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DEPARTMENT REVIEW DEPARTMENT OF ENVIRONMENTAL PROTECTION

AUDIT OVERVIEW

The Department of Environmental Protection's Listed Performance Measures, Published in the Executive Budget Operating Detail, Do Not Fully Describe How Well It Is Doing in Achieving Its Outcomes

The West Virginia Department of Environmental Protection's Website Is User-Friendly and Transparent



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EXECUTIVE SUMMARY

This report is part of a series on the Department Review of the West Virginia Department of Environmental Protection (DEP), as authorized by *West Virginia Code* §4-10-8(b)(4). The Legislative Auditor examined the performance measures of agencies within the DEP. The Legislative Auditor also examined the agency's website for user-friendliness and transparency.

Report Highlights

Issue 1: The Department of Environmental Protection's Listed Performance Measures, Published in the Executive Budget Operating Detail, Do Not Fully Describe How Well It Is Doing in Achieving Its Outcomes.

- Agencies within the DEP need to provide more meaningful performance measures in the *Executive Budget Operating Detail* that show how well they are accomplishing their respective missions.

Issue 2: The West Virginia Department of Environmental Protection's Website Is User-Friendly and Transparent.

- The DEP's website scores 64 percent on the Website Criteria Checklist and Points System, thus needing modest improvement.
- The DEP's website scores 14 out of 18 for user-friendliness and 18 out of 32 for transparency.

Recommendations

1. *The Department of Environmental Protection should establish clear and complete performance goals and measures that are closely tied to the respective outcomes for all of the programs listed in the Executive Budget Operating Detail.*
2. *The DEP should consider providing public access to its performance goals and measures via its website and include current and historical performance measures, budget information, and other user-friendly and transparency website elements identified by the Legislative Auditor.*

ISSUE 1

The Department of Environmental Protection’s Listed Performance Measures, Published in the Executive Budget Operating Detail, Do Not Fully Describe How Well It Is Doing in Achieving Its Outcomes.

Issue Summary

The Department of Environmental Protection (DEP) provided performance goals and measures for the *2011 Executive Budget Operating Detail (Operating Detail)*. This report reviews all division performance measures listed in the *Operating Detail* that are not reviewed by the Legislative Auditor in separate reports. In most cases the mission statements reflect statutory authority. However, most performance measures do not have clear performance goals, and performance measures were not listed for some important programs. **As a result, the Legislature and other users of the *Operating Detail* do not have a clear understanding of how well most of these agencies are doing in achieving their desired outcomes.**

In most cases the mission statements reflect statutory authority. However, most performance measures do not have clear performance goals, and performance measures were not listed for some important programs.

Background

According to the United States Government Accountability Office, performance measurement is the ongoing monitoring and reporting of program accomplishments, particularly progress toward pre-established goals. This measurement is typically conducted by program or agency management. Performance measures may address the type or level of program activities conducted (process), the direct products and services delivered by a program (outputs), or the results of those products and services (outcomes). Performance measurement focuses on whether a program has achieved its objectives, expressed as measurable performance standards.

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Performance Goals and Measures of the Executive Budget

As part of the appropriation request process, the Legislature requires that state agencies submit division-level performance measures for the *Operating Detail*. Other information reported includes the agency’s mission statement, performance goals and objectives. Performance goals represent desired performance, while performance measures represent actual performance. Although legislative appropriations are not based on performance measures submitted by state agencies, performance measures are required in order to promote accountability before the Legislature and

the public, and to encourage agencies to become result-oriented in their operations.

The Legislative Auditor has observed that many state agencies have not provided adequate performance goals or measures in the *Operating Detail*. In some cases, performance measures are not strongly tied to the agency's overall mission, while in other cases the list of performance measures is incomplete. In addition, state agencies often do not provide performance goals or benchmarks for their performance measures. Without a performance goal or benchmark, a performance measure does not indicate whether actual performance is good or needs improvement.

In this report, the Legislative Auditor assessed the performance measures submitted to the *Operating Detail* for the following seven agencies:

- the Division of Land Restoration,
- the Executive/Administration section,
- the Surface Mine Board,
- the Air Quality Board,
- the Environmental Quality Board,
- the Oil and Gas Conservation Commission, and
- the Solid Waste Management Board.

The following agencies are also listed in the *Operating Detail*; however, the Legislative Auditor will assess their performance measures and websites in separate reports.

- the Division of Air Quality,
- the Division of Mining and Reclamation,
- the Division of Water and Waste Management,
- the Office of Abandoned Mine Lands and Reclamation, and
- the Office of Oil and Gas.

As part of the appropriation request process, the Legislature requires that state agencies submit division-level performance measures for the Operating Detail. Other information reported includes the agency's mission statement, performance goals and objectives.

The Legislative Auditor has observed that many state agencies have not provided adequate performance goals or measures in the Operating Detail.

Division of Land Restoration

Mission: The 2011 Executive Budget reports the Division of Land Restoration’s mission statement as follows:

**Division of Land Restoration
Mission Statement**

The Division of Land Restoration restores the state’s environment by cleaning up polluted or littered sites, by reclaiming former coal mining sites, and by employing a broad range of scientific and engineering skills.

The Legislative Auditor examined the agency’s mission statement to determine if the agency’s focus is statutorily supported. The performance of an agency is tied to what the agency considers its mission. Therefore, the mission should be clearly understood by the agency and it should not be more or less than what is statutorily required. The Legislative Auditor determined that the Division of Land Restoration’s mission statement is consistent with its statutory authority as shown in the following table.

The Division of Land Restoration’s mission statement is:	
fully supported by statute.	X
not supported by statute.	
less than statutorily required.	
more than statutorily mandated.	
determined administratively as allowed by statute.	

Mission Statement Source

The Division of Land Restoration promotes compliance with the offices and programs under its purview: the Office of Special Reclamation (OSR), the Office of Environmental Remediation (OER), and Rehabilitation Environmental Action Plan (REAP). The OSR is tasked with the reclamation of former coal mining sites, as established in WV Code §22-3-17; the OER is tasked with cleaning up polluted sites, as established in WV Code §22-22; and the REAP program is tasked with cleaning up littered sites, as established in WV Code §22-15A. The

Division of Land Restoration must employ a broad range of scientific and engineering skills to support these statutory requirements. Therefore, the Division of Land Restoration’s mission statement is fully supported by statute.

Agency-Reported Performance Measures

The 2011 Executive Budget lists the Division of Land Restoration’s performance measures as follows:

Fiscal Year	Actual 2007	Actual 2008	Estimated 2009	Actual 2009	Estimated 2010	Estimated 2011
Install synthetic caps on two eligible landfills each year, thus completing all closures by 2017.						
Synthetic landfill caps installed	0	0	5	1	2	1
Reduce the backlog of active cleanups at leaking underground storage tank sites by four percent each year.						
Reduction of backlog of active cleanups	3%	3%	4%	3%	4%	4%
Provide financial assistance by awarding grants to 80% of applicants with complete grant applications received for recycling and litter control.						
Grants awarded to qualified applicants	74%	78%	75%	82%	75%	75%
Reclaim 100% of the land and water capital sites in bond forfeiture status (as of June 30, 2009) by FY 2013.						
Reclaimed land and water sites (cumulative)*	61.76%	75.72%	87.00%	80.04%	93.50%	97.13%
*There were 533 sites as of June 30, 2009.						

The Legislative Auditor concludes that these agency-reported performance goals and measures are relevant to the Division of Land Restoration’s outcome of cleaner land resources. The performance goals are clear, and the measures suggest that the Division is close to achieving these goals. The State Budget Office allows each agency to report up to five performance measures. The DEP indicated that it has additional performance goals and measures for the Division of Land Restoration. Therefore, the Legislative Auditor encourages the Division of Land Restoration to include an additional performance measure to the four that are reported. Of these, the Division should consider a performance goal and measure of the percentage of known dump sites being removed.

The State Budget Office allows each agency to report up to five performance measures.

Executive/Administration

The *2011 Executive Budget Operating Detail* reports the Executive/Administrative section’s mission statement as follows:

**Executive/Administration
Mission Statement**

To support the program offices with quality services that maximize the use of resources and fosters an environment of continuous improvement.

The Legislative Auditor determines that the mission statement for the administration section of the DEP is consistent with statute as shown in the following table.

The Executive/Administrative Office’s mission statement is:	
fully supported by statute.	X
not supported by statute.	
less than statutorily required.	
more than statutorily mandated.	
determined administratively as allowed by statute.	

Mission Statement Source

The Executive/Administrative section’s mission statement is not directly stated in Code; however, the Secretary of DEP is given broad authority in §22-1-6(a) to prescribe the powers and duties of DEP employees and organize the Department *as may be found by the Secretary to be desirable for the orderly, efficient, and economical administration of the Department and for the accomplishment of its objects and purposes.*

Agency-Reported Performance Measure

The DEP reported the following performance measure for the Executive/Administrative section in the *2011 Executive Budget Operating Detail*:

Fiscal Year	Actual 2007	Actual 2008	Estimated 2009	Actual 2009	Estimated 2010	Estimated 2011
Process well work permit applications within five days of the applicable process end date.						
Applications processed within the time frame	100%	100%	100%	100%	100%	100%

Reporting only one goal to represent the performance of several programs the Executive/Administration administered is inadequate. While this performance goal is adequate for the permit process of well work, there are a host of more important performance measures that reflect the programs administered by the Executive/Administrative. The Executive/Administration listed four programs that it provides assistance and guidance for, which are:

- Abandoned Mine Lands and Reclamation,
- Oil and Gas,
- Homeland Security and Emergency Response, and
- Youth Environmental Education.

These programs have important missions, and two of them, Abandoned Mine Lands and Reclamation, and Oil and Gas, have budgets of \$105,410,619 and \$3,905,745 respectively. However, the Executive/Administration provided no information on how these four programs are performing, which would also reflect how well the Executive/Administration is administering them. The Executive/Administration should report five (the maximum allowed by the Budget Office) significant performance goals and measures that collectively address the performance of these four programs such as the goals and performance for reclaiming abandoned mine lands, restoring abandoned oil and gas sites, or the number of students participating in environmental education projects.

Reporting only one goal to represent the performance of several programs the Executive/Administration administered is inadequate.

There are a host of more important performance measures that reflect the programs administered by the Executive/Administrative.

Surface Mine Board

The 2011 Executive Budget Operating Detail reports the Surface Mine Board’s (SMB) mission statement as follows:

**Surface Mine Board
Mission Statement**

To provide fair, efficient, and equitable treatment of appeals of environmental enforcement and permit actions as set forth in the West Virginia Code.

The Legislative Auditor determines that the agency’s mission statement is supported by its enabling statute as shown in the following table.

The Surface Mine Board’s mission statement is:	
fully supported by statute.	X
not supported by statute.	
less than statutorily required.	
more than statutorily mandated.	
determined administratively as allowed by statute.	

Mission Statement Sources

The SMB’s mission statement is supported by Chapter 22B, Article 1 of the West Virginia Code:

- §22B-1-1: *It is hereby declared to be the policy of this state and the purpose of this chapter to provide fair, efficient and equitable treatment of appeals of environmental enforcement and permit actions to the boards set forth herein.*

Agency-Reported Performance Measures

DEP reported the following measure for the Surface Mine Board in the *2011 Executive Budget Operating Detail*:

Fiscal Year	Actual 2007	Actual 2008	Estimated 2009	Actual 2009	Estimated 2010	Estimated 2011
Resolve 100% of appeals filed and in process.						
Appeals resolved	93%	93%	90%	95%	92%	93%

The SMB’s singular function of resolving appeals has two performance areas: timeliness (efficiency) and fairness. The listed performance goal (resolve 100% of appeals) addresses timeliness; however, the goal does not specify a timeframe in which all appeals are to be resolved. The goal in its current wording is open-ended and does not create a standard by which performance can be measured. Although the SMB’s performance indicates that it is close to achieving its goal, it is not clear how long the parties in these appeals have waited for a resolution. The parties may have waited an unacceptable length of time for resolutions, despite the SMB achieving its goal. The SMB should restate its performance goal to consist of a realistic benchmark (timeframe) for resolving appeals **that is based on the satisfaction or realistic expectation of the population it serves**, such as achieving the goal that all appeals resolved in a calendar year were resolved on average within a certain number of months, as an example.

Although the SMB’s performance indicates that it is close to achieving its goal, it is not clear how long the parties in these appeals have waited for a resolution.

Although the SMB is also mandated to resolve appeals fairly and equitably, it is difficult to provide measures for those performance areas. Developing measures on appeals or reversals of SMB decisions to a higher court would not necessarily measure fairness. As a result, the Legislative Auditor concludes that performance goals and measures for timeliness is the only realistic performance indicator for the SMB. However, the current performance goal needs to be modified to have a specified timeframe that addresses the expectation of the population the SMB serves.

Air Quality Board

The 2011 Executive Budget Operating Detail reports the Air Quality Board’s (AQB) mission statement as follows:

**Air Quality Board
Mission Statement**

To adjudicate air quality appeals in a fair, efficient, and equitable manner for the people of West Virginia.

The Legislative Auditor determines that the agency’s mission statement is consistent with its enabling statute as shown in the following table.

The Air Quality Board’s mission statement is:	
fully supported by statute.	X
not supported by statute.	
less than statutorily required.	
more than statutorily mandated.	
determined administratively as allowed by statute.	

Mission Statement Source

The AQB promotes compliance with Chapter 22B-1-1 et seq., 22-5-1 et seq., 29A-5-1 et seq., 6-9A-1 et seq., 52CSR1, 52CSR2, and the West Virginia Rules of Civil Procedure. After consideration of all the aforementioned statutes and rules, it is the Legislative Auditor’s opinion that the mission statement is directly related to the following:

- §22-B-1-1: *It is hereby declared to be the policy of this state and the purpose of this chapter to provide fair, efficient and equitable treatment of appeals of environmental enforcement and permit actions to the boards set forth herein.*

Agency-Reported Performance Measures

Fiscal Year	Actual 2007	Actual 2008	Estimated 2009	Actual 2009	Estimated 2010	Estimated 2011
Resolve 90% of appeals filed and in process.						
Appeals resolved	33%	71%	85%	66%	85%	85%

The DEP reported the following performance measure for the AQB in the 2011 Executive Budget Operating Detail:

The AQB’s singular function of resolving appeals has two performance areas: timeliness (efficiency) and fairness. The listed performance goal (resolve 90% of appeals) addresses timeliness; however, the goal does not specify a timeframe in which all appeals are to be resolved. As in the case of the Surface Mine Board, AQB’s goal in its current wording is open-ended and does not create a standard by which performance can be measured. The performance measure listed suggests that the AQB is not timely in resolving appeals, and there is no indicator of how long parties in these appeals have waited for resolutions. The AQB should restate its performance goal to consist of a realistic benchmark (timeframe) for resolving appeals **that is based on the satisfaction or realistic expectation of the population it serves**, such as achieving the goal that all appeals resolved in a calendar year were resolved on average within a certain number of months, as an example.

The performance measure listed suggests that the AQB is not timely in resolving appeals, and there is no indicator of how long parties in these appeals have waited for resolutions.

Although the AQB is mandated to also resolve appeals fairly and equitably, it is difficult to provide measures for those performance areas. Developing measures on appeals or reversals of AQB decisions to a higher court would not necessarily measure fairness. As a result, the Legislative Auditor concludes that a performance goal and measure for timeliness is the only realistic performance indicator for the AQB. However, the current performance goal needs to be modified to have a specified timeframe that addresses the needs of the population the AQB serves.

Environmental Quality Board

The *2011 Executive Budget Operating Detail* reports the Environmental Quality Board’s (EQB) mission statement as follows:

**Environmental Quality Board
Mission Statement**

Adjudicate environmental appeals in a fair, efficient, and equitable manner for the people of West Virginia.

The Legislative Auditor determines that the agency’s mission statement is supported by its enabling statute as shown in the following table.

The Environmental Quality Board’s mission statement is:	
fully supported by statute.	X
not supported by statute.	
less than statutorily required.	
more than statutorily mandated.	
determined administratively as allowed by statute.	

Mission Statement Sources

The EQB promotes compliance with Chapter 22B-1-1 et seq., 22-5-1 et seq., 29A-5-1 et seq., 6-9A-1 et seq., 46CSR4, 46CSR8, and the West Virginia Rules of Civil Procedure. After consideration of all the aforementioned statutes and rules, it is the Legislative Auditor’s opinion that the mission statement is directly related to the following:

- §22-B-1-1: *It is hereby declared to be the policy of this state and the purpose of this chapter to provide fair, efficient and equitable treatment of appeals of environmental enforcement and permit actions to the boards set forth herein.*

Agency-Reported Performance Measures

The DEP reported the following performance measure for the EQB to the *2011 Executive Budget Operating Detail*:

Fiscal Year	Actual 2007	Actual 2008	Estimated 2009	Actual 2009	Estimated 2010	Estimated 2011
Resolve 90% of appeals filed and in process.						
Appeals resolved	61%	68%	85%	79%	85%	85%

The EQB's singular function of resolving appeals has two performance areas: timeliness (efficiency) and fairness. The listed performance goal (resolve 90% of appeals) addresses timeliness; however, the goal does not specify a timeframe in which all appeals are to be resolved. As in the case of the Surface Mine Board, EQB's goal in its current wording is open-ended and does not create a standard by which performance can be measured. The performance measure listed suggests that the EQB is falling short of its goal, and there is no indicator of how long parties in these appeals have waited for resolutions. The EQB should restate its performance goal to consist of a realistic benchmark (timeframe) for resolving appeals **that is based on the satisfaction or realistic expectation of the population it serves**, such as achieving the goal that all appeals resolved in a calendar year were resolved on average within a certain number of months, as an example.

The performance measure listed suggests that the EQB is falling short of its goal, and there is no indicator of how long parties in these appeals have waited for resolutions.

Although the EQB is mandated to also resolve appeals fairly and equitably, it is difficult to provide measures for those performance areas. Developing measures on appeals or reversals of EQB decisions to a higher court would not necessarily measure fairness. As a result, the Legislative Auditor concludes that a performance goal and measure for timeliness is the only realistic performance indicator for the EQB. However, the current performance goal needs to be modified to have a specified timeframe that addresses the needs of the population the EQB serves.

Oil and Gas Conservation Commission

The 2011 Executive Budget Operating Detail reports the Oil and Gas Conservation Commission’s (Commission) mission statement as follows:

**Oil and Gas Conservation Commission
Mission Statement**

To foster, encourage, and promote the exploration, development, production, utilization, and conservation of West Virginia’s oil and gas resources; to protect against waste; and to protect and enforce the correlative rights of operators and royalty owners within West Virginia.

The Legislative Auditor concludes that the agency’s mission statement is supported by its enabling statute as shown in the following table.

The Oil and Gas Conservation Commission’s mission statement is:	
fully supported by statute.	X
not supported by statute.	
less than statutorily required.	
more than statutorily mandated.	
determined administratively as allowed by statute.	

Mission Statement Source

The Commission promotes compliance with Chapter 22C, Article 9 of the West Virginia Code, which is stated below.

- §22C-9-1(a): *It is hereby declared to be the public policy of this state and in the public interest to:*
 - (1) *Foster, encourage and promote exploration for and development, production, utilization*

- and conservation of oil and gas resources;*
- (2) Prohibit waste of oil and gas resources and unnecessary loss of oil and gas and their constituents;*
- (3) Encourage the maximum recovery of oil and gas; and*
- (4) Safeguard, protect and enforce the correlative rights of operators and royalty owners in a pool of oil and gas to the end that each such operator and royalty owner may obtain his just and equitable share of production from such pool of oil or gas.*

The Commission's mandate to promote the development of the industry can conflict with having the responsibility of approving or denying deep well drilling permits.

Although the Commission's mission statement is consistent with statute, the statute contains a potential conflict. The area of concern is in the Commission's mandate to promote the development of the industry can conflict with having the responsibility of approving or denying deep well drilling permits, as required by §22C-9-4 of the Code. One responsibility can counter the performance of another.

Agency-Reported Performance Measures

The Commission provided the following performance measure for the *2011 Executive Budget Operating Detail*:

Fiscal Year	Actual 2007	Actual 2008	Estimated 2009	Actual 2009	Estimated 2010	Estimated 2011
Issue or deny complete deep well applications within 24 hours of receipt or respond to the applicant within 72 hours if the application is not complete.						
Applications issued, denied, or responded to within time frames	96%	98%	98%	94%	98%	98%

This measure is relevant to the Commission's permitting process; however, by itself it does not provide an adequate picture of how well the Commission is achieving its outcomes. There are other measures that are more correlated to the Commission's mission of promoting the development and preventing waste of oil and gas resources. The

Legislative Auditor provides the following examples of potential performance goals and measures.

1. the annual growth of deep well work permits issued,
2. the annual growth of permits issued for secondary recovery operations and for special field operations for each year, and
3. the number of corrective actions conducted each year that would correct any condition which is causing or is likely to cause waste of oil or gas and require the proper plugging and abandonment of any deep well or wells no longer used or useful.

The Commission only measure does not provide an adequate picture of how well the Commission is achieving its outcomes. There are other measures that are more correlated to the Commission's mission of promoting the development and preventing waste of oil and gas resources.

These are suggestions, but the Commission should consider others that may be more reflective of its performance in promoting and safeguarding the state's oil and gas resources.

Solid Waste Management Board

The 2011 Executive Budget Operating Detail reports the Solid Waste Management Board’s (SWMB) mission statement as follows:

**Solid Waste Management Board
Mission Statement**

To promote the efficient and economical collection and proper recycling, reuse, and disposal of solid waste through integrated waste management practices.

The Legislative Auditor determines that the agency’s mission statement is less than required by its enabling statute as shown in the following table.

The Solid Waste Management Board’s mission statement is:	
fully supported by statute.	
not supported by statute.	
less than statutorily required.	X
more than statutorily mandated.	
determined administratively as allowed by statute.	

Mission Statement Source

The SWMB’s mission statement is supported by Chapter 22C, Article 3 of the West Virginia Code:

- §22C-3-2: *It is the purpose and intent of the Legislature... to provide for the necessary, dependable, effective and efficient collection, disposal and recycling of solid waste and to assist and cooperate with governmental agencies and the private sector in achieving all the purposes set forth in this article, and to encourage the recycling or extraction of recoverable resources from such solid waste.*

The mission states that the Board promotes recycling and proper disposal of waste through integrated waste management practices; however, it does not mention its responsibility for working with both government and the private sector to improve proper disposal and recycling of solid waste. Assisting these groups is a significant part of the Board’s responsibilities under Code and should be included in the mission statement. The Legislative Auditor, therefore, recommends the SWMB clarify its mission statement to include language regarding the assistance of government agencies and the private sector in improving the proper disposal and recycling of solid waste.

The SWWB’s mission statement does not mention its responsibility for working with both government and the private sector to improve proper disposal and recycling of solid waste.

Agency-Reported Performance Measures

The DEP reported the following measure for the SWMB in the 2011 Executive Budget Operating Detail:

Fiscal Year	Actual 2007	Actual 2008	Estimated 2009	Actual 2009	Estimated 2010	Estimated 2011
Annually award grants to 100% of eligible solid waste authority applicants.						
Eligible solid waste authorities receiving grants	88%	93%	100%	92%	100%	100%
Provide guidance and assistance to 50 local solid waste authorities every year in the development of commercial solid waste siting plans and comprehensive litter and solid waste control plans, as well as business and technical training.						
50 solid waste authorities receiving guidance/assistance	76%	80%	100%	98%	100%	100%

The two performance measures listed above are relevant measures of its responsibility to assist government agencies and the private sector. However, the SWMB lacks goals and measures on its performance to encourage recycling or the extraction of recoverable resources.

The SWMB lacks goals and measures on its performance to encourage recycling or the extraction of recoverable resources.

Potential goals and measures the SWMB should consider include:

1. the total number of pounds of recycled materials collected throughout the state annually,
2. the increase in the number of counties and cities establishing recycling programs, and

These are just a few examples of potential performance measures that could be utilized to better gauge the overall performance of SWMB. It is important that performance measures be developed using benchmarks that ultimately answer the question of how the agency is performing – is performance good or does improvement need to be made.

Conclusion

The purpose for having departments list performance goals and measures in the *Executive Budget Operating Detail* is to give the Legislature and the public knowledge of how well each department's various programs and divisions are performing in achieving their desired outcomes. Reporting performance measures also establishes accountability and encourages departments to be results-oriented. For the programs and agencies listed in this report, the Department of Environmental Protection does not provide an adequate representation of their performance. The Division of Land Restoration is the only agency in this report that has adequate performance goals and measures. The other programs provided little or no indication of the extent they are achieving their outcome. Their performance measures are omitted, incomplete or unclear. Overall, the DEP needs to improve the reporting of its performance goals and measures. They should represent levels of operation that are closely tied to the agency's outcomes. They should also be clear and include as many as are needed in order to be fully representative of how well the agency is doing in achieving its intended purpose.

The purpose for having departments list performance goals and measures in the Executive Budget Operating Detail is to give the Legislature and the public knowledge of how well each department's various programs and divisions are performing in achieving their desired outcomes.

The Division of Land Restoration is the only agency in this report that has adequate performance goals and measures.

Recommendation

1. *The Department of Environmental Protection should establish clear and complete performance goals and measures that are closely tied to the respective outcomes for all of the programs listed in the Executive Budget Operating Detail.*

ISSUE 2

The West Virginia Department of Environmental Protection’s Website Is User-Friendly and Transparent.

Issue Summary

It has become common and expected that governments convey to the public what it is doing through website technology. A number of organizations have developed assessment criteria to evaluate federal and state government websites for transparency and user-friendliness. The Legislative Auditor conducted a literature review on assessments of government websites and developed an assessment tool to evaluate West Virginia’s state agency websites (see Appendix C). The assessment tool lists a large number of website elements; however, some elements should be included in every state website, while other elements such as social media links, graphics and audio/video features may not be necessary or practical for certain agencies. Table 1 indicates that the Department of Environmental Protection (DEP) integrates 64 percent of the checklist items within its website. This rating is at a level that shows the agency has given consideration to the issues of transparency and user-friendliness in the use of website technology. Modest improvements can be made such as providing a section within the homepage for open job posting and publishing the most recent DEP budget.

The Department of Environmental Protection (DEP) integrates 64 percent of the checklist items within its website.

Table 1 West Virginia Department of Environmental Protection Website Evaluation Score			
Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
		DEP 64%	
<i>Source: The Legislative Auditor’s review of the Department of Environmental Protection’s website.</i>			

The DEP Scores Well in User-Friendliness and Transparency

In order to actively engage with an agency online, citizens must first be able to access and comprehend information on government websites. Therefore, government websites should be designed to be user-friendly. **A user-friendly website is understandable and easy to navigate from page to page.** Government websites should also provide transparency

A user-friendly website is understandable and easy to navigate from page to page.

of an agency’s operation to promote accountability and public trust. **A website that promotes transparency provides sufficient information on an agency’s budget, organization and performance.**

A website that promotes transparency provides sufficient information on an agency’s budget, organization and performance.

The Legislative Auditor reviewed the DEP website for both user-friendliness and transparency. Table 2 shows that the DEP website is both user-friendly and transparent, but including a few more content elements, particularly in the area of transparency, would further improve it.

Category	Possible Points	Agency Points	Percentage
User-Friendly	18	14	78
Transparent	32	18	56
Total	50	32	64

Source: Legislative Auditor’s assessment of the DEP website.

The DEP Website Is Well Designed Needing Only Modest Improvements

The DEP website is easy to navigate and includes many of the core elements such as public records and a site map, which act as an index of the entire website. Users can access the homepage by clicking on the DEP link on the top of almost every page on the website or browse the website’s content using the site map. The website also displays a Frequently-Asked-Questions (FAQ) section (labeled “How Do I...”) that allows users to immediately obtain answers to the most common questions presented to the DEP. The DEP website can also be comprehended by most citizens. The DEP’s website contains many pages but on average the readability of the text is on a 9th grade reading level making it readable for a large portion of citizens.

Overall, the DEP website is designed to allow for active citizen engagement but there are some additional improvements that could enhance the website.

User-Friendly Considerations

Overall, the DEP website is designed to allow for active citizen engagement but there are some additional improvements that could enhance the website. The following are a few attributes that could lead to a more user-friendly website:

- **Mobile Functionality**- A website that is designed for mobile devices and/or has mobile applications (apps) that provide services relative to one or more of the agency functions.
- **Foreign Language Accessibility**- A link to translate all webpages into one or more languages other than English.

The DEP Website Is Transparent But Could Benefit From Additional Content Elements

A website that is transparent will have elements such as email contact information, the location of the agency, the agency's phone number, as well as public records, the budget and performance measures. A transparent website also allows interaction between the agency and citizens concerning a host of issues.

The Department's website has a majority of core transparency elements; however, it could use more improvements.

Transparency Considerations

The Department's website has a majority of core transparency elements; however, it could use more improvements. The following are a few attributes that could be beneficial to the DEP in increasing its transparency:

- **DEP Budget Information**- A link to the annual DEP budget.
- **DEP Performance Measures**- A link from the homepage providing the agency's goal's and performance measures.
- **Administrator Biography**- A biography explaining the Department Secretary's professional qualifications and experience.
- **The Agency's Mission Statement**- The mission statement should be listed on the home page.
- **The Agency's History**- The agency's history should explain its origin and significant changes that have occurred over the years.
- **Website Updates**- Each page of the website should provide the date of the most recent informational updates.

Conclusion

The emerging use of technology from paying bills to interactive communication has filtered its way to state government. In order to take advantage of this trend, state agencies are utilizing websites to engage citizens as active participants in the governmental process. Few studies have focused on legislative websites and those that have, use different criteria when reviewing sites. A literature review was conducted and utilized to formulate a website checklist that graded the DEP website on its user-friendliness and transparency. The DEP website is both user-friendly and transparent and contains most of the core elements included in the Legislative Auditor's criteria. While additional features can be incorporated, the DEP should be commended for its current website structure.

The current DEP website enables users to access environmental data, file complaints electronically, watch an environmental tips video, and access information on how to file a Freedom of Information request with the Department. The Department also has sections of the website for children. In comparison to its user-friendliness, there are more transparency elements needed to enhance the website.

The DEP website is both user-friendly and transparent and contains most of the core elements included in the Legislative Auditor's criteria. While additional features can be incorporated, the DEP should be commended for its current website structure.

Recommendation

2. *The DEP should consider providing public access to its performance goals and measures via its website and include current and historical performance measures, budget information, and other user-friendly and transparency website elements identified by the Legislative Auditor.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

November 29, 2011

June Casto, Chief
West Virginia Department of Environmental Protection
Office of Administration
601 57th Street
Charleston, WV 25304

Dear Ms. Casto:

This is to transmit a draft copy of the Legislative Auditor's review of the Department of Environmental Protection's performance measures and website. This report is scheduled to be presented during the December 13-14, 2011 interim meetings of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us. We need your written response by noon on Tuesday, December 6, 2011 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, December 8, 2011 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "John Sylvia".

John Sylvia

Joint Committee on Government and Finance

Appendix B: Objective, Scope & Methodology

Objective

This report is part of the Agency Review of the West Virginia Department of Environmental Protection (DEP) pursuant to the *West Virginia Code* §4-10-8(b)(4). The objective of this report was to review and evaluate the performance measures submitted to the *Operating Detail* of the *Executive Budget Fiscal Year 2011* by agencies within DEP. This report also reviews the DEP website for user-friendliness and transparency.

Scope

The scope of this review was the *Executive Budget Fiscal Year 2011*.

Methodology

This report contains information submitted to the *Operating Detail* of the *Executive Budget Fiscal Year 2011* as well as information in *West Virginia Code* and on the DEP website. Agency performance measures were submitted to the *Executive Budget* and reviewed against statutory requirements established by *West Virginia Code* for each agency. PERD staff then determined the relevance of agency-submitted performance measures. PERD staff also reviewed the DEP website for user-friendliness and transparency. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C: Website Criteria Checklist and Points System

Website Criteria Checklist and Points System Department of Environmental Protection			
User-Friendly	Description	Total Points Possible	Total Agency Points
Criteria	The ease of navigation from page to page along with the usefulness of the website.	18	14
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	2 points
Help Link	There should be a link that allows users to access a FAQ section (1) and agency contact information (1) on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I...", "Questions?" or "Need assistance?")	2 points	2 points
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0 points
Content Readability	The website should be written on a 6 th -7 th grade reading level. The Flesch-Kincaid Test is widely used by Federal and State agencies to measure readability.	No points, see narrative	
Site Functionality	The website should use sans serif fonts (1), text should be in 12 point font or higher (1), and resizing of text should not distort site graphics or text (1).	3 points	3 points
Site Map	A list of pages contained in a website that can be accessed by web crawlers and users. The Site Map acts as an index of the entire website and a link to the department's entire site should be located on the bottom of every page.	1 point	1 point
Mobile Functionality	The agency's website is available in a mobile version (1) and/or the agency has created mobile applications (apps) (1).	2 points	0 points
Navigation	Every page should be linked to the agency's homepage (1) and should have a navigation bar at the top of every page (1).	2 points	2 points

Website Criteria Checklist and Points System Department of Environmental Protection			
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	1 point
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	1 point
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	1 point
Social Media Links	The website should contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.	1 point	0 points
RSS Feeds	RSS stands for "Really Simple Syndication" and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format. All agency websites should have a RSS link on their websites.	1 point	1 point
Transparency	Description	Total Points Possible	Total Agency Points
Criteria	A website which promotes accountability and provides information for citizens about what the agency is doing. It encourages public participation while also utilizing tools and methods to collaborate across all levels of government.	32	18
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	0 point
Physical Address	General address of stage agency.	1 point	1 point
Phone Number	Correct phone number of state agency.	1 point	1 point
Location of Agency Headquarters	The agency's contact page should include an embedded map that shows the agency's location.	1 point	1 point
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	1 point
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	0 points
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	1 point

Website Criteria Checklist and Points System Department of Environmental Protection			
Public Records	<p>The website should contain all applicable public records relating to the agency’s function. If the website contains more than one of the following criteria the agency will receive two points:</p> <ul style="list-style-type: none"> • Statutes • Rules and/or regulations • Contracts • Permits/licenses • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2 points
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	2 points
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	0 points
Mission statement	The agency’s mission statement should be located on the homepage.	1 point	0 points
Calendar of events	Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1).	2 points	1 point
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	2 points
Agency Organizational Chart	A narrative describing the agency organization (1), preferably in a pictorial representation such as a hierarchy/organizational chart (1).	2 points	2 points
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	1 point
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	1 point
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	2 points
Performance measures/outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	1 point	0 points

Website Criteria Checklist and Points System Department of Environmental Protection			
Agency history	The agency’s website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.	1 point	0 points
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	0 points
Job Postings/links to Personnel Division website	The agency should have a section on homepage for open job postings (1) and a link to the application page Personnel Division (1).	2 points	0 points

Appendix D: Agency Response



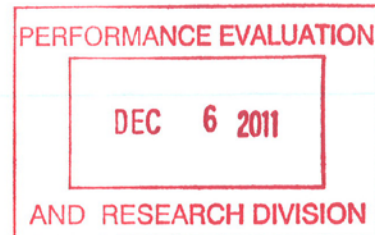
west virginia department of environmental protection

Executive Office
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0440
Fax: (304) 926-0446

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
dep.wv.gov

December 6, 2011

Mr. John Sylvia
WV Legislature PERD
Building 1, Room W-314
Charleston, WV 25305-0610



Dear Mr. Sylvia:

Please consider this as our response to the review of the Department of Environmental Protection's performance measures and website.

Issue 1: The Department of Environmental Protection's Listed Performance Measures Published in the Executive Budget Operating Detail Do Not Fully Describe How Well It is Doing in Achieving Its Outcomes.

Response: Several years ago the Budget Office asked that we reduce the pages of our submission for the Operating Detail of the Budget Narrative. At that time, the agency complied with the request and reduced the number of submission pages. The DEP will continue to improve upon our submission to the Budget Office on Operating Details by providing performance measures that indicate the success of the agency's goals and objectives.

Issue 2: The West Virginia Department of Environmental Protection's Website is User-Friendly and Transparent.

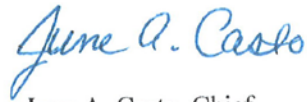
Response: The DEP continuously seeks ways to improve our website. We are currently implementing some of the recommendations made by the Auditors to improve upon our transparency and provide valuable information to the public.

Page Two
December 6, 2011

Attached is a separate response from the Solid Waste Management Board to address the report.

We appreciate the opportunity to respond to the report. We will strive to improve our website and provide sufficient performance measures to indicate our success.

Sincerely,



June A. Casto, Chief
DEP Office of Administration

Attachment



WEST VIRGINIA SOLID WASTE MANAGEMENT BOARD

601 57th St. SE
Charleston, WV 25304
(304)926-0448

Earl Ray Tomblin, Governor
Mark D. Holstine, PE, Executive Director
www.state.wv.us/swmb

December 5, 2011

John Sylvia, Director
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

RE: Legislative Auditor's Review of the Department of Environmental Protection's Performance Measures and Website

Dr. Mr. Sylvia:

The Solid Waste Management Board (SWMB) has reviewed the above noted report and offers the following comments:

- The SWMB will include a more complete mission statement in its next budget narrative.
- The SWMB was requested by the Budget Office to reduce the detail it included in its budget narrative several years ago.
- The SWMB previously included up to seven performance measures prior to being asked to reduce the detail by the Budget Office.
- The SWMB is considered a program level agency; therefore, it will add one additional performance measure to its next budget narrative.
- The SWMB is not an actual department of the DEP, and as a result, has its own web page where a lot of the requested information resides. The address of the website is <http://www.state.wv.us/swmb/>.
- The SWMB is the author of the State's Solid Waste Management Plan, which contains various information related to its performance. This Plan is updated biennially and presented to the legislature at the start of the session. The Plan in full can be found on the SWMB's website.
- The SWMB also presents information related to its activities to the DEP for inclusion in its annual report and it's State of the Environment report.

The SWMB appreciates the opportunity to make comment on this report. We will attend the interim meeting when this report is presented to the Joint Committee on Government Operations, and the Joint Committee on Government Organization. If you have any further questions or concerns, please contact me and I will assist you.

Sincerely,



Mark D. Holstine, P.E.
Executive Director

MDH:mp



WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

telephone: 1-304-347-4890 | www.legis.state.wv.us/Joint/PERD/perd.cfm | fax: 1-304-347-4939