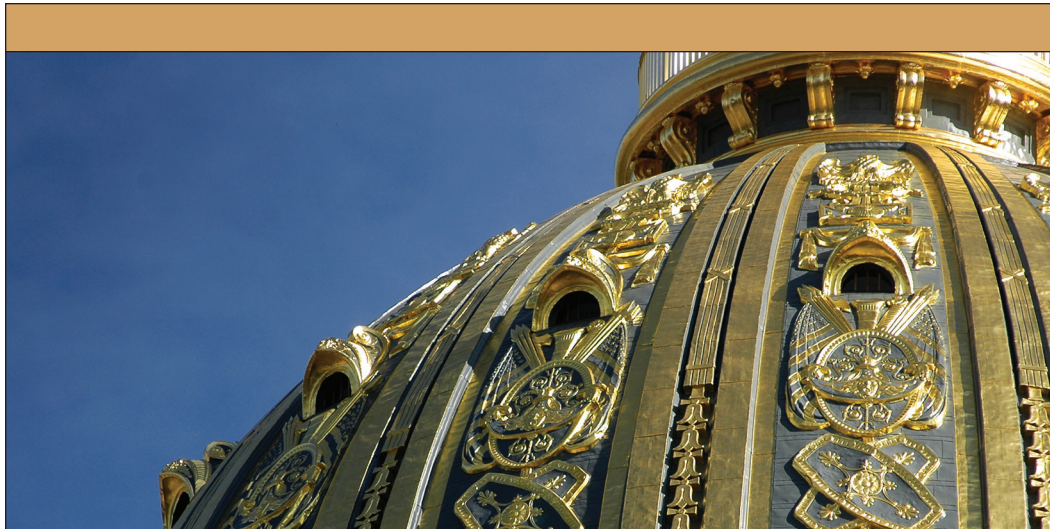




October 2025
PE 25-02-686

PERFORMANCE REVIEW

OFFICE OF ENVIRONMENTAL REMEDIATION

AUDIT OVERVIEW

The West Virginia Office of Environmental Remediation
Is Needed to Administer Remediation Programs

The West Virginia Office of Environmental Remediation
Follows Most of Its Statutory Requirements

The OER's Website Complies with Most Statutorily
Required Content



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October 5, 2025

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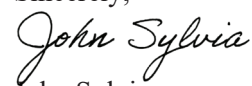
The Honorable Chris Phillips
House of Delegates
Building 1, Room 213E
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Charleston, WV 25305

Dear Chairs:

Pursuant to the West Virginia Performance Review Act, West Virginia Code §4-10-7, we are transmitting an Agency Review of the *Department of Environmental Protection's Office of Environmental Remediation*. The issues covered herein are:

1. The West Virginia Office of Environmental Remediation Is Needed to Administer Remediation Programs.
2. The West Virginia Office of Environmental Remediation Follows Most of Its Statutory Requirements.
3. The OER's Website Complies with Most Statutorily Required Content.

We transmitted a draft copy of the report to the agency on September 15, 2025. We held an exit conference on September 24, 2025. We received the agency response on September 26, 2025, which is included in the report. If you have any inquiries on this report, please let me know.

Sincerely,

John Sylvia

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AUDIT REPORT BRIEF

Performance Evaluation and Research Division

Audit Report Brief

West Virginia Office of Environmental Remediation (OER)

FY 2020 to FY 2024

At a Glance: OER is effective, compliant overall, and essential to remediation efforts in West Virginia, with limited improvements recommended.

Issue 1: Need for the OER

Core Programs:

- Voluntary Remediation Program (VRP): Supports cleanup/redevelopment with liability protections.
- Brownfields Assistance Program: Loans, subgrants, technical help for revitalization.
- Licensed Remediation Specialist (LRS): Certifies professionals to supervise remediation.

Findings:

- 313 remediation projects (7,708 acres) since 1996; 210 complete (4,498 acres).
 - Brownfields Fund gained \$1.82M federal support after 20 years unfunded.
 - 116 Licensed Remediation Specialists active; surrounding states run similar programs.
-

Issue 2: Statutory Compliance

Findings:

- Complies with most duties but voluntary remediation agreement omits technical standards/future land use as required.
 - 48 of 49 VRP applications acted on within 45 days (avg. 23).
 - LRS exams graded in avg. 1.9 days.
 - Sufficient Brownfields loan controls; 67% of projects, 58% of acreage remediated.
-

Issue 3: Website Review

Findings:

- Contains most required info but missing FOIA guidance, full grant details, direct report link.
 - OER should consider enhancing its website with user-friendly elements.
-

Overall Conclusion

- OER is needed and effective, restoring contaminated properties and protecting communities.
 - Only minor improvements required.
-

Recommendations

- Continue the Office of Environmental Remediation.
 - Revise Voluntary Remediation Agreements to include technical standards and future land use.
 - Improve website with FOIA instructions, full grant details, direct report links, and clearer language.
 - Only minor improvements required.
-

EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) conducted this Agency Review of the West Virginia Office of Environmental Remediation (OER) within the Department of Environmental Protection pursuant to West Virginia Code §4-10-7. The objectives of this review were to: 1) to determine if there is a continued need for the OER, 2) to determine if the OER complies with its statutory responsibilities given by West Virginia Code §22-22 et seq., and 3) to determine if the OER's website is user-friendly and transparent.

Frequently Used Acronyms in the Report:

BRF—Brownfields Revolving Fund

DEP—West Virginia Department of Environmental Protection

LRS—Licensed Remediation Specialist

OER—Office of Environmental Remediation

PERD—Performance Evaluation and Research Division

VRP—Voluntary Remediation Program

Report Highlights:

Issue 1: The West Virginia Office of Environmental Remediation Is Needed to Administer Remediation Programs

- The Voluntary Remediation and Redevelopment Act (§22-22 et seq.) was passed in 1996, where the OER was subsequently formed to administer remediation programs to revitalize properties that are not being utilized due to industrial contamination.
- The need to remediate contaminated sites in West Virginia remains prevalent. From FY 2020-2024, The OER received 49 applications for the VRP, 3 for the BRF, and 40 to become an LRS.
- The legislative intent and ongoing issue of contaminated properties indicate that the OER is needed to administer remediation programs.

Issue 2: The West Virginia Office of Environmental Remediation Follows Most of Its Statutory Requirements

- The OER complies with most of its statutory responsibilities.
- The OER practices timeliness and transparency in the administration of remediation programs, and the OER uses internal controls for Brownfields loans.
- The OER should add information about technical standards and future land use to the Voluntary Remediation Agreement.

Issue 3: The OER's Website Complies with Most Statutorily Required Content

- The OER's website contains most of the content required by West Virginia Code §5F-1-7.
- More information is needed regarding grants distributed through the Brownfields Revolving Fund.
- The OER should consider adding user-friendliness and transparency elements that it determines would benefit its website.

PERD's Response to the Agency's Written Response:

The OER provided its response to the review on September 26, 2025 (see Appendix C). The agency agrees with the report and believes it accurately reflects the operations and performance of the agency. The OER stated that it will use the recommendations provided to further enhance its programs and benefit the State.

Recommendations:

1. *PERD recommends that the Legislature consider continuing the Office of Environmental Remediation.*
2. *PERD recommends that the OER add the required content to the Voluntary Remediation Agreement.*
3. *The OER should consider adding any user-friendly or transparency elements that it determines would further enhance its website.*

ISSUE 1

The West Virginia Office of Environmental Remediation Is Needed to Administer Remediation Programs

Issue Summary

This is an Agency Review of the West Virginia Office of Environmental Remediation (OER) within the Division of Land Restoration at the West Virginia Department of Environmental Protection (DEP) as authorized by *West Virginia Code* (W. Va. Code) §4-10-7. The OER was created to administer statutorily mandated programs with the mission to provide for clean, safe, and productive West Virginia communities by assessing and remediating environmental resources and restoring contaminated properties to beneficial use. It does this by administering several environmental remediation programs including the Voluntary Remediation Program, the Brownfields Assistance Program, and the Licensed Remediation Specialist program. Based on the legislative intent, the ongoing remediation issues in the state, and the ways in which OER's administration of remediation programs are beneficial to West Virginia communities, PERD determines that the OER and its programs are needed.

The OER was created to administer statutorily mandated programs with the mission to provide for clean, safe, and productive West Virginia communities by assessing and remediating environmental resources and restoring contaminated properties to beneficial use.

The OER Was Established to Administer Remediation Programs

During the 1996 legislative session, the Legislature passed, and the governor signed into law *W. Va. Code* §22-22 et seq., also known as the Voluntary Remediation and Redevelopment Act. This Act established a program that would encourage and facilitate voluntary remediation and brownfield revitalization of properties and industrial sites that are not being utilized because of industrial contamination. Accordingly, the DEP formed the Office of Environmental Remediation to administer the Voluntary Remediation Program. The Legislature expressed its findings and intent for the Voluntary Remediation Program in *W. Va. Code* §22-22-1 as follows:

Based on the legislative intent, the ongoing remediation issues in the state, and the ways in which OER's administration of remediation programs are beneficial to West Virginia communities, PERD determines that the OER and its programs are needed.

- (a) *The Legislature finds there is property in West Virginia that is not being put to its highest productive use because it is contaminated or it is perceived to be contaminated as a result of past activity on the property.*
- (b) *The Legislature further finds that abandonment or underutilization of contaminated or potentially contaminated industrial sites results in inefficient use of public facilities and services and increases the pressure for development of uncontaminated pristine*

land. Since existing industrial areas frequently have transportation networks, utilities, and an existing infrastructure, it can be less costly to society to redevelop existing industrial areas than to relocate amenities for industrial areas at pristine sites.

In addition, §22-22-1(d) states,

The Legislature further finds that an administrative program should be established to encourage persons to voluntarily develop and implement remedial plans without the need for enforcement action by the Department of Environmental Protection.

On July 1, 1997, the Voluntary Remediation and Redevelopment Rule (CSR §60-3) became effective. The Voluntary Remediation and Redevelopment Rule “establishes the eligibility, procedures, standards, and legal documents required for voluntary remediation activities and brownfield revitalization.”

The OER was founded with the intention to administer programs such as the Voluntary Remediation Program (VRP), the Brownfields Assistance Program including the Brownfields Revolving Fund (BRF), and the Licensed Remediation Specialist (LRS) program. Table 1 below shows the number of applications that each program received for fiscal years 2020 through 2024. Overall, the VRP has had 313 total projects since its inception in 1996, consisting of 7,708 acres.

The OER was founded with the intention to administer programs such as the Voluntary Remediation Program (VRP), the Brownfields Assistance Program including the Brownfields Revolving Fund (BRF), and the Licensed Remediation Specialist (LRS) program.

Table 1
Applications by Remediation Program
FY 2020 - FY 2024

Fiscal Year	Voluntary Remediation	Licensed Remediation Specialist	Brownfields Revolving Fund
2020	12	8	0
2021	12	14	2
2022	8	8	1
2023	7	7	0
2024	10	3	0
Totals	49	40	3
Source: Office of Environmental Remediation.			

Overall, the VRP has had 313 total projects since its inception in 1996, consisting of 7,708 acres.

The OER Administers the Voluntary Remediation Program

The OER administers the VRP and oversees the work performed through the program. The goal of the VRP is to “encourage voluntary cleanup and redevelopment of abandoned or under-utilized contaminated properties by providing certain environmental liability protections under West Virginia law.” The VRP is meant to address all contamination that resulted from how the property was used historically, and it benefits both the applicants and their communities by providing a structured process to remediate contaminated properties. Remediation of property has the potential to raise property values and allow properties to be returned to productive use. Also, through the VRP, applicants can potentially access financing such as loans or grants from the Brownfields Revolving Fund. Communities also benefit from the remediation of contaminated properties through the reduced exposure to contamination, improved public health, and decreased blight.

The OER staff, including the Project Manager, Environmental Toxicologist, and Hydrogeologist, work with the Licensed Remediation Specialist to evaluate remediation project activities and verify their completion. The OER reviews and approves work plans, inspects sites periodically, reviews records relating to VRP activities, and conducts sampling at sites. The larger or more complex a site is, the more oversight from the OER is needed.

The goal of the VRP is to “encourage voluntary cleanup and redevelopment of abandoned or under-utilized contaminated properties by providing certain environmental liability protections under West Virginia law.”

According to the OER, applicants to the VRP are responsible for all remediation costs associated with a project. In addition, when signing a Voluntary Remediation Agreement, the applicant agrees to reimburse the OER any direct expenses associated with the project plus reasonable administrative costs at 3.5 times the hourly rate of the primary employee working on the site. For example, the OER may need to take a sample from a site and send it for laboratory analysis. The applicant responsible for the site remediation must then reimburse the OER the actual cost associated with the laboratory analysis, plus the employee’s time in collecting and submitting the sample. The oversight from OER staff is a benefit to enrolling in the program. The applicant receives oversight of professionals in the field. Plus, costs are estimated and negotiated during the process of signing a Voluntary Remediation Agreement, so the applicant knows ahead of time about how much the process will cost them. The VRP also has public notification requirements for each remediation site the applicant is responsible for.

The cost to apply to the VRP is determined by the size of the property in question, how many years it was in operation of non-residential activity, and what the property was used for. The application fee is \$1,000, \$3,000, or \$5,000, depending on the aforementioned factors. When the voluntary remediation process has been completed, the OER provides a Certificate of Completion (COC) to the applicant for

the remediated property. The COC provides liability protection for VRP applicants and their successors and assigns from all liability to the State.

The OER Oversees the Brownfields Assistance Program

The Voluntary Remediation and Redevelopment Act created the Brownfields Revolving Fund (BRF) as a “special revenue fund established to provide loans for site assessments and remediation of eligible brownfield sites.” The OER oversees this fund within the Brownfields Assistance Program, where it also provides free guidance and technical assistance for the remediation of brownfields. According to the United States Environmental Protection Agency a brownfields site is “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” The BRF provides loans and subgrants to those needing financial assistance to revitalize brownfields in West Virginia.

After the fund was created, it was without funds for 20 years until the DEP received funds from the United States Environmental Protection Agency in 2016 in the amount of \$820,000. In 2023, a supplemental grant in the amount of \$1 million was awarded. The Brownfields Assistance Program provides free guidance and technical assistance to any stakeholder with questions concerning brownfields assessment, cleanup, and/or redevelopment. Funds for assessment and cleanup are distributed to eligible entities/projects when funding is available.

Through low-interest loans, the BRF offers favorable borrowing and repayment terms for government entities, nonprofit organizations, and private-sector businesses. These terms were designed to incentivize the revitalization of brownfields. Interest rates for non-profits and government entities range from 0 to 1.5 percent, while interest rates for private-sector businesses range from 1 to 3 percent, and repayment terms can extend up to 10 years.

Table 2 shows BRF loans and grants by project for FY 2020 through FY 2024. Included in the table are the total amount of loans and grants for each project, how much of each loan has been repaid, and how much of each subgrant remains to be spent or was unspent at the time the grant expired. Loan maturity dates and termination dates for subgrants are also shown. According to the OER, as of FY 2024, there was \$220,689 available for the loan program, and no other funds available to award for subgrants.

A loan amount for a project can range from \$25,000 to the total amount of funds available. Borrowers are required to match at least 20

The Voluntary Remediation and Redevelopment Act created the Brownfields Revolving Fund (BRF) as a “special revenue fund established to provide loans for site assessments and remediation of eligible brownfield sites.”

The BRF provides loans and subgrants to those needing financial assistance to revitalize brownfields in West Virginia.

percent of the loan amount. The match may be in the form of funding, such as cash, grants, or loans, or resources such as materials and labor from the borrower. According to the terms of the subgrant agreements, subgrant funds shall be payable to the recipient as reimbursement for allowable expenses incurred during the remediation work. Reimbursements must be approved by the DEP.

Table 2
Brownfields Revolving Fund Loans and Grants by Project
FY 2020-FY 2024

Entities	Total Loan Amount	Reimbursed	Outstanding Balance	Loan Maturity Date
City of Wheeling	\$192,010	\$157,930	\$34,080	September 1, 2028
Hampshire County Development Authority	\$190,560	\$190,560	\$0	September 1, 2034
Entities	Total Grant Amount	Reimbursed for Completed Work	Grant Amount Remaining	Grant Termination Date
City of Wheeling	\$192,010	\$131,958	\$192,010	September 30, 2027
Hampshire County Development Authority	\$40,528	\$20,272	20,256	In Process of Closing
West Virginia Land Stewardship Corporation	\$120,892	\$120,892	\$0	June 2, 2023

Source: The Office of Environmental Remediation.

According to the OER, the City of Wheeling grant was initiated on May 26, 2022, and is open until September 30, 2027, unless an amendment is completed to extend the performance period. The Hampshire County Development Authority grant, also initiated on May 26, 2022, is in the process of closing. It will officially close when the OER receives a signed amendment to lower the grant portion still available from \$20,256 to zero. The West Virginia Land Stewardship Corporation closed its grant on June 2, 2023, where all remediation work was completed prior to the date of the grant being signed. The OER stated that the Brownfields Revolving Loan/Grant Fund program realizes and recognizes pre-closing costs for design and construction costs completed before closing the grant or loan. The closing involves general council and staff of the OER, responsible

parties from the vendors, and staff from the State Auditor's Office and the State Treasurer's Office who review all OASIS wire documents.

The OER Licenses Professionals to Remediate Sites

The OER administers the Licensed Remediation Specialist (LRS) program in accordance with West Virginia Code §22-22-11. An LRS is an individual who is licensed by the OER to "supervise the assessment and remediation of contaminated sites." The LRS is responsible for the release of contaminants during assessment and agreed upon remediation, notifying the DEP if an excess amount of contaminants is released, and not charging special fees above customary professional rates for licensed individuals.

It is required that sites enrolled in the VRP be supervised by an LRS. The applicant hires an LRS for the VRP site. Most projects receiving moneys from the BRF are required to enroll in the VRP, so most of these sites are supervised by an LRS as well. An LRS is required to meet education and experience requirements, pass an exam administered by OER, and receive continuing education. Applicants to the LRS program are also required to pay a \$500 application fee. The OER has stated that the LRS program does not create direct expenditures: "The VRP Program Manager and Administrative Services Assistant administers the LRS program through daily work activities. There are no other expenditures for this program." There are currently 116 active Licensed Remediation Specialists in West Virginia.

The OER stated that the Brownfields Revolving Loan/Grant Fund program realizes and recognizes pre-closing costs for design and construction costs completed before closing the grant or loan.

An LRS is an individual who is licensed by the OER to "supervise the assessment and remediation of contaminated sites."

Some Surrounding States Have Their Own Versions of the OER

West Virginia's surrounding states also have entities responsible for remediation programs similar to the OER. Virginia has the Office of Remediation Programs that administers Virginia's VRP and Brownfields Program. Maryland has the Land Management Administration's Land Restoration Program that administers the Maryland Voluntary Cleanup Program and brownfields assessments. Ohio has the Office of Environmental Response and Revitalization within the Ohio Environmental Protection Agency that administers the Ohio Voluntary Action Program and brownfields programs. Pennsylvania has the Division of Cleanup Standards which is responsible for the Pennsylvania Land Recycling Program, which conducts site remediation activities.

While Kentucky does not have a separate office for remediation programs, the Kentucky Energy and Environment Cabinet employs staff

There are currently 116 active Licensed Remediation Specialists in West Virginia.

who deal specifically with brownfield programs. Brownfield programs include but are not limited to the Kentucky Voluntary Environmental Remediation Program and brownfields project funding. Table 3 shows each surrounding state and whether they have an office specifically for remediation activities.

Table 3 Surrounding States’ Remediation Programs CY 2025	
State	Remediation Office
KY	No
MD	Yes
OH	Yes
PA	Yes
VA	Yes
Source: KY, MD, OH, PA, VA websites.	

The OER accomplishes its mission and legislative intent to restore contaminated properties for the benefit of West Virginia communities by administering remediation programs.

Conclusion

The OER accomplishes its mission and legislative intent to restore contaminated properties for the benefit of West Virginia communities by administering remediation programs. Without these remediation programs, many sites would likely remain contaminated and undeveloped for industrial use. The need to remediate contaminated sites continues to be prevalent. Therefore, in accordance with the legislative intent, it is PERD’s recommendation that the Legislature continue the Office of Environmental Remediation.

Recommendation

- 1. PERD recommends that the Legislature consider continuing the Office of Environmental Remediation.

ISSUE 2

The West Virginia Office of Environmental Remediation Follows Most of Its Statutory Requirements

Issue Summary

Overall, the Office of Environmental Remediation complies with most of its statutory responsibilities in addressing environmental remediation of contaminated properties. The OER has promulgated rules and procedures and established criteria for the administration of remediation programs. The office also complies with requirements for site inspections and the collection of samples from remediation sites. The OER is timely and transparent in the fulfillment of its requirements. PERD found that the OER uses sufficient internal controls regarding the disbursement of BRF loans. However, minimal improvements are needed. These improvements consist of identifying the future use of the remediated land, and listing the technical standards to be used in evaluating the work plans within the Voluntary Remediation Agreement.

Overall, the Office of Environmental Remediation complies with most of its statutory responsibilities in addressing environmental remediation of contaminated properties.

The OER Complies with Most of Its Statutory Requirements

The OER, through the administration of its programs, is fulfilling most of its statutory requirements. Minimal improvement is needed by assuring all required content is included in the Voluntary Remediation Agreement, such as technical standards and future land use. As mandated, the OER has established administrative and application procedures for the VRP and Brownfields Revolving Fund, as well as procedures for public involvement in these programs. Risk-based remediation standards, protocols, and risk assessment requirements have been established. The OER established criteria for the evaluation and approval of methods for measuring the levels of contaminants. The OER reviews VRP work plans as required by *W. Va. Code* §22-22-8. The OER has promulgated rules regarding disbursement of BRF funds, the establishment of voluntary remediation fees, requirements for land-use covenants, and other rules necessary for the administration of its programs. The Voluntary Remediation Fund contains the voluntary remediation application fees and other departmental fees, and expenditures from this fund are being spent on administrative and other activities as required by *W. Va. Code* §22-22-6. Statute also lists requirements for the OER if the office rejects a VRP application, but there have been no rejections in the past five years.

Minimal improvement is needed by assuring all required content is included in the Voluntary Remediation Agreement, such as technical standards and future land use.

Site Inspections

The OER conducts site inspections and collects samples to be analyzed as needed. *W. Va. Code* §22-22-10(b) requires that a copy of the

inspection report be provided to the party responsible for the remediation and that the inspection report be made available to the public. According to the OER, inspection reports are available to the public via FOIA, and inspection reports are provided to the applicant upon request.

Land-Use Covenant Violations

W. Va. Code §22-22-16 requires the OER to investigate and take enforcement action when it is made aware of a land-use covenant violation. Over the past five years, the OER became aware of land-use covenant violations at two sites. The OER investigated and resolved both of these violations. An example of a land-use violation would be using a property for residential purposes when a land-use covenant is placed on the property that limits it to industrial use.

The OER includes most of the statutorily required content in its Voluntary Remediation Agreement.

Voluntary Remediation Agreements

W. Va. Code §22-22-7 sets forth the content required to be included in the Voluntary Remediation Agreement. As previously mentioned, this is the document that must be signed before a party utilizes Voluntary Remediation Program services. The OER includes most of the statutorily required content in its Voluntary Remediation Agreement. The Agreement enables the applicant to list the chosen LRS for the site. The Agreement also includes sections regarding cost recovery, work plans, final report, etc. as required by Code. However, the only required content not included in the Agreement is the “listing of the technical standards to be applied in evaluating the work plans and reports, with reference to the proposed future land use to be achieved” (*W. Va. Code* §22-22-7). The Agreement currently notes that the technical standards and future land use shall be determined by the Secretary upon approval of work plans and reports.

The only required content not included in the Agreement is the “listing of the technical standards to be applied in evaluating the work plans and reports, with reference to the proposed future land use to be achieved” (W. Va. Code §22-22-7).

LRS Program Requirements

The agency also complies with its statutory requirements for the LRS program. It has established licensing procedures for remediation specialists according to *W. Va. Code* §22-22-3(b). In addition, the agency establishes the date, time, and location of the LRS examinations as required by *W. Va. Code* §22-22-11(c). This information is posted publicly on the OER website over 15 days prior to the examination. Examinations are given every six months, once in March and once in September. The OER prepares examinations internally. The office has three different exams prepared at any given time and prepares new examinations after each current variation has been given twice. The examinations contain content to test required regulatory and technical understanding. This is

in accordance with the Voluntary Remediation and Redevelopment Rule (CSR §60-3).

The OER Is Timely in Acting on Applications and Scoring Examinations

The OER is required by *W. Va. Code §22-22-4(g)* to act on all VRP applications within 45 days unless an extension is approved. Of the 49 applications received from FY 2020 to FY 2024, 48 had initial action within 45 days. For the application that exceeded 45 days, the OER requested an extension due to there being an enforcement order on the site in question. The applicant agreed to that extension. Table 4 shows the total number of applications and the average action time in days for each fiscal year 2020-2024.

Table 4 VRP Application Action Time by Fiscal Year FY 2020 - FY 2024		
Fiscal Year	Total Number of Applications	Average Number of Days for Action
2020	12	19.8
2021	12	28.0
2022	8	21.8
2023	7	22.6
2024	10	22.0
Total	49	23.0
Source: PERD analysis of data from the Office of Environmental Remediation.		

The OER is required by W. Va. Code §22-22-4(g) to act on all VRP applications within 45 days unless an extension is approved.

As required by the Voluntary Remediation and Redevelopment Rule (CSR §60-3), the OER is to grade LRS examinations and return the results to the individual within 30 days of the examination. PERD analyzed data for calendar years 2020-2024, as shown in Table 5. The overall average amount of time it took the OER to return examination results between CY 2020 and CY 2024 was 1.9 days.

Table 5 LRS Examinations Grading Time CY 2020 - CY 2024		
Calendar Year	Total Examinees	Average Time in Days
2020	11	2.9
2021	8	2.1
2022	14	1.4
2023	8	2
2024	6	0.7
Total	47	1.9
<i>Source: The Office of Environmental Remediation.</i>		

The OER Is Transparent through Public Notice of Remediation Activity

The OER provides transparency of remediation activities through public notices as mandated. The OER's website contains public documents such as a list of sites that have obtained land-use covenants and a list of voluntary remediation sites. The OER also shares with the public recipients of brownfield grants and the total amount for each grant.

The OER provides transparency of remediation activities through public notices as mandated.

According to *W. Va. Code* §22-22-3(f), the OER is required to establish a risk protocol to be used for establishing risk-based standards and conducting risk assessments. Code puts forth certain requirements for what shall be included in the risk protocol, including, but not limited to, appropriate data quality and sampling approaches, appropriate sources of toxicity information, and provisions for public notification and involvement. Currently, the risk protocol does not mention public involvement. However, the Voluntary Remediation and Redevelopment Rule (CSR §60-3) does contain a separate section for public notification and involvement. There are public notification requirements for all VRP applicants, and BRF applicants have additional public notice requirements. The OER has established procedures for community notification and involvement as required by *W. Va. Code* §22-22-3(c).

When the OER receives an application to enter the VRP, the agency is required to publish a summary of the application with information including, but not limited to, the address of the proposed site, the site contaminants, and proposed remediation methods. This summary is required to be published via a press release distributed to both the Public Notice Mailing List and to media outlets local to the site. In addition, a legal advertisement is to be published in a newspaper local to the site. Voluntary remediation applications are made available

to the public upon request. Applications are also placed in the municipal office, county commission office, or county public library in the county of the proposed remediation. Additional public notice requirements are given to those receiving moneys from the BRF. These include public informational meetings, publication of a remediation notification in a local newspaper, actual site identification, and establishment of a Public Involvement Plan.

Since its creation in 1996, Table 6 shows that the OER has initiated a total of 313 projects consisting of 7,708 total land acres.

The Acres of Land Remediated and Certificates of Completion Indicate Progress

Since its creation in 1996, Table 6 shows that the OER has initiated a total of 313 projects consisting of 7,708 total land acres. Of those projects, 210 are completed and have been issued COCs, with a total of 4,498 acres remediated. Overall, 67 percent of the OER’s initiated projects and 58 percent of the total acreage have been issued a COC. For fiscal years 2020 through 2024, the OER issued 63 COCs totaling 1,605 acres for the period. From its inception in 1996 to 2024, the OER has averaged about 165 acres remediated per year, with the most productive year being 2020 with about 928 acres remediated. The OER currently has 103 open projects, including five reopened projects. Some project sites consist of multiple land areas and hundreds of acres. According to the OER, larger projects with more acreage take more time and oversight.

Overall, 67 percent of the OER’s initiated projects and 58 percent of the total acreage have been issued a COC.

Table 6 Certificates of Completion Total Projects and Acres CY 1996 - CY 2025			
	Total	Number with COCs	Percent with COCs
Number of Projects	313	210	67%
Total Acreage	7,708	4,498	58%
Source: The Office of Environmental Remediation.			

PERD determines that the OER is working on assigned projects as intended.

PERD determines that the OER is working on assigned projects as intended. Over half of the total acreage of properties committed for the VRP has been remediated, and 67 percent of the total projects has been remediated. These figures suggest that the OER is working to remediate properties and distribute COCs as intended.

The OER Has Established Internal Controls for BRF Loans

The OER has several internal controls when it comes to BRF applications and the disbursement of loans. There are several steps to apply for a BRF loan. Applicants are required to schedule a pre-application meeting with the OER and submit a BRF Threshold Eligibility Questionnaire, a cost estimate, and a BRF Loan Application. Borrowers are required to participate in the VRP unless the site contamination is limited to asbestos and/or lead-based paint and does not involve impacted environmental media (groundwater, soil, etc.). This ensures that the borrowers' remediation process is overseen by an LRS and OER staff. Once the applicant submits his or her loan application, the WV Economic Development Authority reviews the application. This is to ensure that the applicant can service the debt. The WV Economic Development Authority checks the applicant's creditworthiness, capacity to repay, proposed collateral and the associated value, character, and the conditions of the local economy. If the loan application is accepted, the applicant advertises for bids. Once a bid has been accepted, the applicant and the OER enter into a BRF Loan Agreement.

The OER uses internal controls when it comes to distributing BRF loans. Instead of disbursing the entire loan amount to the applicant, the loan is disbursed on a reimbursement basis. The borrower is required to submit monthly a reimbursement request form with documentation of expenditures. Reimbursements are granted upon approval by the BRF Fund Manager. The borrower is also required to submit a financial audit every year to document financial stability. These steps ensure that loan monies are being used for approved and intended remediation purposes.

These practices provide reasonable assurance that loan amounts and remediation work are fulfilling the intended purposes.

Conclusion

PERD found that the OER complies with most of its statutory responsibilities except for a minor discrepancy related to technical standards and future land use required to be included in the Voluntary Remediation Agreement. The office manages VRP applications and LRS examinations it receives in a timely manner and practices transparency. PERD also found that the OER is efficient in remediation activities and has sufficient internal controls for the BRF loan program. These practices provide reasonable assurance that loan amounts and remediation work are fulfilling the intended purposes.

Recommendations

2. *PERD recommends that the OER add the required content to the Voluntary Remediation Agreement.*

ISSUE 3

The OER's Website Complies with Most Statutorily Required Content

Issue Summary

For several years, there has been a trend at every level of government to develop government websites that promote transparency and user-friendliness, foster public trust in government operations, and better communicate and engage with constituents. There are a host of website features that are widely used to improve communication with agency constituents and to enhance transparency of an agency's operations. The West Virginia Legislature has also acknowledged the importance of transparency in websites by statutorily specifying certain information be included on each state agency's website. PERD finds that the OER's website contains most of the information specified by state statute, as well as other features that are frequently used in government websites.

The office's website contains most of the specified content.

Basic Transparency Elements Are Required by Law to Be on Websites of West Virginia State Agencies

During the 2020 regular legislative session, the West Virginia Legislature passed Senate Bill (SB) 175. The bill created a new section of code, *W. Va. Code* §5F-1-7, that requires each state agency to maintain a website that has specific standard information by December 31, 2020. SB 175 also requires county commissions and authorizes municipalities to maintain a website by the end of 2020 that contains specific information, including the names and contact information for elected officials, ordinances, dates of meetings, and meeting minutes.

PERD recommends that the OER consider adding any user-friendly or transparency elements that it determines would further enhance its website.

Table 7 shows the statutorily required information that state agencies are to include on their websites in comparison to the OER's website. As can be seen, the office's website contains most of the specified content. The required items of information are important in enhancing public access to the agency and providing an understanding of the agency's operation and decisions. PERD recommends that the OER consider adding any user-friendly or transparency elements that it determines would further enhance its website.

The agency confirmed that it holds quarterly team meetings. However, according to the OER, these are internal staff meetings, so the meeting minutes would not be applicable to add to the website. In addition, the OER should consider adding a page containing information on submitting a FOIA request. According to the OER, "All site inspection reports are available to the public via FOIA." Adding a page with

instructions on how to submit a FOIA request, preferably with an online submission form, would enhance the website's transparency.

It is important to note that the OER's annual reports are included in the DEP's annual report and are available on the DEP website. The OER should consider adding its own link to the annual reports with information on where its report is located within.

The OER website's readability could also be improved. It is typical for a user-friendly government website to be written at a 6th-7th grade reading level. When tested using the Flesch Kincaid Test, the OER's website was revealed to be written at the college graduate reading level.

The OER website's readability could also be improved.

The OER issues grants through the Brownfield Revolving Fund. There are no grant deadlines for the Brownfields Revolving Fund. Information about grant and application information as well as eligibility requirements can be found on the OER website. The OER does distribute grants greater than \$20,000. The OER website lists the recipient of each grant, and the amount of each grant awarded. However, the address of the grantee organizations, award purpose, and date and duration of the award are not listed as required.

Table 7 Statutorily Required Standard Website Content West Virginia Office of Environmental Remediation			
Required Content	Yes	No	N/A
Office location	X		
Mailing address	X		
Telephone number	X		
Facsimile number		X	
Office hours		X	
Secure electronic contact portal		X	
Contact information of each administrative agency official	X		
Organizational chart	X		
List of statutes and legislative and procedural rules	X		
Meeting minutes			X
Annual reports	X		
Frequently Asked Questions (FAQ) and descriptive answers		X	
For Agencies that Award Grants:			
Grant and application information	X		
Grant eligibility requirements	X		
Award ranges and award deadlines			X
Name and address of the grantee's organization		X	
Purpose of the award		X	
Amount of the award	X		
Effective date and duration of the award		X	
Any financial and performance reports that are required by the State of West Virginia			X
<i>Sources: West Virginia Code §5F-1-7 and Office of Environmental Remediation website.</i>			

Conclusion

The Office of Environmental Remediation fulfills most of the website requirements set forth by *W. Va. Code §5F-1-7*. It lists information about the office such as the office location, mailing address, and phone number. It also lists some grant information. More details about the grants the office has distributed would benefit the website's transparency. Information about how to submit a FOIA request would also be beneficial. PERD recommends that the OER consider adding user-friendly or transparency elements that it determines would further enhance its website.

Recommendation

3. *The OER should consider adding any user-friendly or transparency elements that it determines would further enhance its website.*

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

1900 Kanawha Blvd. East
Building 1, Room W-314
Charleston, WV 25305-0610
(304) 347-4890



John Sylvia
Director

September 15, 2025

Harold Ward, Cabinet Secretary
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304

Dear Secretary Ward:

This is to transmit a draft copy of the Agency Review of the Office of Environmental Remediation. This report is tentatively scheduled to be presented during the October 5-7, 2025, interim meeting of the Joint Committee on Government Organization. We will inform you of the time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting sometime between September 22-24, 2025. Please notify us to schedule a time. In addition, we will need your written response by noon on Friday, September 26, 2025, 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 304-340-3192 by Thursday, October 2, 2025, to make arrangements.

We request that your personnel not disclose the report to anyone unaffiliated with your agency. However, the Legislative Auditor advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,

John Sylvia
John Sylvia

Enclosure

Appendix B

Objectives, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this performance review of the Office of Environmental Remediation (OER) as part of the Agency Review of the Department of Environmental Protection, as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code*, as amended. The purpose of the OER, as established in West Virginia Code §22-22, is to remediate and restore contaminated properties back to beneficial use, therefore providing for clean, safe, and productive communities in West Virginia.

Objectives

The objectives of this review are to determine if there is a continued need for the OER, to determine if the OER is complying with its statutory responsibilities, and to assess the OER's website for user-friendliness and transparency.

Scope

The scope of this review consisted of the remediation project records, policy and procedures, and applicant agreements of OER's Voluntary Remediation Program. PERD did not visit any of the remediation sites. PERD also reviewed the Licensed Remediation Specialist examination and licensing records, the Brownfields Revolving Fund records, the OER's compliance with its statutory responsibilities and West Virginia Code §22-22, and key features of the OER's website. This information was collected for a five-year span from FY 2020-FY 2024, however, some information such as the total number of remediation projects will date back to the inception of the Voluntary Remediation Program and Brownfields Assistance Program in CY 1996 through CY 2025.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

Testimonial evidence gathered for this review through interviews with the OER's staff or other agencies to gain an understanding of agencies' policies, procedures, or internal controls. Testimonial evidence was confirmed by written statements and in some cases by corroborating evidence.

To determine the continued need for the OER, PERD had to evaluate whether the need for remediation still exists and if remediation is an ongoing concern. PERD obtained the OER's Voluntary Remediation Program project site and application records, site visit records, Brownfields Revolving Fund records, and a roster of current Licensed Remediation Specialists to determine the ongoing need for the OER. From the records obtained, PERD was able to determine the number of project sites for each program, the number of projects completed, the number of acres remediated, the number of projects and un-remediated acres still outstanding, the number of Licensed Remediation Specialist applications received, and the amount of funds utilized through the Brownfields Remediation Fund. PERD also used this information, as well as testimonial evidence, to determine the OER's compliance with its statutory responsibilities. PERD was able to conclude that remediation was being conducted and that it is an ongoing concern.

The OER's website was evaluated for compliance with W. Va. Code §5F-1-7, which lists several transparency features. West Virginia Code §5F-1-7 also specifies certain information regarding grants for agencies that award grants greater than \$20,000. PERD confirmed the agency's compliance with these requirements through examination of the website as of a certain date during the audit. PERD also examined the OER's website for certain user-friendly features. The criteria used for this examination was derived through a literature review of government website studies, reviewed top-ranked government websites, and reviewed the work of groups that rate government websites to establish a master list of essential website elements. The Brookings Institute's "2008 State and Federal E-Government in the United States" and the Rutgers University's 2008 "U.S. States E-Governance Survey (2008): An Assessment of State Websites" helped identify the top ranked states in regard to e-government. The Legislative Auditor identified three states (Indiana, Maine and Massachusetts) that were ranked in the top 10 in both studies, and reviewed all 3 states' main portals for trends and common elements in transparency and user-friendliness. PERD also reviewed a 2010 report from the West Virginia Center on Budget and Policy that was useful in identifying a group of core elements from the master list that should be considered for state websites to increase their transparency and e-governance. It is understood that not every item listed in the master list is to be found in a department or agency website because some of the technology may not be practical or useful for some state agencies. Therefore, PERD compared the OER's website to the established criteria for user-friendliness and transparency so that the OER can determine if it is progressing in step with the e-government movement and if improvements to its website should be made.

The Office of the Legislative Auditor reviews the statewide single audit and the Division of Highways financial audit annually with regards to any issues related to the State's financial system known as the West Virginia Our Advanced Solution with Integrated Systems (OASIS). The Legislative Auditor's staff requests and reviews on a quarterly basis any external or internal audit of OASIS. In addition, through its numerous audits, the Office of the Legislative Auditor continuously tests the OASIS financial information. Also, at the start of each audit, PERD asks audited agencies if they have encountered any issues of accuracy with OASIS data. Based on these actions, along with the audit tests conducted on audited agencies, it is our professional judgement that the information in OASIS is reasonably accurate for auditing purposes under the 2018 Government Auditing Standards (Yellowbook). However, in no manner should this statement be construed as a statement that 100 percent of the information in OASIS is accurate.

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 Agency Response



west virginia department of environmental protection

Division of Land Restoration
601 57th Street SE
Charleston, WV 25304
Phone: 304-926-0499

Harold D. Ward, Cabinet Secretary
dep.wv.gov

September 26, 2025

Mr. John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
1900 Kanawha Blvd. East
Building 1, Room W-314
Charleston, WV 25305

Re: Agency Response to the Review of the Office of Environmental Remediation

Dear Director Sylvia,

Thank you for the opportunity to read in advance the draft Agency Review of the Office of Environmental Remediation (OER) Report, meet with PERD staff (Mr. Chris Carney and Ms. Brooke McCormick) during an exit interview on September 24, 2025, and provide an agency response.

The OER believes that the report accurately reflects our operations and performance, while providing helpful recommendations to improve transparency and public outreach.

- In regard to Recommendation #2, the OER removed the listing of technical standards to be applied in evaluating the work plans and reports, with reference to the future land use to be achieved, from the Voluntary Remediation Agreement (VRA) during a program review in 2017. It was determined, after two decades of program implementation, that technical standards and proposed future land use were typically not finalized until the end of the Voluntary Remediation Program (VRP) project, and requiring a VRA Modification at the end of the project often added unnecessary delay to pending property transactions contingent on a Certificate of Completion (COC). To be more efficient, OER moved that content from the VRA and into the COC, which is issued at the end of the project. The OER understands the recommendation due to statutory requirements and will work with the WVDEP Office of Legal Services to best resolve this issue.
- In regard to Recommendation #3, the OER will thoroughly review the website and work with our Public Information Office and Agency Webmaster to make appropriate changes,

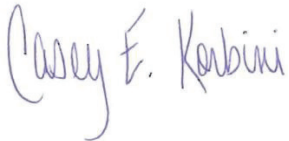
Promoting a healthy environment.

ultimately ensuring the website is more user-friendly and program information is more accessible.

This has been a beneficial exercise for the Office of Environmental Remediation, as we always strive to be efficient, effective, and in compliance with our guiding legislation, while continuously evolving and streamlining to better serve program stakeholders. It is our mission to provide for clean, safe, and productive West Virginia communities by assessing and remediating environmental resources and restoring contaminated properties to beneficial use, and we will use the recommendations provided to further enhance our programs and benefit the State.

We appreciate the time, effort, and collaboration that the Performance Evaluation and Research Division has committed to this review.

Sincerely,

A handwritten signature in blue ink that reads "Casey E. Korbini". The signature is written in a cursive, flowing style.

Casey E. Korbini
Acting Director
Division of Land Restoration



WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

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