are too limited to do manual calculations.	Discrepancy stands.
WV3301905	CHARLES TOWN WATER DEPT	CWS	DBPR	1/1/07, 4/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	In January, 11 TCR and 10 MRDLS collected. In May, 15 TCR and 14 MRDLs collected.	As in WV3304301.	Discrepancy stands.
WV3301905	CHARLES TOWN WATER DEPT	CWS	DBPR	10/1/07	Sampling results were received late. Why wasn't a violation assigned?	4th quarter results received 1/16/08.	No response provided.	Discrepancy stands.

Freedom_0005779_0059

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301905	CHARLES TOWN WATER DEPT	CWS	DBPR	10/1/07	Sampling results were received late. Why wasn't a violation assigned?	4th quarter results received 1/16/08.	No response provided.	Discrepancy stands.
WV3301905	CHARLES TOWN WATER DEPT	CWS	DBPR	9/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No TOC data provided for September 2007.	No response provided.	Discrepancy stands. State policy not to assign DBPR M/R violations at this time.
WV3301705	CLARKSBURG WATER BOARD	CWS	DBPR	1/1/07, 4/1/07, 10/1/07	More chlorine residual samples were recorded than TCR samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	March = 20 TCR vs 24 MRDL, April = 20 vs 19, Dec = 20 vs 19.	As in WV3304301.	Discrepancy stands. See report text for EPA policy on this issue.

Freedom_0005779_0060

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3300201	G & E MHP	CWS	DBPR	1/1/07, 10/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No chlorine residual samples found for March and December 2007.	As in WV3304301.	Discrepancy stands.
WV3300201	G & E MHP	CWS	DBPR	7/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	System collected one routine and four repeat TCR samples, expect to see five chlorine residual samples for July, only one listed in SSWR1.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0061

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3303204	GAP MILLS PSD	CWS	DBPR	4/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	System collected two TCR samples in April 2007, expect to see two chlorine residual samples.	As in WV3304301.	Discrepancy stands.
WV3303204	GAP MILLS PSD	CWS	DBPR	1/1/07	System collected TTHM sample on 8/3/07, and HAA5 sample on 8/28/07. Expect to see samples collected on the same day. Why no violation assigned?		The regulations appear to be ambiguous on whether the samples must be collected on the same day. WV has taken the position that systems may collect on different days within the designated period and be in compliance.	Discrepancy stands. See report text for EPA policy.

Freedom_0005779_0062

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3304204	HARMAN TOWN OF	CWS	DBPR	7/1/07	More chlorine residual samples were recorded than TCR samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	Both TCR samples taken in July are marked "S" and not for compliance. SDWIS says one compliance sample taken.	As in WV3304301.	Discrepancy stands.
WV3301520	MOUNTAINEER PARK INC	CWS	DBPR	1/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	Took three TCR and two MRDL samples in January 07.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0063

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301204	PETERSBURG TOWN OF	CWS	DBPR	4/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	Collected five TCR and three MRDL in April 2007. Collected four TCR and three MRDL in May 2007. Calculated RAA on three MRDLs in each month.	As in WV3304301.	DHHR is not assigning MRDL violations at this time due to limited resources. Discrepancy stands.

Freedom_0005779_0064

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	DBPR	4/1/07, 7/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	In June, one routine and four repeat TCR samples were collected but only one MRDL. In July, five routine TCR samples were collected but only one MRDL.	As in WV3304301.	Discrepancy stands.
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	DBPR	1/1/07	More chlorine residual samples were recorded than TCR samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	No TCR samples were found but one MRDL was reported.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0065

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3303513	VALLEY GROVE WATER DEPT	CWS	DBPR	7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	No MRDL samples were taken in July and November 2007.	As in WV3304301.	Discrepancy stands.
WV3301314	WHITE SULPHUR SPRINGS WATER	CWS	DBPR	4/1/07, 7/1/07, 10/1/07	Number of MRDL samples not reported, as required. Why weren't violations assigned?	Missing MRDL values and number of samples taken for Apr-Dec, 2007. It is not in the database.	As in WV3304301.	DHHR is not assigning MRDL violations at this time due to limited resources. Discrepancy stands.

Freedom_0005779_0066

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301314	WHITE SULPHUR SPRINGS WATER	CWS	DBPR	10/1/07	Running annual average for chlorine residuals not calculated - why wasn't a violation assigned?	RAA in SDWIS is 1 but we believe this is incorrect as MRDL values are missing from SDWIS for 9 of 12 months in 2007. Is this some kind of default value?	As in WV3304301.	DHHR is not assigning MRDL violations at this time due to limited resources. Discrepancy stands.
WV9918012	CENTURY ALUMINUM OF WV	NTNCWS	DBPR	7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	In July and October, collected one TCR and no MRDL.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0067

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9931030	CONSOL LOVERIDGE MINE MIRACLE RUN	NTNCWS	DBPR	7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	For Aug, Sep, & Nov 2007.	As in WV3304301.	Discrepancy stands.
WV9931030	CONSOL LOVERIDGE MINE MIRACLE RUN	NTNCWS	DBPR	1/1/07-12/31/07	System failed to sample during compliance period. Why wasn't a violation assigned?	System appears to have conventional filtration, but no compliance information for TOC was found in the files. Is it available? Does this system have conventional filtration?	The system has a conventional treatment system, then the water goes through a green sand filter, then a reverse osmosis treatment. When the additional treatment was added, it is believed that the need for the conventional treatment system was no longer needed. WV is taking the position that TOC is not needed on this system.	Discrepancy stands as EPA HQ disagrees. Please see discussion in text.

Freedom_0005779_0068

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9903096	ELK RUN COAL-BLACK KING	NTNCWS	DBPR	1/1/07, 4/1/07, 7/1/07, 10/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No distribution system chlorine residuals found for 2007.	As in WV3304301.	Discrepancy stands. State policy not to assign DBPR M/R violations at this time.
WV9919020	OX PAPERBOARD LLC	NTNCWS	DBPR	1/1/07, 4/1/07, 7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	No MRDL samples found for 2007 and no RAA available in database.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0069

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9938066	POCAHONTAS MEMORIAL AND MARLINTON M S	NTNCWS	DBPR	1/1/07, 4/1/07, 7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	No MRDL samples were found in database for this system. Do they chlorinate? (SDWIS/Fed says yes.)	As in WV3304301.	Discrepancy stands.
WV9905011	WHEELING PITTSBURGH STEEL CO	NTNCWS	DBPR	1/1/07	A violation was reported to SDWIS/Fed. State correctly rescinded the violation. Why wasn't it rescinded from SDWIS/Fed?	System provided results and state agreed received in 11/07, so no violation.	Violation was "Rejected" in SDWIS on April 7, 2008. This rejection should be reflected in the next upload to CDX to SDWIS Fed. Violation status on last upload was thru March 31, 2008 .	Discrepancy stands. Changed to CD instead of DF because compliance determination was late.

Freedom_0005779_0070

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9905011	WHEELING PITTSBURGH STEEL CO	NTNCWS	DBPR	1/1/07	A violation was reported to SDWIS/Fed. State correctly rescinded the violation. Why wasn't it rescinded from SDWIS/Fed?	System provided results and state agreed received in 11/07, so no violation.	Violation was "Rejected" in SDWIS on April 7, 2008. This rejection should be reflected in the next upload to CDX to SDWIS Fed. Violation status on last upload was thru March 31, 2008.	Discrepancy stands.
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	IOC	1/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	State assigned vio for 1005, but could not find remaining IOCs for 2005-2007. Can you provide other data?	This appears to be a valid error. No information could be found on why the remaining contaminants were not cited.	Discrepancy stands.
WV9934042	ZELA ELEMENTARY SCHOOL	NTNCWS	IOC	1/1/05	Sampling results were received late. Why wasn't a violation assigned?	Received 8/15/07 samples in May 2008. No reminder letter sent or violation assigned.	The central office, as a result of this finding, has determined that non-community IOC violations are not being migrated to potential violations. We set up another group for non-community (sodium not required to be tested for non-community), and another group name should have been used to migrate these potential violations.	Discrepancy stands.

Freedom_0005779_0071

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301905	CHARLES TOWN WATER DEPT	CWS	LCR	10/1/06	Violation was assigned, but with incorrect dates - can you explain?	52 violation assigned for 10/1/07, but expect to see a date of 10/1/06.	No response provided.	Discrepancy stands.
WV3301010	FAYETTEVILLE MUNICIPAL WATER	CWS	LCR	10/1/06	System failed to sample during compliance period. Why wasn't a violation assigned?	LCR samples were collected in 2003 and 2007, which is more than three years apart. Expect to see triennial samples at least every three years.	Suspect that the analysis for lead and copper may have been misfiled. Summaries have been recorded in SDWIS for the time frame of interest. The summary can be accessed via similar instructions as above. We began entering individual results sometime after 2005.	Summaries and individual samples in SSWR1 correspond to samples in 2003 and 2007, attributed to "compliance cycles" of 2002-2004 and 2005-2007. Discrepancy stands.
WV3304204	HARMAN TOWN OF	CWS	LCR	10/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	System sampled in Jul 02, should have sampled again in 2005, did not sample until Aug 06. No violation found.		Discrepancy stands.

Freedom_0005779_0072

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3302341	LOGAN CO PSD - STOLLINGS	CWS	LCR	10/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	Samples were collected in 2002 and 2007, which is more than three years apart, expect triennial samples to be collected at least every three years.	WV has allowed systems to collect samples in any year within a triennial period. One sample set required between 2002-04, One sample set between 2005-07 satisfies. Because of the upcoming Short Term Revisions that go into effect late next year, we are now transitioning to enforce samples no more than 3 years apart, beginning in 2010.	Discrepancy stands.
WV3301978	MEADOW BROOK WATER SYSTEM	CWS	LCR	10/1/07	Program calculated the 90th percentile on an incorrect number of samples. Why is this?	System collected only 5 of 10 required samples in 2007. Why wasn't a violation assigned?	See e-mail sent on July 15, 2008.	Discrepancy stands -- changed to a data flow error.

Freedom_0005779_0073

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3303001	MINGO COUNTY PSD CHATTAROY	CWS	LCR	10/1/07	A violation was reported to SDWIS/Fed. The PR team could find no reason for the violation. Why wasn't it rescinded from SDWIS/Fed?	State already reported a 5000-52 violation for 10/1/04. The 10/1/04 violation remains outstanding until the system returns to compliance.	During evaluation of ODS error reports, it was found that we have routinely been handling 51 and 52 violations incorrectly, probably from day one. We have issued subsequent violations and returned all violations to compliance upon two consecutive monitorig periods. This error was discovered in April 2008, and corrections have not been made as yet to the database. It will take some time to correct.	Discrepancy stands.

Freedom_0005779_0074

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3302514	MINISTERS RUN WATER ASSOC	CWS	LCR	10/1/06	A violation was reported to SDWIS/Fed. The PR team could find no reason for the violation. Why wasn't it rescinded from SDWIS/Fed?	A 5000-52 violation was correctly reported for 10/1/05, why was an additional violation assigned for 10/1/06? Expect to see only one "52" violation assigned. The violation then remains outstanding until the system returns to compliance.	During evaluation of ODS error reports, it was found that we have routinely been handling 51 and 52 violations incorrectly, probably from day one. We have issued subsequent violations and returned all violations to compliance upon two consecutive monitoring periods. This error was discovered in April 2008, and corrections have not been made as yet to the database. It will take some time to correct.	Discrepancy stands.
WV3300104	PHILIPPI CITY OF	CWS	LCR	10/1/05	Program calculated the 90th percentile on an incorrect number of samples. Why is this?	Based on system's population (increased to 3,983 in 8/03), should collect 20 LCR tap samples, rather than 10.	Apparently, the change in population was not caught by the compliance officer. SSWR1 has been enhanced to notify us when population has changed, and the potential rules that may be impacted by the change.	Discrepancy stands.

Freedom_0005779_0075

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3300807	QUEEN SHOALS PSD	CWS	LCR	10/1/03	Violation was reported to SDWIS/Fed with a violation date of 10/1/04 - Why use this date when the system failed to take the required sample in 2003?	System sampled 7/12/00, next due in 2003, not sampled until 2005. Violation date in SDWIS/Fed is 10/1/04 - we believe it should be 10/1/03 (or 1/1/04).	We have been implementing the Lead and Copper Rule similar to the Phase II/V rule. The system, in our perspective, was required to monitor in either 2002-03 or 04. The last chance to monitor was in Sep 04 We are modifying our procedures to be in conformance to the language in the new short term revisions to the lead and copper rule, which goes into effect in late 2009.	Discrepancy stands.
WV3302523	VALLEY FALLS PSD	CWS	LCR	1/1/03	90th percentile lead result for systems serving >3,300 population is not present in SDWIS/Fed. Why not?	9/9/03 sampling round 90th percentile level was "0."	FedRep is supposed to extract the information automatically from systems >3,300. I do not know why it was not extracted. This would be a question for SDWIS/help desk. Noted that the 2005 results were recorded as a summary with a 90th percentile as 0.00 (instead of < MDL), I suspect if the date is wrong. Noted results in 2002 and 2005, nothing in 2003?? i.e someone entered the data incorrectly.	Discrepancy stands.

Freedom_0005779_0076

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3300515	WASHINGTON PIKE PSD	CWS	LCR	10/1/06	Triennial sample not found - why wasn't a violation assigned?	Triennial samples taken in 8/03 and 9/07, more than three years apart.	WV has allowed systems to collect samples in any year within a triennial period One sample set rqd between 2002-04, One sample set between 2005-07 satisfies. Because of the upcoming Short Term Revisions that go into effect late next year, we are now transitioning to enforce samples no more than 3 years apart, beginning in 2010.	This policy is incorrect under the current LCR and LCRMR. Discrepancy stands.
WV9918012	CENTURY ALUMINUM OF WV	NTNCWS	LCR	10/1/05	Triennial sample not found - why wasn't a violation assigned?	System sampled in 2002 and 2007. Expect samples by 9/30/05.	No response provided.	Discrepancy stands.
WV9903096	ELK RUN COAL-BLACK KING	NTNCWS	LCR	10/1/06	System failed to sample during compliance period. Why wasn't a violation assigned?	Samples were collected in 2003 and 2007 which is more than three years apart. Triennial samples should be collected at least every three years.	We have been implementing the Lead and Copper Rule similar to the Phase II/V rule. The system, in our perspective, was required to monitor in either 2002-03 or 04 and again any year between 2005-07. We are moving towards changing our procedure in light of the new short term revisions to the lead and copper rule, which goes into effect in late 2009.	Discrepancy stands.

Freedom_0005779_0077

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9919020	OX PAPERBOARD LLC	NTNCWS	LCR	10/1/02	Violation was assigned, but with incorrect dates - can you explain?	System sampled in Sept 99 and July 07. Should have sampled in 2002, and did receive a violation, but violation begin date was 10/1/04 in SDWIS/Fed.	No response provided.	Discrepancy stands.
WV9902021	ROCKY KNOLL ELEMENTARY	NTNCWS	LCR	10/1/03	Violation was assigned, but with incorrect dates - can you explain?	System sampled in 2000 and expect to see samples by 2003. Did not sample until 2005. Violation assigned for 10/1/04, but expect date to be 10/1/03 or 1/1/04.	We have been implementing the Lead and Copper Rule similar to the Phase II/V rule. The system, in our perspective, was required to monitor in either 2002-03 or 04. The last chance to monitor was in Sep 04 We are moving towards changing our procedure in light of the new short term revisions to the lead and copper rule, which goes into effect in late 2009.	Discrepancy stands.
WV9905011	WHEELING PITTSBURGH STEEL CO	NTNCWS	LCR	10/1/05	Triennial sample not found - why wasn't a violation assigned?	System sampled 2002 and 2007. Expected to sample before 9/30/05.	No response provided.	Discrepancy stands.

Freedom_0005779_0078

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9934042	ZELA ELEMENTARY SCHOOL	NTNCWS	LCR	10/1/07	An M/R violation was assigned by the state and reported to SDWIS/Fed, but was assigned in error since a previous violation remained outstanding. Why was it assigned?	Assigned violation in 2004 which had not been returned to compliance, so second violation should not be assigned.	No response provided.	Discrepancy stands.
WV9934042	ZELA ELEMENTARY SCHOOL	NTNCWS	LCR	10/1/03	Triennial sample not found - why wasn't a violation assigned?	Sample was collected in 2000. Expect to see next sample by 2003. System sampling on 3-year compliance period schedule rather than triennially.	No response provided.	Discrepancy stands.

Freedom_0005779_0079

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301905	CHARLES TOWN WATER DEPT	CWS	LT1	1/1/07-12/31/07	System did not note number of hours below standard, if any, for any month in 2007.	Form only says "continuous monitoring" and one value is noted on the MOR (presumably lowest value?)	No response provided.	Discrepancy stands.
WV3301010	FAYETTEVILLE MUNICIPAL WATER	CWS	LT1	1/1/07 - 12/1/07	System failed to complete reporting requirements. Why weren't violations assigned? No chlorine residual results were reported to the state. No MOR was found for January 2007.	System also only records and reports turbidity values three times per day. This does not appear to meet the rule requirement to record measurements every 15 minutes and then report the number of measurements taken.	Suspect that the MOR may have been misfiled. The data from the MOR are transferred into SDWIS.	Missing MOR data found. Discrepancies stand for incomplete data reporting.

Freedom_0005779_0080

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301204	PETERSBURG TOWN OF	CWS	LT1	1/1/07-12/31/07	Why didn't system report number of chlorine residual samples collected at entry point, as well as values, for each month of 2007?	System reported "continuous monitoring" only. Expect that the number of measurements taken will be reported, according to LT1 ESWTR.	See Data Verification (2005) Status Report	DHHR is not assigning LT1 ESWTR violations at this time due to limited resources. Discrepancy stands.
WV3300104	PHILIPPI CITY OF	CWS	LT1	1/1/07 - 12/1/07	System failed to complete reporting requirements. Why weren't violations issued? Number of entry point chlorine residuals collected each month was not reported. Why not?	System is required to conduct continuous turbidity monitoring, why only three sample values per day reported? Number of turbidity samples for March not found on MOR.	There is supposed to be a checklist as part of the MOR that indicates whether the system is performing continuous monitoring. SWTR requires a system to report readings every four hours. Data are transferred from the MOR to SSWR1.	This system appears to be subject to LT1 ESWTR which requires systems with continuous monitoring to record results every 15 minutes and then report the number of measurements taken. Discrepancy stands.

Freedom_0005779_0081

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9914005	CAMP SANDY COVE - DINING HALL	TNCWS	Nitrate	1/1/07	Sampling results were not found. Why wasn't an M/R violation assigned?	A 7/30/07 sample was found in SSWR1, but no value is listed in the result field.	Apparently a data entry error.	Discrepancy stands.
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	RAD	1/1/07, 4/1/07, 7/1/07, 10/1/07	System does not qualify for grandfathering, but has not completed all four quarters of initial monitoring. What is the schedule for this system to comply with the revised rule?	Only one distribution sample could be found (7/18/01 for Gross Alpha, Ra226 and Ra228), but there are two entry points.	No monitoring schedule was entered for radionuclides into SDWIS. Apparent WV oversight.	Discrepancy stands.
WV3301302	GREENBRIER COUNTY PSD #2	CWS	SOC	1/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	Could not find any waiver status in either files or the database and could not find any sampling data. Does this system have an SOC waiver?	There is a note in SSWR1 indicating a waiver was issued. Our current assumption is that the memo was overlooked, and we will need to review the file to see if we can find it.	Waiver information found for 2002-2004. None found for 2005-2007 in SSWR1 or the hard copy file. Discrepancy stands.

Freedom_0005779_0082

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301311	RUPERT WATER	CWS	SOC	1/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	See reminder letter dated 11/19/07 in files asking for SOC results collected during the 2005 - 2007 compliance period. No sample and no waiver documentation found for this period.	Reminder must have been sent in error. There is no SOC schedule in SDWIS, and I have a copy of an SOC waiver letter issued in the past. Assumption is that the waiver memo may have been overlooked or misfiled.	Waiver not correctly renewed. Discrepancy stands.
WV3301314	WHITE SULPHUR SPRINGS WATER	CWS	SOC	1/1/05	A violation was reported to SDWIS/Fed. Vio was rescinded by state. Why wasn't it removed from SDWIS/Fed?	Vio was rescinded - system not scheduled to sample, per letter 2/19/08.	The violation was deleted out of SDWIS Feb 2008. Last update that would include this would have been done in May 15, 2008. This should show up in the ODS error report, and will be corrected.	Discrepancy stands.

Freedom_0005779_0083

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9903096	ELK RUN COAL-BLACK KING	NTNCWS	SOC	1/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	Appears that SOC waiver expired in 2004, no documentation renewing waiver was found. Expect to see one sample between 2005 - 2007.	Due to inadequate staffing levels, WV has not renewed many individual PWS waivers since 2004.	Discrepancy stands.
WV9934042	ZELA ELEMENTARY SCHOOL	NTNCWS	SS	1/1/02	Only one sanitary survey found - can one done within five years previous or five years after be provided?	1997 sanitary survey is most recent one in file. Expect to see one by 2002 or 2007 if under protected and disinfected status.	It appears that this system has not had a sanitary survey conducted within the required time frame. District personnel will schedule a sanitary survey as soon as possible.	Discrepancy stands.
WV9919055	340 ROADHOUSE	TNCWS	SS	1/1/03	Two sanitary surveys found, but they were done more than five years apart - why no M/R violation?	It appears this system is on a ten-year schedule. Has it been documented as a protected and disinfected source?	see WV9909004 comments.	Discrepancy stands.

Freedom_0005779_0084

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9939087	ALYESKA INC	TNCWS	SS	1/1/99	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Expect a non-community to have a sanitary survey by 1999. Only 5/08 survey found.	WV Policy for non community systems with GW only sources is to perform sanitary surveys once every 10 years. Because there are several Alyeska systems, the previous sanitary survey was done as a group (2001 last year one was done) If a copy of the 2001 survey is required, one can be provided upon request.	A copy of the sanitary survey would have to be provided to verify the ten-year frequency. However, as other systems reviewed have no documentation of protected and disinfected status, this would likely remain a discrepancy.
WV9947030	BLACKWATER CENTER	TNCWS	SS	1/1/05	Two sanitary surveys found, but they were done more than five years apart - why no M/R violation?	Done 4/07 and 3/00.	No response provided.	Discrepancy stands

Freedom_0005779_0085

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9914005	CAMP SANDY COVE - DINING HALL	TNCWS	SS	1/1/04	No hard copies of sanitary surveys found - can you provide them?		Copy requested from DO	Discrepancy stands for second sanitary survey five years later. Did not see documentation of copy requested from DO.
WV9933048	COOLFONT MOUNTAINSIDE ASSOCIATION - NORTH	TNCWS	SS	1/1/99	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Only 8/04 sanitary survey found.	WV Policy for non community systems with GW only sources is to perform sanitary surveys once every 10 years.	Discrepancy stands.
WV9909004	DODDRIDGE COUNTY PARK	TNCWS	SS	1/1/04	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Only 8/99 survey found. SSWR1 notes that the next survey is due 8/09. Please provide documentation that this is a protected and disinfected source if so.	We consider all non-community ground water systems as protected and chlorinated (we require all systems to chlorinate). We have always have done non-community systems on a ten year frequency since TCR implementation. We are now trying to increase the frequency to once every five years in anticipation of the GWR.	This does not meet the criteria for documentation of protected and disinfected systems. Discrepancy stands.

Freedom_0005779_0086

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9909031	MILETUS COUNTRY MARKET	TNCWS	SS	1/1/04	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Only 5/99 survey found. Please provide documentation that this is a protected and disinfected source if it is on a 10 year schedule.	see WV9909004 comments	This does not meet the criteria for documentation of protected and disinfected systems. Discrepancy stands.
WV9919086	RIVER RIDERS	TNCWS	SS	1/1/00	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Only 9/05 survey found.	see WV9909004 comments	Discrepancy stands.
WV9938038	RYDERS RESTAURANT	TNCWS	SS	1/1/04	Two sanitary surveys found, but they were done more than five years apart - why no M/R violation?	Sanitary surveys found for 1999 and 2007. No documentation of protected and disinfected status.	No response provided.	Discrepancy stands.

Freedom_0005779_0087

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9955094	WAGON WHEEL	TNCWS	SS	1/1/99, 1/1/04	No hard copies of sanitary surveys found - can you provide them?	Sanitary survey file was empty and no site visits listed in SWR1. Expect to see them in 1999 and 2004 if first done by deadline of 6/29/99.	No response provided.	Discrepancy stands.
WV9938048	WATOGA STATE PARK BUSH PLACE	TNCWS	SS	1/1/99	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Found sanitary surveys for 6/03 and 7/96.	A combined sanitary survey was conducted in 1996 on all Watoga State Park systems. Partial report attached.	Discrepancy stands.
WV9919055	340 ROADHOUSE	TNCWS	TCR	1/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No TCR sample found in SSWR1 for 1Q07, but system does not appear to be seasonal. Found correct M/R violation for 2Q07.	The system was closed for a period of time and reopened under new ownership on Jan 12, 2007. WV allows some time for compliance with new ownership	Discrepancy stands. Federal regulations require TCR monitoring during any quarter they are open.

Freedom_0005779_0088

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301978	MEADOW BROOK WATER SYSTEM	CWS	VOC	1/1/07, 4/1/07	System failed to take quarterly samples after a VOC detect. Why weren't violations assigned?	Toluene was detected in sample collected 12/06, and system was not instructed of the need for quarterly sampling until 5/07. Why the delay?	WV could not find any documentation on why the system was not notified to go to quarterly monitoring more timely. WV takes the position that we notify the system to increase monitoring prior to any violations being issued.	Discrepancy stands.

Freedom_0005779_0089

EPA COMMENTS TO WVDHHR DRAFT DV REPORT – 10/30/08

INTRODUCTION

SUBSECTION A – Purpose of Review

Page 1, Paragraph 1:

Please add the name Dan Campanelli (EPA Region 3), as part of the review "team." **(DC)**

PRIMACY AGENCY PROGRAM SUMMARY

SUBSECTION A – Program Organizational Structure

Suggested a "Pouch" service for data via PWSS. Effect MRV's

Page 3, Paragraph 3, Sentence 3:

Get new fax machine
Look at daily procedures
(possible log)

The draft states, "... found that mailed and faxed analytical data sometimes are lost." With respect to data being sometimes lost, can DHHR implement an internal "fail safe" procedure/process to prevent data from being lost? **(DC)** Are the data getting lost by the Post Office or DHHR? **(WFJ)**

Page 3, Bullet 3, Sentence 1:

2 yrs
4 slots, 1 vacancy
1 - med. leave

The draft states, "Compliance determination is sometimes performed late, which led to a number of discrepancies." Please note that validation of violations in a timely manner is essential to prevent data "timeliness" issues which can influence data quality. Has DHHR taken steps to resolve the "lack of resources" issue? **(DC)** Have the rejected data from the end of 2007 been addressed? Why is this data being rejected? **(WFJ)** – Qtr, Appr, Tri Annual to Report (Time Consuming)
– Plan to move duties to Dist. Ofcs (Hors, Turbidity)
– have more staff than Cent Ofc (26)

Need clarification via CADMUS (WFJ)

Page 3, Bullet 3, Sentence 4:

The draft states, "DHHR reported that all compliance determinations been completed for data through 2007 and ..." This sentence seems to be inconsistent (contradicts) the statement noted above (Bullet 3, Sentence 1). Also, EPA believes that the word "had" should be added, such that the sentence reads, "DHHR reported that all compliance determinations had been completed for data through 2007 and ..." **(DC)**

completed ~~2007~~ by July '07
at time of DV but was due in April

Page 4, Recommendations, #2 (top of page), Last Sentence:

State Compliant SSWR1 is slower

The draft states, "Improved use of SSWR1 would greatly add to ..." This appears to contradict CADMUS statement on page 6; section D; 3rd para. – "... DHHR is fully implementing SSWR1 now ..." EPA asks CADMUS to clarify. **(WFJ)**

SUBSECTION B – Waiver Information

Page 4, Paragraph 3, Last Sentence:

The draft states, "New SOC waivers will not reduce systems past once every nine years." EPA recommends revising sentence to read – "New ... will not reduce systems beyond once every nine years." **(WFJ)**

PRIMACY AGENCY PROGRAM SUMMARY

SUBSECTION B – Waiver Information

State needs to address

Page 4, Bullet 1, Sentence 1:

The draft states, "Due to inadequate staffing levels, DHHR has not reviewed many individual PWS waivers since 2004." Is there a DHHR course of action? Has DHHR now taken action to review the outstanding waivers? **(DC)**

SUBSECTION C – State Assistance

(WFJ) WJS to clarify

Page 5, Bullet 1:

The draft states, "In response to ..." Please delete the entire bullet. (DC) EPA is not aware of any Agency actions recommended by CADMUS from the previous review. EPA has no record of DHHR asking for EPA assistance to address previous recommendations. EPA included all recommendations from previous review in PWSS Reporting Checklist to track state progress on addressing issues. **(WFJ)**

Page 5, Bullet 7, Sentence 3:

The draft states, "... found to be effective for overall compliance (see Section II. C Sanitary Surveys) and ..." Sanitary Surveys is Section III. Please revise this sentence to reflect the correct section of the report. **(DC/WFJ)**

SUBSECTION D – State Data System

not as major as mail/fax issue

Page 6, Paragraph 1, Last Sentence:

The draft states, "Sometimes labs will send data only to the systems ..." Why is this happening? What has the state done to address this issue? **(WFJ)**

Page 6, Paragraph 4, Sentence 3:

The draft states, "Region 3 and DHHR are trying to clear up old enforcement actions for EPA-issued violations." Please note that the discussions between Region 3 and DHHR have been extremely fruitful and also note that <u>most</u> violations for DHHR are state issued violations that have been uploaded to the federal system by DHHR. EPA does not believe that the violations are EPA-issued violations. We therefore would prefer that the words "EPA issued" are replaced by the word "old" such that the sentence reads, "Region 3 and DHHR are trying to clear up old enforcement actions for old violations." **(DC)**

Done

~~Page 6, Paragraph 4, Last Sentence:~~

~~The draft states, "DHHR is working on getting SSWR1 and SDWIS/Fed data in synch and trying to clear up all errors over time." Does DHHR have a schedule for getting this completed? (WFJ)~~

Page 6, Bullet 1, Last Sentence:

The draft states, "However, data entry errors caused a number of discrepancies ..." Have these data entry errors now been corrected? **(DC)** What are the "entry errors" a product of, i.e., lack of trained staff, etc.? DHHR should consider the source and address as soon as possible to ensure Q/A of data. **(WFJ)**

work in QA/QC process

Freedom_0005779_0091

PRIMACY AGENCY PROGRAM SUMMARY

SUBSECTION D – State Data System

Page 6, Bullet 2, Sentence 2:

The draft states, "However the program is not performing compliance determinations for rules that DHHR feels the SSWR1 calculator handles inadequately ..." Has DHHR communicated this to the SDWIS help desk? If so, has the SDWIS help desk responded back to DHHR with a resolution (work around) or a schedule for a future fix? **(DC)**

– just training staff issue

Page 7, Bullet 2:

Dan will revise

The draft states, "Several . . . where violations had not been correctly rescinded from SDWIS/Fed." Here is an example of why some illegitimate SNCs are being listed. Please note that it is up to DHHR to ensure that "rescinded" (i.e. invalidated) violations are communicated to EPA Region 3 such that they can be deleted out of SDWIS/Fed. **(DC)**

Page 7, Bullet 4, Sentence 1:

– SDWIS contractor – Replace throughout Report – CADMUS to do

The draft states, "DHHR is waiting for GEC to provide new tools, such as "SWMMR and SOX (return to compliance) reports." Does DHHR have a schedule of when GEC will provide these tools? Also, please give the definition of the acronym "SWMMR." **(DC)**

Lost SWMMR when went to SSWR1

SWMIR = Safe Water Mgt use to send out compliance letter to PWS

Page 7, Recommendations, # 1, Sentence 1:

EPA agrees with CADMUS and encourages DHHR to schedule training for staff on SSWR1. **(WFJ)**

Page 7, Recommendations, # 1, Sentence 2:

The draft states, "Many of the rules that are not implemented because DHHR feels the SSWR1 calculator does not work, can in fact have automated compliance determination, if ..." Since DHHR feels that the SSWR1 calculator does not work, has DHHR communicated this to the SDWIS help desk? If so, has the SDWIS help desk responded back to DHHR with a resolution? Is there a schedule for resolution of this issue? **(DC)**

Page 7, Recommendations, # 3:

The draft states, "Region 3 should assist DHHR further in correcting errors and ensuring that rejected violations are rescinded ..." Please note that this is an on-going activity between DHHR and Region 3. Please also note that DHHR must always ensure that the "rescinded" (i.e. invalidated) Violation ID numbers are communicated to EPA Region 3 such that those violations can be deleted out of SDWIS/Fed. **(DC)**

Freedom_0005779_0092

PROGRAM IMPLEMENTATION

SUBSECTION A – General Program

Page 8, Bullet 1, Sentences 2:

The draft states, "Systems . . . are ostensibly . . ." CADMUS seems to be implying that systems may not be conducting M/R according to new rules despite all have been trained. EPA request that CADMUS clarify or confirm this statement. **(WFJ)**

Omit

Page 8, Bullet 1, Sentences 2 and 3:

With respect to the DBP1 and LT1 rules, the draft states, "... but compliance determination had not yet been done at the time of the review, due to lack of staff resources. Nor is Region 3 implementing the rules for DHHR." Has DHHR alleviated the staff resources difficulty? Is DHHR now implementing compliance determination for these rules? It is not clear from the text if DHHR had previously desired the Region to implement any (some parts) of these rules? **(DC)**

Page 9, Bullet 3, Last Sentence:

The draft states, "West Virginia and DHHR should work together to ..." This sentence does not seem logical. I believe that rewording is necessary. **(DC)**

SUBSECTION B - Inventory

Public Service Commission

Page 9, Paragraph 1, Sentence 3:

The draft states, "... are often obtained from the PSC." Please give the definition of the acronym "PSC." **(DC)**

Page 9, Paragraph 1, Sentence 6:

The draft states, "DHHR staff use GEC's "SWFF" program to make inventory updates in the field." Please give the definition of the acronym "SWFF." **(DC)**

SWIFT Safe Water Info Field Tool

SUBSECTION C – Sanitary Survey

Page 10, Paragraph 4, Sentence 2:

The draft states, "Ground water systems are typically surveyed every five years, while many non-communities have been reduced to a ten-year cycle." Since DHHR disinfects all of its public water systems, and it has been determined that the source is not Ground Water Under the Direct Influence of Surface Water (GUDI), their policy has been that the sanitary survey can be conducted every ten years for (i.e. Transient) Non-Community systems. However, EPA believes that an official determination of "protected" source must be decided upon and officially documented, before a reduced (i.e. greater than 5 years) cycle can be allowed. **(DC)**

Omit

Page 11, Bullet 2:

Are annual inspections conducted on all systems or just problem systems? What's the schedule and on average how many are done per year? **(WFJ)**

– ea dist has a diff policy on schedule for inspections

Freedom_0005779_0093

EPA DWB believes this statement only applies to II TCR system w/ < 5
Clarify

PROGRAM IMPLEMENTATION

SUBSECTION C – Sanitary Survey

provide info on requirement for checklist for TCR provision which refers to 141.21d

Page 12, Bullet 2:

The draft states, "DHHR does not assign or report violations for failure to meet the sanitary survey schedule." It is not understood why DHHR is not assigning violations for failure to meet the sanitary survey schedule. Has this policy been officially communicated to EPA or approved by EPA? **(DC)**

State does SS Tracking issue
State is committed to doing 100%

Page 12, Recommendations, # 1, Last Sentence:
The draft states, "Some determination of vulnerability must also be made." EPA recommends revising this sentence such that the sentence reads, "Some determination of vulnerability and also a statement that the source has been determined to be protected must also be made." **(DC)**

SUBSECTION D – Consumer Confidence Rule

Pages 12-13:

EPA agrees with the statements and recommendations of CADMUS. If the state is interested, EPA is willing to put on a training session on the CCR and/or PN Rules for DHHR staff. **(PKW)**

SUBSECTION E – Total Coliform Rule

Page 13, Paragraph 2, Sentence 1:

The draft states, "... will invalidate a total coliform positive sample if the system requests it and the request meets the criteria for invalidation: 1) ... 2) ... 3)..." It is unclear if all of or some of the criteria has to be met in order for the sample to be deemed invalid. To clarify, please add the words, "all of" or "some of" to the sentence. **(DC)**

Results day 3
- Sample Day 4
Lab Day 5
Analyze Day 6-7
Send Report Day 8
- Need to consider Holidays, Weends

Page 14, Recommendations, # 1, Sentence 1:

The draft states, "DHHR should revise its policy of allowing 14 days of repeat sampling after notification of a total coliform positive." Has DHHR issued an official statement of a policy change to its district offices? **(DC)** EPA agrees with the statements and recommendations of CADMUS in particular, revising state policy of allowing 14 days for repeat sampling after notification of a TC positive. **(WFJ)**

SUBSECTION F – Phase II/V Rule

Page 14, Paragraph 1:

The draft report mentions that analytical detections are typically one to two weeks old by the time the central office receives them. EPA requests that CADMUS address these "delays" in the "Recommendations" Section. Federal regulations requires that water systems report the results to the state within (1) the first 10 days following the month in which the result is received, or (2) the first 10 days following the end of the required monitoring period as stipulated by the State, whichever of these is shortest. **(MH)**

Page 15, Bullet 2, Sentence 2:

The draft states, "... noncommunity IOC violations were not being migrated to potential violations due to a programming error." Has this "programming error" been resolved? **(DC)**

Freedom_0005779_0094

PROGRAM IMPLEMENTATION

SUBSECTION G – Stage 1 DBPR

Page 16, Bullet 1, Last Sentence:

The draft states, "DHHR confirmed that violations are not assigned in these cases either, since they are not issuing MRDL violations due to limited resources." Has the difficulty of "limited resources" now been resolved? **(DC)**

Page 16:

1) It is unclear why the title of this section references the Stage 2 Disinfectant By-Products Rule. There is no discussion of the Stage 2 rule in this section, nor is it one of the regulations listed in *Table 2: Periods of Review* (page 6). In addition, one of the categories in *Appendix B: Summary of Discrepancies Identified by Rule* lists both Stage 1 and Stage 2 DBPR, but they did not review Stage 2 DBPR compliance.

EPA requests that the title of this subsection and the App B list be revised to reflect Stage 1 DBPR only. **(MM)**

2) In general, EPA finds this entire section to be confusing with regard to the references that DHHR "has not yet been conducting compliance determinations for Stage 1 DBPR." For example, the fourth sentence in the first paragraph describes the process by which DHHR compliance officers calculate TTHM and HAA5 running annual averages, but then the first sentence of the first bulleted point states that "DHHR has not yet been conducting compliance determination for Stage 1 DBPR." The remainder of this paragraph refers to difficulties that DHHR is having with implementation of the *chlorine residual monitoring and MRDL requirements*. Similarly, the entire paragraph of the second bulleted point describes the problems that DHHR has had in using SSWR1 to maintain Stage 1 chlorine residual data. They again conclude the paragraph with a reference to "compliance calculations and determinations for Stage 1 are not being done."

EPA Response: We understand that DHHR may be having difficulty in keeping up with the compliance determinations that need to be made under the Stage 1 chlorine MRDL and monitoring requirements due to limited resources and the inability of the SSWR1 calculator to function properly. While we recognize that this is a problem which needs to be addressed, it is a very different issue than implied by the statement that DHHR has not yet been conducting compliance determinations for the Stage 1 DBPR. There is nothing in the report to indicate that DHHR is not enforcing the monitoring and MCL requirements for TTHMs and HAA5s, and in fact, actually describes the process by which the compliance determinations are being made for these byproducts. Also, a quick review of the discrepancies shows that the vast majority of them are related to the chlorine residual provisions.

We request that the final version of this report clarify and correct the statements made in this section to ensure that the reader is not left with the impression that DHHR is not implementing and enforcing the MCL provisions of the Stage 1 DBPR. **(MM)**

Page 17, Paragraph 2:

1) The second paragraph references the discrepancies involving the failure of DHHR to issue a violation in a situation in which the system collected their TTHM and HAA5 samples on different days. As stated, DHHR has taken the position that the regulations do not explicitly require that samples be collected on the same day, and so does not see this as a compliance issue as long as the samples are collected within the required monitoring period.

Freedom_0005779_0095

PROGRAM IMPLEMENTATION

SUBSECTION G – Stage 1 DBPR

Page 17, Paragraph 2 cont.:

EPA Response: Although we agree that the *intent* of the Stage 1 Rule is that the samples be collected on the same day, we do not believe that DHHR should be required to assess a violation based on intent. If this situation were to have occurred under the Stage 2 Rule, which explicitly requires that a dual sample set be collected at each sample point, we would agree that a violation must be assessed. However, since the requirement is not explicit under the Stage 1 Rule, we do not agree that this type of discrepancy should stand. **(MM)**

SUBSECTION I – Lead and Copper Rule

Page 18, Paragraph 1, Sentence 2: Short Term Revision

The draft states, "They have also submitted the STR LCR provisions..." Please give the definition of the acronym "STR". **(DC)**

Page 18, Paragraph 2, Sentence 1:

The draft states, "Some 90th percentile ... tap sampling are calculated by SSWR1." It appears the calculator in SSWR1 works in part or for some rules and not for others. As stated earlier in the report, DHHR does not believe the calculator works to assist with ST1 DBPR and LT1 SWTR. Please clarify either CADMUS or DHHR. **(WFJ)** Revise to say All or just 90th

Page 19, Bullet 4, Last Sentence:

The draft states, "This error was discovered in April 2008, and corrections have not been made as yet to the database." Has DHHR informed the SDWIS help desk about this? Is it anticipated that SDWIS/State Web2 will alleviate this difficulty? **(DC)**

Page 19, Bullet 5:

The draft states, "Not all lead sample values and action-level exceedance (ALE) values are being reported to SDWIS/Fed. DHHR believes that FedRep is supposed to extract the information automatically from systems with populations over 3,300. In one case, the results were recorded as a summary with a 90th percentile equal to 0.00 (instead of less than the detection limit). Incorrect data entry may be the culprit."

EPA Comment: States are required to report the 90th percentile lead values (PB90) for all systems serving more than 3,300 people regardless of whether or not the lead action level was exceeded. EPA believes that the phrase "lead sample values" in the above bullet refers to PB90 values less than or equal to the lead action level as the bullet also mentions "action-level exceedance" values. EPA suggests that Cadmus change the phrase "... all lead sample values and action level exceedance (ALE) values" to "... all 90th percentile lead values." **(GR)**

Freedom_0005779_0096

PROGRAM IMPLEMENTATION

SUBSECTION I – Lead and Copper Rule

Page 19, Bullet 5 cont.:

Also reading the phrase "Not all lead sample values ..." (as it has not been quantified) seems to imply that WV has a problem with entering the PB90 data. This was true in a 2007 report on data completeness from EPA HQ which indicated that only 35.5% of PWSs greater than 3,300 in WV had PB90 data in SDWIS/FED for the 2005-2007 period. In EPA HQ's 2008 report on data completeness for WV for the same period indicates a great improvement to 100% complete. EPA was able to confirm this with data that Jackie Pine (EPA Office of Program Support) provided when asked to look at the data completeness issue for Region III states.

Without knowing how Cadmus made their determination, it is difficult to make additional judgments. EPA suggests that it would be fair to have the report reflect that there had been a problem with the PB90 data in WV and that the state had made significant corrections. **(GR)**

SUBSECTION J – SWTR, IESWTR, LT1 SWTR, FBRR

Page 20:

The title of this subsection in the draft DV report includes LT2 which is not reflected anywhere else in the report.

EPA requests that the title of this subsection be revised to omit LT2. **(WFJ)**

Pages 20-21:

With regard to the comments pertaining to the LT1 provisions, EPA agrees that Cadmus has provided valid comments that DHHR needs to address, although EPA needs to have further discussion regarding the issue of recording turbidity levels when continuous monitoring is being performed. **(MM)**

Page 21, Bullet 3:

The draft states, "DHHR is not performing compliance determination or assigning violations for LT1 ESWTR due to limited resources." What course of action has been taken and has the "limited resources" difficulty been resolved? **(DC)**

APPENDIX C: Summary of Discrepancies Identified by System - DBPR

The majority of these discrepancies involve failure to determine compliance for the chlorine residual monitoring and MRDL provisions of the Stage 1 DBPR. EPA R3 will follow up with DHHR in an attempt to address resource issues and to assist them in identifying less resource intensive mechanisms with which to track chlorine residual monitoring and in calculating MRDL compliance. Other discrepancies involve late reporting (by several days to a week), and not issuing a violation for samples collected on different days (addressed above). **(MM)**

from system submission to compliance determination

ask WV to submit → MOR that id reptg freq of a filter plant w/ mult. filters (per Nick)

Freedom_0005779_0097

U. S. Environmental Protection Agency
Public Water System Supervision Program

Draft Report

Program Review for the West Virginia Department of Health and Human Resources Bureau of Public Health Office of Environmental Health Services Environmental Engineering Division

Prepared by The Cadmus Group, Inc.
for
The Environmental Protection Agency
Office of Ground Water & Drinking Water
October 10, 2008

Freedom_0005779_0098

Table of Contents

		Page
I.	Introduction	
	A. Purpose of Review	1
	B. Description of Sample	2
	C. Regulations Reviewed	2
II.	Primacy Agency Program Summary	
	A. Program Organizational Structure	2
	B. Waiver Information	4
	C. State Assistance	5
	D. State Data System	6
	E. Sample Collection, Analysis, and Laboratory Certification	7
III.	Program Implementation	
	A. General Program	8
	B. Inventory	9
	C. Sanitary Survey	10
	D. Consumer Confidence Rule	12
	E. Total Coliform Rule	13
	F. Phase II/V Rule	14
	G. Stage 1 Disinfectant and Disinfection By-Products Rule	16
	H. Radionuclide Contaminants	18
	I. Lead and Copper Rule	18
	J. Surface Water Treatment Rule and Interim and Long-Term 1 and 2 Enhanced Surface Water Treatment Rule	20
	K. Public Notification	22
Appendices		
	Appendix A. Status of Previous REVIEW Recommendations	A-1
	Appendix B. Summary of Discrepancies Identified by Rule	B-1
	Appendix C. Summary of Discrepancies Identified by System	C-1

I. Introduction

A. Purpose of Review

During the week of July 7, 2008, the "team," consisting of representatives of The Cadmus Group, Inc.: Jeffe Kennedy, Laurie Potter, Valerie Meiers and Kim Clemente; conducted a Program Review (PR) in the West Virginia Department of Health and Human Resources, Bureau of Public Health, Office of Environmental Health Services, Environmental Engineering Division (DHHR). The PR serves a number of purposes:

Table 1: Number of PWSs in SDWIS/Fed, DHHR Inventory, and Number Reviewed by the Team

	Number of CWSs	Number of NTNCWSs	Number of TNCWSs
SDWIS/Fed Inventory[1]	505	131	475
Number Reviewed	(29 total)	10	14
Small System	14		
Medium System	12		
Large System	2		
Very Large System	1		

[1]SDWIS/Fed inventory as of 4/3/2008.

Small: < 1,000
Medium: 1,001 - 10,000
Large: 10,001 - 50,000
Very large: ≥ 50,000

- To verify whether information in the primacy agencies' databases and files is correctly represented in the federal Safe Drinking Water Information System (SDWIS/Fed), Cadmus compared DHHR's data to the most recently frozen data in SDWIS/Fed;
- To evaluate whether primacy agencies are determining compliance in accordance with the National Primary Drinking Water Regulations, Cadmus compared DHHR's actions and policies to federally mandated or Region 3-approved rules and policies;
- To identify specific actions that will improve the primacy agencies' public water system supervision (PWSS) programs, Cadmus made recommendations for DHHR that should improve their program;
- To determine whether primacy agencies have implemented recommendations identified in past data verifications, Cadmus asked the states to comment on the recommendations from the previous report and reviewed the answers against the current audit findings (Appendix A contains the list of recommendations and the state answers);
- To garner information on how EPA can assist primacy agencies in implementing the National Primary Drinking Water Regulations, Cadmus solicited feedback from DHHR and made observations based on audit findings. This information should provide EPA with insight on how EPA's assistance has been most valuable and where additional assistance would be effective.

Freedom_0005779_0100

B. Description of Sample

Rather than reviewing every public water system (PWS) supervised by DHHR, the team examined a sample of those systems, with the intention that they would provide a representative insight into the PWSS program. Table 1 identifies the SDWIS/Fed inventory for West Virginia and the number of systems in the stratified, random sample reviewed by the team. The community water system (CWS) sample represents a 90-percent confidence level, with an error tolerance level of 7 percent. The noncommunity water system (NCWS) sample represents an 80-percent confidence level, with an error tolerance level of 10 percent. A detailed description of the sampling methodology can be found in Chapter 3 of the *EPA Protocol for Participation in a PWSS Data Verification*, available from The Cadmus Group, Inc.

C. Regulations Reviewed

The team reviewed West Virginia's SDWIS/State Web Release 1 (SSWR1) database, hard copy files and scanned materials for updates to inventory and compliance data for the rules listed in Table 2.

Table 2: Periods of Review

Category	Date
Inventory	Most recent
CCR	Year 2006, due 2007
Sanitary Survey	2 most recent surveys
Total Coliform Rule	Jan. 1, 2007 - Dec. 31, 2007
Lead & Copper Rule	2 most recent samples
Phase II/V (except nitrate)	2002 - 2004
Nitrate	2006, 2007
Stage 1 DBPR	Jan. 1, 2007 - Dec. 31, 2007
Revised Radionuclides	Initial and Grandfathered samples
SWTR	Jan. 1, 2007 - Dec. 31, 2007
IESWTR	Jan. 1, 2007 - Dec. 31, 2007
LT1 ESWTR	Jan. 1, 2007 - Dec. 31, 2007
FBRR	Dec. 8, 2003 - Dec. 31, 2007
Public Notice	Per related violation

The period of review for each of the regulations is shown in Table 2. Appendix B contains a table that summarizes any data discrepancies between state and federal records and errors in compliance determination that were identified during this review. Appendix C contains a detailed, system-specific list of each discrepancy identified during this review.

II. Primacy Agency Program Summary

This section outlines the program's organizational structure, its waiver program, assistance provided by the state to systems, the data system, and information about sample collection and analysis and laboratories. Each section also outlines successes and challenges from the previous and current reviews, plus recommendations, if warranted, that may help the state improve their program.

A. Program Organizational Structure

The West Virginia Environmental Engineering Division is responsible for implementing the provisions of the Safe Drinking Water Act (SDWA). It is a program within the Office of Environmental Health Services, in the West Virginia Bureau of Public Health. Laboratory certification is also under the aegis of the Bureau of Public Health, in the Office of Lab Services. Communication is good between the

Freedom_0005779_0101

two Offices, with personnel talking frequently. The Office of Lab Services has two certifying officers: one for chemicals and one for microbiologicals.

DHHR is divided into five districts, with oversight from a central office. The central office performs most compliance determinations now – more so in the past – with the district offices confirming information from which compliance determinations were made. The district offices are primarily responsible for inventory, sanitary surveys, technical assistance and construction-related activities. Compliance officers in the central office are responsible for entire districts, performing all compliance determination for all rules for systems in that district. This shift has occurred as a result of increased implementation of SSWR1: the central office now has access to all data rather than being informed of results and decisions by the district offices. DHHR has realized greater consistency from shifting all compliance determination to a single location.

Compliance determination decisions go through a series of checks among compliance officers. Systems are also encouraged to review violations and double-check that data have been received. DHHR has found that mailed and faxed analytical data sometimes are lost. Violation letters are drafted in the central office 20 days after the end of the compliance cycle.

Program Organizational Structure Successes and Challenges

- DHHR experiences a great deal of staff turnover due to salary issues. The lack of a fee program likely contributes to this problem. (Staffing issues also discussed in Sections II.B, C, D and III A, C, F, G, H and J.)

- Currently two compliance officers are responsible for all compliance determinations in the state because two other positions are empty. (One position is vacant, the other filled by a person on extended sick leave.)

- Compliance determination is sometimes performed late, which led to a number of discrepancies. The team noted in the previous review that there were many violations from 2002 through 2004 that had not yet been reported to SDWIS/Fed. Reporting was sometimes complicated by a lack of resources for the compliance staff and a lag time in the validation of violations. DHHR reported that all compliance determinations been completed for data through 2007 and any violations or required sample results had been reported to SDWIS/Fed. DHHR has made an effort to tighten compliance determination time in response to the previous review. However, some violations from the end of 2007 were still being rejected as late as April 2008.

Recommendations

1. DHHR together with Region 3 should investigate a fee program or other funding sources to improve staffing so that West Virginia can fulfill its primacy responsibilities.

Freedom_0005779_0102

2. DHHR should continue to explore methods to accelerate compliance determination so that it meets federal timelines. Improved use of SSWRI would greatly add to this effort (see Section II.D State Data System). → Need Tang? Clarify - see pg 6 "Fully Implem..."

B. Waiver Information

DHHR has maintained a waiver program developed in 1995. Though this policy required vulnerability assessments every three years, the last assessments were done in 1999 and the decisions made then remained as the default waivers for the program. See more discussion in "Successes and Challenges" below.

DHHR is phasing in a new policy called the "Alternative Monitoring Program." Region 3 reviewed this new program along with the Arsenic Rule primacy package. DHHR uses exemptions, but has none active at this time. Some exemptions were granted for halo-acetic acids (HAA5) and total trihalomethanes (TTHM), but those have expired.

DHHR waives sixteen contaminants statewide, all synthetic organic chemicals (SOC) plus asbestos. DHHR grants volatile organic compounds (VOC) waivers for up to six years and inorganic compounds (IOC) waivers for up to nine years. SOC monitoring had been waived entirely in the past for some systems, but DHHR is moving away from this policy as not protective enough. New SOC waivers will not reduce systems past once every nine years. → what?
beyond?

Consecutive systems monitor for the Total Coliform Rule (TCR), Stage 1 and 2 Disinfectants and Disinfection By-Products Rule (Stage 1 and Stage 2 DBPR) and the Lead and Copper Rule (LCR). West Virginia considers this an allowance of the rule and not a true "waiver" as CFR §141.29 allows states to consider interconnected systems as one system for monitoring purposes.

Waiver Program Successes and Challenges

- Due to inadequate staffing levels, DHHR has not renewed many individual PWS waivers since 2004. Waivers in only two of the five districts were reviewed and renewed in 2002-2004 and only waivers for two counties were reviewed for 2005-2007. For the counties and districts not reviewed, all waiver decisions made in 1999 were left in place.

- The waiver program reduces the monitoring and financial burden for systems in West Virginia, but imposes a burden on DHHR staff resources that is not relieved by reduced compliance determination work.

Recommendations

1. Systems should not have monitoring waivers if those waivers have not been renewed for the current compliance cycle.

Freedom_0005779_0103

C. State Assistance

DHHR does not have a fee program. The only fees charged are for construction projects, training for certifying water operators and via the Office of Lab Services, which charges for lab certification. State does not charge fee also sample analyses

State Assistance Successes and Challenges

- In response to questions regarding actions taken since the previous review, specifically what steps Region 3 has taken to address recommendations, DHHR noted that no help was received from the Region. what specifically?

- Because of the high level of staff turnover, DHHR needs more access to "ground-up" training for brand-new employees. Currently, the mentoring method of training new staff consumes meager staff resources.

- District offices spend a lot of time in technical assistance visits, teaching and training.

- DHHR found Region 3's Ground Water Rule (GWR) training to be very useful and planned to attend upcoming sanitary survey trainings. The program is eager for all the training EPA can provide.

- DHHR sends a biannual newsletter to all water operators. The Public Service Commission (PSC) also sends a bimonthly newsletter to all systems. The West Virginia Rural Water Association (WVRWA) provides information to systems, as well.

- DHHR has seen real improvements in system compliance due to the Area-Wide Optimization (AWOP) program. Through this program the district offices began charting turbidity values for their surface water systems. Once systems were able to visualize the patterns in the values, the operators were able to greatly improve performance and avert problems before violations were necessary.

- Because engineers in district offices are assigned to specific water systems, the DHHR staff become very familiar with the systems and their monitoring patterns, resulting in better oversight. Engineers frequently visit systems with problems and work with the systems to resolve them. This method of working with systems has been found to be effective for overall compliance (see Section II.C Sanitary Surveys) and particularly for problem systems that tend to receive repeated violations. DHHR has found that these systems tend to have limited resources or aging operators or population, or ownership issues. Frequently capacity development staff will be recruited to step in and assist the system with applying for funding, working with PSC or other third party providers. The benefits of consolidation can also be explored, which West Virginia encourages for PWSs, especially to eliminate small, scattered systems.

Revise III.C

Freedom_0005779_0104

Recommendations

1. None.

D. State Data System

Analytical results arrive on hard copy or are electronically transmitted via a downloadable email attachment. The state lab sends copies of data to the central office, district office and the system. The commercial labs send data only to the central office and the system, usually by fax or mail. Only one commercial lab can transmit data electronically. Sometimes labs will send data only to the systems, which results in confusion over whether data have been sent. Why is this happening?

Hard copy files are maintained in the central office, with copies of all information kept on file for 12 years. After this point, information is archived off-site, along with files for inactive systems. Files for inactive systems are destroyed after 12 years. Sanitary surveys are scanned into "pdf" format also. Analytical data are entered into SSWR1 by the data management section in the central office, scanned and kept on hard copy.

DHHR use SSWR1, which is accessible on the Bureau server. DHHR is fully implementing SSWR1 now, having switched to the program August 1, 2007.

DHHR uses Fed/Rep to transmit data to the operational data system (ODS). DHHR uses Fed/Rep job reports to check for errors quarterly. At the recommendation of Region 3, the state might check these error reports and submit corrections more frequently. Region 3 and DHHR are trying to clear up old enforcement actions for EPA-issued violations. DHHR is working on getting SSWR1 and SDWIS/Fed data in synch and trying to clear up all errors over time. Is there a schedule for this completed?

Data System Successes and Challenges

- DHHR conducted a review of their data accuracy in SSWR1 and found 95-96 percent accuracy. However, data entry errors caused a number of discrepancies as noted in Sections III.F (Phase II/V) and III.I (LCR). What is this a product of?

- DHHR is relying more heavily on SSWR1 which has aided in more consistent compliance determination. However, the program is not performing compliance determinations for rules that DHHR feels the SSWR1 calculator handles inadequately (i.e., Stage 1 Disinfectant and Disinfection By-Products Rule (Stage 1 DBPR), Surface Water Treatment Rule (SWTR), Interim Enhanced SWTR (IESWTR), and Long-Term 1 Enhanced SWTR (LT1 ESWTR)) or is generating incorrect violation dates for rules for which SSWR1 has not been correctly formatted (i.e., LCR). While SSWR1 does lack some functionality in that SSWR1 cannot require, for example, TCR repeat samples to have matching chlorine residual samples, it can be used to automate compliance determination with some knowledgeable adjustments (e.g., Can EPA assist? DHH is not aware of this

Freedom_0005779_0105

resetting the LCR monitoring dates). Further, while SSWR1 is a useful tool, rule implementation should be conducted according to the requirements of the federal regulations, not simply within the parameters of the SSWR1 software.

- A great deal of duplication was found in the hard copy files. Several copies of the same proof of public notification (PN) would be present, or multiple copies of the same set of analytical results.

- Several instances were identified where violations had not been correctly rescinded from SDWIS/Fed.

- DHHR finds that SSWR1 helps with compliance determination and finds the web accessibility to be useful, but the program runs slowly, which could be attributed to the server speed.

- DHHR is waiting for GEC to provide new tools, such as adapted "SWMMR" and SOX (return to compliance) reports. Also, DHHR used to use SDWIS/State 8.0 to send PWSs letters with revised monitoring schedules following an Maximum Contaminant Level (MCL) exceedance. This tool does not yet work with SSWR1.

- DHHR's biggest data management problem at this time is staff resources. The current database administrator has been "temporarily" acting in the position for the last six years.

Recommendations

1. DHHR requires training in using SSWR1 to its fullest capacity, along with assistance in tailoring the modules to perform more automated compliance determination for the program. Many of the rules that are not implemented because DHHR feels the SSWR1 calculator does not work, can in fact have automated compliance determination, if data are correctly entered and the modules are tailored to state business practices.

2. Data entry accuracy should be revisited.

3. Region 3 should assist DHHR further in correcting errors and ensuring that rejected violations are rescinded from SDWIS/Fed.

E. Sample Collection, Analysis, and Laboratory Certification

Systems are responsible for collecting their own samples, except for a small percentage of systems that contract with commercial labs that provide sample-collection along with analysis. DHHR only collects special-purpose samples, usually along with sanitary surveys. The West Virginia State Laboratory, which has branches in two locations, analyzes 50 to 75 percent of all bacteriological samples and charges the systems for doing so. All other analyses are conducted by commercial labs.

Freedom_0005779_0106

Sampling and Laboratory Certification Successes and Challenges

- Samples are usually hand-carried to labs, as distances are not great and the postal service poses holding time obstacles. Even using special handling services, many samples cannot be sent by mail since some rural areas do not have daily mail pick-ups.

Recommendations

1. None.

III. Program Implementation

This section outlines program implementation, successes and challenges from the previous and current reviews, and recommendations that may help the state improve their program.

A. General Program

West Virginia holds primacy for all current rules, except ~~Stage 2 DBPR, Long Term 2 Enhanced Surface Water Treatment Rule (LT2 ESWTR)~~, LCR Short-Term Revisions (STR LCR) and GWR. Stage 2 DBPR and LT2 ESWTR were to be adopted July 17, 2008, as soon as a 30-day public comment period ended. DHHR plans to ask for an extension agreement until 2009 for GWR as the program is not yet ready to implement the rule. DHHR plans to submit a primacy package for GWR in April 2009.

General Successes and Challenges

CADMUS implying MOR may not be happening.

Contradicts 4/15th prog. Rpt pgs 30 for LT1 for SWTR See pg 3 #12*

- Though West Virginia holds primacy for Stage 1 DBPR and LT1 ESWTR, these rules are not being implemented by the state at this time. Systems have been trained and are ostensibly monitoring and reporting according to the new rules, but compliance determination had not yet been done at the time of the review, due to lack of staff resources. Nor is Region 3 implementing the rules for West Virginia.

- To improve monitoring compliance, DHHR sends reminder notices with "pre-violations" to systems one month before their monitoring deadlines. For example, notices will be sent in June for CCRs or in August for LCR. The letter describes what the violation will be if the system does not comply in time.

- West Virginia requires daily sampling of chlorine residuals in the distribution system and all systems are required to chlorinate. All systems submit a monthly operating report (MOR) with this information.

Freedom_0005779_0107

- Violations of state requirements that are more stringent than federal requirements are not reported to SDWIS/Fed.

- A number of samples were reported late, but monitoring and reporting (M/R) violations were not assigned. The previous review found that if analytical results are received more than 10 days after the end of a compliance period, DHHR deletes the violation and a return to compliance code (SOX) is entered into SSWR1. The PR team noted that this practice of deleting "reporting" violations was not acceptable. DHHR says they no longer delete violations and none were noted in the current review. Instead it seemed some late reporting violations were never assigned.

- DHHR referred to about ten systems that typically monitor for no rules and are significant non-compliers (SNCs). West Virginia and DHHR should work together to bring these systems into compliance.

Recommendations

1. Region 3 should not grant primacy for any rules that West Virginia is unable to fully implement.

B. Inventory

DHHR's inventory information is maintained in SSWR1 and also in the system files. Populations are derived from the 2000 census calculations by county. Service connection numbers are often obtained from the PSC. Other inventory information is primarily derived from sanitary surveys and secondarily from updates provided by owners and operators. Enforcement staff also review information with the systems, especially contact information. DHHR staff use GEC's "SWFF" program to make inventory updates in the field. This information is uploaded to SSWR1 on a weekly basis by sending the information to a shared drive, from which central office can upload it to SSWR1.

DHHR to revise this wording

Inventory Successes and Challenges

- In the previous review, some inventory discrepancies (for population, service connections, system type, system status, and source) were identified and it was recommended that DHHR encourage the district offices to update inventory information in SSWR1 for upload to SDWIS/Fed. DHHR reports that they are now using Fed/Rep and ODS Reports to address inventory discrepancies. This appears to be quite successful as no inventory discrepancies were identified in this review.

- DHHR now requires notification of operator certification status.

Freedom_0005779_0108

Recommendations

1. None.

C. Sanitary Survey

Primarily hard copies of sanitary surveys in the system files were reviewed, along with some scanned versions. Sanitary surveys are conducted by staff in the district offices, usually the engineers although environmental resource specialists may also be used. Engineers handle the large surface water systems exclusively, and all surveys are reviewed by engineers. The central office also spot checks the surveys.

All district offices use the same sanitary survey template, from GEC's "SWFF" tool on tablet computers, which improves consistency and ensures all elements required by IESWTR and LT1 ESWTR are reviewed for all systems. The SWFF program can download current data on the system to be inspected, including previous deficiencies. The district office supervisors meet two to three times per year to review the software, formatting issues and develop consistent definitions.

DHHR staff undergo EPA sanitary survey training, but no certification is required. A new employee will also "shadow" an experienced staff person on sanitary surveys for several months. DHHR also provides new staff with EPA's sanitary survey booklet and checklist on "how to do a sanitary survey." Training of new staff takes about six months.

Surface water and Ground Water Under the Direct Influence of Surface Water (GWUDI) systems are surveyed every three years, beginning in 2003. Ground water systems are typically surveyed every five years, while many noncommunities have been reduced to a ten-year cycle. See "Successes and Challenges" below. Frequency of surveys is tracked through SSWR1 and an MS Access schedule.

About 20 personnel across the district offices conduct the sanitary surveys, which is about 35% of their workload (including administrative tasks, and report writing and review). A district office engineer will then spend the rest of his or her time on construction permits and plan review, infrastructure, funding, complaints, and technical assistance.

Most sanitary surveys are scheduled about one week ahead of time. Surprise sanitary surveys are not done, but surprise visits might be. DHHR will stop in at systems when they're in the neighborhood, partly to see if any assistance is needed, but also to check that an operator is present.

Deficiencies are discussed on-site with the system during an exit meeting. Report letters are sent to the system usually two weeks later. The cover letter identifies significant deficiencies. SWFF will identify whether deficiencies have been resolved at a subsequent sanitary survey. Otherwise district office staff will often stop to visit a system to ascertain what deficiencies have been addressed. District offices use a database to track deficiencies and report those to the central office each month. The central

Freedom_0005779_0109

office then lists all outstanding deficiencies by severity each month and circulates the list among the compliance officers and the district offices. SWFF also breaks out deficiencies into significant and moderate default categories.

Systems have 45 days to address significant deficiencies or the system will be in violation. If corrections will take longer than this – if, for example, funding must be obtained – then the system must explain in writing to avoid a violation. DHHR can issue administrative orders (AO), both with penalty and without, if meeting with and assisting the system doesn't work. EPA might also be asked to step in. Correction of deficiencies can take anywhere from one week to five years.

Copies of sanitary surveys are routinely shared with the PSC and with local health departments. Capacity development staff sometimes use the surveys, along with private engineering consultants hired to assist PWSs to correct deficiencies. The sanitary surveys are often used as tools for PWSs to obtain funding to make needed corrections.

DHHR staff most often assigns deficiencies for missing cross-connection control programs and insufficient numbers of operators.

Sanitary Survey Successes and Challenges

- Sanitary surveys for surface water CWSs are very complete and detailed. West Virginia refers to the eight elements required by IESWTR as "integral elements."
- DHHR also conducts annual inspections, which are about one-third as long as a full sanitary survey. The annual inspections are particularly focused on systems with previous deficiencies.
- DHHR has greatly improved the state of West Virginia PWSs over the last ten years. An average of ten deficiencies per system would be identified during a sanitary survey ten years ago, now the majority of systems have no deficiencies. DHHR attributes this improvement to increased dialogue with the systems.
- DHHR assigns violations for failure to provide a written response to sanitary survey deficiencies within 45 days.
- DHHR considers all non-community ground water systems as protected and disinfected. (All systems are required to chlorinate.) All non-community ground water systems are thus on ten-year sanitary survey schedules. However, according to the federal rule, there must be documentation of protected and disinfected status for a system to reduce to this schedule. While West Virginia's mandatory chlorination can be considered to ensure "disinfected" status, it's not clear how all ground water non-community systems were designated as "protected." Documentation of this decision is needed to allow the blanket ten-year monitoring schedule. Otherwise, the fourteen discrepancies in this report for sanitary surveys conducted

Freedom_0005779_0110

more than five years apart, must stand. (At least one system, however, had not had a sanitary survey within ten years.) DHHR indicated that they are now trying to increase the frequency to once every five years in anticipation of the GWR. Not all systems were receiving a sanitary survey at least every five years. It was also recommended in the previous review that DHHR ensure that systems receive a sanitary survey according to the required schedule and that the central office better track the frequency of sanitary surveys completed by the field offices. DHHR responded that more emphasis on tracking has been coming from Region 3 and the state has been making every effort to minimize systems that exceed time frames.

- Current noncommunity sanitary surveys appear to be much less detailed than ones in the past, possibly concurrent with the adoption of the "SWFF" template.

- DHHR does not assign or report violations for failure to meet the sanitary survey schedule.

- DHHR has about the same number of positions for staff conducting sanitary surveys as five years ago, but many of these positions are vacant. Many staff have retired or are on medical leave. There is also a dearth of qualified applicants for vacant positions, because of low salaries and competition with higher-paying coal-mining jobs, which frequently pay twice the salary the state can offer.

WRtace issue

Recommendations

1. If West Virginia wishes to allow "protected and disinfected" status to noncomunity systems, this status should be conferred system by system, rather than as a blanket decision. In addition, chlorination alone is not enough to make a system eligible for this status. Some determination of vulnerability must also be made.

2. Ground water systems should receive sanitary surveys at least once every five years unless granted specific protected and disinfected status.

D. Consumer Confidence Report Rule

CCRs are delivered and filed on hard copy. DHHR sends CCR reminders to all systems. CCR dates are entered into an Excel spreadsheet for tracking, which is done by county and district. Late CCRs are identified in bold font.

Content is reviewed, but systems are only asked to make corrections for that year if there is time or if the errors are health-related.

Consumer Confidence Report Rule Successes and Challenges

- CCR content checklists were identified in the files that appeared to be very thorough.

Freedom_0005779_0111

- Because DHHR is in the Bureau of Public Health, the program is able to withdraw food or alcoholic beverage licenses if systems do not comply with CCR, which is a very effective compliance tool.

- DHHR allowed a three-day "grace period" for post office delivery delay of CCRs. Since July 1, 2007 was on Sunday, and July 4 was a holiday, July 5, 2007 was the last day the program would accept postal delivery as being "on-time" for 2006 CCRs.

- West Virginia policy is not to issue both 7000-71 and 7000-72 violation for the same CCR year. This is not a correct interpretation of the rule as a system might both send or certify late (7000-71) and also have insufficient content (7000-72).

- Three CCR discrepancies were assigned and nine violations assigned by DHHR were confirmed.

Recommendations

1. DHHR should not allow systems a "grace period" for delivery of CCRs, as the federal rule has no allowances for it.

2. DHHR should assign both 7000-71 and 7000-72 violations for the same CCR year when the situation warrants it.

E. Total Coliform Rule

The state lab will fax the central office if a total coliform positive is detected. The central office notifies the district office, who contacts the system. The commercial labs are supposed to follow this system, but sometimes take two to three days to fax the central office. DHHR can address this by asking the lab certification officers to talk to the lab supervisor. Lab certification can be withdrawn if the lab does not comply. A log is kept of all total coliform positive samples.

DHHR district office personnel will invalidate a total coliform positive sample if the system requests it and the request meets the criteria for invalidation: 1) if the positive occurred at one site only and not again; 2) if sample bottles were contaminated; 3) if the sampling site is not representative of the system. The decision must be confirmed by the central office. Invalidations were observed in the files, with good documentation.

Total Coliform Rule Successes and Challenges

- In the previous review, not all systems serving more than 4,900 persons were taking all TCR samples on different days during the month. DHHR reports that all district offices have been

Freedom_0005779_0112

advised of this requirement. No discrepancies of this nature were observed during this review and only one TCR discrepancy was identified overall.

- Good communication was noted between wholesalers and purchasing systems regarding Boil Water Notices.

- Total coliform positives are usually investigated by district office engineers, particularly if there are recurring problems.

- DHHR does not allow systems to reduce to annual TCR monitoring, because the program feels that monitoring schedule is not protective enough.

- DHHR allows systems 14 days to take repeat samples following notification of a total coliform positive. This is because systems do not have sampling bottles on hand and must order them. This policy does not conform with federal regulations which require repeat sampling within 24 hours.

- If a TCR sample is collected near the end of the month and is invalidated due to overlong holding times, the system is given time to collect a replacement sample in the following month.

- A TNCWS missed monitoring for TCR in the first quarter of 2007 because the system was closed for a period of time and reopened under new ownership on Jan 12, 2007. DHHR allows some time for compliance with new ownership, so did not assign a monitoring violation for that quarter.

- Nine violations were confirmed during the review.

Recommendations

1. DHHR should revise its policy of allowing 14 days for repeat sampling after notification of a total coliform positive. Many states require systems to keep repeat sampling bottles on hand, to avoid the time-delay introduced by acquiring bottles.

2. Systems on quarterly monitoring should monitor in every quarter they are open, regardless of changes in ownership.

F. Phase II/V Rule

Hard copy and electronic analytical results were reviewed. Analytical data regarding detections are typically one to two weeks old by the time the central office receives them. Usually the district office will try to call the system and follow up with a letter.

Freedom_0005779_0113

Phase II/V Rules Successes and Challenges

- As discussed previously, due to inadequate staffing levels, DHHR has not renewed many individual PWS waivers since 2004. A number of discrepancies were assigned for missing SOC monitoring in the 2005-2007 compliance period, where DHHR personnel assumed that a waiver had been renewed when it had not.

- Some M/R violations for IOCs were not found. As a result of this finding, the DHHR central office determined that noncommunity IOC violations were not being migrated to potential violations, due to a programming error.

- Phase II/V detections did not always elicit increased quarterly monitoring. DHHR could not find any documentation on why a system reviewed was not notified to go to quarterly monitoring in a timely fashion. DHHR takes the position that the program notifies the systems to increase monitoring prior to any violations being issued. This issue was also noted in the previous review.

- DHHR tries to get confirmation samples for all detections and MCL exceedances. The average of the two samples determines whether monitoring is increased. While a confirmation sample can be used to determine an MCL exceedance, a detection should be followed by two quarters of monitoring for a ground water system and four quarters for a surface water system, regardless of the results of a confirmation sample. The results of quarterly monitoring establish whether or not the system is reliably and consistently (R&C) below the MCL.

- A data entry error led to a mistake in nitrate compliance determination. A date had been entered into SSWR1, but no value. Investigation showed that there was no sample for that year. The erroneous date entry, however, prevented an M/R violation from being assigned.

- DHHR follows an unwritten rule that allows new systems three months of transition before beginning SDWA monitoring. Engineers in district offices are assigned the new systems to ensure correct progress.

- Fourteen violations were confirmed in this review and nine discrepancies were identified.

Recommendations

1. DHHR should ensure that a system with a Phase II/V detection should monitor for two additional consecutive quarters, if a ground water source, and four additional quarters, if a surface water source, to determine whether the system is R&C below the MCL. Confirmation samples should not be used to replace quarterly monitoring.

2. DHHR should pursue the IOC violation migration error and correct it.

Freedom_0005779_0114

G. Stage 1 and Stage 2 Disinfectant and Disinfection By-Products Rule

Mostly hard copy analytical DBPR results were reviewed, though DHHR enters most Stage 1 data into SSWR1. Running annual averages for all aspects of Stage 1 DBPR are calculated manually if at all (see "Successes and Challenges" below). Data are reported on standardized forms. Compliance officers calculate THHM and HAA5 running annual averages on an Excel spreadsheet instead of in SSWR1 because SSWR1 doesn't adjust for missed samples. DHHR asks systems on annual or triennial HAA5 and TTHM monitoring to sample in the warmest month of August. This month was chosen by reviewing water temperature data from systems across the state. Schools are allowed to sample when they open in September, as long as it's as close to the end of August as possible.

Disinfection profiling and benchmarking is done only if systems change disinfection practices.

Stage 1 and Stage 2 Disinfectant and Disinfection By-Products Rules Successes and Challenges

- West Virginia has not yet been conducting compliance determination for Stage 1 DBPR. DHHR required PWSs to submit all 2007 chlorine residual data in the fourth quarter of 2007. The state planned to start issuing violations for non-submittal in the second quarter of 2008. Even though general monitoring will be evaluated at that time, the compliance officers will not evaluate calculations because DHHR has determined that the SSWR1 calculator is not working correctly and resources are too limited to do manual calculations. It should be noted that DHHR can require systems to complete all calculations and report them to the state, as described in the rule. In the previous review, one system was identified that had a running annual average distribution system chlorine maximum residual disinfectant level (MRDL) of 4.2 mg/L and no violation was assigned. DHHR confirmed that violations are not assigned in these cases either, since they are not issuing MRDL violations due to limited resources.

- In the previous review, it was found that DHHR had been receiving all raw data for Stage 1 DBPR and those data were entered into SSWR1. In September 2004, the distribution system chlorine residual results taken at the same time and place as TCR samples were overwritten with another set of data from the state requirement that all systems take a single chlorine residual sample daily in the distribution system. Because the DBPR compliance data were overwritten with the state-required data, DHHR was unable to use SSWR1 to determine compliance during the previous review's period of review. DHHR reports that steps were taken to prevent a similar accident. However, upon review, it was not clear in SSWR1 that the daily chlorine residuals were differentiated from the ones required for Stage 1. Since compliance calculations and determinations for Stage 1 DBPR are not being done, it's difficult to determine whether DHHR is truly able to distinguish these results.

- Total organic compounds (TOC) monitoring is not being conducted for at least one system that West Virginia considers to be exempt. The system reviewed has a conventional treatment system. After that, the water goes through a green sand filter, and then reverse osmosis

Freedom_0005779_0115

treatment. When the additional treatment was added, it was believed that the need to meet the compliance criteria (e.g., precursor removal or turbidity) for the conventional treatment system was no longer required. West Virginia is taking the position that TOC monitoring is not needed on this system. EPA's position is that, while there are many ways to demonstrate compliance with the Stage 1 Precursor Removal requirement (e.g., 3x3 matrix, alternative compliance criteria, Step 2 demonstration), there are no provisions that allow a conventional system to be exempt from precursor removal compliance monitoring. If the system is using an alternative treatment technology there are no precursor removal requirements. If, however, the system is using an alternative technology in addition to conventional treatment and the conventional treatment is not bypassed the precursor removal requirements are in effect (i.e., there must be precursor monitoring to demonstrate compliance). If conventional treatment has been bypassed, with the new treatment providing adequate control, the system would no longer be required to monitor for precursors. In the previous review, TOC compliance calculations were not always well documented, including documentation if the system was using alternate criteria for a given month. This scenario appears to be symptomatic of that same issue.

- West Virginia systems are not always collecting TTHM and HAA5 samples on the same day. DHHR has taken the position that systems may collect on different days within the designated period and be in compliance. However, the text at §141.132(b)(1) and the title of the table indicate that sampling is for both TTHM and HAA5, therefore EPA intends that the word "sample" include both and that this sampling should be done concurrently.

- Seven violations for Stage 1 DBPR were confirmed (all for TTHM and HAA5 monitoring) in this review and 56 discrepancies were identified.

Recommendations

1. DHHR should perform compliance determination for all aspects of Stage 1 DBPR.

2. As in the example of the system with conventional treatment that is either incorporated or bypassed, DHHR should determine which scenario is occurring at the plant, designate the treatment used and the compliance requirements.

3. Distribution system chlorine residual samples should be taken at the same time and place as all compliance TCR samples, including repeat samples or "extra" routine samples.

4. Stage 1 DBPR monthly and running annual averages should be calculated and reported to West Virginia as required by the regulation. If DHHR chooses, they may perform and record these calculations for the systems.

Freedom_0005779_0116

H. Radionuclide Rule

Most West Virginia systems were able to use grandfathered data to determine monitoring schedules for the revised radionuclide rule. Systems began monitoring for the revised rule in 2005, 2006 and 2007. None used compositing of samples. Compliance officers use Excel spreadsheets to calculate running annual averages for radionuclides.

No systems have been deemed vulnerable to Gross Beta.

Radionuclide Rule Successes and Challenges

- About ten West Virginia systems have not yet monitored under the revised rule, but these ten are systems that typically monitor for no rules and thus are SNCs regardless.

- One system did not meet the grandfathering criteria for both sources and did not complete monitoring for the revised rule in 2007. No monitoring schedule had been entered into SSWR1 due to an apparent oversight on the part of DHHR, so monitoring violations were not assigned. Four discrepancies were assigned for this. No violations were confirmed.

Recommendations

1. DHHR should ensure that systems either have appropriate grandfathering data for all sources or monitor for radionuclides at all sources according to the revised rule.

I. Lead and Copper Rule

DHHR has adopted the LCRMR, and is using that method to determine compliance with optimal water quality parameters (OWQP) and is reporting "deemed" and "done" milestones. They have also submitted the STR LCR provisions for the 2009 legislative session. This works?

Some 90th percentile values for lead and copper tap sampling are calculated by SSWR1. DHHR compliance officers used to do these calculations but no longer do so. ~~DHHR almost never~~ encounters action-level exceedances. Only one West Virginia system is in the process of installing corrosion control at this time. Many systems replaced their distribution systems with plastic lines to avoid corrosion control efforts.

Lead and Copper Rule Successes and Challenges

- It was recommended in the previous review that DHHR ensure systems take annual and triennial LCR samples during the summer months of June through September or, under the provisions of the LCRMR, establish an alternative monitoring period and adhere to it. DHHR

Freedom_0005779_0117

corrected this monitoring and all systems reviewed were successfully monitoring in June through September.

- DHHR indicated that systems might take "confirmation" samples when action-levels are exceeded. This would not be a correct application of the federal rule, as samples can only be invalidated and replaced, not averaged with a later sample.

- DHHR has allowed systems to collect LCR samples in any year within a triennial period. For example, one sample set was required between 2002 and 2004 and one sample set between 2005 and 2007. Because of the upcoming STR LCR, DHHR will be transitioning to enforce samples no more than three years apart, beginning in 2010. The triennial sampling requirement, however, was part of the original LCR and LCRMR; the sampling schedule was only clarified by STR LCR.

- Because DHHR uses a "compliance period" for LCR monitoring, rather than the triennial monitoring required by the rule, some M/Rs were assigned with incorrect dates. In the previous review, DHHR was advised that the violation begin date for LCR violations is the first day after the end of the compliance period. When asked if this had been corrected, DHHR responded that violation periods are automatically created by SSWR1. Because the dates in SSWR1 have been set to the "compliance period" rather than triennial monitoring, the dates have continued to be incorrect.

- DHHR has been assigning multiple routine M/R violations for LCR (5000-52) where only one violation should be assigned and left outstanding until subsequent sampling returns the system to compliance. During evaluation of ODS error reports, DHHR found that the program has routinely been handling 5000-51 (initial monitoring) and 5000-52 violations incorrectly, probably from the beginning of implementation of the rule. To correct this, DHHR has issued subsequent violations and returned all violations to compliance upon two consecutive monitoring periods. This error was discovered in April 2008, and corrections have not been made as yet to the database. It will take some time to correct.

- Not all lead sample values and action-level exceedance (ALE) values are being reported to SDWIS/Fed. DHHR believes that FedRep is supposed to extract the information automatically from systems with populations over 3,300. In one case, the results were recorded as a summary with a 90th percentile equal to 0.00 (instead of less than the detection limit). Incorrect data entry may be the culprit.

- In one case a change in population was not caught by the compliance officer and the lead and copper 90th percentiles were calculated on 10 samples instead of 20. DHHR noted that enhancements to SSWR1 should notify the program when populations change, and the potential rules that may be impacted by the change.

Freedom_0005779_0118

- A system using a new source was placed on a triennial sampling schedule, but this schedule is based on results from a source no longer in use. The system should be scheduled to collect two consecutive six-month samples for compliance.

- Twenty-one LCR violations or instances of sample reporting were confirmed and 18 discrepancies identified, all related to the issues discussed above.

Recommendations

1. DHHR should discontinue the use of three-year "compliance periods" for systems on triennial monitoring. Instead, DHHR should adjust their monitoring schedules to reflect the federally-required six-month, annual or triennial cycles. These dates should be adjusted in SSWR1 to ensure that the correct violation dates are generated in the case of any M/R violations.

2. Region 3 and DHHR should investigate why not all lead sample and ALE values are reported to SDWIS/Fed. Conversely, the state should eliminate multiple monitoring violations, as only one open violation should be assigned until the system returns to compliance.

3. "Confirmation samples" cannot be used with LCR. If an ALE is in doubt, a sample can possibly be invalidated if it meets the federal criteria and replaced with a sample correctly taken.

4. West Virginia systems should be reviewed to ensure that they are taking the correct number of samples given population changes that may have occurred since schedules were initially set.

J. Surface Water Treatment Rule, Interim and Long Term 1 and 2 Enhanced Surface Water Treatment Rules, and Filter Backwash Recycling Rule

Systems complete and submit MORs, which are completed on Excel worksheets and then hard copies are faxed or mailed to the central office, where they are scanned for the district engineers and most of the data are entered into SSWR1. Compliance is tracked through SSWR1.

West Virginia does not allow unfiltered surface water systems. GWUDI determinations are ongoing. In a January 2008 report to Region 3, DHHR noted that all GWUDI determinations were complete for systems that existed prior to January 1, 2004. Testing of new wells and sources was ongoing for 3 CWSs, 6 NTNCWS and 19 TNCWSs new since January 1, 2004. A GWUDI determination is now part of the start-up process for a new system.

Filter backwash recycling notifications were required of 31 West Virginia systems, though not all recycled. Several systems decided to stop recycling in order to avoid the rule requirements. No capital improvements were required of the remaining systems. District offices are responsible for reviewing FBRR information on site.

Freedom_0005779_0119

Surface Water Treatment Related Successes and Challenges

- GWUDI systems are required by DHHR to monitor in all ways like surface water systems, which is more stringent that federally required.

- Some systems did not submit FBRR notifications in time, but no violations were assigned as DHHR determined that this was only a reporting requirement and not important enough to warrant violations.

- DHHR is not performing compliance determination or assigning violations for LT1 ESWTR due to limited resources.

- Discrepancies were assigned for four systems that failed to complete reporting requirements under LT1 ESWTR. The systems were required to conduct continuous monitoring, but only reported, for example, turbidity values three times per day or did not report the number of entry point chlorine residual samples. In two cases, the forms said only "Continuous Monitoring," with no samples recorded. This does not meet the LT1 ESWTR requirements for systems with continuous monitoring to record measurements every 15 minutes and then report the number of measurements taken. DHHR cites a checklist that is part of the MOR that indicates whether the system is performing continuous monitoring, but for a system to simply state that continuous monitoring is occurring does not meet the reporting requirements. DHHR also referenced SWTR in explanation of this reporting system, which does not apply in these cases. In addition, it was recommended in the previous review that DHHR ensure that all SWTR sampling failures receive M/R violations. DHHR states that SWTR violations have not been assigned or reported due to limited resources and that this includes turbidity violations for non-submittal, exceedances, insufficient samples, etc. DHHR attributes this to the SSWR1 calculator not working correctly to help out.

- No violations were confirmed and 48 discrepancies were identified, all related to the above issues.

Recommendations

1. DHHR should perform compliance determination for all aspects of SWTR, IESWTR and LT1 ESWTR.

2. Systems using continuous monitoring should be required to report according to federal regulations.

Freedom_0005779_0120

K. Public Notification

The team only reviewed Tier 1 and Tier 2 public notification violations. PN request and receipt dates are entered into SSWR1 and tracked there.

Public Notification Successes and Challenges

- Review of past PN was noted in the files. In particular, for Charles Town Water Department (WV3301905), it appeared the file had been reviewed in 2008. The system was asked to do PN for M/R violations ranging across all rules as far back as 2001. The system did so.

- DHHR assigns violations for failure to perform PN, though none were observed.

Recommendations

1. None.

Freedom_0005779_0121

Appendix A
Status of Previous Recommendations

Freedom_0005779_0122

Questions on West Virginia's Corrective Actions since the July 2005 Review

The final report for the West Virginia Department of Health and Human Resources, Bureau for Public Health, Office of Environmental Health Services, Environmental Engineering Division (DHHR) July 2005 review identified major and minor implementation concerns. Questions follow on how the recommendations of the report and from Region 3 were implemented.

Description of Issue and Recommendation	Questions	State Response
General		
Recommendations from last review	What steps have the region and state taken since the last Review to address recommendations found in the report?	7/1/08 DLW/HMC-No help was received from the Region.
Recommendations from last review	Are findings from the review included in discussions between the state and region, for instance when the PWSS Grant or annual work plan are negotiated?	CHR-Yes
The previous review found that if analytical results are received more than 10 days after the end of a compliance period, DHHR deletes the violation and a return to compliance code (SOX) is entered into SSWR1. The review team noted that this practice of deleting "reporting" violations was not acceptable.	Are reporting violations now retained in the database?	CHR-Yes

Clarify?

Freedom_0005779_0123

Description of Issue and Recommendation	Questions	State Response
The team noted that there were many violations from 2002 through 2004 that had not yet been reported to SDWIS/Fed during the July 2005 review. Reporting was sometimes complicated by a lack of resources for the compliance staff and a lag time in the validation of violations.	Have all compliance determinations been completed for data through 2007 and any violations or required sample results reported to SDWIS/Fed?	CHR-Yes
Inventory		
Some inventory discrepancies (for population, service connections, system type, system status, and source) were identified and it was recommended that DHHR encourage the district offices to continue to update inventory information in SSWR1 for upload to SDWIS/Fed.	Is inventory information now consistent between West Virginia's inventory, SSWR1 and SDWIS/Fed?	CHR-We are using Fed Rep and ODS Reports to address discrepancies.
Sanitary Surveys		
Not all systems were receiving a sanitary survey at least every five years. It was recommended that DHHR ensure that systems receive a sanitary survey according to the required schedule and that the central office better track the frequency of sanitary surveys completed by the district offices.	Do all systems receive a sanitary survey at least every five years, or every three years, if subject to IESWTR? Were any tracking measures enacted or improved to ensure this schedule?	CHR-More emphasis on tracking has been coming from the Regional EPA Office, and we have been making every effort to minimize systems that exceed time frames.

Freedom_0005779_0124

Description of Issue and Recommendation	Questions	State Response
Total Coliform Rule (TCR)		
Not all systems serving more than 4,900 persons were taking all TCR samples on the same day during the month.	Do systems serving more than 4,900 persons now take TCR samples on more than one day during the month?	CHR-All district offices have been advised of this requirement.
Lead and Copper Rule (LCR)		
It was recommended that DHHR ensure systems take annual and triennial LCR samples during the summer months of June through September or, under the provisions of the LCRMR, establish an alternative monitoring period and adhere to it.	Are systems either sampling in June through September, or has an alternate monitoring period been established?	CHR-Yes
DHHR was advised that the violation begin date for LCR violations is the first day after the end of the compliance period.	Does DHHR now use the correct violation dates for LCR?	CHR-Violation periods are automatically created by SSWR1.
Phase II/V		
Some systems with detections of Phase II/V contaminants did not sample quarterly to establish if they were R&C below the MCL.	Do systems now complete the appropriate R&C determinations?	7/1/08 DLW/HMC-As of 2005, regulatory & compliance procedures have been followed. However, no look-back prior to 2005.
SWTR, IESWTR, LT1 &2 ESWTR		
It was recommended that DHHR ensure that all SWTR sampling failures receive M/R violations	Are these violations now assigned and reported?	7/1/08 DLW/HMC-SWTR violations have not been assigned/reported due to limited resources. This includes turbidity violations for non-submittal, exceedances, insufficient samples, etc. SDWIS calculator is not working correctly to help out.

Major issue

Freedom_0005779_0125

Description of Issue and Recommendation	Questions	State Response
Stage 1 & Stage 2 DBPR		
In 2005 DHHR received all raw data for Stage 1 DBPR and data were entered into SSWR1. Unfortunately, in September 2004, the distribution system chlorine residual results were overwritten with another set of data from a state requirement. DHHR required that all systems take a single chlorine residual sample daily in the distribution system, in addition to the DBPR requirement to sample disinfection residual at the same time and in the same place as TCR. Because the DBPR compliance data were overwritten with the state-required data, DHHR was unable to use SSWR1 to determine compliance during the previous review's period of review.	Were steps taken to prevent a similar accident? Are all compliance calculations current and available for review?	CHR-Yes
TOC compliance calculations were not always well documented, including documentation if the system was using alternate criteria for a given month.	Are these calculations and alternative criteria now well documented?	7/1/08 DLW/HMC-HMC required PWS to submit all 2007 data in 4Q07. HMC educated PWS on TOC reporting. Starting in 2Q08, violations will be issued for non-submittal. Compliance Officer will not evaluate calculations because SDWIS calculator is not working correctly and resources are too limited to do manual calculations.

How can Region help? See Dan

Freedom_0005779_0126

Description of Issue and Recommendation	Questions	State Response
It was recommended that DHHR ensure that systems monitor for TOC and TTHM/HAA5 when required and that violations are reported to SDWIS/Fed for systems that fail to do so.	Is TOC, TTHM and HAA5 monitoring now completed according to schedule? Are violations assigned and reported if not?	7/1/08 DLW/HMC-All DBP violations are being issued, TOC non-reporting violations will be issued starting in 2Q08. TOC TT violations will not presently be issued resource limitation has been alleviated and/or SDWIS calculator is fixed.
DHHR was reminded that if a system fails to sample for distribution system disinfection residual, regardless of whether or not they sampled for TCR, a violation should be assigned.	Are these violations now assigned and reported?	7/1/08 DLW/HMC-No, see reasons above.
One system was identified in 2005 that had a running annual average distribution system chlorine maximum residual disinfectant level (MRDL) of 4.2 mg/L and no violation was assigned.	If MRDLs are exceeded, do systems receive violations and complete required increased monitoring?	7/1/08 DLW/HMC-No, we are not issuing MRDL violations due to limited resources.
PN		
It was recommended that DHHR staff ensure that PN is received and violations assigned if not.	Do all systems that fail to provide PN in the correct timeframe receive the appropriate violations?	CHR-Yes

[illegible] earlier response?

How can [illegible] assist?

Freedom_0005779_0127

Appendix B
Summary of Discrepancies Identified by Rule

Freedom_0005779_0128

Rule	Data Flow (DF)		Compliance Determination (CD)	
	M/R	MCL/TT	M/R	MCL/TT
Inventory	-	-	-	-
Sanitary Surveys	-	-	NTNCWSs: 1 TNCWSs: 13	-
Consumer Confidence Reports	-	-	CWSs: 3	-
Total Coliform Rule	-	-	TNCWSs: 1	-
Nitrate/Nitrite	-	-	TNCWSs: 1	-
Inorganics (IOCs)	-	-	CWSs: 1 NTNCWSs: 1	-
Volatile Organics (VOCs)	-	-	CWSs: 2	-
Synthetic Organics (SOCs)	-	-	CWSs: 3 NTNCWSs: 1	-
Stage 1 and Stage 2 DBPR	-	-	CWSs: 26 NTNCWSs: 30	-
Surface Water Treatment Rules (SWTR, IESWTR, LT1 ESWTR)	-	-	CWSs: 48	-
Filter Backwash Recycling Rule	-	-		-
Radionuclide Contaminants	-	-	CWSs: 4	-
Lead and Copper (LCR)	CWSs: 3 NTNCWSs: 1	-	CWSs: 8 NTNCWSs: 6	-
Public Notification	-	-	-	-

Freedom_0005779_0129

Appendix C

Summary of Discrepancies Identified by System

Freedom_0005779_0130

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301905	CHARLES TOWN WATER DEPT	CWS	CCR	10/1/07	CCR not certified by 10/1 as required. Why wasn't a violation assigned?	Certified 11/26/07.	A 7000-71 violation was assigned, and SOX'd effective the date the certification was received WV policy is not to issue both 71 and 72 violation for the same CCR year.	Discrepancy stands.
WV3303604	NAVY INFORMATION OPERATIONS COMAND/MB	CWS	CCR	10/1/07	CCR not certified by 10/1 as required. Why wasn't a violation assigned?	CCR certification received 10/7/07.	It is WV policy not to issue both a 71 and 72 violation for the same CCR period. A 7000-71 violation was issued, and should be SOX'd 10/7/07.	Discrepancy stands.
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	CCR	7/1/07	Violation was assigned, but was not reported to SDWIS/Fed - why not?		SSWR1, found only one 7000-71 violation for pws, which was for 2005 (7/1/2006). See attached screen shot.	Discrepancy changed from data flow to compliance determination - CCR was not delivered until 7/7/07 and no violation was assigned.

Type of source wtr systems are dept solid. otherwise RPM complete

Keep track of data submitted

Freedom_0005779_0131

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3304301	CAIRO WATER DEPARTMENT	CWS	DBPR	10/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No chlorine residual sample collected in December 2007.	Required PWS to submit all 2007 data in 4Q07. Starting in 2Q08, violations will be issued for non-submittal. Compliance Officer will not evaluate calculations because SDWIS calculator is not working correctly and resources are too limited to do manual calculations.	Discrepancy stands.
WV3301905	CHARLES TOWN WATER DEPT	CWS	DBPR	1/1/07, 4/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	In January, 11 TCR and 10 MRDLS collected. In May, 15 TCR and 14 MRDLs collected.	As in WV3304301.	Discrepancy stands.
WV3301905	CHARLES TOWN WATER DEPT	CWS	DBPR	10/1/07	Sampling results were received late. Why wasn't a violation assigned?	4th quarter results received 1/16/08.		Discrepancy stands.

Freedom_0005779_0132

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301905	CHARLES TOWN WATER DEPT	CWS	DBPR	10/1/07	Sampling results were received late. Why wasn't a violation assigned?	4th quarter results received 1/16/08.		Discrepancy stands.
WV3301905	CHARLES TOWN WATER DEPT	CWS	DBPR	9/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No TOC data provided for September 2007.		Discrepancy stands. State policy not to assign DBPR M/R violations at this time.
WV3301705	CLARKSBURG WATER BOARD	CWS	DBPR	1/1/07, 4/1/07, 10/1/07	More chlorine residual samples were recorded than TCR samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	March = 20 TCR vs 24 MRDL, April = 20 vs 19, Dec = 20 vs 19.	As in WV3304301.	Discrepancy stands. See report text for EPA policy on this issue.

Freedom_0005779_0133

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3300201	G & E MHP	CWS	DBPR	1/1/07, 10/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No chlorine residual samples found for March and December 2007.	As in WV3304301.	Discrepancy stands.
WV3300201	G & E MHP	CWS	DBPR	7/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	System collected one routine and four repeat TCR samples, expect to see five chlorine residual samples for July, only one listed in SSWR1.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0134

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3303204	GAP MILLS PSD	CWS	DBPR	4/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	System collected two TCR samples in April 2007, expect to see two chlorine residual samples.	As in WV3304301.	Discrepancy stands.
WV3303204	GAP MILLS PSD	CWS	DBPR	1/1/07	System collected TTHM sample on 8/3/07, and HAA5 sample on 8/28/07. Expect to see samples collected on the same day. Why no violation assigned?		The regulations appear to be ambiguous on whether the samples must be collected on the same day. WV has taken the position that systems may collect on different days within the designated period and be in compliance.	Discrepancy stands. See report text for EPA policy.

Freedom_0005779_0135

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3304204	HARMAN TOWN OF	CWS	DBPR	7/1/07	More chlorine residual samples were recorded than TCR samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	Both TCR samples taken in July are marked "S" and not for compliance. SDWIS says one compliance sample taken.	As in WV3304301.	Discrepancy stands.
WV3301520	MOUNTAINEER PARK INC	CWS	DBPR	1/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	Took 3 TCR and 2 MRDL samples in January 07.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0136

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301204	PETERSBURG TOWN OF	CWS	DBPR	4/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	Collected 5 TCR and 3 MRDL in April 2007. Collected 4 TCR and 3 MRDL in May 2007. Calculated RAA on 3 MRDLs in each month.	As in WV3304301.	DHHR is not assigning MRDL violations at this time due to limited resources. Discrepancy stands.

Freedom_0005779_0137

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	DBPR	4/1/07, 7/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	In June, 1 routine and 4 repeat TCR samples were collected but only 1 MRDL. In July, 5 routine TCR samples were collected but only 1 MRDL.	As in WV3304301.	Discrepancy stands.
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	DBPR	1/1/07	More chlorine residual samples were recorded than TCR samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	No TCR samples were found but one MRDL was reported.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0138

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3303513	VALLEY GROVE WATER DEPT	CWS	DBPR	7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	No MRDL samples were taken in July and November 2007.	As in WV3304301.	Discrepancy stands.
WV3301314	WHITE SULPHUR SPRINGS WATER	CWS	DBPR	4/1/07, 7/1/07, 10/1/07	Number of MRDL samples not reported, as required. Why weren't violations assigned?	Missing MRDL values and number of samples taken for Apr-Dec, 2007. It is not in the database.	As in WV3304301.	DHHR is not assigning MRDL violations at this time due to limited resources. Discrepancy stands.

Freedom_0005779_0139

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301314	WHITE SULPHUR SPRINGS WATER	CWS	DBPR	10/1/07	Running annual average for chlorine residuals not calculated - why wasn't a violation assigned?	RAA in SDWIS is 1 but we believe this is incorrect as MRDL values are missing from SDWIS for 9 of 12 months in 2007. Is this some kind of default value?	As in WV3304301.	DHHR is not assigning MRDL violations at this time due to limited resources. Discrepancy stands.
WV9918012	CENTURY ALUMINUM OF WV	NTNCWS	DBPR	7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	In July and October, collected 1 TCR and no MRDL.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0140

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9931030	CONSOL LOVERIDGE MINE MIRACLE RUN	NTNCWS	DBPR	7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	For Aug, Sep, & Nov 2007.	As in WV3304301.	Discrepancy stands.
WV9931030	CONSOL LOVERIDGE MINE MIRACLE RUN	NTNCWS	DBPR	1/1/07 through 12/31/07	System failed to sample during compliance period. Why wasn't a violation assigned?	System appears to have conventional filtration, but no compliance information for TOC was found in the files. Is it available? Does this system have conventional filtration?	The system has a conventional treatment system, then the water goes through a green sand filter, then a reverse osmosis treatment. When the additional treatment was added, it is believed that the need for the conventional treatment system was no longer needed. WV is taking the position that TOC is not needed on this system.	Discrepancy stands as EPA HQ disagrees. Please see discussion in text.

Freedom_0005779_0141

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9903096	ELK RUN COAL-BLACK KING	NTNCWS	DBPR	1/1/07, 4/1/07, 7/1/07, 10/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No distribution system chlorine residuals found for 2007.	As in WV3304301.	Discrepancy stands. State policy not to assign DBPR M/R violations at this time.
WV9919020	OX PAPERBOARD LLC	NTNCWS	DBPR	1/1/07, 4/1/07, 7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	No MRDL samples found for 2007 and no RAA available in database.	As in WV3304301.	Discrepancy stands.

Freedom_0005779_0142

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9938066	POCAHONTAS MEMORIAL AND MARLINTON M S	NTNCWS	DBPR	1/1/07, 4/1/07, 7/1/07, 10/1/07	More TCR samples were recorded than chlorine residual samples. Expect distribution system chlorine residuals to be taken at the same time and place as TCR samples. Why no M/R violation?	No MRDL samples were found in database for this system. Do they chlorinate? (SDWIS/Fed says yes.)	As in WV3304301.	Discrepancy stands.
WV9905011	WHEELING PITTSBURGH STEEL CO	NTNCWS	DBPR	1/1/07	A violation was reported to SDWIS/Fed. State correctly rescinded the violation. Why wasn't it rescinded from SDWIS/Fed?	System provided results and state agreed received in 11/07, so no violation.	Violation was "Rejected" in SDWIS on April 7, 2008. This rejection should be reflected in the next upload to CDX to SDWIS Fed. Violation status on last upload was thru March 31, 2008 .	Discrepancy stands.

Freedom_0005779_0143

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9905011	WHEELING PITTSBURGH STEEL CO.	NTNCWS	DBPR	1/1/07	A violation was reported to SDWIS/Fed. State correctly rescinded the violation. Why wasn't it rescinded from SDWIS/Fed?	System provided results and state agreed received in 11/07, so no violation.	Violation was "Rejected" in SDWIS on April 7, 2008. This rejection should be reflected in the next upload to CDX to SDWIS Fed. Violation status on last upload was thru March 31, 2008.	Discrepancy stands.
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	IOC	1/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	State assigned vio for 1005, but could not find remaining IOCs for 2005-2007. Can you provide other data?	This appears to be a valid error. No information could be found on why the remaining contaminants were not cited.	Discrepancy stands.
WV9934042	ZELA ELEMENTARY SCHOOL	NTNCWS	IOC	1/1/05	Sampling results were received late. Why wasn't a violation assigned?	Received 8/15/07 samples in May 2008. No reminder letter sent or violation assigned.	The central office, as a result of this finding, has determined that non-community IOC violations are not being migrated to potential violations. We set up another group for non-community (sodium not required to be tested for non-community), and another group name should have been used to migrate these potential violations.	Discrepancy stands.

Freedom_0005779_0144

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301905	CHARLES TOWN WATER DEPT	CWS	LCR	10/1/06	Violation was assigned, but with incorrect dates - can you explain?	52' violation assigned for 10/1/07, but expect to see a date of 10/1/06.		Discrepancy stands.
WV3301010	FAYETTEVILLE MUNICIPAL WATER	CWS	LCR	10/1/06	System failed to sample during compliance period. Why wasn't a violation assigned?	LCR samples were collected in 2003 and 2007, which is more than three years apart. Expect to see triennial samples at least every three years.	Suspect that the analysis for lead and copper may have been misfiled. Summaries have been recorded in SDWIS for the time frame of interest. The summary can be accessed via similar instructions as above. We began entering individual results sometime after 2005.	Summaries and individual samples in SSWR1 correspond to samples in 2003 and 2007, attributed to "compliance cycles" of 2002-2004 and 2005-2007. Discrepancy stands.
WV3304204	HARMAN TOWN OF	CWS	LCR	10/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	System sampled in Jul 02, should have sampled again in 2005, did not sample until Aug 06. No violation found.		Discrepancy stands.

Freedom_0005779_0145

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3302341	LOGAN CO PSD - STOLLINGS	CWS	LCR	10/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	Samples were collected in 2002 and 2007, which is more than three years apart, expect triennial samples to be collected at least every three years.	WV has allowed systems to collect samples in any year within a triennial period. One sample set required between 2002-04, One sample set between 2005-07 satisfies. Because of the upcoming Short Term Revisions that go into effect late next year, we are now transitioning to enforce samples no more than 3 years apart, beginning in 2010.	Discrepancy stands.
WV3301978	MEADOW BROOK WATER SYSTEM	CWS	LCR	10/1/07	Program calculated the 90th percentile on an incorrect number of samples. Why is this?	System collected only 5 of 10 required samples in 2007. Why wasn't a violation assigned?	See e-mail sent on July 15, 2008.	Discrepancy stands -- changed to a data flow error.

Freedom_0005779_0146

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3303001	MINGO COUNTY PSD CHATTAROY	CWS	LCR	10/1/07	A violation was reported to SDWIS/Fed. The PR team could find no reason for the violation. Why wasn't it rescinded from SDWIS/Fed?	State already reported a 5000-52 violation for 10/1/04. The 10/1/04 violation remains outstanding until the system returns to compliance.	During evaluation of ODS error reports, it was found that we have routinely been handling 51 and 52 violations incorrectly, probably from day 1. We have issued subsequent violations and returned all violations to compliance upon two consecutive monitorig periods. This error was discovered in April 2008, and corrections have not been made as yet to the data base. It will take some time to correct.	Discrepancy stands.

Freedom_0005779_0147

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3302514	MINISTERS RUN WATER ASSOC	CWS	LCR	10/1/06	A violation was reported to SDWIS/Fed. The PR team could find no reason for the violation. Why wasn't it rescinded from SDWIS/Fed?	A 5000-52 violation was correctly reported for 10/1/05, why was an additional violation assigned for 10/1/06? Expect to see only one "52" violation assigned. The violation then remains outstanding until the system returns to compliance.	During evaluation of ODS error reports, it was found that we have routinely been handling 51 and 52 violations incorrectly, probably from day 1. We have issued subsequent violations and returned all violations to compliance upon two consecutive monitorig periods. This error was discovered in April 2008, and corrections have not been made as yet to the data base. It will take some time to correct.	Discrepancy stands.
WV3300104	PHILIPPI CITY OF	CWS	LCR	10/1/05	Program calculated the 90th percentile on an incorrect number of samples. Why is this?	Based on system's population (increased to 3,983 in 8/03), should collect 20 LCR tap samples, rather than 10.	Apparently, the change in population was not caught by the compliance officer. SSWR1 Web 1 has been enhanced to notify us when population has changed, and the potential rules that may be impacted by the change.	Discrepancy stands.

Freedom_0005779_0148

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3300807	QUEEN SHOALS PSD	CWS	LCR	10/1/03	Violation was reported to SDWIS/Fed with a violation date of 10/1/04 - Why use this date when the system failed to take the required sample in 2003?	System sampled 7/12/00, next due in 2003, not sampled until 2005. Violation date in SDWIS/Fed is 10/1/04 - we believe it should be 10/1/03 (or 1/1/04).	We have been implementing the Lead and Copper Rule similar to the Phase II/V rule. The system, in our perspective, was required to monitor in either 2002-03 or 04. The last chance to monitor was in Sep 04 We are modifying our procedures to be in conformance to the language in the new short term revisions to the lead and copper rule, which goes into effect in late 2009.	Discrepancy stands.
WV3302523	VALLEY FALLS PSD	CWS	LCR	1/1/03	90th percentile lead result for systems serving >3,300 population is not present in SDWIS/Fed. Why not?	9/9/03 sampling round 90th percentile level was "0."	FedRep is supposed to extract the information automatically from systems >3300. I do not know why it was not extracted. This would be a question for SDWIS/help desk Noted that the 2005 results were recorded as a summary with a 90th percentile as 0.00 (instead of < MDL), I suspect if the date is wrong. Noted results in 2002 and 2005, nothing in 2003?? i.e someone entered the data incorrectly.	Discrepancy stands.

Freedom_0005779_0149

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3300515	WASHINGTON PIKE PSD	CWS	LCR	10/1/06	Triennial sample not found - why wasn't a violation assigned?	Triennial samples taken in 8/03 and 9/07, more than three years apart.	WV has allowed systems to collect samples in any year within a triennial period One sample set rqd between 2002-04, One sample set between 2005-07 satisfies. Because of the upcoming Short Term Revisions that go into effect late next year, we are now transitioning to enforce samples no more than 3 years apart, beginning in 2010.	This policy is incorrect under the current LCR and LCRMR. Discrepancy stands.
WV9918012	CENTURY ALUMINUM OF WV	NTNCWS	LCR	10/1/05	Triennial sample not found - why wasn't a violation assigned?	System sampled in 2002 and 2007. Expect samples by 9/30/05.		Discrepancy stands.
WV9903096	ELK RUN COAL-BLACK KING	NTNCWS	LCR	10/1/06	System failed to sample during compliance period. Why wasn't a violation assigned?	Samples were collected in 2003 and 2007 which is more than three years apart. Triennial samples should be collected at least every three years.	We have been implementing the Lead and Copper Rule similar to the Phase II/V rule. The system, in our perspective, was required to monitor in either 2002-03 or 04 and again any year between 2005-07. We are moving towards changing our procedure in light of the new short term revisions to the lead and copper rule, which goes into effect in late 2009.	Discrepancy stands.

Freedom_0005779_0150

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9919020	OX PAPERBOARD LLC	NTNCWS	LCR	10/1/02	Violation was assigned, but with incorrect dates - can you explain?	System sampled in Sept 99 and July 07. Should have sampled in 2002, and did receive a violation, but violation begin date was 10/1/04 in SDWIS/Fed.		Discrepancy stands.
WV9902021	ROCKY KNOLL ELEMENTARY	NTNCWS	LCR	10/1/03	Violation was assigned, but with incorrect dates - can you explain?	System sampled in 2000 and expect to see samples by 2003. Did not sample until 2005. Violation assigned for 10/1/04, but expect date to be 10/1/03 or 1/1/04.	We have been implementing the Lead and Copper Rule similar to the Phase II/V rule. The system, in our perspective, was required to monitor in either 2002-03 or 04. The last chance to monitor was in Sep 04 We are moving towards changing our procedure in light of the new short term revisions to the lead and copper rule, which goes into effect in late 2009.	Discrepancy stands.
WV9905011	WHEELING PITTSBURGH STEEL CO.	NTNCWS	LCR	10/1/05	Triennial sample not found - why wasn't a violation assigned?	System sampled 2002 and 2007. Expected to sample before 9/30/05.		Discrepancy stands.

Freedom_0005779_0151

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9934042	ZELA ELEMENTARY SCHOOL	NTNCWS	LCR	10/1/07	An M/R violation was assigned by the state and reported to SDWIS/Fed, but was assigned in error since a previous violation remained outstanding. Why was it assigned?	Assigned violation in 2004 which had not been returned to compliance, so second violation should not be assigned.		Discrepancy stands.
WV9934042	ZELA ELEMENTARY SCHOOL	NTNCWS	LCR	10/1/03	Triennial sample not found - why wasn't a violation assigned?	Sample was collected in 2000. Expect to see next sample by 2003. System sampling on 3-year compliance period schedule rather than triennially.		Discrepancy stands.

Freedom_0005779_0152

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301905	CHARLES TOWN WATER DEPT	CWS	LT1	1/1/07-12/31/07	System did not note number of hours below standard, if any, for any month in 2007.	Form only says "continuous monitoring" and one value is noted on the MOR (presumably lowest value?)		Discrepancy stands.
WV3301010	FAYETTEVILLE MUNICIPAL WATER	CWS	LT1	1/1/07 - 12/1/07	System failed to complete reporting requirements. Why weren't violations assigned? No chlorine residual results were reported to the state. No MOR was found for January 2007.	System also only records and reports turbidity values three times per day. This does not appear to meet the rule requirement to record measurements every 15 minutes and then report the number of measurements taken.	Suspect that the MOR may have been misfiled. The data from the MOR are transferred into SDWIS.	Missing MOR data found. Discrepancies stand for incomplete data reporting.

Freedom_0005779_0153

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301204	PETERSBURG TOWN OF	CWS	LT1	1/1/07-12/31/07	Why didn't system report number of chlorine residual samples collected at entry point, as well as values, for each month of 2007?	System reported "continuous monitoring" only. Expect that the number of measurements taken will be reported, according to LT1 ESWTR.	See Data Verification (2005)Status Report	DHHR is not assigning LT1 ESWTR violations at this time due to limited resources. Discrepancy stands.
WV3300104	PHILIPPI CITY OF	CWS	LT1	1/1/07 - 12/1/07	System failed to complete reporting requirements. Why weren't violations issued? Number of entry point chlorine residuals collected each month was not reported. Why not?	System is required to conduct continuous turbidity monitoring, why only three sample values per day reported? Number of turbidity samples for March not found on MOR.	There is supposed to be a checklist as part of the MOR that indicates whether the system is performing continuous monitoring. SWTR requires a system to report readings every four hours. Data are transferred from the MOR to SSWR1.	This system appears to be subject to LT1 ESWTR which requires systems with continuous monitoring to record results every 15 minutes and then report the number of measurements taken. Discrepancy stands.

Freedom_0005779_0154

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9914005	CAMP SANDY COVE - DINING HALL	TNCWS	Nitrate	1/1/07	Sampling results were not found. Why wasn't an M/R violation assigned?	A 7/30/07 sample was found in SSWR1, but no value is listed in the result field.	Apparently a data entry error.	Discrepancy stands.
WV3303317	TRI LAKE HOLDINGS, INC.	CWS	RAD	1/1/07, 4/1/07, 7/1/07, 10/1/07	System does not qualify for grandfathering, but has not completed all four quarters of initial monitoring. What is the schedule for this system to comply with the revised rule?	Only one distribution sample could be found (7/18/01 for Gross Alpha, Ra226 and Ra228), but there are two entry points.	No monitoring schedule was entered for radionuclides into SDWIS. Apparent WV oversight.	Discrepancy stands.
WV3301302	GREENBRIER COUNTY PSD #2	CWS	SOC	1/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	Could not find any waiver status in either files or the database and could not find any sampling data. Does this system have an SOC waiver?	There is a note in SSWR1 indicating a waiver was issued. Our current assumption is that the memo was overlooked, and we will need to review the file to see if we can find it.	Waiver information found for 2002-2004. None found for 2005-2007 in SSWR1 or the hard copy file. Discrepancy stands.

Freedom_0005779_0155

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301311	RUPERT WATER	CWS	SOC	1/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	See reminder letter dated 11/19/07 in files asking for SOC results collected during the 2005 - 2007 compliance period. No sample and no waiver documentation found for this period.	Reminder must have been sent in error. There is no SOC schedule in SDWIS, and I have a copy of an SOC waiver letter issued in the past. Assumption is that the waiver memo may have been overlooked or misfiled.	Waiver not correctly renewed. Discrepancy stands.
WV3301314	WHITE SULPHUR SPRINGS WATER	CWS	SOC	1/1/05	A violation was reported to SDWIS/Fed. Vio was rescinded by state. Why wasn't it removed from SDWIS/Fed?	Vio was rescinded - system not scheduled to sample, per letter 2/19/08.	The violation was deleted out of SDWIS Feb 2008. Last update that would include this would have been done in May 15, 2008. This should show up in the ODS error report, and will be corrected.	Discrepancy stands.

Freedom_0005779_0156

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9903096	ELK RUN COAL-BLACK KING	NTNCWS	SOC	1/1/05	System failed to sample during compliance period. Why wasn't a violation assigned?	Appears that SOC waiver expired in 2004, no documentation renewing waiver was found. Expect to see one sample between 2005 - 2007.	Due to inadequate staffing levels, WV has not renewed many individual PWS waivers since 2004.	Discrepancy stands.
WV9934042	ZELA ELEMENTARY SCHOOL	NTNCWS	SS	1/1/02	Only one sanitary survey found - can one done within five years previous or five years after be provided?	1997 sanitary survey is most recent one in file. Expect to see one by 2002 or 2007 if under protected and disinfected status.	It appears that this system has not had a sanitary survey conducted within the required time frame. District personnel will schedule a Sanitary Survey as soon as possible.	Discrepancy stands.
WV9919055	340 ROADHOUSE	TNCWS	SS	1/1/03	Two sanitary surveys found, but they were done more than five years apart - why no M/R violation?	It appears this system is on a ten-year schedule. Has it been documented as a protected and disinfected source?	see WV9909004 comments	Discrepancy stands pending documentation of WV policy on protected and disinfected status.

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9939087	ALYESKA INC	TNCWS	SS	1/1/99	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Expect a non-community to have a sanitary survey by 1999. Only 5/08 survey found.	WV Policy for non community systems with GW only sources is to perform sanitary surveys once every 10 years. Because there are several Alyeska systems, the previous sanitary survey was done as a group (2001 last year one was done) If a copy of the 2001 survey is required, one can be provided upon request.	A copy of the sanitary survey would have to be provided to verify the ten-year frequency. However, as other systems reviewed have no documentation of protected and disinfected status, this would likely remain a discrepancy.
WV9947030	BLACKWATER CENTER	TNCWS	SS	1/1/05	Two sanitary surveys found, but they were done more than five years apart - why no M/R violation?	Done 4/07 and 3/00.		Discrepancy stands

Freedom_0005779_0158

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9914005	CAMP SANDY COVE - DINING HALL	TNCWS	SS	1/1/04	No hard copies of sanitary surveys found - can you provide them?		Copy requested from DO	Discrepancy stands for second sanitary survey five years later. Did not see documentation of copy requested from DO.
WV9933048	COOLFONT MOUNTAINSIDE ASSOCIATION - NORTH	TNCWS	SS	1/1/99	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Only 8/04 sanitary survey found.	WV Policy for non community systems with GW only sources is to perform sanitary surveys once every 10 years.	Discrepancy stands pending documentation of WV's protected and disinfected status policy.
WV9909004	DODDRIDGE COUNTY PARK	TNCWS	SS	1/1/04	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Only 8/99 survey found. SSWR1 notes that the next survey is due 8/09. Please provide documentation that this is a protected and disinfected source if so.	We consider all non-community ground water systems as protected and chlorinated (we require all systems to chlorinate). We have always have done non-community systems on a ten year frequency since TCR implementation. We are now trying to increase the frequency to once every five years in anticipation of the GWR.	This does not meet the criteria for documentation of protected and disinfected systems. Discrepancy stands.

Freedom_0005779_0159

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9909031	MILETUS COUNTRY MARKET	TNCWS	SS	1/1/04	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Only 5/99 survey found. Please provide documentation that this is a protected and disinfected source if it is on a 10 year schedule.	see WV9909004 comments	This does not meet the criteria for documentation of protected and disinfected systems. Discrepancy stands.
WV9919086	RIVER RIDERS	TNCWS	SS	1/1/00	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Only 9/05 survey found.	see WV9909004 comments	Discrepancy stands pending documentation of WV policy on protected and disinfected status.
WV9938038	RYDERS RESTAURANT	TNCWS	SS	1/1/04	Two sanitary surveys found, but they were done more than five years apart - why no M/R violation?	Sanitary surveys found for 1999 and 2007. No documentation of protected and disinfected status.		Discrepancy stands.

Freedom_0005779_0160

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV9955094	WAGON WHEEL	TNCWS	SS	1/1/99, 1/1/04	No hard copies of sanitary surveys found - can you provide them?	Sanitary survey file was empty and no site visits listed in SWR1. Expect to see them in 1999 and 2004 if first done by deadline of 6/29/99.		Discrepancy stands.
WV9938048	WATOGA STATE PARK BUSH PLACE	TNCWS	SS	1/1/99	Only one sanitary survey found - can one done within five years previous or five years after be provided?	Found sanitary surveys for 6/03 and 7/96.	A combined sanitary survey was conducted in 1996 on all Watoga State Park systems. Partial report attached.	Discrepancy stands pending documentation of WV policy on protected and disinfected status.
WV9919055	340 ROADHOUSE	TNCWS	TCR	1/1/07	System failed to sample during compliance period. Why wasn't a violation assigned?	No TCR sample found in SSWR1 for 1Q07, but system does not appear to be seasonal. Found correct M/R violation for 2Q07.	The system was closed for a period of time and reopened under new ownership on Jan 12, 2007. WV allows some time for compliance with new ownership	Discrepancy stands. Federal regulations require TCR monitoring during any quarter they are open.

Freedom_0005779_0161

PWSID	PWS Name	System Type	Rule	Violation or Compliance Begin Date(s)	Question	Supporting Details	State Response	Discrepancy Resolution
WV3301978	MEADOW BROOK WATER SYSTEM	CWS	VOC	1/1/07, 4/1/07	System failed to take quarterly samples after a VOC detect. Why weren't violations assigned?	Toluene was detected in sample collected 12/06, and system was not instructed of the need for quarterly sampling until 5/07. Why the delay?	WV could not find any documentation on why the system was not notified to go to quarterly monitoring more timely. WV takes the position that we notify the system to increase monitoring prior to any violations being issued.	Discrepancy stands.

Freedom_0005779_0162

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

JUN 2 6 2008

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

Barbara

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.

Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474

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,

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

Enclosures
bcc (without encls.):
W. Johnson (3WP21)
M. Brewster (3WP50)
J. Pine (3WP30)
M. Conicelli (3WP30)
D. Campanelli (3WP30)

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 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.

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 2007, 90.4% 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%. West Virginia's percentage in 2006 was 91.2% and at mid year 2008, the percentage is 87.2%

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.

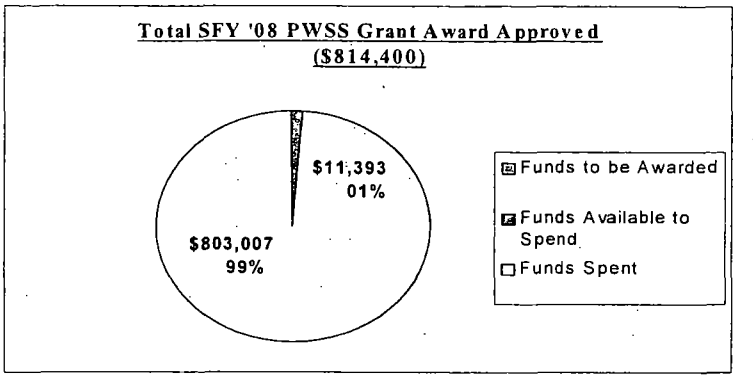
EPA approved WVDHHR's SFY'08 PWSS grant in the amount of $814,400. Partial awards were made (September 27, 2007, December 19, 2007 and March 7, 2008) to reflect 100% of the total SFY'08 grant funds awarded to WVDHHR. The final FSR will be submitted September 2008. WVDHHR utilizes federal funds to pay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

Freedom_0005779_0167

SFY'08 Grant Expenditures - as of June 2008

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



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%

Freedom_0005779_0168

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 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

Freedom_0005779_0169

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

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.

Freedom_0005779_0170

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

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

Freedom_0005779_0171

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:

- 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).

Freedom_0005779_0172

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.

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.

Freedom_0005779_0173

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:

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.

Freedom_0005779_0174

- 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 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

Freedom_0005779_0175

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, 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.

Freedom_0005779_0176

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. 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

Freedom_0005779_0177

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 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.

Freedom_0005779_0178

- 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.

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.

Freedom_0005779_0179

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 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.

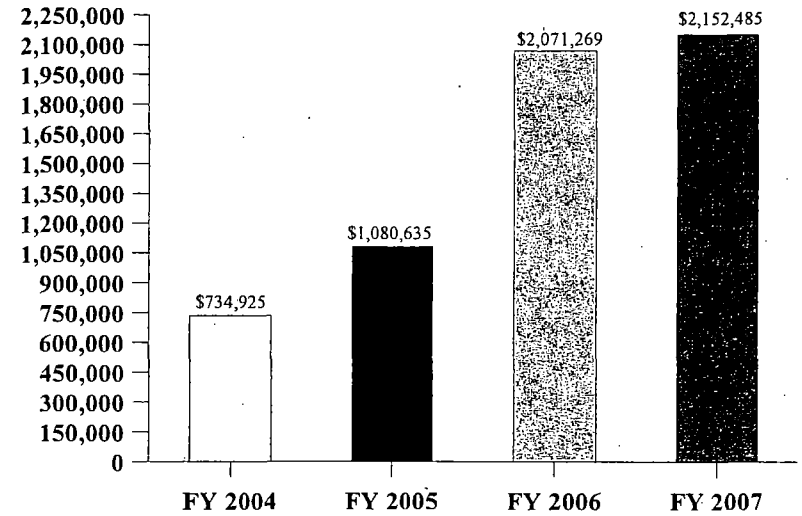
Table A
Set-aside Funded Expenditures for Open Grants - FY '04-07

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.

Freedom_0005779_0180

Table B



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

Freedom_0005779_0181

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 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.

Freedom_0005779_0182

- 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 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.

Freedom_0005779_0183

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.

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.

Freedom_0005779_0184

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
$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

Freedom_0005779_0185

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 detailed 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 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%

Freedom_0005779_0186

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.

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 <u>before</u> the grant expires than after it expires, and since it takes time to work out the details, proactive measures are necessary.

Freedom_0005779_0187

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 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).

Freedom_0005779_0188

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)

Freedom_0005779_0189

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.

Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474

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

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.

Enclosures
bcc (without encls.):
~~W. Johnson (3WP21)~~
M. Brewster (3WP50)
J. Pine (3WP30)
M. Conicelli (3WP30)
D. Campanelli (3WP30)

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

Freedom_0005779_0194

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.

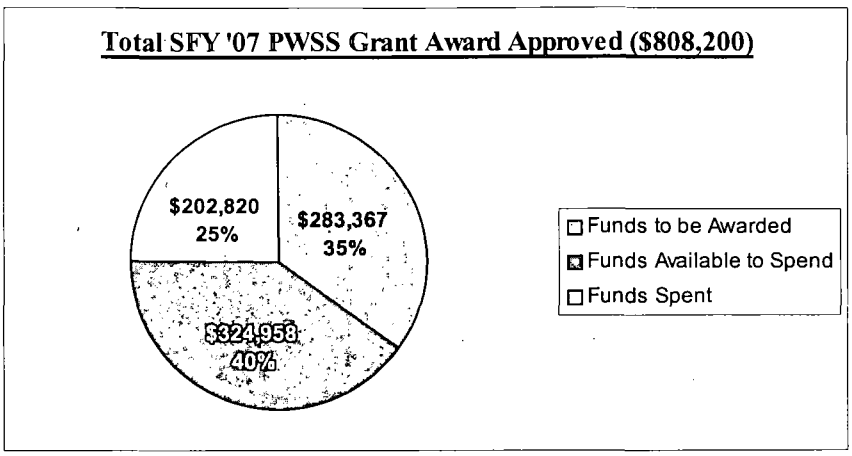
WVDHHR was granted a time extension of October 31, 2006 to submit its final '05/'06 FSR. Due to incorrect/incomplete information provided, the state had to resubmit its final '05/'06 FSR which was received by the Las Vegas Financial Center on December 11, 2006. Closure of this grant was pending WVDHHR's 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.

Freedom_0005779_0195



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

Freedom_0005779_0196

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

Freedom_0005779_0197

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

Freedom_0005779_0198

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.

Freedom_0005779_0199

- 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

Freedom_0005779_0200

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.

Freedom_0005779_0201

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.

Freedom_0005779_0202

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.

Freedom_0005779_0203

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.

Freedom_0005779_0204

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.

Freedom_0005779_0205

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:

Freedom_0005779_0206

- 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.

Freedom_0005779_0207

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

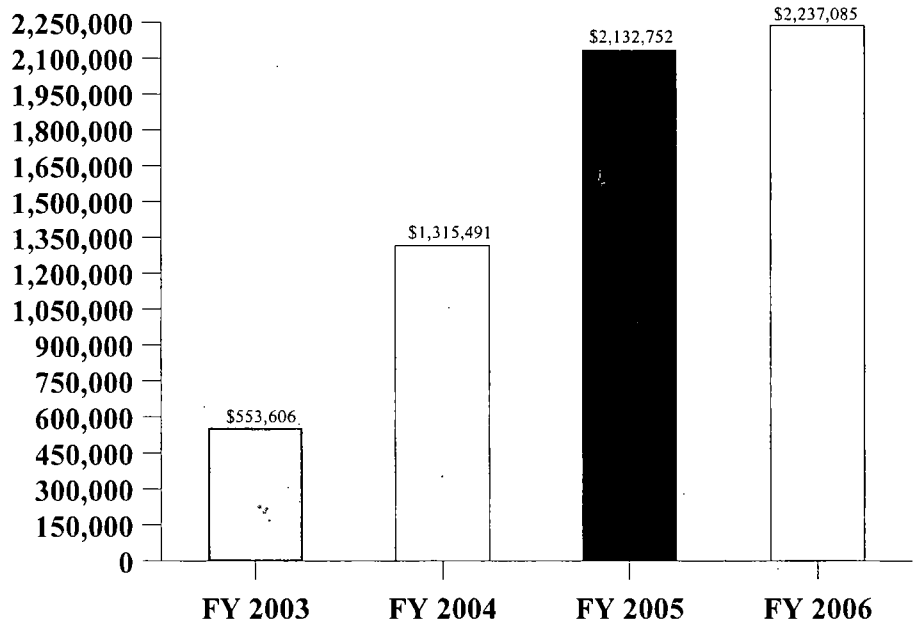
WEST VIRGINIA SET-ASIDE UTILIZATION FOR ALL GRANTS Cumulative as of March 2007				
	Technical Assistance 2%	Program Management 10%	Local Assistance 15%	Total
CUMULATIVE AWARDED	$1,494,425	$6,774,162	$9,058,581	$17,327,168
EXPENDED	$1,269,137	$4,563,467	$5,255,620	$11,088,224
% EXPENDED	84.9%	67.4%	58.0%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

Freedom_0005779_0208

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

Freedom_0005779_0209

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.

Freedom_0005779_0210

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.

Freedom_0005779_0211

- 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.

Freedom_0005779_0212

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.

Freedom_0005779_0213

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.

Freedom_0005779_0214

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.

Freedom_0005779_0215

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.

Freedom_0005779_0216

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)

Freedom_0005779_0217

OK pending file for signed copy

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 2006. 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 End of Year 2006 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 End of Year 2006.

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.

Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474

EPA has concerns in the following area which is discussed more fully within the report:

- slow draw-downs of ERG and Security grant funds.

In future progress reports, EPA is requesting more detail on outputs and outcomes in certain sections of the report. One section that lacks this information is Section 3, the DWSRF set-aside funded activities listed on pages 23-24 in the Checklist. This additional information will be needed to meet EPA's "Drinking Water State Revolving Fund Program Set-Aside Workplan Supplemental Guidance" dated August 2006.

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. These goals must be included in WVDHHR's 2007 PWSS Workplan, and 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
bcc (without encls.):
W. Johnson (3WP21)
M. Brewster (3WP50)
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
End of Year 2006

Introduction

This End of 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 End of Year 2006. 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 end of year status on each commitment/activity for the EED. WVDHHR is invited to submit an addendum to this report if it deems that such an addendum is necessary to clarify or counter EPA's findings.

Purpose of Review

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

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

Method of Review

This is a comprehensive review of the FY 2005/2006 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 and the on-site Program Review on September 19, 2006. Consultation included EPA's Drinking Water Branch, the Office of Standards, Assessments and Information Management and the Office of Infrastructure and Assistance staff and additional telephone conversations and email follow-up occurred

between EPA and WVDHHR.

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 2005, 88.6% 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 is currently working with WVDHHR to revise the reporting tool for the next reporting period - February 15, 2007.

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 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 and submitted an interim financial status report (FSR) to cover FY'05 and half of SFY'06. Total funding awarded to WVDHHR is $1,645,845.

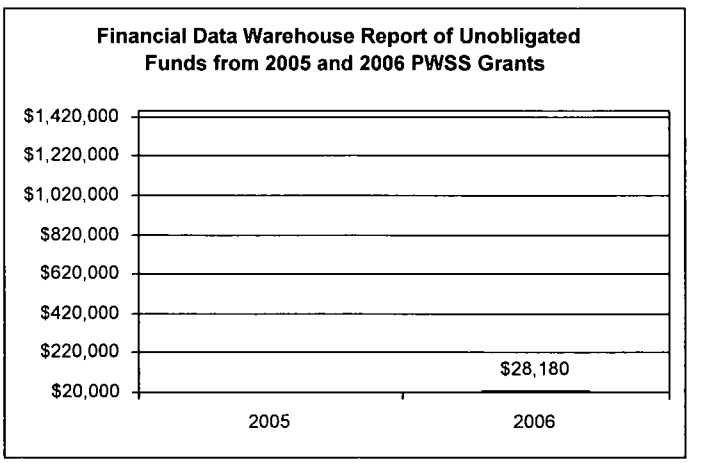
EPA approved the WVDHHR's FY'06 PWSS grant in the amount of $811,100. A partial award of $124,476 was made on September 28, 2005, and a second award for $428,124 was made on December 19, 2005. An additional $55,725 was awarded on May 5, 2006, to reflect 75% ($608,325) of the total FY'06 grant funds awarded. The remaining FY'06 funds of $202,820 (includes $45 CarryOver) was awarded on August 23, 2006. WVDHHR utilizes federal funds to pay for 12.75 full time employees (FTEs) out of the 17.25 FTEs under this program.

WVDHHR submitted a revised Financial Status Report (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. EPA was unable to recertify these funds for use by the state because the project period end date was prior to May 1, 2005. The original FY'04 FSR reported $45.20 unobligated which EPA did recertify for use by the state in the FY'06 PWSS grant. WVDHHR does not anticipate a reoccurrence of under reporting as cost allocations are now performed on a monthly basis.

FY'05 and FY'06 Grant Expenditures - as of December 2006

Funds Awarded	Funds Expended	Percent Expended
$1,443,025	$1,414,845	98%

A look at the data from EPA's Financial Data Warehouse reveal that the state has drawn 98% of the total amount awarded for 2005 and 2006. At the time WVDHHR submitted its interim FSR (March 2006), the state had drawn 62% of total funding. This is a healthy rate of spending which correlates to the workplan activities being performed. WVDHHR was granted a time extension of October 31, 2006 to submit its final FY'06 FSR. Due to incorrect/incomplete information provided, the state had to resubmit its final FY'06 FSR which was received by the Las Vegas Financial Center on December 11, 2006.



In light of this year's federal budget rescissions and the uncertainty for future federal budget cuts, EPA advises WVDHHR to monitor spending closely and when projecting budgets for future PWSS Grants, 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. This is often difficult with budget uncertainties. It is EPA's expectation that the move to a state fiscal year budget cycle for the PWSS grant will assist EPA with promptly awarding funding to the state and ease the financial worries on the part of the state. EPA is working closely with the EED to ensure timely submission of semi-annual progress reports and future grant applications. EPA encourages the Department to consider two-year grant budget periods in the future. Advantages include reduced level of paperwork and an expected early awarding of funds to the state for the second half of the budget period.

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 reposted. Other factors in delays to fill vacancies is the lack of suitable candidates and the inability to compete with salaries of private industry. Despite the many challenges, WVDHHR recently filled eight (8) positions. All other vacancies are either in the solicitation or selection 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.

Reminder

EPA reminds the state to continue to report as per the 1998 Corrective Action Plan on its staffing levels along with the PWSS semi-annual progress report. This should be a separate narrative or included in the next progress report consisting of: 1) a written summary of the status on filling each vacancy (i.e., reviewing applications, interviewing, etc.) and desired time frame for filling positions; 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.). EPA is currently working with the state to revise the format of the PWSS Guidance and Checklist to provide adequate space for the requested

information.

New Regulation Development

Highlight

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. Refer to the Operator Certification Program section of this report for more details. 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.

State Response to Action Item

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.

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.

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 116 sanitary surveys to be conducted for Subpart H systems and completed 139. One reason for the increase in surveys conducted is due to 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.

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 and this remains a priority for the state. All determinations for community water systems (CWS) identified prior to 2004 are complete. There are thirteen (13) systems 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 one (1) CWS, nine (9) NTNCs and twenty-six (26) TNCs.

Reminder

WVDHHR is reminded to continue to report as per the 1998 Corrective Action Plan on its GUDI status. This should be a separate report or included in the next progress report consisting of 1) a written report detailing all activities and 2) a summary chart broken out by system type (CWS, NTNC and TNC) showing the number and percentage of systems testing, evaluated, unresponsive, etc.

Capacity Development

WVDHHR's Capacity Development Program continues to retain a full staff, which is key to making sure water systems get the assistance they need to strengthen their capability to deliver safe, potable water. Assistance provided to water systems through field staff and the Capacity Development Team include the development of:

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

In addition, water systems were referred to third party assistance providers via existing contractual agreements or to other state, federal or non-profit entities. Assistance is provided through:

- on-site, hands-on assistance;
- workshops;
- seminars and training sessions; and
- self-help guidance documents.

The primary third party assistance providers available to West Virginia water systems include: Public Service Commission of West Virginia (PSC), West Virginia Rural Water Association (WVRWA), National Environmental Service Center (NESC), the Rural Community Assistance Program (RCAP), and the WV Environmental Training Center (WVETC).

The number of public water systems in the state continues to decrease but at a much slower pace since the last evaluation report. The number has decreased by 5% (from

1,231 systems in FY 2004 to 1,175 systems in FY 2006). This is mostly due to systems merging. Only one new system has started operation in the last three years. Two Permits to Construct were issued in April 2005 (Rock Spring Church and Preschool and Morning Dove Estates). Two systems applied for, and were issued permits, (Metikki Coal's issued July 2005 and Springdale Farm Developments issued November 2005).

Highlights

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.

WVDHHR completed its Baseline Ranking reassessment of all CWSs and NTNCWSs in 2005. The purpose of this report is to assess the overall effectiveness of the Capacity Development Program and to see what measurable improvements have been made at water systems. Some of the findings were: (1) an average increase in baseline score for all systems of 1%; (2) an average increase in baseline score of 7% for systems who received assessments; and (3) assessed systems' baseline scores were almost twice as likely to improve as a system never receiving an assessment.

The Report to the Governor on the efficacy of the Capacity Development Strategy and progress toward improving the capacity of water systems was completed and submitted to EPA in September 2005.

Due to barriers in awarding contracts, WVDHHR has not been able to complete the construction to consolidate five (5) separate water systems with Eastern Wyoming PSD. The state continues to overcome these barriers and expects to complete construction by Spring 2007.

A list of systems on the historical SNC list covering the period 2003-2005 has been sent to the state. WV has reviewed the list for accuracy and provided a response to EPA regarding each system's reason for being on the list.

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.

For the following three (3) GPRA activities, there were no numerical requirements, such as achieving a specific percentage:

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

-- Based on WVDHHR's definition, 19% of the CWS and 64% of

population achieving minimized risk to public health was reported. 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.**

-- WVDHHR reported 61% of the CWS had a strategy in place. This reporting and that for the following element "c" are the same measure, only element "c" is expressed in population served.

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

-- WVDHHR reported 65%, with 68% of the population being protected with a source water protection strategy in place.

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

a) Potomac Drinking Water Source Protection Partnership. 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) Statewide 2005 SWAP/WHP stakeholder meeting. This meeting, hosted by the WVDHHR, is an important way in which the state continues cross-program integration between public and private partners.

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. During this reporting period, 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.

Action Item

- The state needs to continue working towards the national 2008 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 04/13/2006, and received the state's response on 04/17/06. 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.

Highlights

West Virginia has continued to routinely submit quarterly updates and has been very cooperative in their attempts to alleviate data problems. The state uses SDWIS/State as its primary database for loading SDWA data. They have transitioned to the Modernized SDWIS, and have been successful in the installation of the EPA supplied FedRep application to upload modernized files to EPA with the Central Data Exchange (CDX).

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 Consumer Confidence Report (CCR). This resulted in an increase in the number of SNCs reported. However WVDHHR is up to 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 noted any problems or 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 policy 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 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 addressing any issues/concerns with EPA in a timely manner.

Enforcement

In FY'05, sixteen (16) systems were referred to EPA for assistance. EPA is addressing these cases by Notice of Violations or Administrative Orders. All SNCs have been reported on by the state for three (3) quarters of FY'06.

Annual Compliance Reports

WVDHHR submitted its Annual Compliance Report (ACR) for 2005 in August 2006. The report now includes violations for the IESWTR which was 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., certification and training, sanitary surveys and inspections, technical assistance, etc.

Laboratory Certification

EPA issued its annual certification status report of WVDHHR's Drinking Water Laboratory Certification Program on December 29, 2005. 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 labortories.

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.

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 were:

- 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., all systems are required to have certified operators. To evaluate whether states are meeting this requirement, they should report on the # and/or % of systems in compliance for having certified operators. Details of the minimal content for reporting was provided to the State Directors at the September 2006 meeting and will also be provided in the Reporting Reminder Memo to the states.

Reminder

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

reporting period.

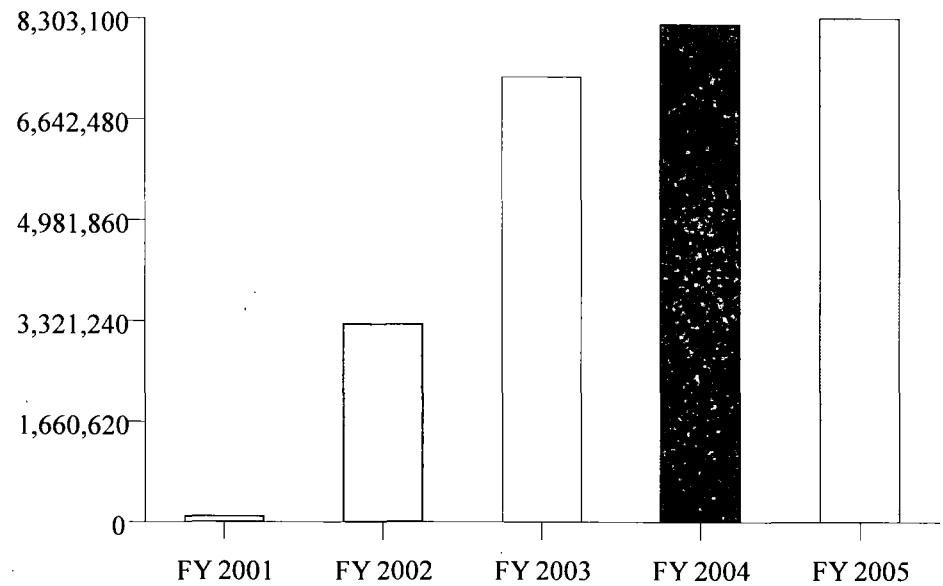
Drinking Water State Revolving Fund (DWSRF)
Set-aside Funded Activities

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.

All federal funds awarded in Fiscal Years 1997, 1998, 1999 and 2000 have been spent. These grants have been closed out. WVDHHR's gradual draw-downs reflect appropriate spending as shown on the charts below. Draw-downs have improved over the grant periods due to their ability to maintain staffing levels, permitting more workplan activities to be accomplished.

$8,285,500
$8,193,968
Total DWSRF Grant Funds Remaining (as of December 2006)



$7,325,933

$3,265,141

$99,097

Set-aside Funded Expenditures

WEST VIRGINIA SET-ASIDE UTILIZATION FOR ALL GRANTS Cumulative as of December 2006				
	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	$4,416,547	$4,842,239	$10,527,923
% EXPENDED	84.9%	65.2%	53.5%	60.8%
CASH DRAWN	$1,269,137	$4,416,547	$4,842,239	$10,527,923

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. During this reporting period, 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

- The instructional report (pamphlet) on pump yield and draw-down test methods is expected to be completed during 2006.
- WVDHHR will be issuing a RFP for a WHPP local grants program, in the total amount of $40,000.

Action Items

- EPA requests a copy of the instructional report (pamphlet) on pump yield and

drawdown test methods upon completion.

- EPA requests that the state report on the status of the RFP process in "Task 3.3.0" of the next progress report.
- EPA requests that the state provide a list and description of the grantees once the WHPP grant awards are made.

With regard to outputs/outcomes of the set-asides workplan, EPA believes the state should provide more quantitative information. The following should be included in the next progress report:
Outputs, p.32.

- I. Status report on the WHPP grant program for CWS.
- J. Summary of actions taken to inspect and inventory potential Class V injection wells and UST's in source water protection areas.

Outcomes, p.33.

- F. Summary on the implementation of local voluntary source water protection programs. This summary would include descriptive along with statistical summary of implementation activities.
- G. Report on the various SWP tools, used to increase the awareness of source water protection concepts.

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.

Concern

The state has identified funds not disbursed as originally intended in prior grants for 15% local assistance set-aside due to shortage of staff. WVDHHR is in the process of drafting a supplemental set-aside workplan which includes contract support that will significantly increase the completion of work activities which was stagnate by using only in-house staff. Supplemental activities will provide additional source water protection and technical pre-construction assistance. WVDHHR plans to submit the supplemental workplan to EPA by December 31, 2006.

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 in accordance with regulating drinking

water 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.

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., development of a drinking water educational program for an elementary school, provide brochures and handouts at conferences and to civic organizations as well as develop training videos, public library resources and information articles for trade magazine(s) to assist water systems.

Operator Certification
Expense Reimbursement Grant (ERG)

Financial Summary

On September 30, 2003, EPA awarded WVDHHR's Expense Reimbursement Grant (ERG) totaling $1,437,900 in support of continuous education and certification of operators at small community and non-transient non-community water systems. Since the last reporting period, the state has drawn down six percent (6%) of the funds.

Grant Expenditures - as of December 2006

Funds Awarded	Funds Expended	Percent Expended
$1,437,900	$96,941.33	6%

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 are being provided through 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 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 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 a proposal for card swipe technology to be utilized by operators for security purposes and tracking continuing education units and also providing circuit riders to do training through a contract to include security training. 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 expended in the next 2 years. WVDHHR should soon finalize a new workplan for these funds or begin considering a transfer to the DWSRF project fund. EPA will continue to monitor state spending closely.

Action Item

The state must show that current funds will be used in a timely manner. EPA reminds the state to provide <u>detailed</u> information in the next progress report on the activities of this ERG grant with a status of expenditures. Status of expenditures should be submitted with the end of year report due August 15, 2007. EPA is currently working with the state to revise the format of the PWSS Guidance and Checklist to provide for adequate space for the requested information.

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 December 2006

Funds Awarded	Funds Expended	Percent Expended
$407,300	$239,787.54	59%

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 for would-be terrorists and vandals, notifying of related federal and state penalties.

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.

Outputs

1. Review Emergency Response Plans (ERPs) and provide follow-up technical assistance to water systems on areas of improvement to their own ERPs.
2. Continue to provide cell phones and pagers to 25 key district and central management staff.
3. Employ one (1) summer intern to update water systems' email and contact information.

4. Develop "DO NOT TAMPER" warning signs for distribution to community and non-transient, non-community water systems.

Outcomes

1. Improved protection of water system critical infrastructure.
2. Provide additional informational tool to water systems for assistance in enhanced security.
3. Reduced time required conveying important and critical security alerts to water utilities, general public, local police, emergency responders, and others involved in response and readiness procedures.
4. Improved emergency response coordination and communication.

Concerns

EPA continues to stress concern regarding WVDHHR's sparse 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 build-up of large amounts of funds not being used expeditiously: 1) the state submitting sufficient financial detail from previous-year awards; 2) its plans for spending the new funds; 3) the need to address outputs and outcomes in workplans; 4) providing financial information which enables EPA to assess progress being made against an approved workplan.

Action Item

The state must show that current funds and estimated future expenditure rates will be used in a timely manner. EPA reminds the state to provide detailed information in the next progress report on the activities of this security grant with a status of expenditures. Status of expenditures should be submitted with the end of year report due August 15, 2007. EPA is currently working with the state to revise the format of the PWSS Guidance and Checklist to provide for adequate space for the requested information.

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 end of year 2006. 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

- Continue working towards the national 2008 goal of 50% of CWS and associated population protected through substantial implementation of strategies. (page 8)
- Submit copy of pamphlet on pump yield and drawdown test methods upon

completion. (page 13)

- Report on status of RFP process. (page 13)
- Provide list and description of WHPP grantees once awards are made. (page 13)
- Report on the status of the WHPP grant program. (page 14, output I.)
- Provide a summary of actions taken regarding Class V injection wells. (page 14, output J)
- Provide a summary on the implementation of local voluntary source water protection programs. (page 14, outcome F)
- Report on various SWP tools. (page 14, outcome G)
- Status of expenditures for the ERG. (page 16)
- Status of expenditures for Security grant. (page 18)

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. Show the funding source associated to each FTE (filled and vacant). (page 4)
    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.

- Annual Operator Certification Report - June 30, 2007. (page 11)
- Conduct external review to be reported in June 2007 Report. (page 11)

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

AUG 1 2 2005

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~~ Barbara:

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

The enclosures consist of a comprehensive report and the Mid-Year 2005 program guidance/reporting checklist and evaluation tool (without attachments). This report incorporates information from the semi-annual progress reports submitted by the EED, information gathered from our on-site visit on July 11-14, 2005, telephone and email follow-up, and communication within EPA covering the activities from Federal Fiscal Year (FY) 2004 through Mid-Year 2005.

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

Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474

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

- EED receiving timely statements from the Attorney General for recently adopted revised regulations;
- the lack of detailed reporting to EPA on all assistance agreements, including expenditures; and
- data management and reporting to SDWIS/Fed.

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

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

Sincerely,

For Victoria Binetti, Associate Director
for Municipal Assistance

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

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

Introduction

This Mid-Year Review provides a review and evaluation of the West Virginia Department of Health and Human Resources (WVDHHR) Environmental Engineering Division's (EED) performance, in meeting its commitments for Mid-Year 2005. This review covers the 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 properly managed and accounted for.

Method of Review

A file review was conducted during Mid-Year 2005 including consultation with EPA's Drinking Water Branch, Safe Drinking Water Act Branch and Municipal Financial Assistance Branch staff. Additional telephone conversations and email follow-up occurred between EPA and WVDHHR. An on-site visit and review was conducted from July 11-14, 2005.

Contents of this Report

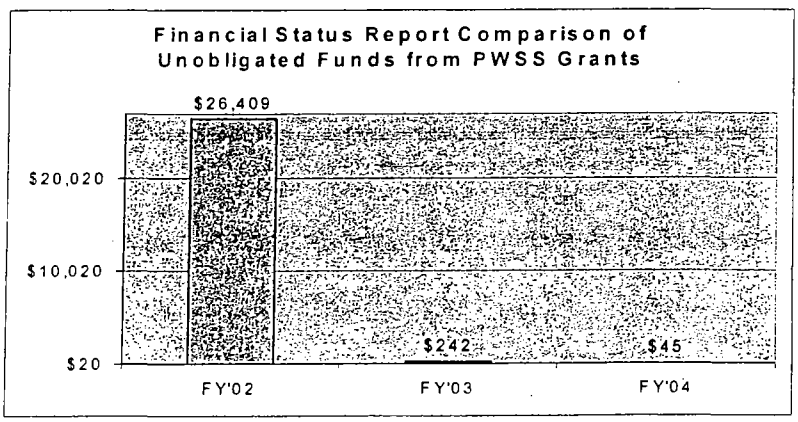
- PWSS Program Activities
- Drinking Water State Revolving Fund (DWSRF) Set-Aside Funded Activities
- Operator Certification Program
- Expense Reimbursement Grant (ERG)
- Water Protection Coordination (Security) Grant
- Conclusion, Recommendations and Reminders

SDWIS indicates for the year 2004, 95% of the percentage of population served by West Virginia's community water systems received drinking water that met all health based standards thus, meeting EPA's strategic goal for 2004.

Public Water System Supervision (PWSS) Program

Financial Summary

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



In light of annual federal budget rescissions in FY'03 and FY'04, WVDHHR has been able to utilize monies left over from previous grant awards. With the uncertainty for future federal

Freedom_0005779_0242

budget cuts, EPA advises WVDHHR to monitor spending closely in FY'05 and when projecting budgets for future PWSS Grants, continue to plan appropriately and utilize funds efficiently.

FY'05 Grant Expenditures - as of June 2005

Funds Awarded	Funds Expended	Percent Expended
$834,700	$575,358	69%

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

Personnel/Staffing

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

Reminder

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

Freedom_0005779_0243

New Regulation Development

WVDHHR has been diligent in adopting new and revised regulations. EPA approved revisions to West Virginia's PWSS Program for the following rules:

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

Highlight

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

Concern

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

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

Action Item

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

Freedom_0005779_0244

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 has a total of 159 Subpart H systems. In 2004, the state completed 169 sanitary surveys and 62 to date in 2005. These numbers reflect sanitary surveys conducted at all types of water systems (CWS, NTNWCW and TNCWS) scheduled for an annual inspection.

Action Item

WVDHHR's SDWIS/State database accepts sanitary survey dates, but does not track this information for Subpart H systems separate from non-Subpart H systems. Once the sanitary survey data is uploaded to SDWIS-Fed, EPA can query this data seperately for Subpart H systems. EPA strongly encourages WVDHHR to upload the dates of their sanitary surveys to SDWIS/Fed (choose option to migrate site visit) so that we can determine whether the state is conducting sanitary surveys at 100% of the Subpart H systems at the required frequency.

Groundwater Under the Direct Influence (GUDI) Determinations

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

WVDHHR identified two systems (a community and transient noncommunity) that chlorinate into the well. The main tests used to make a GUDI determination are the bacteriological analysis and review of the water temperature stability. Discontinuation of chlorination to collect the raw water samples from the well is necessary. Since this would be difficult to do with the community water system without posing a risk to public health, WVDHHR used the turbidity data to make a GUDI determination. The data showed the well was under direct influence of an adjacent stream. At the transient non-conimunity water system, a sanitarian from the WVDHHR Philippi District Office was onsite to direct the sampling. The chlorination was discontinued and the well

Freedom_0005779_0245

was flushed of all chlorine before taking water samples. This system was determined not to be under the direct influence of surface water because of the test results and the stable water temperature.

Reminder

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

Capacity Development

WVDHHR's Capacity Development Program is now fully staffed, which is key to making sure water systems get the assistance they need to strengthen their capability to deliver safe potable water. Assistance provided to water systems through field staff and the Capacity Development Team include the development of: Capital Improvement/Financial Plans, a generic Health & Safety Plan, a generic, fill-in-the blank diskette to generate the annual Consumer Confidence Report, and a Cross-Connection and Backflow Prevention Policy Manual.

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

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

183/1414 = .129

Highlights

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

Freedom_0005779_0246

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

Reminder

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

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

Data Management

Status of Action Items from 2002 Data Verification

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

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

Highlights

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

Freedom_0005779_0247

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

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

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

The March 8, 2004 memo from the EPA Office of Ground Water Drinking Water regarding state non-reporting to SDWIS stated that West Virginia's data for the Lead and Copper Rule (LCR) showed no sampling results for the 90th percentile determinations for the period January 2000 through September 2003 for large and medium public water systems. It was determined that this problem was occurring because WVDHHR was reporting the 90th percentile results in SDWIS/State but was not using the module that uploads the data to SDWIS/Fed. The state responded, with the assistance of a contractor, to have the data loaded into SDWIS/Fed. Now that the LCR data is current, EPA encourages WVDHHR to maintain the accuracy of data in SDWIS/State and ensure timely uploads to SDWIS/Fed.

Action Item

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

Recommendation

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

Annual Compliance Reports

Freedom_0005779_0248

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

Laboratory Certification

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

Quality Assurance Monitoring Plan (QAMP)

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

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

DWSRF Financial Summary

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

Set-aside Funded Expenditures

WEST VIRGINIA SET-ASIDE UTILIZATION FOR ALL GRANTS Cumulative as of June 2005				
	Technical Assistance 2%	Program Management 10%	Local Assistance 15%	Total

Freedom_0005779_0249

CUMULATIVE AWARDED	$1,002,571	$4,314,892	$5,369,676	$10,687,139
EXPENDED	$985,035	$3,724,401	$3,836,759	$8,546,195
% EXPENDED	98.3%	86.3%	71.5%	80.0%
CASH DRAWN	$985,035	$3,516,575	$3,726,088	$8,227,698

Source Water Assessment & Protection Programs

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

The first phase of the Underground Injection Control (UIC) Program contract with the Department of Environmental Protection (DEP) is complete. DEP has completed 1,308 site assessments which involved inspections and inventories of any/all potential Class 5 injection wells and underground storage tanks within the source water areas. The second phase, now in progress, is to evaluate the potential risk to drinking water sources being contaminated from these injection wells and taking the necessary regulatory action to eliminate that risk.

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

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

Highlight .

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

Program Management

Regulations have been revised to establish a formal cross connection/backflow prevention program and tester certification requirements. This program will require backflow prevention

Freedom_0005779_0250

devices to be inspected by a certified backflow prevention tester once a year. WVDHHR developed a full certification class for backflow prevention assembly testers to be held twice a year. Five (5) courses were held in 2004.

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

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

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

Other program management activities include:

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

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

Operator Certification Program

Program Review

Freedom_0005779_0251

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

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

Highlights

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

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

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

Operator Certification
Expense Reimbursement Grant (ERG)

Freedom_0005779_0252

Financial Summary

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

Grant Expenditures - as of June 2005

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

Program Review

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

Concern

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

Action Item

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

Water Protection Coordination Grant (Security)

Financial Summary

Freedom_0005779_0253

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

Grant Expenditures - as of June 2005

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

Program Review

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

Development of Emergency Response Assistance Materials

WVDHHR has assisted eighty-seven (87) systems with self-assessments for vulnerability and responded to telephone questions regarding submission of vulnerability assessments. Security Kits have been mailed to 555 community water systems. These "kits" assist water systems with vulnerability self-assessments and development of emergency response plans. WVDHHR is in the process of selecting a contractor for the printing and mailing of one thousand (1,000) assistance packages, including e-versions. Once the contractor is obtained, these assistance packages will go out to all public water systems.

Public Water System Owner Training

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

Rapid Communication Process

Freedom_0005779_0254

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

Concerns

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

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

Action Item

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

Conclusions, Recommendations and Reminders

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

Action Item

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

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

Recommendations

Freedom_0005779_0255

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

Reporting Reminders

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

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

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

- Capacity Development Report to the Governor - October 1, 2005. (page 6)

- Update Baseline Priority Ranking - December 31, 2005. (page 6)

Freedom_0005779_0256

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

MAY 1 3 2003

Barbara S.Taylor, Director
Office of Environmental Health Services
West Virginia Bureau for Public Health
Commissioner's Office
Room 702
350 Capital Street
Charleston, WV 25301-3712

Dear Ms. Taylor:

This is to transmit the FY 2002 End-of -year Grant Report on the Environmental Protection Agency (EPA) review of the Public Water System Supervision (PWSS) Program and activities supported by the funds set aside from the Drinking Water State Revolving Fund (DWSRF) for the West Virginia Department of Health and Human Resources (WVDHHR). This Report consists of an Executive Summary and printouts of the workplan activities for the PWSS Program and DWSRF program, including the current status of each grant activity, as well as financial data for the DWSRF program activities. This evaluation was based on a June 2002 data verification audit and from review of progress reports from the drinking water program.

Please review the enclosed report. If you have any questions, please do not hesitate to call me at (215) 814-5435 or have your staff contact Rick Rogers at (215) 814-5711.

Sincerely,

Lorraine Reynolds

Lorraine H. Reynolds, Acting Associate Director
Office of Municipal Assistance
Water Protection Division

Enclosure

Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474

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

Barbara S.Taylor, Director
Office of Environmental Health Services
West Virginia Bureau for Public Health
Commissioner's Office
Room 702
350 Capital Street
Charleston, WV 25301-3712

Dear Ms. Taylor:

This is to transmit the FY 2002 End-of-year Grant Report on the Environmental Protection Agency (EPA) review of the Public Water System supervision (PWSS) Program and activities supported by the funds set aside from the Drinking Water State Revolving Fund (DWSRF) for the West Virginia Department of Health and Human Resources (WVDHHR). This Report consists of an Executive Summary and printouts of the workplan activities for the PWSS Program and DWSRF program, including the current status of each grant activity, as well as financial data for the DWSRF program activities. This evaluation was based on a June 2002 data verification and from review of progress reports from the drinking water program.

Please review the enclosed report. If you have any questions, please do not hesitate to call me at (215) 814-5435 or have your staff contact Rick Rogers at (215) 814-5711.

Sincerely,

Lorraine H. Reynolds, Acting Associate Director
Office of Municipal Assistance
Water Protection Division

Enclosure

G:\user\share\Drinking Water Info\WV EvalRprt and Cvrltr for FY 02 - FINAL.wpd

CONCURRENCES

SYMBOL	3WP22	3WP22	3WP20	3WP20				
SURNAME	W. Johnson	D. Weiss	R. Rogers	L. Reynolds				
DATE		4/23/02						

EPA Form 1320-1 (12-70) OFFICIAL FILE COPY

Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474

REVIEW OF PUBLIC WATER SYSTEM SUPERVISION (PWSS) PROGRAM AND ACTIVITIES SUPPORTED BY THE FUNDS SET ASIDE FROM THE DRINKING WATER STATE REVOLVING FUND (DWSRF)

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

EXECUTIVE SUMMARY

INTRODUCTION:

This End-of-year Report provides the status of the performance of the Grantee Agency in meeting the program activities for FY'02 (October 1, 2001 - September 30, 2002). The report is presented in two parts. The Executive Summary provides brief discussions of the Grantee Agency's strengths and those areas where EPA has concerns. The detailed enclosures provide the end-of-year status on each activity for the PWSS and DWSRF programs. The Grantee agency 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 THIS REPORT:

To provide the end-of-year status of the PWSS and DWSRF grant activities for FY 2002.
To highlight the Grantee Agency's strengths from EPA's perspective.
To indicate areas of concern regarding the Grantee Agency's performance.

STRENGTHS & AREAS OF CONCERN:

Strengths: Under the 1999 Corrective Action Plan, West Virginia Department of Health and Human Resources (WVDHHR) has made great strides in rectifying deficiencies and improving staffing levels. Over half of the vacancies have been filled which contributes in part to the considerable decrease in the number of systems with violations as well as the number of violations per system. Ground Water Under the Direct Influence (GUDI) determinations are close to completion.

WVDHHR is to be commended for staying on top of adopting new regulations. Interim primacy has been granted for the Interim Enhanced Surface Water Treatment Rule (IESWTR), Consumer Confidence Report (CCR) and Stage 1 Disinfectant/Disinfection Byproducts (D/DBP) Rules. It is successfully implementing its Capacity Development Authority Program. Assessments were completed on the 737 community and non-community water systems for submission of the baseline priority ranking for these systems. The Operator Certification Program has been approved, and a 20% loss in Drinking Water Treatment Revolving Fund (TRF) grant funding was avoided by a timely submission of a Capacity Development Report to the Governor.

Areas of Concern: EPA recommends that WVDHHR make it a priority to get all of its systems back on schedule for collecting Lead and Copper Rule (LCR) samples once every three years. EPA has not been provided with any documentation by the state that it had approved a less frequent sampling schedule.

EPA has some concern about timely completion of source water assessments. WVDHHR did not meet the May 1, 2003 deadline, for completing all of the source water assessments. Its lengthy process for getting contracts in place is the main reason for the delay, but loss of key personnel is also a contributing factor. EPA encourages the state to complete all source water assessments as soon as possible.

Action Items: EPA suggests that the state place emphasis on data tracking and staff training. Now that WVDHHR is close to operating at full staff, it is recommended that its focus be on tracking all public notice (PN) violations, radiological contaminants, and getting all personnel adequate technical training on the SDWIS/State system and on new regulations. EPA is available to assist WVDHHR in training staff.

EPA also requests that the state continue to report on its staffing and GUDI status. GUDI reporting should include a breakdown of types of systems as well as indicating the stage in the process each system has reached. For vacancies, WVDHHR should submit a current organization chart with a list associating vacancies with one of the three funding sources (PWSS, TRF or State) and a status on the filling of each vacancy.

CONCLUSION

This End-of-year report summarizes the performance of the WVDHHR in meeting the grant activities for the October 1, 2001 - September 30, 2002 period. Except for the above-mentioned areas of concern, the state has been meeting its grant requirements for the current fiscal year and is continuing to fulfill its responsibilities under the PWSS and DWSRF programs. The feedback provided by the state in its progress reports has been very useful to EPA for gaining a better understanding of the program status on each activity.

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

FEB 2 2 2002

Henry G. Taylor, M.D., M.P.H.
Commissioner
West Virginia Bureau for Public Health
Commissioner's Office
Room 702
350 Capital Street
Charleston, WV 25301-3712

Dear Dr. Taylor:

A review of West Virginia's Public Water Systems Supervision (PWSS) program and Drinking Water Treatment Revolving Fund (TRF) Set-Aside Funded Activies has been completed for Federal Fiscal Years (FY) 1999 through 2001. The evaluation was based on a December 1999 site visit and progress reports from the PWSS and TRF grant workplan and the October 19, 1999 Corrective Action Plan.

Due to program deficiencies, the PWSS program began operating under a Corrective Action Plan in October 1999. The Plan contained over 60 strategic objectives that the program hoped to complete during Federal fiscal year 2000. The main impetus behind the plan was to build the Bureau's capacity to accomplish these objectives by filling numerous vacancies. There was a concern not only for the work that was not getting done at the time, but also for the rapidly increasing level of work expected in the near future. The state has accomplished most objectives on time and is on track to complete the remaining objectives soon. This can be attributed to the significant improvements made in maintaining adequate staffing levels.

Although the state is behind schedule in two key areas (evaluating ground water systems for the influence of surface water (GUDI) and hiring), it is in position to get back on track. If the program can attract more employees and retain its current employees, then it should be in good shape to stay on schedule with current responsibilities and be prepared to handle future ones as well. The U.S. Environmental Protection Agency (EPA) requests that the state continue to report on its progress with the Action Plan at the same time as the semi-annual PWSS and TRF progress reports. Since most of the activities have been completed, the reporting should include a status of hiring and a detailed progress report on GUDI determinations, broken down by types of systems and indicating the stage in the process each system has reached. For the hiring status, EPA requests a current organization chart, a list associating vacancies with one of the three funding sources, PWSS, TRF or state, and a status of filling each vacancy.

If you have any questions, please contact me at (215) 814-5725 or have your staff contact Victoria P. Binetti at (215) 814-5757.

Sincerely,

Rebecca Hanmer

Rebecca Hanmer, Director
Water Protection Division

Enclosure

We are heartened by your progress. Keep up the good work! Call on us if we can help.

U.S. Environmental Protection Agency
Public Water System Supervision Program
Drinking Water Treatment Revolving Fund Set-Aside Funded Activities
Federal Fiscal Year 1999 -2001 Report

West Virginia Department of Health and Human Resources
Office Of Environmental Health Services
Environmental Engineering Division

February 14, 2002

A review was conducted for the Public Water System Supervision (PWSS) and Drinking Water Treatment Revolving Fund (TRF) programs of the West Virginia Department of Health and Human Resources (DHHR) for fiscal years 1999 through 2001. As a result of previously identified program deficiencies, the PWSS program began operating under a Corrective Action Plan in October 1999. The Plan contained over 60 strategic objectives that the program hoped to complete during fiscal year 2000. The main impetus behind the plan was to build the capacity of DHHR's Environmental Engineering Division's (EED) to accomplish these objectives by filling numerous vacancies. There was a concern not only for the work that was not getting done at the time, but also for the rapidly increasing level of work expected in the near future. DHHR accomplished most objectives on time and is on track to complete the remaining objectives soon. This can be attributed to the significant improvements made in hiring and maintaining staff.

Although great strides have been made, there is still a need for continued support and vigilance to ensure further progress. Under the Action Plan, the state reorganized EED, increased some salaries and reclassified some positions. This allowed the state to reduce vacancies and retain current staff, but there are still a few key positions that the state is having trouble filling or keeping filled. Fortunately, this deficit in staffing levels has yet to have a major impact on the state completing its responsibilities under the PWSS and TRF workplans. This may not be the case in the next few years if continued progress is not seen in the staffing situation. Over the next few years, numerous new regulations become effective for small systems which can be expected to need an even greater level of assistance than they currently receive. Additionally, the required frequency for conducting sanitary surveys will increase significantly which will require full staffing levels in the district office in order to maintain compliance with this requirement.

The 1998 annual report indicated a problem with the quality of the data in the state's database and with the data that is submitted to the U.S. Environmental Protection Agency (EPA). The state has made significant strides since then. DHHR is to be commended on the excellent clean-up of violation and enforcement data of the past decade (1990 - 1999). The state has also put a lot of effort into correcting data that are rejected by the Federal database (SDWIS-FED). DHHR is also to be commended on its completion of sanitary surveys. In past years, due to lack of staff in the district offices, sanitary surveys have fallen behind schedule, but in FY 2001, DHHR exceeded their goals. This is particularly impressive considering numerous district

office staff from around the state had put aside their regular work aside to deal with the two flood emergencies. It should also be noted that, under the TRF set-aside funded activities, the state avoided losing 20% of their TRF grant by having their Capacity Development Plan and Operator Certification Program approved on time. Source water protection assessments and the adoption of the latest drinking water regulations are also on track to be completed on time.

Although the state is behind schedule in two key areas (evaluating groundwater systems for the influence of surface water (GUDI) and hiring), it is in position to get back on track. If the program can attract more employees and retain its current employees, then it should be in good shape to stay on schedule with current responsibilities and be prepared to handle future ones as well. The Environmental Protection Agency (EPA) requests that the state continue to report on its progress with the Action Plan at the same time as the semi-annual PWSS and TRF progress reports. Since most of the activities have been completed, the reporting should include a status of hiring, including a current organization chart, a list associated vacancies with one of the three funding sources, PWSS, TRF or state and a status of filling each vacancy, a detailed progress report on GUDI determinations broken down by types of systems indicating the stage in the process each system has reached.

The following checklist covers all of the activity in the state's workplan for fiscal years 1999 and 2000. The checklist contains a column for each year. An 'x' in the column indicates the activity has been completed while a (-) indicates that the activity did not pertain to that year. A blank space indicates that the activity was not completed on time or to the fullest extent, although it could have been completed partially or after the deadline. When appropriate, the "Comments" column provides further explanation.

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

JUL 22 1999

Henry G. Taylor, MD, Commissioner
Bureau of Public Health
Building 3, Room 518, State Capital Complex
Charleston, WV 25305

Dear Dr. Taylor:

A review of the State of West Virginia's Public Water System Supervision Program (PWSS), under the Office of Environmental Health Services (WVOEHS), for federal fiscal year 1998 was conducted by the U.S. Environmental Protection Agency (EPA) Region III office during July 1998. The enclosed document is a summary of EPA's evaluation of the state's program based upon this review and an August 1997 data verification conducted by Cadmus, an EPA contractor. The review enabled us to assess program progress and determine the state's ability to maintain a functional program in the future in light of the numerous regulations expected to be promulgated in the next few years. This report has been delayed because EPA was holding the report to allow WVOEHS an opportunity to respond to a data audit report, to install the state version of the Safe Drinking Water Information System and to address some program needs through the Drinking Water State Revolving Fund, all of which EPA had hoped would improve the status of the program.

As you are aware, the Safe Drinking Water Act (SDWA) Amendments of 1996 created a large number of new program responsibilities that will entail a significantly increased workload for your staff. These new responsibilities include Source Water Assessment and Protection, Operator Certification, System Capacity Development, State Revolving Fund management, eleven new regulations and two existing regulation updates.

Although there are positive aspects of West Virginia's program, including technical assistance to small systems, WVOEHS does not have adequate staffing capabilities to fully implement all of the new requirements in the 1996 Amendments. Through the Drinking Water State Revolving Fund (DWSRF), funding has been provided to add additional staff. However, the state has been unable to fill the 20 newly budgeted technical positions. The state is already unable to commit to the early implementation activities of the Consumer Confidence Report Rule and the Interim Enhanced Surface Water Treatment Rule. If the state is unable to implement these regulations, EPA must consider withdrawing grant funds from the fiscal year 1999 grant and withholding future grant funds in order to cover our costs to implement the rules for the state.

Additionally, EPA cannot approve primacy applications for regulations that cannot be implemented. This would threaten overall primacy retention because EPA does not have any provisions that allow for partial primacy. If primacy is revoked, the state will lose all of its PWSS and DWSRF grant dollar amounts ($831,000 and $14,585,100 respectively in fiscal year 1999). The state needs to take immediate action to remedy the staffing problem or risk losing primacy. To avoid any loss of grant funds, please provide us, within 30 days, the state's plan to:

1) improve the under-staffing issue; and

2) correct the deficiencies detailed in this report.

This corrective action plan should be ambitious and include specific action items. A schedule should be included that includes milestone accomplishments.

If you have any questions or comments about this report, please contact me at (215) 814-2050 or have your staff call Victoria Binetti at (215) 814-5757.

Sincerely,

Thomas J. Maslany, Director
Water Protection Division

cc: C. Russell Rader, Jr., P.E., Director
Office of Environmental Health Services

Enclosure

U.S. Environmental Protection Agency
Public Water System Supervision Program
Fiscal Year 1998 Annual Report

West Virginia Department of Health and Human Resources
Office Of Environmental Health Services
Environmental Engineering Division

June 10, 1999

Executive Summary

On July 22, 1998, the U.S. Environmental Protection Agency (EPA) Region III Drinking Water Branch conducted the FY '98 annual review of the West Virginia Public Water System Supervision (PWSS) program as implemented by the West Virginia Department of Health and Human Resources, Office of Environmental Health Services (WVOEHS). This review consisted primarily of an assessment of the WVOEHS's implementation of the various National Primary Drinking Water Regulations; evaluation of data management, reporting and enforcement activities; and a review of the state's sanitary survey program and laboratory activities. This review, combined with the August 1997 data verification conducted by Cadmus, an EPA contractor, were used to develop this report.

Strengths of the PWSS program include requiring all surface water systems to filter and all systems to disinfect, incorporating upcoming regulations into current operator training classes, achieving 100% compliance for Total Trihalomethane (TTHM) monitoring and reporting (M/R), upgrading the program's data management system to Safe Drinking Water Information System (SDWIS)/LAN-NT, addressing 100% of the significant non-compliers in FY '98 and continuing the invaluable technical assistance program for small systems.

Areas that need improvement include completing the evaluation of all ground water systems for the influence of surface water (GUDI). The deadline for community ground water systems to be evaluated was June 29, 1994, while the noncommunity ground water systems' evaluation deadline is June 29, 1999. Only about 9% of all ground water systems have been evaluated thus far including about 30% of community water systems supplied by ground water. Another area of concern includes the lack of a public notification tracking program. The state is not aware when a system fails to issue a public notification as a result of a violation. Data management and initiating a continuing education program for operators are other areas of concern. The August 1997 data verification revealed several areas where there were large discrepancies between the data in SDWIS/FED and the data in the state files. The areas with the highest discrepancy rates include Total Coliform Rule, Lead and Copper Rule and nitrate monitoring and reporting violations, and inventory and enforcement data discrepancies. The required corrective action plan to address the discrepancies noted in the data verification has not been submitted to EPA.

Finally, under-staffing is a problem that impacts all areas of the program. Currently, the state does not have an adequate number of qualified full-time employees (FTEs) to fully implement the drinking water program. The possibility of correcting this problem in the near future is remote due to the trouble the state is having with attracting qualified engineering and other professional personnel to fill vacancies. This is becoming a critical issue due to the new rules that were recently promulgated and the numerous new rules coming in the near future. Ultimately, if the under-staffing situation does not improve, the state risks losing its primacy status and associated funding. The retention of state primacy is required for continuation of the state's drinking water revolving fund (SRF) program.

Some of the areas of concern will be addressed in FY '99. Grant funds set aside from the SRF will be used to enter into a contract with the United States Geological Survey (USGS). Under this contract, the USGS will train the district engineers in conducting GUDI determinations. This should increase the number of ground water systems analyzed in FY '99. Also, the upgrading of the data management system, along with connecting the district offices to the system, should lower the data discrepancy rates. Additionally, the implementation of a self-audit program that is conducted regularly could, if instituted, aid the state in determining progress in improving the data and indicating where more attention should be focused. Finally, a provision in the FY '99 workplan by which the state will begin tracking public notice violations and entering all violations into SDWIS will help improve compliance with public notification requirements. However, all these activities will require a full contingent of highly qualified personnel. Without addressing the personnel problems, it is doubtful that all the required programs to retain primacy under the Safe Drinking Water Act can be accomplished.

While some actions are planned or underway in FY '99, the state must develop and implement a plan to aggressively address these deficiencies. Although it is not exhaustive, Table 1 identifies several significant areas of needed improvement. These and other concerns should be addressed by a corrective action plan that details how the work will be completed and on what schedule. This schedule should include milestone dates.

U.S. Environmental Protection Agency
Public Water System Supervision Program
Fiscal Year 1998 Annual Report

West Virginia Department of Health and Human Resources
Office Of Environmental Health Services
Environmental Engineering Division

June 10, 1999

Background

The Safe Drinking Water Act (SDWA) was passed by Congress in 1974. The purpose of the Act is to ensure that consumers are provided safe drinking water by their public water systems. A Federal drinking water program, the Public Water System Supervision (PWSS) program, was established to delegate authority to state agencies (called primary enforcement authority, or primacy) for implementing the provisions of the SDWA. The SDWA also provides for grant funds to be awarded to states with primacy. West Virginia's Office of Environmental Health Services (WVOEHS), within the Department of Health and Human Resources, was delegated primacy in 1978 to implement the PWSS program. In 1998, the Department received $854,000 of Federal assistance to run their program.

Annual reviews of the state's drinking water program are conducted to assess the progress of the state in completing all of the tasks specified in their workplan. This report is the product of the review that was done as an on-site visit during July 1998 by Jason Gambatese, West Virginia's PWSS program manager, and through the data verification performed by a U.S. Environmental Protection Agency (EPA) contractor, Cadmus, during August 1997.

EPA has developed a State Program Priority Guidance (April 1996). The guidance identifies priorities for state PWSS programs and has been used in workplan negotiations. In issuing the guidance, EPA acknowledged that states have been unable to accomplish all of the required activities on schedule due to funding shortfalls. However, with availability of funds set aside from the State Revolving Fund (SRF), Region III believes that state programs should have sufficient funding to cover all aspects of the SDWA, and starting with fiscal year (FY) '99, the priority guidance will no longer be used. For FY '98, states should have focused existing resources on those activities that would maximize public health protection. The guidance has program core activities and for each rule (Total Coliform, Surface Water Treatment, Phase II/V, and Lead and Copper) and other regulated chemicals, implementation priorities are broken down into three stages. The state program core activities and the Priority I rule implementation activities represent the minimum expectations of every state. WVOEHS has implemented the core activities and Priority I, II and III rule activities for about half of the existing rules.

The West Virginia drinking water program has been chronically understaffed. In FY '97, there were 42 full time employees (FTEs) for the central and district offices. In FY '98, the state

applied for the same number of FTEs. In order to maintain an adequate PWSS program, the state needs to add FTEs. The FY '97 Drinking Water State Revolving Fund (SRF) budget allocated money to fund additional FTEs. The state has had trouble filling these vacancies, apparently due to the fact that the salaries they have to offer are not competitive. This issue has also impacted current employees with an increase in work load due to a reduction in staff. In FY '98, five staff members left the WVOEHS and the Office had only been able to replace one of them as of July 23, 1998.

Regulation Implementation

Total Coliform Rule (TCR)

Every portion of the rule is being implemented including enforcing additional routine sampling the month following a positive sample. WVOEHS does not allow for reduced sampling frequencies. Proper records are kept of invalidation of a positive coliform sample and extension of the 24-hour limit for repeat sampling. Site sampling plans are reviewed during sanitary surveys.

According to WVOEHS, they have achieved about a 97% compliance rate for monitoring and reporting for the TCR and over 95% of the systems are using the proper sampling frequency. Human error and lack of intent in complying with the regulations on the part of the public water systems (PWSs) are the reasons for a less than 100% compliance rate. The data verification revealed a 25% total discrepancy rate between the state files and the Safe Drinking Water Information System (SDWIS) database for monitoring and reporting with 59% for transient non-community water system (TNCWSs).

WVOEHS conducted 250 sanitary surveys in FY '98. That is slightly more than number of surveys conducted in FY '97 (247). Community water system (CWS) and nontransient non-community water system (NTNCWS) sanitary surveys are conducted on a five-year cycle while TNCWSs are conducted on a greater than ten-year cycle due to the lack of staff. Sanitary surveys for TNCWSs need to be done with greater frequency since the current Federal requirement is one sanitary survey every ten years for TNCWSs. This will become an even greater problem with the implementation of the Interim Enhanced Surface Water Treatment Rule (beginning December 2001) when the required frequency of the surveys increases. We understand that the lack of proper frequency of the surveys is due to staffing problems. If the state cannot increase staff levels, then it should consider other alternatives. The order of surveying is determined by the size of the system (smaller systems surveyed first) and the system's vulnerability. The completed surveys are sent to the systems and the discrepancies are addressed during annual site visits or immediately if deemed a major problem. Although it is not a Federal reporting requirement, WVOEHS enters the survey dates into the SDWIS.

Surface Water Treatment Rule (SWTR)

All surface water systems in the state are filtered. However, 25 Groundwater Under Direct Influence of Surface Water (GUDI) systems are yet to be filtered. Of those 25, 13 are on schedule to install filtration while 12 have been issued a violation for failure to filter and the violations have been entered into SDWIS. The state will continue to work with the remaining unfiltered systems to ensure they become filtered. WVOEHS requires all surface water systems to filter and all systems to disinfect. West Virginia has achieved about 97% monitoring and reporting compliance with the

SWTR. The state does keep track of reported waterborne disease outbreaks. There were none reported in FY '97 and '98.

GUDI determinations have been made for only 98 (80 CWSs) state's 1113 groundwater systems (270 CWSs). Evaluations of the community water systems should have been completed by July 1994 and those of the noncommunity systems should be complete by July 1999 according to the SWTR. Money from the State Revolving Fund will be used to enter into a contract with the United States Geological Survey (USGS) in order to obtain the technical information needed to accurately complete the GUDI determinations. Evaluations have ceased until this information is obtained. WVOEHS should use this technical information and put forth significant effort in order complete the determinations as soon as possible. The order in which groundwater systems are evaluated is based primarily on susceptibility to contamination and secondly on system size (larger first).

In anticipation of the upcoming Interim Enhanced Surface Water Treatment Rule and Stage 1 Disinfectants/Disinfection Byproducts Rule, the state is conducting in-house training for its staff, is incorporating information into its operator training courses and is coordinating efforts with the West Virginia Rural Water Association to inform smaller systems. EPA developed a letter of agreement checklist for EPA and the state to formalize the joint implementation effort required for the early implementation activities of the Interim Enhanced Surface Water Treatment Rule. Due to the current staffing problems and potential for greater difficulties in the near future, WVOEHS does not feel confident enough to commit to fully conducting all of the activities and thus will not sign the agreement.

According to WVOEHS, they have achieved 100% compliance for Total Trihalomethane (TTHM) monitoring and reporting.

Lead and Copper Rule (LCR)

According to WVOEHS, over 90% of the CWSs and NTNCWSs have complied with the monitoring and reporting requirements and all portions of the rule have been implemented. Based on the findings from the data verification, it was determined that the state did not issue multiple violations for continually failing to conduct initial monitoring. That has since been corrected. There are 28 systems that are on the significant non-compliance list for LCR. Most of those systems have never monitored. The data verification revealed a 55% total discrepancy for monitoring and reporting (M/R) with 75% for NTNCWSs and 38% for CWSs. No milestones concerning corrosion control have been reported to SDWIS. Studies, recommendations, and state treatment decisions for corrosion control were not generally found in the files.

For large systems, both the 90th percentile and highest source-water lead levels were less than the practical quantitation level (PQL).

In the event of a lead exceedance, the state sends out public education packages to the PWS. The public education programs are reviewed when a letter reporting their activities is sent to the state. The program manger and field staff encourage systems to do the public education program.

No systems were required to install source water treatment due to high lead or copper levels in the source water.

Phase II/V

According to WVOEHS, about 97% of the systems have complied with the monitoring and reporting requirements of the Phase II/V rules. The state has issued state-wide waivers for asbestos, dioxin and PCBs and susceptibility type waivers for various chemicals in various regions of the state. The data verification revealed a 58% total discrepancy rate for nitrate M/R violations with 70% for TNCWSs, 59% for CWSs and 45% for NTNCWSs.

Radionuclides

According to WVOEHS, about 75% of systems have complied with the monitoring and reporting requirements of the radionuclide rules. Based on air radon results, it was determined that the eastern panhandle is at a higher risk for radon contamination and that most of the PWSs in the area are not prepared to effectively treat for radon if it is present in the drinking water. WVOEHS should develop a plan to identify the water systems with high source water radon levels. A technical advisory plan to aid them in meeting the future Federal radon standard will be developed to assist CWSs in preparing for the proposed Radon Rule. An intern will be performing a comprehensive screening survey of groundwater supplies throughout the state to determine radon levels during summer 1999.

Public Notification

Systems are required to include proof of issuance of a public notice with their return to compliance sampling data, but since issuance is not tracked, the state does not always know if a system has issued public notification when they are required to do so. There is a provision in WV's FY '99 workplan to track public notification. This requirement will become more important with the promulgation of the public notification rule in December, 1999.

Consumer Confidence Report Rule (CCR)

WVOEHS is working with the Rural Water Association to help prepare PWSs for the upcoming requirements. The state will work with the larger systems if they need assistance. The Governor of West Virginia issued a waiver on November 13, 1998 for the mailing requirement of the reports to the customers for small systems (< 10,000 persons).

EPA developed a letter of agreement checklist for EPA and the state to formalize the joint implementation effort required for the early implementation activities of the Consumer Confidence Report Rule. Due to the current staffing problems and potential for greater difficulties in the near future, WVOEHS does not feel confident enough to commit to fully conducting all of the activities and thus will not sign the agreement.

Data Management

During FY '98, WVOEHS installed SDWIS/STATE. After several training sessions they are running the database at close to its full effectiveness. Currently, the data system is not automated to perform rule compliance determinations, determine the need for enforcement actions or public notifications, compute monitoring schedules or analyze sampling data. However, TCR compliance

determinations will become automated in the near term. The state will add business routines as they are developed by EPA to fully automate their data system for any other rules or data. Automation would greatly improve the data quality in the state.

The only type of self-audits WVOEHS conducts are through its enforcement actions. Before violations are sent out, the data is double checked to ensure accuracy. The state attempts to ensure accurate inventory data in SDWIS/STATE through updates from the district offices. The data verification revealed a 34% total discrepancy rate for system names. This included a 59% discrepancy rate for NTNCWSs and 42% for TNCWSs. There was also a 27% total discrepancy rate for system addresses with 45% related to NTNCWSs. System service connection had a 48% total discrepancy rate with 92% for TNCWSs and 27% for NTNCWSs. An entry blank for service connections has been added to the sanitary survey form to help alleviate the latter problem. The required corrective action plan to address the discrepancies noted in the data verification has not been submitted to EPA.

A general recommendation for all of the discrepancy problems with the WVOEHS's data in comparison to SDWIS/FED, is for the state to put this issue near the top of their priority list. EPA is very concerned about the high discrepancy rates and will require that future grant dollars be spent to correct the errors. The state will be installing SDWIS/STATE in the district offices and training a staff person to enter data to lower the risk of data errors. If the district offices do not have the personnel/resources to handle this type of work, the state should consider other options. EPA also recommends that WVOEHS institute a data self-audit program.

Enforcement

WVOEHS and EPA addressed 100% of their significant non-compliers (SNCs) from FY'98. This number is up from 64% in FY'97. The state took 9 enforcement actions in FY '98 compared to 10 in FY '97. Sixty-five enforcement cases were referred to EPA for action in FY '98 compared to 42 in FY '97. The data verification revealed a 29% total discrepancy rate for enforcement action data with 33% for NTNCWSs and 29% for TNCWSs. These were mostly a result of not reporting enforcement actions to SDWIS/FED.

Laboratory Certification/Capacity

The state requires yearly certification of private laboratories and the state laboratory (the certifying agent) conducts periodic visits to ensure proficiency. WVOEHS is leaning more toward the use of private laboratories and away from the state laboratory for sample analysis. This has lead to the state laboratory discontinuing their analyses of organic compounds.

Operator Certification

WVOEHS requires all operators of PWSs to be certified, 3,000-3,500 operators in total. Certification is valid for two years and there are different levels of certification depending on the type of plant. Status of certification is not kept in SDWIS. Preliminary discussions have projected that the state's operator certification program may be adequate to meet EPA's new operator certification guidelines.

Technical Assistance

West Virginia has an excellent technical assistance program. The district office engineers are available to provide technical assistance to any system that requests it. Additionally, the engineers visit every system periodically and offer advice about problems that are detected during the visits. The assistance is very useful in bringing small systems into compliance and helping maintain compliance. WVOEHS also has great communications with their systems to the extent that the systems will call the state when a problem arises, even when a violation has occurred. To keep the water systems informed of their current and future monitoring responsibilities, the state sends out a quarterly newsletter to all operators and a biannual newsletter to TNCWS. In addition, they work with West Virginia Rural Water Association (WVRWA) and American Water Works Association (AWWA) to help inform systems of their responsibilities.

Capacity Development

EPA approved, on April 19, 1999, the state's legal authority to ensure that all new CWSs and NTNCWSs have the technical, managerial and financial capacity to operate effectively. Implementation of the state's capacity development strategy must begin by October 1, 1999.

The state succeeded, through public meetings, in convincing customers of two PWSs to accept a rate increase in order to provide more revenue for the struggling water systems.

Other Issues

WVOEHS has had several success stories this year, including starting a program in which some private labs offer free sample analysis for some very small systems that cannot afford the cost.

On the negative side, the state has lost several top quality employees to private industry. According to WVOEHS managers, most of this can be attributed to the non-competitive salaries that the state can offer. The low salaries also affect the state's ability to fill those vacant positions. The low salaries are not attracting top quality candidates. Additionally, without the use of SRF set-aside grant dollars, the state would be lacking adequate funds to carry out all aspects of the program.

Future Concerns

Continued primacy for implementation and oversight of the Safe Drinking Water Act in the State of West Virginia is dependent upon the ability of the state to fully carry out the mandates of Title 40 CFR §142, National Primary Drinking Water Regulations Implementation. While West Virginia has excelled in developing the legislative authority and implementing past regulations, there are concerns that the state's resources are not sufficient to implement the Consumer Confidence Rule (finalized 8/98), Interim Enhanced Surface Water Treatment Rule (12/98) and Stage 1 Disinfectants and Disinfection Byproducts Rule (12/98). Administration of the recent Capacity Development Authority for new water systems, enacted by the West Virginia state legislature as a requirement of the Safe Drinking Water Act, will be very resource intensive. Additional future requirements including the Unregulated Contaminant Monitoring Rule (final due 8/99) and Public Notification Rule (12/99), Radon Rule (8/00), revisions to Lead and Copper Rule (6/99) and Radionuclides Rule (other than Radon) (11/00), Arsenic Rule (1/01), Ground Water Rule (11/00), Long Term 1 and 2 Enhanced Surface Water Treatment Rule (11/00 and 5/02) and Stage 2 Disinfectants and Disinfection Byproducts Rule (5/02) will require additional engineering staff in the future. The Radon Rule, Ground Water Rule and Long Term 1 rule will

be particularly burdensome because they primarily affect small systems which will have trouble complying and will require extensive state support. WVOEHS must also develop and implement a capacity development strategy by September 30, 2000 which must assure that all existing systems in the state have the technical, managerial and financial capacity to operate and remain in compliance. This effort is expected to be very resource intensive and will require a highly motivated and qualified engineering staff.

Conclusions/Recommendations

WVOEHS has done very good work in several areas. Some of these areas include filtering requirements for all surface water systems, requiring all systems to disinfect, entering sanitary survey dates into SDWIS (although it's not required), incorporating upcoming regulations into current operator training classes, achieving 100% compliance for TTHM monitoring and reporting, upgrading their data management system to SDWIS/LAN-NT, addressing 100% of the significant non-compliers and continuing the excellent technical assistance program that is invaluable to small systems.

Areas that need improvement include the complete evaluation of all groundwater systems for the influence of surface water. The deadline for community ground water systems to be evaluated was July 29, 1994, while the noncommunity ground water systems evaluation deadline is July 29, 1999. Only about 9% of all ground water systems have been evaluated thus far. Another area of concern includes the lack of a public notification tracking program. WVOEHS is not aware when a system fails to issue a public notification as a result of a violation. Data management and initiating a continuing education program for operators are other areas of concern. The data verification revealed several areas where there were large discrepancies between the data in SDWIS/FED and the data in the state files. The areas with the highest discrepancy rates include TCR, LCR and nitrate M/R violations and inventory and enforcement data discrepancies. The required corrective action plan to address the discrepancies noted in the data verification has not been submitted to EPA. Finally, under-staffing is a problem that impacts all areas of the program. The state does not have an adequate number of qualified FTEs to accomplish everything it would like to and is required to do.

Some of the areas of concern will be addressed in FY '99. Funds from the SRF will be used to enter into a contract with USGS. Under this contract, the USGS will train the district engineers in conducting GUDI determinations. This should increase the number of ground water systems analyzed in FY '99. SRF funds will also be used to fund an additional FTEs which will help the state maintain a more adequate program if it can attract qualified candidates. Also, the upgrading of the data management system along with connecting the district offices to the system should lower the discrepancy rates. Finally, a provision in the FY '99 workplan to begin tracking public notice violations and enter them into SDWIS will help improve compliance with public notification requirements.

While some actions are planned or underway in FY '99, the state must develop and implement a plan to aggressively address these deficiencies. Although it is not exhaustive, Table 1 identifies several significant areas of needed improvement. These and other concerns should be addressed by a corrective action plan that details how the work will be completed and on what

schedule. This schedule should include milestone dates.

The heart of these deficiencies is under-staffing. The state needs to address its personnel problem with a plan to recruit, train and retain qualified engineers to adequately operate the program. Without the additional staff and retention of experienced engineers, it appears that West Virginia will not be able to meet the demands of the primacy requirements to implement the existing and proposed rules. EPA encourages the state to address the problem as it is rapidly approaching a crisis situation where the retention of primacy may be at stake.

Since WVOEHS indicated that it may not be able to fully implement the requirements of the new Interim Enhanced Surface Water Treatment Rule and the new Consumer Confidence Report Rule, EPA has the responsibility to ensure their implementation. EPA will evaluate the costs associated with this implementation and the possibility of withdrawing an equivalent amount of FY '99 grant funds and withholding future year grant funds to carry out these efforts.

Table 1. Summary of Needed Actions to Correct Deficiencies in WV PWSS Program.

Areas of needed improvement	Recommendations for follow-up action	Milestone Deadlines
Increase frequency of sanitary surveys for transient noncommunity water systems	Assure properly trained and qualified staff for the district offices or find other options	Staffing to full level within 6 months; potential for contracted effort should be investigated immediately
Completing GUDI determinations for all ground water systems	The USGS, under contract with WVOEHS, will provide technical assistance on conducting GUDI determinations. WVOEHS should use this information to put forth a significant effort in order complete the determinations as soon as possible.	The compliance date for CWSs passed 5 years ago and the compliance date for NCWS is this month. Therefore, the GUDI determination should be done at a very accelerated level.
Lack of resources to fully implement the drinking water program	Use SRF set-aside dollars to provide additional funding to the program. Make the necessary changes to attract and retain a sufficient number of qualified engineers to maintain the state's drinking water program.	Secure additional resources from the state. In addition, set-aside dollars from the SRF should appear in each FY's workplan. Full complement of staff level must be made within 6 months following receipt of report.
The required corrective action plan to address the discrepancies noted in the August 1997 data verification has not been submitted to EPA	Develop and submit the plan	Submit plan within 14 days.

Areas of needed improvement	Recommendations for follow-up action	Milestone Deadlines
General discrepancy problems between WVOEHS data and SDWIS/FED, in particular, LCR M/R, nitrate M/R, enforcement and system name data.	WVOEHS should apply funds towards equipping the district offices with SDWIS/STATE and training staff to enter data at the district level to lower the risk of data errors. Another option is to install a database, such as Microsoft Access, in the district offices that data management staff could enter data into and then directly upload it to SDWIS/STATE in the central office. If the district offices do not have the personnel/resources to handle this type of work, WVOEHS should consider other options to accomplish these recommendations. Implementation of a data self-audit program.	A plan should be developed within 1 months of receipt of this report outlining how the state will address this follow-up action. This plan should include a schedule of action that completely addresses this situation within 6 months of receipt of this report. A self-audit program should be implemented within 6 months following receipt of report.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

SEP 18 1996

Mr. Joseph P. Schock, M.P.H., P.E., Director
Office of Environmental Health Services
West Virginia State Department of Health
and Human Resources
815 Quarrier Street
Charleston, West Virginia 25301

Dear Mr. Schock:

A mid-year review of West Virginia's Public Water System Supervision (PWSS) program for fiscal year 1996 was conducted by the U.S. Environmental Protection Agency (EPA) on June 4-5, 1996. This review provides both EPA and State program managers an opportunity to evaluate West Virginia's PWSS Program in several areas - meeting the goals outlined in the FY 1996 grant workplan and the requirements for the implementation of the PWSS regulations. The mid-year review also provides an opportunity to redirect resources and/or correct any potential problems in the program by highlighting areas of accomplishment and those areas which are of emerging priority and need further emphasis.

I would like to commend your staff on the good job they have done in the areas of updating the Federal Reporting Data System (FRDS) and the Safe Drinking Water Information System (SDWIS) data systems, implementing all aspects of the PWSS program, submitting quarterly progress reports and workplan in a timely manner, and initiating enforcement actions. Also, West Virginia is to be commended for becoming involved with the EPA in the development of the new national PWSS database (SDWIS) and for the large increase in the number of FRDS/SDWIS transactions, the number of sanitary surveys conducted, and the number of enforcement actions taken by the State.

One area of concern is the State's capacity. West Virginia must continue to build its capacity to be able to implement the PWSS program, particulary in view of the Revised State Programs Priority Guidance, new regulatory requirements, and new provisions in the recently amended Safe Drinking Water Act.

Printed on Recycled Paper

If you have any questions or comments on this report, please feel free to call me at (215) 566-5757 or have your staff call Mr. Ghassan Khaled at (215) 566-5780.

Sincerely,

Victoria Binetti, Associate Director
Office of Municipal Assistance

Enclosure

cc: Mr. Donald A. Kuntz, P.E., Director
WV Dept. of Health & Human Services
Charleston, WV

EPA'S EVALUATION OF WEST VIRGINIA'S PUBLIC WATER SYSTEM SUPERVISION PROGRAM FISCAL YEAR 1996 - MIDYEAR REVIEW

GRANT STATUS:

- EPA Region III has received the Financial Status Report (FSR) for FY'95 on time.
- As a reminder, West Virginia must submit to EPA Region III the FSR for FY'96 by December 31, 1996.
- EPA Region III has received a PWSS grant amendment application for FY'96 from the State and was awarded on July 11, 1996.
- EPA Region III has received a PWSS grant application for FY'97 from the State. The application is currently under review by EPA.

SURFACE WATER TREATMENT RULE AND TOTAL COLIFORM RULE:

- West Virginia has adopted and is implementing the Surface Water Treatment Rule and the Total Coliform Rule. Only five surface water systems do not have filtration (two of them were referred to EPA and DOJ; the other three are under compliance schedule). West Virginia has reviewed 105 ground water sources systems (out of the 289 community ground water systems) that may be under the direct influence (GUDI) of surface water. Seventy five systems were determined to be GUDI sources and the rest (30) are not UDI. The WVOEHS needs to send letters to all GUDI system notifying them of their determination and establish a schedule for them to comply with the Surface Water Treatment Rule. The WVOEHS is updating the FRDS/SDWIS by entering the special code for GUDI systems. The GUDI determination for high risk community water systems is a Priority 1 activity according to the Revised State Programs Priorities Guidance dated April 24, 1996.
- The WVOEHS has conducted 1,300 sanitary surveys in the first half of FY'96 compared to 1,942 in all of FY'95. The first cycle of sanitary surveys for all community water systems (except about 8 systems) had been completed.

LEAD AND COPPER RULE:

- West Virginia has adopted and is implementing the Lead and Copper Rule. The two large systems in West Virginia have installed optimal corrosion control treatment (OCCT). The WVOEHS is working with schools (a Priority 1 activity according to the

Revised State Programs Priorities Guidance dated April 24, 1996) that exceeded the lead/copper action levels to replace lead materials that might contribute to the 90th percentile exceedence of lead/copper action levels.

PHASE II/V RULE:

- West Virginia has adopted and is implementing the Phase II/V Rule.

- West Virginia has granted a monitoring waiver to 256 systems and denied waivers to 54 systems under the Phase II/IIB/V Monitoring Waiver Strategy.

DATA MANAGEMENT:

- The WVOEHS is updating its inventory in FRDS in a timely manner. Currently, there are 1,612 active water systems (647 CWSs, 225 NTNCWSs, and 740 TNCWSs). The water source of the systems are: surface (168), ground (1,216), and purchase (228).

- The WVOEHS has made tremendous progress in updating FRDS, by deleting inactive systems, adding new systems, updating addresses and telephone numbers, using GWUDI codes, and entering enforcement actions, return to compliance, and sanitary surveys codes. The last retrieval from FRDS shows that 100% of current active systems are grant eligible. The WVOEHS has increased the number of FRDS/SDWIS transactions from 5,623 in all of FY'94 to 7,035 in the first half of FY'96.

- The WVOEHS is to be commended for becoming involved with the EPA in the development of the new national PWSS database (SDWIS).

ENFORCEMENT:

- The WVOEHS had a tremendous improvement in the area of enforcement and continues to coordinate their enforcement activities with EPA. The number of enforcement actions taken by the State has increased from 963 in all of FY'93 to 2,157 in the first half of FY'96.

- EPA understands that the WVOEHS continues to be billed by the State Attorney General's Office for the time spent on drinking water enforcement cases. EPA recommends the hiring of a part time attorney solely dedicated to drinking water enforcement cases.

- The WVOEHS is commended for responding to the SNC list in a timely manner.

STATE CAPACITY:

- The WVOEHS is encouraged to seek additional funds to be able to fully address the additional workload associated with the Revised State Programs Priorities Guidance and new regulations in order to maintain primacy for the PWSS Program.