

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Department of Mines

Chapter 22-4

(1964)

SERIES I

Subject: General Operations of the Department of Mines

Section 1. General

1.01 Scope. These regulations portray the general operating procedures in the offices of the Department of Mines.

1.02 Authority. These regulations are issued under authority of Section 4, Article 1, Chapter 22, Code of West Virginia, as amended.

1.03 Effective Date. These regulations are promulgated on 8-12-64 and become effective 60 days thereafter.

1.04 Filing Date. These regulations were filed in the office of the Secretary of State on 8-12-64.

1.05 Certification. These regulations are certified authentic by the Director of the Department of Mines by certification number 1.

Section 2. The Department of Mines

2.01. Purpose. The purpose of the Department of Mines is "the supervision of the execution and enforcement of the provisions of " Chapter 22, Code of West Virginia, as amended, "enacted for the protection of the safety and health of persons employed within or at the mines within this state, and for the protection and preservation of mining property and property used in connection therewith."

Section 3. The Director

3.01 Appointment; Term of Office. The Director is appointed by the Governor with the advice and consent of the Senate, for a term of four years, unless the appointment is to fill a vacancy and in such case the appointment shall be for the remainder of the unexpired term. The Director may be removed by the Governor in the manner prescribed by Section 4, Article 6, Chapter 6, Official Code of West Virginia, as amended.

3.02 Powers and Duties. The Director has full charge with the power and duty to:

- (1) Supervise and direct the execution and enforcement of the provisions of this chapter;
- (2) Appoint a deputy director of the department of mines, fix his compensation and prescribe his powers and duties;

(3) Employ such assistants, clerks, stenographers and other employees as may be necessary and fix their compensation, except as otherwise provided in this article;

(4) Employ mine inspectors, and assign them to divisions or districts in accordance with the provisions of section seven of this article, and to supervise and direct such mine inspectors in the performance of their duties;

(5) For good cause, suspend any mine inspector without compensation for a period not exceeding thirty days in any calendar year;

(6) Prepare report forms to be used by mine inspectors in making their findings, orders and notices, relating to inspections made in accordance with this chapter;

(7) Hear and determine applications made by mine operators for the annulment or revision of orders made by mine inspectors, and to make inspections of mines, in accordance with the provisions of this article;

(8) Cause a properly indexed permanent and public record to be kept of all inspections made by himself or by mine inspectors;

(9) Make annually a full and complete written report of the administration of his department to the governor of the state for the year ending the thirty-first day of December. Such report shall include the number

of visits and inspections of mines in the state by mine inspectors, the quantity of coal, coke and other minerals (including oil and gas) produced in the state, the number of men employed, number of mines in operation, statistics with regard to health and safety of persons working in the mines, improvements made, prosecutions, such other information in relation to the subject of mines, mine inspections and needed legislation as he may deem of public interest and beneficial to the mining interest of the state. Such reports shall be filed with the governor on or before the thirtieth day of June next succeeding the year for which it was made, and shall upon proper authority be printed and distributed to interested persons;

(10) Conduct such research and studies as he shall deem necessary to aid in protecting the health and safety of persons employed within or at mines in this state, to improve mining methods and to provide for the more efficient protection and preservation of mines and property used in connection therewith;

(11) Perform all other duties which are expressly imposed upon him by the provisions of this chapter.

3.03 Eligibility; Salary. The Director must be a male citizen of West Virginia, competent, of good repute and temperate habits and have a minimum of fifteen years experience underground in coal mines, at least ten of which was in mines in this state. He must have a practical

knowledge of the different systems of working, ventilating and draining coal mines and a practical and scientific knowledge of all noxious and dangerous gases found in coal mines. The Director shall devote all of his time to the duties of his office and shall not be directly or indirectly interested financially in any mine in this State.

The salary of the Director is fourteen thousand dollars per year and traveling expenses paid out of the State Treasury upon a requisition upon the State Auditor when properly certified by the Director of the Department of Mines.

3.04 Oath; Bond. The Director, before entering upon duty, must take the oath of office prescribed by the Constitution of this State and execute a bond in the penalty of two thousand dollars, with security approved by the Governor, conditioned upon the faithful discharge of his duties, a certificate of which oath and bond shall be filed with the Secretary of State.

Section 4. Organizations of Personnel

4.01 Organizational Units. Because of the distinct statutory charges, the Department of Mines has four organizational units; Administration; Underground Mine Division; Surface Mining Division; Oil & Gas Division. Offices of the Director and heads of Divisions are located in the State Capitol.

4.02 Underground Mine Division. The Director must divide the State into not more than five mining divisions and not more than forty-five mining districts to equalize, as far as practical, the work of each inspector. The Director assigns inspectors to districts and an assistant inspector-at-large and an inspector-at-large to each division.

 The Director appoints inspectors from the register of qualified eligible candidates certified by the Mine Inspectors' Examining Board. An inspector has permanent tenure until he becomes sixty-five years of age and may "be removed from office only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office, or other good cause."

 The inspector, before entering upon duty, must take the oath of office prescribed by the Constitution of this State and "execute a bond in the penalty of two thousand dollars, with security approved by the Director, "for faithful discharge of duties, a certificate of which oath and bond shall be filed with the Secretary of State.

4.03 Surface Mining Division. The Director may appoint a maximum of six surface mining inspectors and a surface mining supervisor. An appointee shall be a citizen of the State, in good health, of good character and reputation, of temperate habits, not less than thirty or more than fifty-five years of age and shall have five years experience

in surface mining in West Virginia. These persons have permanent tenure until becoming sixty-five years of age and may be removed only for physical or mental impairment, neglect of duty, drunkenness, malfeasance in office or official misconduct.

The supervisor and all inspectors, before entering upon duty, must take the oath of office prescribed by the Constitution of West Virginia and execute a bond in the penal sum of two thousand dollars with surety approved by the Director for faithful discharge of his duties; the executed bonds and oaths are to be filed in the office of the Secretary of State.

4.04 Oil and Gas Wells Division. The Director is responsible for having the State divided into not more than eight oil and gas districts to equalize, as far as practical, the work of each inspector, appoint and assign inspectors, appoint a supervising inspector and also appoint a Deputy Director for oil and gas who shall serve at his (Director) will and pleasure. All inspectors must be chosen from the register of qualified eligible persons recommended by the Oil and Gas Inspectors' Examining Board. An inspector has permanent tenure until he becomes seventy years of age and may "be removed from office only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office, or other good cause."

The deputy, supervising inspector and inspectors, before entering upon duty, "shall take the oath of office prescribed by the Constitution, and shall execute a bond in the penalty of two thousand dollars, with security to be approved by the Director of the Department of Mines, conditioned upon the faithful discharge of his duties, a certificate of which oath and bond shall be filed in the office of the Secretary of State."

Section 5. Inspections

5.01 Underground Mine Inspections. All underground mines shall be examined at least once every four months. If an inspector, while making an inspection, finds an imminent danger of an explosion, fire, inundation, man-trip or man-hoist accident he immediately writes an A order of his finding. If an inspector, while making an inspection, finds that Article 2, Chapter 22, Code of West Virginia, is being contravened, but does not create an imminent danger, he will write a B order, which provides for a reasonable time to abate the violation.

The scene of each fatal accident shall be visited by the inspector assigned to the mine, and make a report to the Director setting forth the results of his examination.

5.02 Surface Mining Inspections. The inspection of surface mining has the statutory intention of protecting life and property as do the inspections of underground mines. To effectuate this purpose rules

and regulations are necessary and used.

5.03 Oil and Gas Wells Inspectors. In the event an inspector, while making an inspection of an oil or gas well, finds that Article 4, Chapter 22, Code of West Virginia, as amended, is contravened he will write an order which provides a reasonable period of time to abate the violation. The notice must give the reference to that specific part of the statute violated and a description of conditions which occasions the ground of action.

Section 6. Mine Rescue Stations and Rescue Crews

6.01 Rescue Stations. The Director is empowered to and does maintain fully equipped mine rescue stations strategically located throughout the State.

6.02 Rescue Crews. The Director uses his endowed statutory authority to train and maintain mine rescue crews which are located throughout the State.

Section 7. Mine Inspectors' Examining Board

7.01 Composition of the Mine Inspectors' Examining Board. The Mine Inspectors' Examining Board is composed of five members who, except for the public representative, are appointed by the Governor for overlapping terms of eight years, by and with the advice and consent of the Senate. The public representative must be the Dean of the School of Mines of West Virginia University; he shall serve as Chairman of the

Board; Two members represent the viewpoint of the coal mine operators and two members the viewpoint of the coal mine workers.

1. Charles T. Holland, Dean, School of Mines, West Virginia University.
2. Joshua Smith; term expires 6-30-70
3. Jerry Stidham; term expires 6-30-72
4. C. E. Linkous, term expires 6-30-66
5. James Leeber, Jr., term expires 6-30-68

The Director of the Department of Mines is an ex-officio member, without the right to vote but shall serve as the secretary of the board.

7.02 Removal. During his term, an appointed member may be removed only for the same causes and in the same manner as an elective State officer.

7.03 Oath. Members must take and subscribe to the oath required by Section 5, Article 4 of the Constitution of West Virginia.

7.04 Meetings. The Mine Inspectors' Examining Board shall meet when and where the Chairman shall designate. The Chairman must call a meeting if requested in writing by three members of the Board or the Director of the Department of Mines.

7.05 Quorum. Three members constitute a quorum.

7.06 Duties. The primary and basic duties may be summarized
as follows:

(1) Conduct examinations of candidates for appointment as coal
mine inspector.

(2) Prepare and certify to the Director of the Department of Mines
a register of qualified eligible candidates for appointment as mine
inspectors.

(3) Hear and determine appeals of mine inspectors from suspension
orders made by the Director of the Department of Mines.

(4) Make an annual report to the Governor and the Director of the
Department of Mines.

Section 8. Coal Mine Safety Board of Review

8.01 Composition of the Coal Mine Safety Board of Review. The
Coal Mine Safety Board of Review is composed of five members who,
except for the representative of the public, are appointed by the Governor
for terms of four years, by and with the advice and consent of the Senate.
The representative of the public, by statute, is the Dean of the School of
Mines of West Virginia University. Two members represent the view-
point of the coal mine operators and two the viewpoint of the coal mine
workers.

1. Charles T. Holland, Dean, School of Mines, West Virginia University.
2. Alfred Newland; term expires 6-30-66
3. Frank Williams, Sr.; term expires 6-30-66
4. Larkin Philpott; term expires 6-30-66
5. Cecil J. Urbaniak; term expires 6-30-66

8.02 Removal Appointed members may be removed only for the same causes and in similar manner as any elective State official.

8.03 Oath. Members must take and subscribe to the oath required by Section 5, Article 4 of the Constitution of West Virginia.

8.04 Purpose. The primary purpose of the Coal Mine Safety Board of Review is to afford any coal mine operator an opportunity to:

- (1) Seek directly the annulment or revision of an order of finding issued by any coal mine inspector.
- (2) Seek the annulment or revision of an order of finding issued by any coal mine inspector and affirmed by the Director of the Department of Mines.
- (3) Seek annulment, correction or revision of any administrative action of the Department of Mines not reviewable under (1) or (2) above.

Section 9. Oil and Gas Inspectors' Examining Board

9.01 Composition of the Oil and Gas Inspectors' Examining Board. The Oil and Gas Inspectors' Examining Board is composed of five members, who, except for the public representative, are appointed by the Governor for overlapping terms of eight years, by and with the advice and consent of the Senate. The public representative must be the Head, Petroleum Engineering Department, School of Mines, West Virginia University; he shall serve as Chairman of the Board. Two members represent the view point of independent oil and gas operators and two members represent the viewpoint of major oil and gas producers.

1. Richard W. Laird, Head, Petroleum Engineering Department, School of Mines, West Virginia University.
2. Carl D. Reese; term expires June 30, 1965
3. Wendell S. Moore; term expires June 30, 1967
4. Franklin R. Yost; term expires June 30, 1969
5. Roscoe Dingess, Jr.; term expires June 30, 1971

9.02 Removal. During their term, appointed members may only be removed for the same causes and similar manner as elective State officers.

9.03 Oath. Members of the Board must take and subscribe to the oath required by Article 4, Section 5 of the Constitution of West Virginia.

9.04 Meetings. The Board must meet at times and places chosen by the Chairman. The Chairman must call a meeting if requested in writing by two members of the Board, the Deputy Director for Oil and Gas or the Director of the Department of Mines.

9.05 Quorum. Three members constitute a quorum.

9.06 Duties. The primary and basic duties may be summarized as follows:

(1) Conduct examinations of candidates for appointment as oil and gas inspector.

(2) Prepare and certify to the Director and the Deputy Director for Oil and Gas a register of qualified eligible candidates for appointment as inspectors.

(3) Hear and determine appeals of inspectors from suspension orders.

(4) Make an annual report to the Governor.