

Triennial Capacity Development Report to the Governor



**Prepared by the
Tennessee Department of Environment and Conservation
Division of Water Supply**

September 27, 2005

Report to the Governor

Page 1 of 17

Executive Summary

Tennessee's Drinking Water Rules require that all new public water systems to demonstrate technical, managerial and financial capacity showing they are "viable" when they begin serving water to the public. All new water systems are required to develop a "capacity development plan" and a business plan that demonstrates the system can be in compliance with the Safe Drinking Water Act (SDWA) on the day they begin serving water. Systems that cannot demonstrate capacity are not approved.

To address the viability of existing water systems, Tennessee has adopted a Capacity Development Strategy, which focuses on issues of viability for all existing water systems. Tennessee's Capacity Development Strategy requires all existing public water systems in "significant non-compliance" (as defined by the Environmental Protection Agency or EPA) to develop plans showing that sufficient revenue is available and that the water system has adequate management and technical capability to operate in compliance with the SDWA. Requiring water systems to demonstrate capacity has prevented marginally funded water systems from starting operations, accelerated the compliance of existing systems in significant non-compliance (SNC) and has encouraged potentially significant non-compliers to make extra efforts to achieve a satisfactory compliance status. The strategy has encouraged regional approaches to supply water to potential customers and encourages system operators to better network among themselves, take advantage of economies of scale where possible and focus on serving larger numbers of customers.

This report to the Governor provides an evaluative assessment on the success and effectiveness of the state's continuing efforts to ensure capacity development of public water systems in Tennessee and the state's Capacity Development Strategy.

The SDWA, Section 1420(c)(3), requires that states assess the effectiveness of their strategy to ensure that public water providers have the technical, managerial and financial capacity to operate a public water system. These reports are to be submitted every three years. Tennessee adopted its Capacity Development rules on January 26, 1999 (becoming effective Aug 29, 1999) and its strategy in July 2001.

The Need for a Capacity Development Strategy

The 1974 SDWA requires that all states ensure that providers of drinking water meet minimum national standards. Initially, it was envisioned by the EPA that public notification requirements, coupled with citizen pressure and potential litigation would make enforcement of the provisions of the act "largely unnecessary." In the years that followed the initial act, the EPA has come to recognize that states must assume primary enforcement responsibility for compliance with the act. Further, the EPA and the states have come to realize that full compliance can only be achieved

Report to the Governor

Page 2 of 17

through capacity development, that is, the improved financial, technical and managerial ability of a water system to comply with ever-changing and increasing complex public water system regulations.

To address the capacity development needs of public water systems, the federal Safe Drinking Water Act Amendments of 1996 mandate that states ensure that all new community water systems (CWSs) and all new non-transient, non-community water systems (NTNCWS) demonstrate capacity to implement each drinking water regulation in effect. Section 1420(a) of the federal SDWA requires that a State obtain the legal authority or other means to ensure that all new community water systems and new non-transient, non-community water systems commencing operation after October 1, 1999 demonstrate technical, managerial and financial capacity, or lose a portion (20%) of the monies allotted for the State's drinking water revolving loan fund (SRF). The intent behind the amendment is that a community water system and certain non-community systems not be created or allowed to operate if they did not have the ability or "capacity" to comply with Safe Drinking Water regulations.

In addition, the 1996 amendments require states to prepare a "capacity development strategy" to identify and prioritize water systems lacking capacity to comply consistently with drinking water regulations. Although states may have undertaken efforts prior to 1996 to improve the viability of public water systems to comply with SDWA provisions, states must now focus on the broad issue of system capacity and formally develop plans with initiatives designed to improve the overall compliance of water systems under their purview. A Capacity Development Strategy is an important state perspective, not taken by all states until passage of the amendments. It is an oversight responsibility whereby states are compelled to make a systematic review of water system capacities and undertake strategic and proactive initiatives in building system capacities.

To determine the effectiveness of Tennessee's Capacity Development Strategy, the Division of Water Supply has compared the list of public water systems with a history of significant non-compliance in 1997 to those currently on the list. The results reflect an improved capacity of many water systems to comply with SDWA requirements. The sections that follow summarize Tennessee's Capacity Development Strategy, implementation of the strategy, and an evaluation of the strategy, including an identification of the barriers that may hamper the strategy's effectiveness.

The DWS uses its SNC list (submitted in August 1997 to EPA) as a baseline and according to EPA guidance adjusts the baseline to incorporate systems that become SNCs as new rules are promulgated. Decreases in the number of systems on the SNC list provide a measure of the improvement in capacity among public water systems (PWSs) in Tennessee. Improved sanitary survey scores and increases in the number and technical classification of certified operators also indicate improved capacity.

State Objectives and Strategy

Report to the Governor

Page 2 of 17

In order to identify the technical, managerial, and financial factors in Tennessee which contribute to federal drinking water program non-compliance, the Tennessee Division of Water Supply (DWS) engaged in a dialogue with stakeholders, generally referred to as the Capacity Development Committee, composed of technical assistance providers, public water systems, consulting engineers and certified water treatment operators, and environmental groups. In addition, meetings were also held with the Tennessee Association of Utility Districts (TAUD), the Municipal Technical Advisory Service (MTAS) and the Small Community Outreach and Education Committee. Citizens and water customers were encouraged to comment via telephone, e-mail and letter. With their insights and suggestions, the Division of Water Supply developed a strategy. A major objective to emerge from the meetings was that the strategy should recognize the many technical capacity development assistance activities already in place, e.g. operator certification, plans approval, system sanitary survey assessments, managerial guidance from TAUD, AWWA, etc. which contribute to the capacity of a water system. The strategy itself compels regulators to take a holistic view of the drinking water industry and its partnership in Tennessee. With that view in mind, it is the task of the Strategy to look for ways to identify areas for improved coordination, which better integrates capacity developing elements.

Tennessee's Capacity Development Strategy process made a comprehensive assessment of available capacity developing resources, bringing together and looking at the sum of seemingly disparate programs intended to help water systems become healthy, viable systems and finding ways to improve each program's effectiveness and then focusing attention and resources on those systems in order to achieve the goal of viable water systems. The benefit of the Capacity Development Strategy is that the State is able to review the broad range of efforts (programs and activities) currently offered and undertaken to maintain or develop or improve capacity and in a comprehensive way identify any gaps and areas of weakness available to various types of systems. The Capacity Development Committee, recognizing Tennessee's previous efforts and its strengths, determined that the driving mechanism to an effective state strategy overarching an array of resources is the State's enforcement capability. The State is served well by the consistent, even-handed application of enforcement with respect to the development of capacity by public water systems when other avenues such as education, training and technical assistance do not achieve compliance with the SDWA.

Over the years, operator training was targeted for water systems lacking qualified technical personnel, grants and loans were made available to systems needing infrastructure improvements, procedures were developed creating enforcement programs, and third party operator training programs were offered by TAUD, MTAS and others. Other technical and financial controls were developed, including design standards, on-site inspections and on-site technical assistance, the Utility Management Review Board (UMRB), the Water and Wastewater Financing Board (WWFB) and the Division of Municipal Audit, all of which conduct financial reviews of water systems. These and other mechanisms have been applied to improve or develop water system

Report to the Governor

Page 3 of 17

capacity and have been in place in Tennessee for many years. More recently however, financial and managerial resources have been developed and applied in order to improve capacity. These include management training for commissioners and/or system managers lacking operational water system management knowledge and/or experience.

Underlying these separate approaches or tools is the State's **regulatory** foundation. It is a power not available to agencies that offer technical, managerial and financial assistance outside of government. Tennessee has come to recognize that enforcement is a viable and legitimate tool in helping public water systems acquire, maintain, or improve their capacity and become viable water systems. Compliance reports are the indicator and guiding mechanism to Tennessee's state capacity development strategy. Compliance reports provide a continuous means by which capacity development issues are identified and addressed. As water systems incur violations, Tennessee is able to focus on the specific issues of the system and open the door to a world of assistance possibilities and corrective actions. While Tennessee has an on-going program of loans, boards to review rates and provide technical assistance and training to promote compliance, not all water systems take advantage of the resources and the opportunities.

Existing water systems identified as "significant non-compliers" are targeted and directed to further develop and improve their technical, managerial and financial abilities to operate a public water system. Through the enforcement process, Tennessee has been able to bring considerable attention to systems needing to address and correct violations. This intense attention typically includes technical assistance, if appropriate, and directives that require a corresponding action to address the system's specific capacity development needs. The enforcement process compels noncompliant systems to address capacity issues or face continuing and escalating enforcement action.

Specifically, to this end Tennessee compliments the marketplace of resources and capacity development activities by issuing Notices of Violations (NOVs), Commissioner's Orders (COs) and Director's Orders (DOs) to target systems needing technical, managerial, and/or financial capacity. Initial enforcement efforts simply make systems aware of specific compliance needs and state requirements with rules. If compliance is not obtained and systems fail to acquire technical, managerial and/or financial capacity they face penalties and possibly additional enforcement action. The approach is outlined in detail in its State Capacity Development Strategy as submitted to the EPA.

As part of capacity development, the Division of Water Supply requires existing water systems that have become significant non-compliers and those who have the potential for being significant non-compliers to submit a water system capacity development plan identifying specific actions leading to the development of capacity. The plan must document and/or address all compliance issues faced by the system, including a current organizational structure and chart, emergency operations plan, microbiological sampling plan, source water protection or wellhead protection

Report to the Governor

Page 4 of 17

plan, cross connection policy and program, business plan, a record keeping plan, and certified operator. The Division uses the Capacity Development Plan Guidance Document (Attachment 1) and the Capacity Development - Business Plan, Financial Self-Assessment Manual (Attachment 9) to assure capacity development compliance from non-community public water systems.

As mentioned earlier, many capacity development tools were already in place prior to the development of Tennessee's strategy. The Division's Sanitary Survey Manual, plan document reviews, the Utility Management Review Board (reviewing the financial capability of systems), the Water and Wastewater Finance Board and Fleming Training Center (providing operator training workshops) have been in existence and very effective for many years. Similarly, other mechanisms have been identified and resources have been created within the past 3 years. These include the board and commission member training programs established by the Tennessee Association of Utility Districts (TAUD) and the University of Tennessee's Municipal Technical Advisory Service (MTAS). It is believed the coordination among State agencies and partnerships with stakeholders prove to be very beneficial in assisting systems achieve and sustain capacity requirements in the future. Other resources that have emerged within the past year include several "distance learning" programs for operators and a renewed emphasis on evaluating and updating utility rates.

In summary, Tennessee's capacity development strategy targets community and non-community systems in non-compliance with whatever appropriate tool is needed to obtain compliance. All public water systems receive technical, financial and managerial assistance where appropriate and whatever level of enforcement is necessary.

Attachments 3, 4, and 5 reflect the accomplishments of Tennessee's Capacity Development Program and a complete evaluation of the program beings on page 11.

Implementation of the Strategy – New Systems

The Tennessee Division of Water Supply's legal authority remains unchanged since the Attorney General and Reporter for the State certified on July 15, 1999 that the laws of Tennessee provided adequate authority to carry out the capacity development requirements of the SDWA Section 1420(a), 42 U.S.C. § 300g-9(a).

TDEC has for more than 50 years reviewed construction projects to ensure that new water systems have the technical capacity to comply with the SDWA. Regulation 1200-5-1-.05 outlines the procedures that an applicant must follow for obtaining approval to construct a water system. Regulation 1200-5-1-.05(3) refers to minimum design standards for the construction of groundwater and surface water sources, treatment facilities, storage facilities, and distribution facilities (sources, treatment, storage and piping) to comply with the water quality standards and treatment technique standards specified in Regulations.

Report to the Governor

Page 5 of 17

Section 68-221-704(2)(E) grants the Water Quality Control Board the authority to adopt rules to ensure that all new community water systems and non-transient, non-community water systems commencing operation after October 1, 1999 demonstrate technical, managerial, and financial capacity to comply with the requirements of the Safe Drinking Water Act.

On June 15, 1999 the State Drinking Water Regulations were amended to require the applicant for a new public water system to demonstrate to the satisfaction of the Department that the new system will be a viable water system. Those rules became effective on August 29, 1999. Section 1200-5-1-.17(37) of the Drinking Water Regulations outlines the required information that must be submitted with the engineering documentation for approval to construct a new system. The regulations were amended to also include the definition of a “Business Plan” and “Capacity Development Plan.” The definition of each of these plans can be found in Rule 1200-5-1-.04.

TCA 68-221-701 et seq. and the associated regulations 1200-5-1-1 grants the Department the authority to consider whether a new system will be a “viable water system.” If the Department determines that a new public water system will not be a “viable water system,” the approval to proceed is denied.

This authority remains in effect and is being implemented as part of TDEC’s approval program for new water systems.

Control Points. Tennessee’s control points remain the same. Tennessee Department of Environment and Conservation (TDEC) has two control points in ensuring that new community and new non-transient, non-community water systems demonstrate the technical, managerial and financial capacity to comply with the Safe Drinking Water Act (SDWA).

The first control point is the submission of engineering documents for approval to construct a new water system. TDEC’s engineering staff reviews the engineering documents for compliance with the procedures outlined in the regulation and the design standards. A staff accountant with the Division’s Grants and Loans program assists engineers, as needed, in reviewing the financial capacity of a proposed system. The proposal must demonstrate that the system will have the technical, managerial and financial capacity to meet the requirements of the SDWA. If the information contained in the engineering report is satisfactory to the Department, it is approved and the system can proceed with development plans and specifications. Before final approval is granted to begin construction of a new water system, it must develop and submit a Capacity Development Plan to document to the State that the system is a “viable water system.” If at any time during this process the State determines the system is not a “viable water system,” approval to proceed can be withheld and the project denied.

Report to the Governor

Page 6 of 17

The second control point is final construction approval. Section 1200-5-1-.17(19) of the State Drinking Water Regulations requires that once construction has been completed, arrangements must be made for an inspection and approval before operations can begin. All new public water systems are required to submit an engineering report summarizing the need for a new system, a summary of alternative solutions, and recommendations regarding sources of water, proposed treatment processes, project sites, distribution system, financing (rates, debt, etc.) and management. State regulations require water systems to obtain written approval from the Tennessee Department of Environment and Conservation to begin operation after construction is completed.

New System Compliance

From 2002 to 2005, 69 Community and Non-Transient Non-Community Water Systems were created in Tennessee (See Attachment 2, “New CWSs and NTNCWSs in Tennessee, 2002-2005). Of this number, there were 66 community water systems, 59 of which are apartment complexes that purchase water and submeter to tenants, and 3 are non-transient non-community water systems. Most of the apartment complex systems pre-date their classification as “regulated” public water systems and though they are regulated, the “new system” provision of the Capacity Development Rule does not apply.

In other words, these are not currently PWSs which have “become CWSs or NTNCWSs without constructing any infrastructure and are not ‘new systems’ for the purpose of section 1420(a) of the SDWA as amended” (refer to EPA guidance).

Seven (7) community water systems were created during the 3-year period, 5 of which are still “active” systems. The two “inactive” systems include Cherokee Boat Dock (PWSID No. 0008202) and Sunset Landing (PWSID No. 0008236). Cherokee Boat Dock existed prior to the DWS discovering it. Once identified and activated, it connected to LaGuardo Utility District (PWSID No. 0000394) rather than becoming a regulated public water system. Sunset Landing Water System was created in October 2004, and when required by the DWS to meet Capacity Development Requirements the system connected to Savannah Valley UD (PWSID No. 0000613).

Three of the remaining systems were not required to submit a Capacity Development Plan. One is a mobile home park (Holiday Mobile Village, PWSID No. 0008226) that purchased water and like many apartment complexes, began submetering. The system therefore does not come under the capacity development rule. The other two systems not required to have a Capacity Development Plan (Warren County UD #2, PWSID No. 0008233; and Lead Mine Bend Water Association, PWSID No. 8220) were “existing” systems prior to and also not required to submit a Capacity Development Plan.

Report to the Governor

Page 7 of 17

Two water systems are “new” as defined by EPA. They are Lone Oak Utility District, PWSID No. 0008228 and North Bledsoe County Utility District, PWSID No. 0008201. Both Lone Oak Utility District and North Bledsoe County Utility District have submitted Capacity Development Plans to the DWS, which show adequate capacity. Neither system has had any compliance issues.

Of the three non-transient non-community water systems, West High Alumni Building (PWSID No. 0005077) was activated in August 2003 but is now “inactive.” It was formerly West Junior High School and was an existing facility. The remaining two active systems (Northwest Headstart in Moscow, PWSID No. 0005057 and Northwest Headstart in Humbolt, PWSID No. 0005063) are also “existing” facilities (existing prior to Sep 30, 1999) and were activated in 2002 as Head Start Centers. These systems retain certified operators and neither has had any significant compliance issues.

In a number of instances, division staff has been able to discuss public water system requirements with apartment complex managers prior to the installation of meters, thereby avoiding the creation of new, regulated systems. In other instances, many new community water systems (CWSs) and non-transient, non-community water systems (NTNCWSs) have not been created because of the requirement to demonstrate capacity prior to operational start-up. Instead, many potential new systems elected to construct lines to existing water systems to serve the businesses and residents where there was a need for water. Finally, even though the total number of community water systems increased by 18 during the period from 665 (July 2002) to 683 (July 2005), 37 community systems were deactivated during the period. In addition, there were 52 active non-transient non-community systems in July 2002, decreasing to 43 in the last three years. The changes reflect both the increasing number of submetered apartment complexes and systems that have consolidated and/or ceased operation.

Implementation of the Strategy – Existing Systems Strategy

As discussed to earlier, Tennessee has many programs and tools available to help public water systems acquire technical, managerial and financial capacity. These include: third party operator and board member management training offered by TAUD, MTAS, the Fleming Training Center and others; Division on-site inspections and on-site technical assistance, assessments made by financial review boards, including the Utility Management Review Board (UMRB), the Water and Wastewater Financing Board and the State’s Division of Municipal Audit. A financial self-assessment tool is also offered by the DWS. Managerial training is offered by Tennessee Association of Utility Districts (TAUD) and Municipal Technical Advisory Service (MTAS). Consulting engineers and design standards also provide direction. Finally, enforcement of state rules provide definitive guidance relative to “capacity” needs.

Report to the Governor

Page 8 of 17

More specifically, programs and tools used to help water systems acquire capacity are offered in various formats and venues. These include:

- ❑ Rule workshop updates provided to operators and system management by TAUD and DWS staff
- ❑ Operator Training at TDEC's Fleming Training Center (FTC)
- ❑ Rulemaking Hearings open to the public and staff of PWSs conducted by DWS staff
- ❑ Continuing Education Sessions for certified operators provided at AWWA Conferences
- ❑ On-site and off-site technical assistance (TA) given to system operators and water system staff by DWS Environmental Field Office (EFO) staff
- ❑ Financial Reviews of Municipal and Utility Districts by the WWFB, UMRB and Division of Municipal Audit
- ❑ Elected Officials Training by MTAS (Municipal Technical Advisory Service)
- ❑ Commissioner and Board Member Training by TAUD
- ❑ DWS's Financial Self-Assessment Manual
- ❑ Small Water System Operator Guide
- ❑ The DWS' Sanitary Survey Manual for Community Water Systems (CWSs) and Non-transient Non-community Water Systems (NTNCWSs)
- ❑ Published Safe Drinking Water (SDW) Rules
- ❑ Standard Operating Procedures (SOP) Requirements and Guidance
- ❑ TDEC Website Resources (Forms, Manuals, Videos, Lists and Links)
- ❑ Certified Laboratory Lists (available from the DWS and the State's Website)
- ❑ Certified Operator Lists (available from the DWS and the Fleming Training Center)
- ❑ Sanitary Surveys providing comprehensive assessments of all PWSs
- ❑ State Revolving Loan Funds and staff technical assistance to eligible systems
- ❑ Emergency Operations Plan (EOP) Guidance (a/k/a Vulnerability and Security Plans) for all CWSs
- ❑ Significant Non-complier (SNS) Lists
- ❑ Enforcement Actions and Proceedings against all PWSs in non-compliance (Notices of Violation, Notices of Non-compliance, Show Cause Meetings, Compliance Review Meetings, Commissioner's Orders, Directors Orders, Civil Penalty Assessments, and Contingent Civil Penalty Assessments)

The list is by no means definitive and several of the above lists programs and tools deserve additional attention.

Standard Operating Procedures (SOPs) – The DWS has encouraged all PWSs to develop and adopt SOPs for operations, maintenance, and troubleshooting. Systems with a history of non-compliance are required to develop and adopt SOPs and systems whose certified operator(s) cannot be on-site while the system is producing water must have SOPs in-place for use by those

Report to the Governor

Page 9 of 17

individuals designated to operate for the certified operator in direct charge. These documents establish procedures, which if followed ensure the health and safety of those consuming the water.

Drinking Water rules require all public water systems (meeting the definition of a public water system) to be operated by a certified operator in direct control. This is perhaps the single most important rule pertaining to water systems and their compliance with state drinking water rules. Complimenting this are Tennessee's continuing education requirements and the State's Operator Training Center (Fleming Training Center or FTC) which provides initial and on-going training for water and wastewater operators. The FTC offers classes, which prepare operators on how to properly treat water under changing conditions. Properly trained and knowledgeable operators ultimately obtain certification. Public water systems with knowledgeable operators are essential to having viable water systems. Additional information regarding the FTC and the Operator Certification Program in Tennessee is available on Tennessee Department of Environment and Conservation's website. Other Operator resources available on the State's website include training clips, revised manuals and forms, links to resources, annual violations lists, certified lab lists, construction design criteria, and the current sanitary survey manual.

It should be mentioned that requiring systems to have certified operators to comply with increasingly complex and expensive rules has led to fewer public water systems being created. This is due in part to creating a climate, which encourages systems to consolidate or merge. New complex rules have also led to the development of partnerships between PWSs, sometimes involving the State, to understand the impact of a particular rule and the means to achieve compliance. Partnerships have emerged with respect to developing effective cross connection control programs, mutual aid, and compliance with the disinfection/disinfection by-products rule. Tennessee statutes, regulations, and policies do not require capital improvement planning or regionalization studies, but many systems share certified operators. Several regional and statewide "management" groups have emerged in Tennessee, which offer their services to water systems that by themselves are not capable of retaining certified operators, nor is it feasible for them to interconnect. The environment for the creation of smaller, stand-alone water districts is unfavorable. They must now consider all of their alternatives. These sometimes demand a reliance on "management" services, sometimes closure, or where funding can be obtained, the extension of lines and service areas from existing water systems. Tennessee Rules (Rule 1200-5-1-.05 (9)) "require" systems to consider regionalization insofar as feasible. Where disincentives exist for regionalization of systems or even the extension of lines, the DWS will continue to support policies that try to address these issues and to clarify and strengthen the regulatory language that encourages consolidation "insofar as feasible."

Finally, the state's Emergency Operations Plan (EOP) has added a source water assessment and protection plan element that helps systems develop capacity. This requirement allows systems to proactively examine themselves holistically, including a consideration of source. In the case of Huntsville Utility District, the system is attempting to control development around its new lake, an

Report to the Governor

Page 10 of 17

abandoned old strip mine. Many public water systems in Tennessee are now diligently working to protect vital drinking water sources from potential sources of contamination.

Identifying Systems in Need of Capacity

Tennessee continues to identify systems in need of capacity by monitoring water system compliance with rules. Water systems which incur violations are systems that “lack capacity.” When those systems become EPA SNCs (Significant Non-Compliers) they become Tennessee’s Capacity Development “target audience.” Tennessee also addresses potential SNC systems. Systems within the target audience face a strategy of programs, actions and enforcement designed to develop system capacity and attain compliance. The strategy has not changed since it was adopted. The programs and activities used to reach that target audience remain the same and the way Tennessee has assisted systems has remained the same. Tennessee continues to use construction approvals, continuing education for operators, DWSRF loan applications, municipal financial audit reports, reviews by the Water and Wastewater Financing Board and Utility Management Review Board, rule workshops, operator and board member training, sanitary survey assessments, compliance data (including SNC and Potential Significant Non-Complier lists), and enforcement activities (Notice of Violations, Letters of Agreement, Commissioner’s Orders, Director’s Orders, Agreed Orders, etc.) to reach systems lacking capacity. DWS also gives high priority to DWSRF applicants who must meet TMF capacity requirements in order to obtain funding. It appears to staff to be an effective strategy in targeting systems for capacity development assistance.

Statewide Capacity Needs, Concerns and Trends

Apartment complexes that meet the definition of public water systems are currently exempt from federal and state regulations if they meet specific criteria established by federal law. One of these provisions is that they must not “sell water.” Therefore, apartment complexes that submeter and re-sell water are *not* excluded from federal and state regulations and must comply with safe drinking water rules. If a bill were passed by the Tennessee General Assembly to remove submetered systems from regulation under the Tennessee Safe Drinking Water Act, it most likely will affect the state’s ability to maintain delegated authority to administer the Safe Drinking Water Program and curtail or eliminate the state’s drinking water supervision program. Other states that have excluded submetered apartment complexes have had federal funding and rule revisions held up until state laws were amended to remove the exemption. There are many complicated issues involving submetering which make it difficult to address at the local level. Tennessee will continue to push implementation of current rules so that this complex issue can be addressed uniformly at the state and federal levels. It is virtually impossible to predict at the State level any pending or new rules or policy changes at the Federal level that might impact the State’s drinking water program.

Report to the Governor

Page 11 of 17

Another challenge to carrying out an effective Capacity Development Strategy involves the compliance of very small water systems. Certain categories of small water systems are difficult to regulate and thereby obtain full compliance. Many of the systems are rural churches, open to the public only one-day a week that do not have a certified operator. Maintaining a water system is not their primary purpose, nor are church members trained in sampling techniques. Often, financial resources to obtain these services are extremely limited.

Another challenge is assisting small community water systems in addressing identified security issues. Although smaller systems are not at the same level of risk for a terrorist event, they are at risk for disruption by disgruntled employees and local vandals. Improved security against potential terrorism and the more likely threat of sabotage must be addressed if normal operations are to be maintained. Improving the security and resiliency of water systems better ensures the consistent and uniform provision of services across the state. Limited funding compounds addressing many security issues adequately.

Perhaps the greatest challenge to capacity development is the 1996 Amendments to the State Drinking Water Act. The amendments resulted in a proliferation of new regulations. The department has adopted 13 new regulations in the past 4 years in order to maintain primacy. The accelerated and continuing promulgation of these new rules has affected the state's ability to provide the needed training to public water supplies. It is expected the EPA will publish at least 4 new regulations over the next 18 months that states will have to adopt and enforce. In addition, the science relating to drinking water is evolving and new problems are continually being discovered that previously have not been investigated; resulting in resources being diverted to address whatever new problems demanding the public's attention. These lead to the adoption and implementation of new, complex rules. The following new Federal Safe Drinking Water Act rules and likely schedule for implementation are anticipated in the foreseeable future:

| | |
|--|-----------|
| LT1ESWTR (Long Term 1 Enhanced SWTR) | In effect |
| LT2ESWTR (Long Term 2 Enhanced SWTR) | Dec 2005 |
| Stage 1 DBPR (State 1 Disinfection By-Products Rule) | In effect |
| Stage 2 DBPR (State 2 Disinfection By-Products Rule) | Dec 2005 |
| Six-Year Review of Drinking Water Standards | 2002 Aug |
| Revised UCMR (Unregulated Contaminant Monitoring) | Fall 2005 |
| CCL (Contaminant Candidate List) | 2002 Fall |
| GWR (Ground Water Rule) | Dec 2005 |
| Radon Rule | TBA |
| MTBE Rule (Methyl-t-butyl ether Rule) | TBA |
| CROMERRR (Cross-media Electronic Reporting and Record-keeping Rule) | TBA |
| PPCP (Pharmaceuticals and Personal Care Products) | TBA |

Report to the Governor

Page 12 of 17

To address the challenge of new rules, DWS staff will continue to provide on-site visits and technical assistance to systems that have in the past or appear to be struggling to implement them. In addition, the DWS makes available web training clips, revised manuals and forms, links to resources, annual violations lists, certified lab lists, construction design criteria, and sanitary survey manuals.

Related to the capacity issue is EPA's prescribed laboratory methods used by certified labs to determine compliance of public water systems. The haloacetic acid method is inexact in accurately determining the level of compounds used for compliance purposes. To date, several water systems in Tennessee may be classified as SNCs that are suspected to be caused by questionable analytical methodology and unrelated to capacity. Specifically, some of EPA's currently approved methods allow labs to become certified if they obtain results, which are plus or minus 50 percent of the known level. Laboratories are allowed wide margins of error in conducting laboratory analyses while water systems are required to meet exacting standards. To comply with disinfection byproducts standards water systems may have to spend tremendous amounts of money when the data is inconsistent and unreliable.

Review of Capacity Development Strategy

The Division of Water Supply has not undertaken a formal review or issued a report (other than this review and report) of its Capacity Development Strategy as it appears to Division staff to be an effective strategy in targeting systems for assistance.

Modifications to Existing Strategy

Tennessee's strategy remains essentially the same since it was developed and adopted. Additional resources have been identified and some have been modified, but Tennessee continues to follow its capacity development plan, initially assisting systems to develop capacity, and when systems resist orchestrate capacity development through more direct means, escalating to enforcement. Thus, no significant changes to the strategy are anticipated.

Water systems receiving a Drinking Water State Revolving Fund (DWSRF) loan are required to demonstrate that they have or will have the financial, managerial, and technical capacity to comply with Safe Drinking Water requirements as a result of the loan or before final approval of the loan application.

Finally, the state's Capacity Development Strategy, through emphasizing capacity and viability has effectively prevented the creation of many nonviable public water systems.

Report to the Governor

Page 13 of 17

Evaluation of the State's Capacity Development Strategy

In order to identify water system needs as well as potentially effective compliance mechanisms, the state has established a water system baseline as required by the SDWA 1420(c)(2)(D) to measure improvements in system capacity. The baseline uses the initial list of community water systems and non-transient, non-community water systems with a history of non-compliance, which was sent to EPA on August 1, 1997 (see Attachment 3, "PWSs with a History of Significant Non-compliance in Tennessee, Systems Meeting Definition of SNC During FY1994 – FY1996"). The state continues to adjust the baseline to incorporate any additional systems when new rules are promulgated. Periodic assessments of this list will be used to guide any changes in the state's capacity development strategy.

In 2005, the DWS updated its Section 1420(c)(2)(D) list, "PWSs with a History of Significant Non-compliance in Tennessee, Compliance Status, Adjusted for 2005" (Attachment 4). This list provides an effective measure of capacity development by public water systems with a history of non-compliance. In addition, Attachment 4 also provides information as to the means whereby compliance was achieved for those systems on the 1997 list of public water systems with a history of significant non-compliance. Attachment 4 clearly shows that enforcement through the issuance of an administrative order (Commissioner's Orders and Director's Orders) has been effective. Twenty-six of the 37 systems were issued 30 administrative orders. In six instances, enforcement resulted in the system connecting to another system or closing down and thereby becoming deactivated. In at least 19 situations, enforcement resulted in giving the system sufficient time to obtain an engineer, obtain funding, construct and ultimately comply with a newly adopted rule. In at least two cases, the DWS and Division of Community Assistance provided technical assistance, and compliance was obtained.

Ten public water systems have had a history of significant non-compliance between 2002 and 2005 (shown in Attachment 5, "Systems with a History of Significant Non-compliance in Tennessee, FY2002 – FY2005"). Most of these systems have had TTHM and/or HAA5 violations. Four of the ten systems are consecutive water systems and do not have a Federal violation.

Enforcement actions have directed noncompliant water systems to make needed facility improvements, acquire and retain certified operators, and improve financial positions. With some situations, the enforcement action was initiated by the Division of Water Supply (DWS); in other situations compliance with a financial, managerial or technical capacity requirement involved an action by another agency or board of the state.

For community water systems, the Division of Municipal Audit (DMA) in the Office of the State Comptroller, Department of Treasury, examines annually the financial statements of all municipally owned and utility district owned public community water systems. Local government water

Report to the Governor

Page 14 of 17

systems and utility districts found to be “financially distressed” are referred to one of two regulatory boards, depending upon the type of system. Financially distressed municipal (governmental) systems are referred to the Water and Wastewater Financing Board; utility districts are referred to the Utility Management Review Board. Both boards are administratively attached to the Tennessee Department of Environment and Conservation (TDEC).

The Utility Management Review Board advises and assists financially distressed utility districts in the area of utility management, and it has the authority to prescribe a user rate structure that will allow the utility to be self-sufficient. In addition, the board must review the creation of a utility district, and the board may undertake a study leading to the consolidation and regionalization of a utility district with another to achieve compliance. Similarly, the Water and Wastewater Financing Board reviews user rates necessary for water systems to be self-sufficient in their operation. Such reviews may also consider the consolidation of systems. There are three attachments to this report that provide a list of systems receiving loans as well as benefiting from state managerial-financial oversight. These attachments are the “Community Assistance Loans in Tennessee” (Attachment 6), “Water and Wastewater Systems Currently Under Review by the Water and Wastewater Financing Board” (Attachment 7) and “Utility Districts Currently Under the Jurisdiction of the Utility Management Review Board” (Attachment 8).

The Utility Management Review Board and the Water and Wastewater Financing Board have reviewed many water systems, and it is believed many of these systems have avoided becoming significant non-compliers (SNCs) because of this review.

Unlike community water systems, the financial condition of non-community water systems is not addressed by these review boards. To address the financial situation of non-community water systems, the DWS with assistance from the Division of Community Assistance developed a “Capacity Development – Business Plan, Financial Self-Assessment Manual”(Attachment 9). The purpose of the manual is to help non-community water systems understand the financial obligations of operating a viable water system. To comply with the financial requirements of the state’s Capacity Development Strategy, a non-community water system must show revenues sufficient to cover anticipated and realistic water system costs.

Another benefit to Tennessee’s capacity development program has been the state's source water assessment and protection plan requirement. This requirement allows systems to proactively examine themselves holistically, including a consideration of source, thereby reducing potential adverse impacts to the provision of drinking water by public water systems.

A less dramatic approach to developing capacity (in terms of immediate and noticeable results) include: the referral of board members to water system management training. TAUD has offered a variety of training classed specifically designed for utility board members and commissioners. Over the past three years, TAUD has sponsored the TAUD Utility Leadership Conference. This

Report to the Governor

Page 15 of 17

conference has averaged 110 attendees each year. On average, 32 attendees have received a Leadership Basics certification. The Leadership Basics curriculum includes such topics as: Basic Board Duties and Responsibilities; Board Meetings-Conducting the Public's Business; The Art of Writing Policies; Setting Fees for Services; Budgeting for Growth; and Short-term and Long-range Planning. In addition, TAUD has held another conference, The Business of Running A Utility, which has sessions specifically designed for utility boards and commissioners. On average 85 people per year attend sessions covering: Financial Reporting Requirements; Budgeting; Common Audit Findings; Fee and Rate Setting; A Job Description for Board Members; Board and Staff Relations; Commissioners, Rates and Budgets.

TAUD has also conducted on-site board training over the past three years. The following topics were covered at these on-site training workshops: The Basics of Taking Office; Policy Creation; and Budgeting and Rate Setting. These on-site training workshops included 45 attendees from 10 different utilities. These efforts reflect a long-term proactive approach, which over time have shown utilities receiving fewer complaints and fewer customers and/or elected officials complaining about utilities that conduct business inconsistently. Most of Tennessee's utilities have implemented policies and procedures that provide consistent service for all of the utilities' customers. Although we have seen an improvement with the overall operations of Tennessee's utilities, there is still more work to be done.

Similarly, The University of Tennessee's Municipal Technical Advisory Service (MTAS) has developed a Training and Manual for Water and Wastewater System Board Members and offers board and management classes at its Level II Elected Official Academy three times a year at the request of Level I Academy attendees. During the past year six Utility Management classes were held.

Foreseeable Challenges and Barriers

Although there are many needs, concerns and challenges to the progress of developing viable water systems, perhaps the greatest challenge to an effective capacity development strategy is the state's ability to carry out its program responsibilities effectively. This issue can be highlighted by the past introduction of legislation having the potential to change state laws that could interfere in the regulation of public water systems as defined by federal law and incorporated by EPA in rule.

Another challenge to the State's program of capacity development is the retention of trained and knowledgeable Division staff. Within the past two years the State's Lab Certification Officer retired, threatening the state's drinking water program delegation. Within the next 2-5 years many additional senior and other key staff members could retire, many of whom are already eligible in terms of years-of-service. The retirement of senior and middle management staff could have a devastating impact on the program.

Report to the Governor

Page 16 of 17

Coupled with the issue of staff retirement is the state's limited available financial resources and ability to recruit qualified, experienced staff and to provide meaningful professional development, which would provide career incentives to remain. Over the past few years, extremely limited state general revenues have restricted the availability of state general funds that must be provided as the state's matching share to obtain available federal funds. Although the state's drinking water program is primarily funded by facility maintenance fees (State EPF) and EPA monies, the loss of the relatively small amount of state general funds used to match fees paid by the regulated community and EPA funds, in effect, could reduce the effectiveness of the drinking water program. The continuing loss of staff positions in the drinking water program and the tremendous increase in new federal regulations have hampered the division's ability to provide essential technical support to assist public water systems in complying with new federal rules. Salaries for technical staff are 20 percent less than the average salary of technical staff of surrounding states, and the state continues to encounter problems in recruiting and retaining knowledgeable, experienced technical staff. It is essential that highly trained drinking water professionals be compensated in a comparable manner with the industry.

With the lab certification officer and state budgeting issues in other departments as well, the lab certification program has been transferred to the TDEC. With that two Division of Water Supply employees were sent for training and the program assimilated into the division. Lab certification files were also transferred. Thus, there are increased amounts of data maintained by the division and limited space for files. Other elements of the drinking water program continue to require space for records and other documents, in part due to new drinking water rules. Conversion of documents and record to electronic forms has been discussed but to date such conversion is unresolved and unimplemented. The issue of record keeping due to new rule requirements is also encountered by public water systems and DWS staff reviews of that data.

Report Availability

This report is available on the Tennessee Department of Environment and Conservation's (TDEC) website at www.tdec.net/dws. In addition, notices of the availability of this report will be sent to the 683 community water systems regulated by the Division of Water Supply requesting they give notice to their customers of the availability of the report in their water bills. Finally, copies of the report will be made available to the public in each of TDEC's eight Environmental Field Offices (EFOs).

Report to the Governor

Page 17 of 17

Attachments:

- 1 – Capacity Development Plan, Guidance Document
- 2 – New Community (CWSs) and Non-Transient Non-Community Systems (NTNCWSs) in Tennessee, 2002-2005
- 3 – PWSs with a History of Significant Non-Compliance in Tennessee, Systems Meeting Definition of SNC During FY1994 – FY1996
- 4 – PWSs with a History of Significant Non-Compliance in Tennessee, Compliance Status
- 5 – PWSs with a History of Significant Non-Compliance in Tennessee, FY1997-2005
- 6 – Community Assistance Loans in Tennessee
- 7 – Water and Wastewater Systems Currently Under Review by the Water and Wastewater Financing Board
- 8 – Utility Districts Currently Under the Jurisdiction of the Utility Management Review Board
- 9 – Capacity Development – Business Plan (Financial Self-Assessment Manual)

Glossary:

Community water systems (CWSs) are public water systems which serve at least fifteen (15) service connections used by year-round residents or regularly serve at least twenty-five (25) round-round residents.

Environmental Protection Fund (EPF) Act authorizes the department to assess fees (facility maintenance fees) for services provided.

Non-community water systems (NCWSs) are public water systems that are not community water systems.

Non-transient, non-community water systems (NTNCWs) are non-community water systems that regularly serve at least twenty-five (25) of the same persons over six (6) months per year.

Transient, non-community water systems (TNCWSs) are non-community water systems that serve transient populations such as hotels, restaurants, camps, service stations, and churches.

Attachment 1

Capacity Development Plan

Guidance Document

Pursuant to Tennessee Code Annotated Sections 68-221-706 and 68-221-707 the Department shall exercise general supervision over the construction, operation and maintenance of public water systems throughout the State of Tennessee. As one aspect of such general supervision, all new community public water systems shall submit a **Capacity Development Plan** for review and approval by the Department. Components of the Capacity Development Plan include an **Operation and Maintenance Plan**, an **Emergency Operations Plan**, a **Bacteriological Site Sampling Plan**, a **Business Plan**, etc. Together, these plans when followed assure continuous satisfactory operation of a water system. The submittal should be submitted to the Department's Division of Water Supply (DWS) and shall include, at minimum, the following information:

- Name, address and telephone number of the owner(s) or ultimate responsible party of the facility or public water system. Leaseholders or business owners may be responsible for managing and operating the facility on a day-to-day basis and included in list to obtain correspondence, but they are not the ultimate responsible party. The ultimate responsible party is (are) the **property owners**.
- Agreement to retain the services of a properly certified operator.
- Proof of retention of certified operator (copy of signed Operator Agreement).
- Name, address and telephone number of the **certified operator** in direct charge of the public water system. The certified operator also may be held responsible for violations incurred as a result of his/her oversight.
- An **Operation and Maintenance Plan** must be developed. The plan shall include information on staffing and organizational structure, accountability; and the system's fiscal management and controls. The plan shall identify Environmental Assistance Center (EAC) contacts, certified labs and lab contacts, the location of all operational component plans and the names and phone numbers of those responsible for implementing those plans, data management systems used, routine activity and facility maintenance schedules, training programs, and safety procedures and guidelines in effect.
- Agreement and statement of understanding indicating that **Plans and Specifications** shall be prepared and submitted for approval for any change, alteration or construction regarding the public water system. These include changes in process that affect water quality, hydraulic conditions, or the function of a process. These must be submitted and

approved by the DWS. Projects that are being funded with Drinking Water State Revolving Funds (DWSRF) are submitted to the Division of Community Assistance (DCA). Such approval shall be obtained prior to initiation of the proposed project. "As-Builts" shall be submitted on completion of a project. A long-range system plan, including capital improvements plan is not required by the DWS, but may be desirable to the system.

- A **Source Water Assessment and Protection Plan** and/or **Wellhead Protection Plan** must be developed and submitted to the DWS for approval.
- Prepare and submit for review and approval a **Monitoring Plan** to the Division of Water Supply based on rules, and guidelines provided by the Division. Such plan will identify all parameters to be monitored (including Benzo(a)pyrene and asbestos) and a schedule for conducting that monitoring. Such plan will include all bacteriological contaminants and chemical parameters required by and in accordance with Division rules. One component of the Monitoring Plan will be a **Bacteriological Site Sampling Plan** (Information and guidance material is available upon request. The plan should address the number and location of follow-up sampling, public notification, etc. The Monitoring Plan should include (or execute) a **consolidation agreement** with parent water systems (where applicable) for the monitoring of lead and copper tap water. The Monitoring Plan should also note any parameters waived and when a parameter waiver expires.
- Establish and submit an **Emergency Operations Plan** (and Drought Management Plan if appropriate) for review and approval by the Division. The system may enter into an agreement indicating the intent to cooperate with the parent water system in the event of an emergency that interrupts water service and conveying its willingness to supply alternative potable water during a state of emergency if needed. (information and guidance material available upon request). An Emergency Operations Plan will outline system options, responses, conservation plans and other provisions in case of flooding, power outage, major fire, contamination, major line break, source contamination, drought, chemical release, etc.
- Develop a **Customer Complaint File** regarding water related issues to be maintained on site. Customer complaints with CWSs which relate to financial and/or managerial issues should have a UMRB or DCA number assigned. The file must contain customer name and address, date of complaint, nature of complaint, and action(s) taken to resolve the complaint. A Customer Relations plan is not required by the DWS, but may be desirable to the system.
- Agreement and statement of understanding indicating that **Monthly Operation Reports** (MORs) shall be submitted to the Division no later than ten (10) days following the end of the month being reported. The MOR shall accurately reveal the operation and performance of the water system during the reporting period.

- A **Cross Connection Control Program Plan** for the detection and elimination of cross connections must be submitted and approved by the Division of Water Supply (Information and guidance material is available upon request).
- A **Record Keeping Plan** shall be developed and maintained. Records kept shall include storage tank inspection and maintenance reports, Individual facility maintenance records, flushing records with beginning and ending chlorine residuals, chlorine residuals at new taps, facility security records (including vandalism, break-in, theft, and trespass), equipment maintenance and repair records (maintenance, calibrations, dates out-of-service, and repairs of pumps, meters, feeders and alarms), line breaks - maintenance and repair, distribution maps. Other records that must be kept include: bacteriological sample analyses, cross connection plans and inspection records, chemical analysis, sanitary surveys, actions to correct violations, turbidity records, daily worksheets and shift logs used to produce MORs, lead and copper related records, and public notices.
- A **Public Notifications and Public Education File** should be maintained. Efforts to inform customers of violations, Boil Water Advisories, and community education should be kept in a file. Further, Community Water Systems (CWSs) must prepare and submit a Consumer Confidence Report (CCR) annually.
- Agreement to remit annual **Facility Maintenance Fees** to the Division plus any penalties and interest charges which have accrued due to late or non-payment of the annual facility maintenance fee. Public water systems must also submit a **Business Plan**. The plan shall identify source(s) of income or revenue sufficient to meet expenses over a three (3) year period. The business plan will identify costs related to retaining a certified operator, estimated annual infrastructure repair cost, depreciation, facility maintenance fees, estimated annual monitoring costs, estimated costs of providing public notices, estimated administrative costs, and any other operational, treatment, and related costs (e.g. chemicals and other supplies used to treat water, etc.). The business plan must include the re-payment of borrowed and amortized funds.
- Agreement to comply with any and all laws, rules and/or regulations which are necessary or applicable to the public water system.

Attachment 2

New CWSs and NTNCWSs in Tennessee 2002 - 2005

| <u>PWSID</u> | <u>SYSTEM NAME</u> | <u>COUNTY</u> | <u>SOURCE TYPE</u> | <u>SYSTEM TYPE</u> | <u>POPUL</u> | <u>STATUS</u> | <u>BEGIN DATE</u> |
|--------------|--------------------------------|---------------|------------------------|------------------------|--------------|---------------|-----------------------|
| 0008211 | ALARA BROOK APARTMENTS | WILLIAMSON | Z | C | 1096 | Active | 02/01/03 |
| 0008245 | ALARA RIVER OAKS APARTMENTS | WILLIAMSON | P | C | 562 | Active | 06/01/05 |
| 0008188 | ARBOR CREEK APARTMTENTS | HAMILTON | P | C | 819 | Active | 04/15/02 |
| 0008234 | BAILEY CREEK APARTMENTS | SHELBY | W | C | 603 | Active | 05/01/04 |
| 0008191 | BERKELEY RIDGE APARTMENTS | DAVIDSON | P | C | 561 | Inactive | 05/15/02 |
| 0008230 | BRISTOL GARDENS APARTMENTS | SHELBY | W | C | 572 | Active | 03/01/04 |
| 0008224 | BRISTOL PARK @ GOV. SQUARE | MONTGOMERY | P | C | 659 | Active | 08/01/03 |
| 0008219 | CAMELLIA TRACE @ MTN. VIEW APT | BLOUNT | P | C | 535 | Active | 07/01/03 |
| 0008204 | CAMERON HILL APARTMENTS #1 | HAMILTON | P | C | 612 | Active | 10/01/02 |
| 0008205 | CAMERON HILL APARTMENTS #2 | HAMILTON | P | C | 260 | Active | 10/01/02 |
| 0008242 | CARRINGTON MANOR APARTMENTS | SHELBY | W | C | 658 | Active | 04/01/05 |
| 0008214 | CEDAR HILL APARTMENTS | KNOX | P | C | 173 | Active | 03/20/03 |
| 0008198 | CEDAR MILLS APARTMENTS | SHELBY | W | C | 718 | Active | 10/28/02 |
| 0008202 | CHEROKEE BOAT DOCK | WILSON | Y | C | 125 | Inactive | 10/01/02 |
| 0008240 | CLEARBROOK VILLAGE APARTMENTS | SHELBY | W | C | 458 | Active | 04/01/05 |
| 0008183 | COBBLESTONE CORNERS APTS | DAVIDSON | P | C | 221 | Active | 01/01/02 |
| 0008239 | COVINGTON CROSSING APARTMENTS | SHELBY | W | C | 601 | Active | 04/01/05 |
| 0008186 | CROSSINGS APARTMENTS, THE | SHELBY | W | C | 208 | Inactive | 04/01/02 |
| 0008203 | DEERFIELD APARTMENTS | SHELBY | W | C | 354 | Active | 10/01/02 |
| 0008217 | FAIRWAY MEADOWS APARTMENTS | RUTHERFORD | P | C | 551 | Active | 05/01/03 |
| 0008192 | FRANKLIN OAKS APARTMENTS | WILLIAMSON | P | C | 1315 | Active | 06/01/02 |
| 0008215 | GABLES OF HENDERSONVILLE | SUMNER | P | C | 961 | Active | 04/01/03 |
| 0008195 | GREENVIEW TOWNHOMES APARTMENTS | SHELBY | W | C | 411 | Active | 05/24/02 |
| 0008246 | GREENWOOD PLACE APARTMENTS | MONTGOMERY | P | C | 186 | Active | 08/01/05 |
| 0008221 | HERITAGE LAKE @ WESTLAND APT | KNOX | P | C | 613 | Active | 08/01/03 |
| 0008229 | HICKORY VIEW APARTMENTS | DAVIDSON | P | C | 276 | Active | 12/01/03 |
| 0008226 | HOLIDAY MOBILE VILLAGE | DAVIDSON | P | C | 616 | Active | 02/01/04 |
| 0008231 | INDIAN PARK APARTMENTS | RUTHERFORD | P | C | 848 | Active | 02/01/04 |
| 0008212 | IVYWOOD APARTMENTS | DAVIDSON | P | C | 536 | Active | 02/01/03 |
| 0008218 | JACKSONIAN CONDOMINIUMS | DAVIDSON | P | C | 44 | Active | 05/01/03 |
| 0008007 | JEFFERSON SQUARE CONDOMINIUMS | DAVIDSON | P | C | 186 | Active | 02/01/04 |
| 0008185 | KIRBY STATION APARTMENTS | SHELBY | W | C | 965 | Active | 04/01/02 |
| 0008213 | KNOX LANDING APARTMENTS | KNOX | P | C | 199 | Active | 03/20/03 |
| 0008220 | LEAD MINE BEND WATER ASSOC. | UNION | G | C | 92 | Active | 10/01/03 |
| 0008163 | LEGACY FARMS APARTMENTS | SHELBY | W | C | 957 | Active | 04/12/02 |
| 0008223 | LEGENDS AT WOLFCHASE APTS, THE | SHELBY | W | C | 780 | Active | 07/01/03 |
| 0008184 | LEXINGTON APARTMENTS, THE | DAVIDSON | P | C | 1375 | Active | 01/01/02 |
| 0008228 | LONE OAK UTILITY DISTRICT | SEQUATCHIE | P | C | 234 | Active | 01/01/04 |
| 0008162 | MADISON AT SCHILLING FARMS APT | SHELBY | W | C | 842 | Active | 10/09/02 |
| 0008200 | MERCURY VIEW LOFTS APARTMENTS | DAVIDSON | P | C | 74 | Active | 08/15/02 |
| 0008201 | NORTH BLEDSOE COUNTY UD | BLEDSOE | P | C | 279 | Active | 09/02/03 |
| 0008206 | NORTHTOWNE VILLAGE APARTMENTS | HAMILTON | W | C | 434 | Active | 11/01/02 |
| 0005057 | NORTHWEST HEADSTART @ MOSCOW | FAYETTE | G | P | 100 | Active | 06/01/02 |
| 0005063 | NORTHWEST HEADSTART OF HUMBOLT | GIBSON | G | P | 43 | Active | 08/01/02 |
| 0008197 | OAKS APARTMENTS, THE | MADISON | W | C | 260 | Active | 08/01/02 |
| 0008237 | ORCHARD PARK II APARTMENTS | MONTGOMERY | P | C | 302 | Active | 12/01/04 |
| 0008196 | PADDOCK CLUB APARTMENTS | RUTHERFORD | P | C | 639 | Active | 07/01/02 |
| 0008187 | PARK ESTATES APARTMENTS | SHELBY | W | C | 213 | Active | 04/01/02 |
| 0008199 | PINNACLE HOMES AT HARBOUR VIEW | HAMILTON | P | C | 745 | Active | 08/01/02 |
| 0008193 | POST RIDGE APARTMENTS | DAVIDSON | P | C | 345 | Active | 06/01/02 |
| 0008243 | PRESTON RUN AT NORTH CREEK COM | DAVIDSON | P | C | 547 | Active | 04/15/05 |
| 0008222 | REDWOOD HOLLOW APARTMENTS | RUTHERFORD | P | C | 191 | Active | 08/01/03 |
| 0008189 | RIVER TRACE APARTMENTS | SHELBY | W | C | 1144 | Active | 04/01/02 |
| 0008216 | ROLLING HILLS APARTMENTS | DAVIDSON | P | C | 635 | Inactive | 05/01/02 |
| 0008235 | SHALLOWFORD TRACE APTS. | HAMILTON | P | C | 607 | Active | 10/01/04 |
| 0008209 | SKYLINE APARTMENTS | WARREN | P | C | 237 | Active | 12/16/02 |
| 0008207 | STANDIFER PLACE SAPARTMENTS | HAMILTON | P | C | 578 | Active | 11/01/02 |

| | | | | | | | |
|---------|--------------------------------|------------|---|---|------|----------|----------|
| 0008225 | STONEGATE MEADOWS APARTMENTS | RUTHERFORD | P | C | 220 | Inactive | 10/01/03 |
| 0008238 | STONERIDGE PARK APARTMENTS | HAMILTON | P | C | 174 | Active | 05/09/05 |
| 0008236 | SUNSET LANDING | HAMILTON | G | C | 50 | Inactive | 10/06/04 |
| 0008194 | TRAILS OF KIRBY PKWY APTS, THE | SHELBY | W | C | 978 | Active | 06/15/02 |
| 0008190 | TWIN OAKS APARTMENTS | DAVIDSON | P | C | 745 | Active | 05/01/02 |
| 0008208 | VILLAS AT OAK CREST APARTMENTS | HAMILTON | P | C | 289 | Active | 11/01/02 |
| 0008210 | WALKER'S CROSSING APTS. | KNOX | P | C | 487 | Active | 11/18/02 |
| 0008233 | WARREN COUNTY U.D. #2 | WARREN | P | C | 741 | Active | 03/01/04 |
| 0008241 | WATERFORD POINTE APARTMENTS | SHELBY | W | C | 1560 | Active | 04/01/05 |
| 0005077 | WEST HIGH ALUMNI BUILDING | MADISON | G | P | 425 | Inactive | 08/01/03 |
| 0008232 | WHITE OAKS APARTMENTS | DAVIDSON | P | C | 552 | Inactive | 03/01/04 |
| 0008244 | WOODGATE FARMS APARTMENTS | RUTHERFORD | P | C | 912 | Active | 05/01/05 |

| | |
|---|----|
| Community Systems (C) | 66 |
| Non-Transient Non-Community Systems (P) | 3 |
| Transient Non-Community Systems (N) | |
| Total Systems Added | 69 |

Attachment 3

PWSs with a History of Significant Non-Compliance in Tennessee Systems Meeting Definition of SNC During FY1994 - FY1996

| PWSID | Name | Contaminate | Reason |
|--------------|---------------------------------|-------------|----------------------------------|
| 0000046 | Belvidere | S | Time Frame |
| 0000061 | Bluff City | S, C | Time Frame, Funding, Operational |
| 0000062 | Chinqupin Grove UD | S | Time Frame |
| 0000078 | Jacob's Creek Job | S | Operational |
| 0000083 | Loon Bay Property Owners | C, N | Operational |
| 0000101 | Center Grove Winchester Springs | S | Time Frame |
| 0000104 | Chapel Hill | S | Time Frame |
| 0000127 | Collinwood | S | Time Frame |
| 0000180 | Oak Shadow MHP | S | Time Frame |
| 0000183 | Decatur | S | Time Frame |
| 0000187 | Decherd | S | Time Frame |
| 0000221 | Elizabethton | S | Operational |
| 0000230 | Erin | S | Time Frame |
| 0000231 | Erwin | S | Time Frame |
| 0000317 | Huntland | S | Time Frame |
| 0000410 | Piney UD | S | Time Frame |
| 0000426 | Hiwassee College | S | Operational |
| 0000472 | Mooresburg UD | S | Operational |
| 0000479 | Mountain City | S | Time Frame |
| 0000485 | Cold Spring UD | S | Time Frame |
| 0000525 | Ocoee UD | S | Time Frame |
| 0000572 | Red Boiling Springs | S | Time Frame |
| 0000616 | Sequatchie Water Works | L | Management, Funding |
| 0000640 | Sneedville UD | S | Time Frame |
| 0000656 | Spring City | S | Time Frame |
| 0000706 | Tracy City | S | Time Frame, Funding |
| 0000888 | Midway Tr Ct | L | Management |
| 0000899 | Hickory Star Marina | S | Time Frame, Funding |
| 0000916 | Leatherwood Water District | L | Management |
| 0000921 | Seven Hawks Wild Program | S | Time Frame, Funding |
| 0000958 | Wildwood Estates | C | Management |
| 0000961 | Gabbard's TP | C | Management |
| 0002645 | Kyles Ford School | C | Management |
| 0004441 | H&H Wholesale | C, L | Management |
| 0004725 | Little Tyke's Daycare | C | Management |
| 0004726 | Collinwood Head Start | C | Management |
| 0004800 | Little People University | C | Management |
| Total | 37 PWSs | | |

S = Surface Water Treatment Rule (SWTR)
 C = TCR
 N = Nitrate
 L = Lead and Copper Rule

Attachment 4

PWSs with a History of Significant Non-Compliance in Tennessee Compliance Status

| PWSID | Name | Means of Achievement |
|---------|--|---|
| 0000046 | Belvidere | CO 94-0378 issued Sep 94, RTC 1 Dec 1994 |
| 0000061 | Bluff City | Construct filters for Underwood Spring source, RTC 18 Feb 96 |
| 0000062 | Chinquapin Grove UD | CO 96-0080 issued May 96, RTC 9 Jul 1997 |
| 0000078 | Jacob's Creek Job | Technical Assistance ca Aug 96 |
| 0000083 | Loon Bay Property Owners | System gave PN for Nitrate MN violation (Dec 97), RTC 16 Dec 96 |
| 0000101 | Center Grove Winchester Springs | CO 94-0373 issued Nov 94, RTC 1 Dec 95 |
| 0000104 | Chapel Hill | CO 96-0105 issued Jul 96, RTC 17 Jun 98 |
| 0000115 | Clarksburg UD | DWS-0038 issued Nov 00 RTC 1 Oct 2000 |
| 0000127 | Collinwood | CO 96-0210 issued Sep 96 and DO DWS-0032 Jan 01, RTC 1 Jun 2000 |
| 0000180 | Oak Shadow MHP | CO 96-0333 issued Nov 96 and deactivated Jan 97 |
| 0000183 | Decatur | CO 96-0181 issued Sep 96, RTC 31 Aug 97 |
| 0000187 | Decherd | CO 91-3216 issued Oct 91, RTC 1 Feb 95 |
| 0000221 | Elizabethton | Technical Assistance ca Feb 96 |
| 0000230 | Erin | CO 96-0119 issued Jun 96, inactivated source |
| 0000231 | Erwin | CO 96-0453 issued Mar 97, RTC 20 Dec 96 |
| 0000317 | Huntland | CO 96-0058 issued Apr 96, RTC 9 Jul 97 |
| 0000410 | Piney UD | CO 95-0122 issued Jul 95, deactivated Nov 99, RTC 20 Apr 96 |
| 0000426 | Hiwassee College | Pressure filter media replaced w/ mixed media and TA (Mar 96) |
| 0000455 | Middleton WD | DWS-0037 issued Nov 00; RTC Jan 2001 |
| 0000472 | Mooreburg UD | Construct new filter plant (in-service Jan 97) |
| 0000479 | Mountain City | CO 96-0116 issued Aug 96, RTC 31 May 99 |
| 0000485 | Cold Spring UD | CO 96-0182 issued Aug 96, RTC 1 Feb 98 |
| 0000525 | Ocoee UD | CO 96-0195 issued Sep 96, RTC 16 Sep 98 |
| 0000572 | Red Boiling Springs | CO 93-0587 issued Dec 93, DWS-0005 issued Feb 00, RTC 1 Nov 96 |
| 0000616 | Sequatchie Water Works | Deactivated Aug 96 |
| 0000640 | Sneedville UD | CO 96-0319 issued Nov 96, GUDI inactivated |
| 0000656 | Spring City | CO 94-0374 issued Nov 94, GUDI inactivated |
| 0000706 | Tracy City | Addressed in CO 84-0222 issued Aug 84, sources abandoned 1 Nov 96 |
| 0000745 | White House Utility District | Equip repaired. RTC 1 Mar 99. No SWTR violations. RTC Oct 00. |
| 0000848 | Cumberland Mt. Retreat | DWS-9931 issued Dec 99. RTC Mar 99. Nitrate viol FY00. RTC May 01. |
| 0000888 | Midway Tr Ct | MN and PN for Pb and Cu – Nov 96m RTC 11 May 96 |
| 0000899 | Hickory Star Marina | CO 96-0072 issued May 96, system will achieve compliance 1 Sep 01 |
| 0000916 | Leatherwood Water District | CO 97-0107 issued Aug 97, RTC 19 Sep 96 |
| 0000921 | Seven Hawks Wild Program | CO 96-0151 issued Jul 96, RTC 28 Feb 95 |
| 0000958 | Wildwood Estates | DWS-9702 issued Jul 97 and DWS-9906 issued Apr 99 |
| 0000961 | Gabbard's TP | Court Injunction (Case 96-0471) and deactivated Mar 01 |
| 0000962 | Decalogue Stone Country (previously known as Elijah Gospel Mission) | DWS-9901 issued 27 Jan 99. RTC 8 Feb 99. No more TCR viol in FY00. viol in Nov 01. RTC Dec 01. |
| 0002645 | Kyles Ford School | DWS-9802 issued Feb 98 and DWS-0006 issued Feb 00, RTC 9 Jan 95 |
| 0004441 | H&H Wholesale | CO 96-0148 issued Nov 96, deactivated Apr 96 |
| 0004725 | Little Tyke's Daycare | Deactivated Oct 00 |
| 0004726 | Collinwood Head Start | Deactivated Aug 95 |
| 0004800 | Little People University | CO 97-0116 issued Jul 97 and deactivated Aug 97 |
| 0008033 | Cold Springs II WS | DWS-0003 issued Jan 01, deactivated Jun 00 |

Total 43 PWSs

CO – Commissioner's Order
 DO – Director's Order
 DWS – Division of Water Supply
 GUDI – Ground Water Under Direct Influence of Surface Water
 MN – Monitoring
 PN – Public Notification
 PWS – Public Water System
 RTC – Return to Compliance
 SS – Sanitary Survey
 TA – Technical Assistance

Note: PWSs that began submetering prior to Sep 30 1999 are excluded

Updated 2005

Attachment 5

PWSs with a History of Significant Non-Compliance in Tennessee FY2002 – FY2005

| PWSID | Name | Means of Achievement |
|---------|-------------------------|--|
| 0000023 | Ashland City Water Dept | HAA5 & TTHM violations. Will remain SNC until Dec 05 if no additional violations. Cumberland River source. |
| 0000274 | North Greene UD | TTHM MCL violations. Will remain SNC until Dec 05 if no additional violations. Lick Creek source. |
| 0000291 | Hartsville Water Dept | HAA5 & TTHM MCL Violations. Will remain SNC until Mar 06 if no additional violations. Cumberland River source. |
| 0000389 | Northeast Lawrence UD | HAA5 & TTHM Violations. Will remain SNC until Dec 05 if no additional violations. Lawrenceburg source. |
| 0000391 | New Prospect UD | HAA5 & TTHM violations. Will remain SNC until Dec 05 if no additional violations. Lawrenceburg source. |
| 0000517 | Bedford Co UD | HAA5 violations. Will remain SNC until Mar 06 if no additional violations. Duck River source. |
| 0000520 | Brushy Mt. Prison | IESWTR violations. Will remain SNC until Dec 05 if no additional violations. |
| 0000738 | Westmoreland WS | HAA5 and TTHM MCL Violations. Will remain SNC until Mar 06 if not additional violations. Gallatin source. |
| 0000749 | Whitwell Water Dept | SWTR and IESWTR MCL Violations. Will remain SNC until Nov 05 if no additional violations. |
| 0000790 | Wilson Co Water | HAA5 MCL Violations. Will remain SNC until Dec 05 if no additional violations. Lebanon source. |
| 0009940 | Beechview Corp | Chem and Rad M/R Violations. Will remain SNC until sampling. |

Note: TCR and operational violations may occur over several compliance periods. EPA considers a system as having RTC when a system successfully monitors TC the following period.

TTHM (Total Trihalomethanes) and HAA5 (Haloacetic acids (five))

Updated – 2005 Aug 21

Attachment 6
Community Assistance Loans in Tennessee
(List of CWSs receiving a State Revolving Loan by Fiscal Year)

FY1997-1998

Jackson UD
Kingsport
McMinnville
McKenzie
Greenfield

Union Fork - Bakewell UD
Union Fork - Bakewell UD
West Warren – Viola UD
West Warren – Viola UD (Increase)

FY1998-1999

Collinwood
Elizabethton
Troy
Greenfield
Eastview UD

FY2002-2003

Chattanooga
Mountain City
Oak Ridge
Shelbyville
Sweetwater
Loudon (Increase)
Nashville
Cumberland UD
McMinnville
Ocoee UD
West Overton
Lafollette
Loudon (2 Increases on 2 loans)
Morristown

FY1999-2000

Bradford
McMinnville
Moore County/Lynchburg
West Overton UD
Crossville
Loudon
Ocoee UD

FY2003-2004

Lawrenceburg
Clarksburg
Lebanon
Ripley
Chattanooga
West Warren Viola UD
Benton County
Decatur County
Bolivar
Hendersonville UD
Sweetwater
Nashville
Hallsdale Powell UD
Livingston

FY2000-2001

Gladeville UD
Laguado UD
Oakland
Mt. Pleasant
Watts Bar UD
Lenoir City
Loudon
Loudon

FY2001-2002

Clarksville
Clarksville
Crossville
Cumberland UD
DeKalb UD
Gladeville UD (Increase)
Lebanon
Loudon (Increase)
McMinnville (Increase)
Morristown

FY2004-2005

Hendersonville UD
Lawrenceburg (Increase)
Rockwood
Ocoee UD (2) loans
Hallsdale Powell UD
McMinnville
Mt. Pleasant
Wartburg
Shelbyville

Attachment 7

WATER AND WASTEWATER SYSTEMS CURRENTLY UNDER REVIEW BY THE WATER AND WASTEWATER FINANCING BOARD

| Local Government | County | Projected Compliance Date |
|-------------------------|----------------|--|
| Covington | Tipton | 6/30/2007 |
| Dyersburg | Dyer | 6/30/2007 |
| Gates | Lauderdale | TBD |
| Hornsby ** | Hardeman | 6/30/2005 |
| Kenton | Gibson & Obion | 6/30/2006 |
| Memphis ** | Shelby | 6/30/2005 |
| Ridgely | Lake | 6/30/2007 |
| Savannah | Hardin | TBD |

** Expected to be in compliance when FY 2005 audit is completed and released
TBD - To Be Determined

Attachment 8

UTILITY DISTRICTS CURRENTLY UNDER THE JURISDICTION OF THE UTILITY MANAGEMENT REVIEW BOARD

| Utility District | County | Compliance |
|---------------------------------------|---------------|-------------------|
| Clarksburg Utility District | Carroll | June 15, 2004 |
| Clay County Gas Utility District | Clay | TBD |
| Cold Springs Utility District | Johnson | Aug 31, 2006 |
| Foster Falls Utility District | Marion | June 30, 2008 |
| Iron City Utility District | Lawrence | Dec 31, 2004 |
| Samburg Utility District | Obion | TBD |
| Upper Cumberland Gas Utility District | Cumberland | TBD |
| West Point Utility District | Lawrence | Dec 31, 2009 |

TBD - To Be Determined

Attachment 9

Capacity Development - Business Plan, Financial Self-Assessment Manual

The purpose of a business plan for a water system is to show that the proposed or continued operation of a water system will be viable from a financial standpoint. Business Plans can be/are a means of determining/assuring the viability of water systems from a financial standpoint. Operating a water system is like operating any business, and for any business to be successful, it needs to have a "business plan." The attached worksheet (or Financial Self-Assessment Manual) provides a framework to summarize and evaluate your business. Three columns are provided in order to show anticipated income and expenses over the next three years. "Year One" should cover the system's current business year. Columns are provided for listing "Income" and "Expenses" for the second and third years, if different, otherwise the figures shown in "Year One" will be assumed as intended. The "Total" or bottom line of the plan should combine "Total of all Expenses" and the "Total of all Income." If "Expenses" exceeds "Income" then rates, fees and/or other income must be increased or expenses must decrease in order for the system to be viable. If the cost of operating the water system is unacceptable, the water system may want to consider what alternatives are available. If drinking water, which meets Safe Drinking Water Act requirements is available or can be made available from another public water system at a reasonable cost it may be possible to deactivate the water system. Other options may exist if the water system is extremely small and water use is minimal. Your Environmental Assistance Center (EAC) must be consulted in this event (1-888-891-8332).

In addition, operating a water system requires two additional plans: a facility and specifications plan (technical), **and** an operation and maintenance plan (technical and managerial capacity), in addition to a business (financial) plan. In summary, a viable water system is "a public water system which has the commitment and the financial, managerial and technical capacity to consistently comply with the Tennessee Safe Drinking Water Act and these regulations." A water system is determined to be "non-viable" if it cannot meet state requirements.

Definitions:

Sales of Water (Conn x Rate x Min Mo Water Use) – The amount of income derived from water revenues. Such revenue typically is based on the number of connections, the rate or cost of water, and the minimum amount an account is allowed to be charged.

Tap Fees, Reconnect Fees and Bad Check Fees – Fees derived from setting new taps; fees collected after service is discontinued and there is a reconnection; and fees related to checks returned due to insufficient funds, etc.

Interest Earned – Revenue derived from interest accrued from system bank accounts, etc.

Other – Monies earned from rental or sale of equipment, services provided to other agencies or businesses, etc.

Cost of Water – If purchased from a PWS (Public Water System), royalties due to water rights holders, etc.

O&M – Expenses related to Operations and Maintenance. These would include the cost of chemicals (chlorine, lime, etc.), power, fuel (gas, gasoline and diesel fuel), transportation and communication expenses (vehicles and vehicle maintenance, repair equipment, mobile phones, etc.), monitoring costs (sample collection and lab costs), materials and supplies, normal repairs to lines and filters, and salaries and benefits of employees.

Administrative Costs – Insurance, office supplies, postage, legal, accounting, telephone, salaries and benefits for managers, and clerical workers.

Facility Maintenance Fee – Fee payable to the Division of Water Supply (DWS), Tennessee Department of Environment and Conservation (TDEC) on or about October 1 of each year.

A/E & Professional Services, Fees (including Billing Services) – Architectural and Engineering Fees, Professional Service Fees, including the cost of contracted billing services, etc.

Contracts – Backflow Prevention Testing, Certified Operators (on contract), etc.

Taxes or Payments in Lieu of Taxes – Payments of local, state and/or the federal government.

Debt Repayment – Loan Debt Service

Capital Improvements – The cost of physical improvements made to the facility. Capital improvements specifically related to a water system include the addition of filtration equipment, pumps to improve flows, the extension of the piping system.

Other Expenses - Public Notification (PN), public relations costs, employee training, civil penalties, etc.

Operating Cash Reserves – Funds available to meet expenses from a cash flow standpoint. Invariably there will be times when expenses will exceed anticipated revenues, whose obligations must be met prior to receiving additional income.

Emergency Reserves – Funds which are available to replace, repair, or meet unexpected new additional requirements, etc. which are unexpected due to a variety causes, including thief, fire, flood, vandalism, etc.

Business Plan Worksheet

| Category | Specific Budget Items | Amount | Amount | Amount |
|--------------------|--|----------|----------|------------|
| INCOME | | Year One | Year Two | Year Three |
| | Sales of Water (Conn X Rate X Min Mo Water Use) | | | |
| | Fees – Tap Fees | | | |
| | Fees – Reconnect Fees | | | |
| | Fees – Bad Check Fees | | | |
| | Interest Earned | | | |
| | Other (specify) | | | |
| Sub-Total | (Total Of All Income) | | | |
| EXPENSES | | | | |
| | Cost of Water (if purchased from another PWS) | | | |
| | Operating and Maintenance Expenses | | | |
| | O&M – Chemicals | | | |
| | O&M – Electrical Power and other Fuel | | | |
| | O&M – Transp and Comm (Vehicle expense) | | | |
| | O&M – Monitoring | | | |
| | O&M – Materials, Supplies and Parts | | | |
| | O&M – Operator Salaries and Benefits | | | |
| | Administrative | | | |
| | Adm – Insurance | | | |
| | Adm – Ofc Supplies, Equipment and Postage | | | |
| | Adm – Legal and Accounting | | | |
| | Adm – Telephone | | | |
| | Adm – Salaries/Benefits - Managerial/Clerical | | | |
| | TDEC Facility Maintenance Fee | | | |
| | A/E & Prof Services/Fees (incl Billing Service) | | | |
| | Contracts (incl Backflow Prevention Testing, etc.) | | | |
| | Taxes or Payments in Lieu of Taxes | | | |
| | Debt Repayment (Bond/Loan Debt Service) Expense | | | |
| | Capital Improvements | | | |
| | Depreciation Expense | | | |
| | Other Expenses (PN, PR, Employee Training, etc.) | | | |
| | Operating Cash Reserves | | | |
| | Emergency Reserves | | | |
| Sub-Total | (Total Of All Expenses) | | | |
| TOTAL ¹ | Net Income (or Loss) | | | |

Signature: _____ Date: _____

¹ Note: Subtract “Total of All Expenses” from “Total of All Income.” If “Expenses” exceeds “Income” then Rates and Fees must increase and/or Expenses must decrease. If no “Expenses” and “Income” are shown for the second and third years, figures are the same as shown in “Year One.”