

Performance Update

Office of Environmental Advocate

**The Office of the Environmental Advocate Has
Complied With the Last Remaining Issue of
PERD's 1996 Report and Now Publishes the
Citizen's Guide to the DEP, as Well as
Other Informational Brochures**



JOINT COMMITTEE ON GOVERNMENT OPERATIONS

Senate

Edwin J. Bowman
Chair

Billy Wayne Bailey, Jr.
Vice Chair

Walt Helmick

Joseph M. Minard

Sarah M. Minear

House Of Delegates

J.D. Beane
Chair

Earnest H. Kuhn
Vice Chair

Joe Talbott

Craig P. Blair

Otis Leggett

**Scott G. Varner, Ex
Officio Non-Voting
Member**

Citizen Members

Dwight Calhoun

John Canfield

James Willison

W. Joseph McCoy

(Vacancy)



OFFICE OF THE LEGISLATIVE AUDITOR

Aaron Allred
Legislative Auditor

John Sylvia
Director

Russell Kitchen
Senior Research Analyst

Performance Evaluation and Research Division

Building 1, Room W-314

State Capitol Complex

Charleston, West Virginia 25305

(304) 347-4890

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

January 12, 2004

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable J.D. Beane
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Performance Update of the *Office of Environmental Advocate*, which will be presented to the Joint Committee on Government Operations on Monday, January 12, 2004. The issue covered herein is "The Office of the Environmental Advocate Has Complied With the Last Remaining Issue of PERD's 1996 Report and Now Publishes the Citizen's Guide to the DEP, as Well as Other Informational Brochures."

We transmitted a draft copy of the report to the Office of Environmental Advocate on December 12, 2003. The OEA opted not to have an exit conference. We received the agency response on January 5, 2004.

Let me know if you have any questions.

Sincerely,

John Sylvia
John Sylvia

JS/wsc

Joint Committee on Government and Finance

Contents

Executive Summary	5
Review Objective, Scope and Methodology	7
Background	9
Issue 1: The Office of the Environmental Advocate Has Complied With the Last Remaining Issue of PERD’s 1996 Report and Now Publishes the Citizen’s Guide to the DEP, as Well as Other Informational Brochures.....	11
 List Of Appendices	
Appendix A: Transmittal Letter to Agency.....	13
Appendix B: Agency Response.....	15

Executive Summary

Issue 1: The Office of the Environmental Advocate Has Complied With the Last Remaining Issue of PERD's 1996 Report and Now Publishes the Citizen's Guide to the DEP, as Well as Other Informational Brochures.

The Citizen's Guide to the DEP is a useful booklet that gives citizens an understanding of DEP, its procedures and contact information to address environmental concerns.

By the time of the last update to the Preliminary Performance Evaluation of the Office of the Environmental Advocate (OEA), in December 1998, the Legislative Auditor's Office found the OEA to be in compliance with all of the original recommendations from the June 1996 report except for one.

Recommendation 1 of the original 1996 report stated:

The OEA should complete the Citizens's Guide to the DEP and the informational brochures as soon as possible.

The OEA is now in compliance with the last remaining recommendation from the June 1996 report. Since the completion of PERD's original report, the OEA has published informational brochures, including the Citizen's Guide to the DEP. The Citizen's Guide describes the divisions of DEP and their responsibilities. A description of the processes to follow and contact information is also provided to assist citizens who have environmental concerns.

Review Objective, Scope and Methodology

This is an Update on the Preliminary Performance Review of the West Virginia Office of the Environmental Advocate as required by West Virginia Code §4-10-5a.

Objective

This report updates the issues originally reported in June 1996. The Legislative Auditor's Office has previously updated the original report twice, in February 1997 and in December 1998. The 1996 report contained the following recommendations:

1. *The OEA should complete the Citizens's Guide to the DEP and the informational brochures as soon as possible.*
2. *The OEA should keep a log of its routine activities such as telephone time, time spent in meetings, etc., and use this as a guide when determining the amount of time remaining for long-term projects.*
3. *The OEA should resume the creation of Annual Action Plans as stated in the CSR, and include in them more detailed analysis of the schedules, resource demands and other aspects of each goal. By quarterly review of the plan, the OEA could assure that it is remaining on schedule, and change the resources or time devoted to projects which are not advancing as planned.*
4. *The OEA should use a scientific method of polling public opinion, even if it must contract for the service, to track the long-term level of public satisfaction with the DEP.*
5. *The DEP should evaluate its commitment of resources to the OEA in light of the desired goals of the Office, and provide personnel resources appropriately. If the current level of resource commitments is the desired effect, the goals of the Office should be set to correspond with the size of the staff.*
6. *The DEP should devise a mechanism for deciding whether and how to incorporate into policy the changes which result from the suggestions of citizens at town meetings or other OEA sources of input. Whether this be through changes in manuals of operations or in written memorandums from the Director, the DEP must design some way of making them more permanent.*

-
7. *The DEP should promulgate new Legislative Rules to replace the existing interpretive rules and to submit them to the Legislature for approval by the next Session. For the sake of clarity, the Legislature should amend the enabling statute (WVC §22-20-1) to state that the rules for the Environmental Advocate shall be Legislative Rules.*

Scope

The scope of this report focused on the period since December 1998, when the Legislative Auditor's Office found the Office of the Environmental Advocate to be in compliance with all recommendations except for Recommendation 1.

Methodology

The Legislative Auditor's Office sought to determine if the OEA published the Citizen's Guide to the DEP and other informational brochures. The OEA provided all information for this report. The Legislative Auditor's Office obtained samples of informational brochures completed by the OEA, including a draft of the revised Citizen's Guide to the DEP, to be published in early 2004.

Background

The Office of the Environmental Advocate (OEA) was created as a part of the broader reorganization of the Department of Environmental Protection (DEP) during the 1994 Legislative session. The statutory establishment of the OEA is found in the *West Virginia Code* §22-20-1. The enabling statute is very brief and outlines no specific duties, powers or mission for the Advocate. The statute delegates the establishment of the duties and powers, as well as qualifications, to the Director of the DEP, who was to promulgate rules governing these areas.

According to the Annual Report of the DEP for FY 1995, the first year in which the OEA was a part of the DEP, the mission of the Advocate's Office was defined as "*to provide advice and assistance concerning environmental policy as it relates to the public.*" In a separate report on the OEA's activities, the Advocate says "*The Office was designed to provide a voice to citizens in the state's development of environmental policies within the agency.*" The OEA functions as a liaison between the public and the agency. This role requires the OEA to:

1. be accessible to the general public to answer questions and provide assistance in resolving problems;
2. inform and educate concerned citizens about environmental issues and the environmental protection process and about how they may provide input into the process; and
3. communicate to the DEP citizen concerns regarding environmental issues or regarding the environmental protection process.

The OEA has two ultimate mission objectives:

1. To foster a greater degree of knowledge about the environmental protection process on the part of the general public; and
2. To create an atmosphere within the DEP which is responsive to the needs and concerns of the West Virginia citizen.

In practice, the OEA is to be a two-way conduit of information. It is to gather information from the public through means of direct contact with individuals or groups. This information primarily concerns the public attitudes toward environmental issues that affect individuals or communities and toward the methods and effectiveness of the DEP in addressing these issues. The OEA is to relay this information to the DEP hierarchy, with the intention of helping the DEP to better tailor its policies and programs toward meeting the needs of the West Virginia public. In addition, the OEA provides information to citizens

regarding how they may best address the environmental problems affecting their lives and how they may obtain assistance from the DEP.

Issue 1

The Office of the Environmental Advocate Has Complied With the Last Remaining Issue of PERD's 1996 Report and Now Publishes the Citizen's Guide to the DEP, as Well as Other Informational Brochures.

At the time of the last update to the Preliminary Performance Evaluation of the Office of the Environmental Advocate (OEA), in December 1998, the Legislative Auditor's Office found the OEA to be in compliance with all of the seven recommendations from the original June 1996 report except for Recommendation 1, which stated:

The Citizen's Guide to the DEP is a useful booklet that gives information on who to contact within DEP for various environmental issues.

The OEA should complete the Citizens's Guide to the DEP and the informational brochures as soon as possible.

The Department of Environmental Protection (DEP) originally developed the Citizen's Guide in the Spring of 1998. PERD completed the last update to the report in December 1998. At that time, the DEP had recently hired a new Environmental Advocate and informed the Legislative Auditor's Office that the Citizen's Guide to the DEP would not be printed until the newly-hired Advocate could review it. For this reason, the Legislative Auditor's Office found the OEA to be in non-compliance with the original recommendation. The OEA published the Citizen's Guide in 1999 and recently provided the Legislative Auditor's Office with a draft of the most recent version. The OEA plans to publish the revised Citizen's Guide in early 2004.

Recommendation 1 also required the OEA to publish other informational brochures. By December 1998, the OEA published informational brochures describing its mission statement, services provided by the Advocate's Office and its toll-free informational phone number. **The Legislative Auditor's Office now finds that the OEA is in compliance with Recommendation 1 of PERD's 1996 report.**

Conclusion

The OEA is now in compliance with the last remaining recommendation from the June 1996 report. Since the completion of PERD's original report, the OEA has published informational brochures, including the Citizen's Guide to the DEP.

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

December 12, 2003

West Virginia Department of Environmental Protection
Pamela L. Nixon, Environmental Advocate
1356 Hansford Street
Charleston, WV 25301

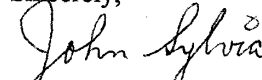
Dear Ms. Nixon:

This is to transmit a draft copy of the Update of the Preliminary Performance Evaluation of the Office of the Environmental Advocate. This report is scheduled to be presented during the January 11, 2004 interim meeting of the Joint Committee on Government Operations. 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 committee may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report between December 15th and December 19th, please notify us. We need your written response by noon on December 29, 2003, in order to include it 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, January 8, 2004, to make arrangements.

We request that your personnel treat the draft report as confidential and that it not be disclosed to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,


John Sylvia

c: Stephanie R. Timmermeyer, Cabinet Secretary

Joint Committee on Government and Finance

Office of Environmental Advocate

Page 13

Appendix B: Agency Response



Office of Environmental Advocate
1356 Hansford Street
Charleston, West Virginia 25301
800-654-5227 / 304-558-6575
FAX: 304-558-6379

West Virginia Department of Environmental Protection

Bob Wise
Governor

Stephanie R. Timmermeyer
Cabinet Secretary

January 5, 2004

Mr. John Sylvia
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610

RECEIVED
JAN 05 2004

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

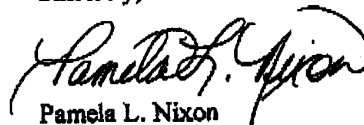
Dear Mr. Sylvia:

This is in response to the December 12, 2003, draft copy of the Update of the Preliminary Performance Evaluation of the Office of Environmental Advocate that I received. Thank you for sending the Objective, Scope and Methodology of the Preliminary Performance Review, and also for the Executive Summary explaining the findings.

I plan to be in attendance at the January interim meeting of the Joint Committee on Government Operations when the Preliminary Performance Evaluation is presented. The Office of Environmental Advocate is in agreement with the findings of the draft copy.

If you need more information about the Office of Environmental Advocate, please contact me at 304-558-6575.

Sincerely,


Pamela L. Nixon

C: Stephanie R. Timmermeyer, Cabinet Secretary



West Virginia Department
of Environmental Protection

"Promoting a healthy environment."

