

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Oil & Gas Inspectors' Examining Board TITLE NUMBER: 40

RULE TYPE: Procedural; CITE AUTHORITY 22-13-3 & 29A-3

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Matters pertaining to the rules and regulations dealing with oil and gas inspectors' examining board.

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON October 6, 1990 AT 8:00 PM

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS...

Theodore M. Streit - Secretary
Oil & Gas Inspectors' Examining Board
1615 Washington Street East
Charleston, W. Va. 25311

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

TITLE 40
PROCEDURAL RULE
OIL AND GAS INSPECTORS' EXAMINING BOARD

SERIES 1
MATTERS PERTAINING TO THE RULES AND REGULATIONS
DEALING WITH OIL AND GAS INSPECTORS' EXAMINING BOARD

40-1-1. General.

1.1. Scope.-- These rules set forth herein shall govern and apply to proceedings under sections one and two of article thirteen, and section two, article one of chapter twenty-two-b of the West Virginia Code concerning Oil and Gas Inspectors, their testing and appointment, salary and compensation and their removal. They are not applicable for any other state employees in or out of the Department Division of Energy.

1.2. Authority.-- W. Va. Code §22-13-3 & §29A-3

1.3. Filing Date.-- ~~October-5,-1984~~ _____

1.4. Effective Date.-- ~~November-5,-1984~~ _____

1.5. Forms - A copy of any forms currently used under or required by these regulations may be obtained from the Department Division of Energy.

40-1-2. Definitions.

2.1. Statutory definitions. -- As used in these regulations, the terms "Director," "Department" Division or "Department Division of Energy," "Division Section of Oil and Gas" or "Office" shall have the meanings as set forth in section one, article one, chapter twenty-two-b of the West Virginia Code.

2.2. "Commissioner" means the Commissioner of the Department Division of Energy as defined in subsection three, section one-b, article one, chapter twenty-two of the West Virginia Code.

2.3. "Board" means Oil and Gas Inspectors' Examining Board created in section three, article thirteen, chapter twenty-two of the West Virginia Code.

2.4. "Code" means the West Virginia Code of 1931, as amended.

2.5. "Chairman" means the Chairman of the Oil and Gas Inspectors' Examining Board as set out in section three, article thirteen, chapter twenty-two of the West Virginia Code.

40-1-3. Application.

3.1. Applicants for examination must complete an application form, and such form shall be in the Director's office six (6) weeks prior to the examination date.

3.2. Upon receipt of all applications the Board will contact each applicant by first class mail at the address on the application form at least two (2) weeks prior to the examination as to whether the applicant is eligible to take the examination. (See §22-13-2)

3.3. Examinations will be given on the first Thursday in May ~~and the first Thursday in October~~ unless the number of applicants warrants another examination or unless there is a need to qualify additional candidates for a depleted register.

3.4. Applicants who fail to appear at their scheduled examination may appear at the next succeeding examination only, and upon missing two (2) consecutive examinations must reapply.

3.5. Examination content.-- The examination will consist of two parts. The first part is a two (2) hour written examination covering the principles and practice of oil and gas operations in West Virginia, not limited to, but including article one, chapter twenty-two-b of the West Virginia Code and regulations promulgated thereunder; and the second part is an oral test where members of the Board will interview the candidates to determine the candidates ability to carry out the functions of an oil and gas inspector.

3.6. Passing grade. -- The passing grade the Board requires for the examination is seventy percent (70%).

3.7. Failure of examination. -- An applicant who fails the examination may be reexamined: Provided, That after three (3) failures the applicant has to wait two (2) full years before taking the examination again.

3.8. Within two (2) weeks after an examination each participant will be notified as to his or her score, by first class mail at the address on the application.

3.9. As soon as all tests are graded, the Board will certify to the Director and Commissioner a roster as provided for in section three, article thirteen, chapter twenty-two of the West Virginia Code.

40-1-4. Compensation for inspectors and supervising inspectors.

4.1. The Director shall review each inspector's performance annually and forward to the Board his evaluation ~~and proposed merit raises~~.

4.2. The Board, at its next regularly scheduled (non-examination) meeting will review the Director's evaluations and merit-raise-recommendations.

4.3. The Board will submit its recommendations to the Commissioner so as to effectively reward those inspectors who have shown meritorious service.

4.4. Any inspector is entitled to be present at the review of the Director's recommendations.

40-1-5. Hearings before the board.

5.1. Hearings on the following are subject to this section:

Petitions brought by the Commissioner or the Director for the removal of an inspector under section two, article thirteen, chapter twenty-two of the West Virginia Code;

Appeals by inspectors of suspension orders made by the Director under section two, article one, chapter twenty-two-b of the West Virginia Code; and

Appeals of the striking of any candidate's name from the register by the Commissioner or the Director under section one, article thirteen, chapter twenty-two of the West Virginia Code.

5.2. All hearings under this section will be initiated by petition and the petitioner will state his or her allegation that if proved to be true and correct will warrant the removal under section two, article thirteen, chapter twenty-two of the West Virginia Code or revocation of the actions taken by the Director or Commissioner.

5.3. Summary disposition. -- At the time of filing, the Board may summarily dispose of the petition on any of the following grounds:

(a) The petitioner, inspector, Director or Commissioner, has no right for review;

(b) The Board lacks jurisdiction over the petition so filed;

(c) The petitioner has failed to appear at the time and place for the hearing;

(d) The petitioner has withdrawn or abandoned the request for a hearing; and

(e) The petition, if all the alleged facts were true, would not warrant removal under section two, article thirteen, chapter twenty-two of the West Virginia Code or revocation of the actions taken by the Director or Commissioner. When the Board

summarily disposes of a petition it shall notify all interested parties in writing.

5.4. Notice to interested parties. -- Notice will be sent to all Board members, petitioners and persons named in the petition by registered mail. Such notice shall contain a copy of the petition, and the time, date and place of the hearing, which date shall not be less than fifteen (15) days and not more than thirty (30) days after receipt of the petition by the Director.

5.5. Filing.

(a) Where to file - Any petitions filed will be filed with the Director at ~~322-70th-Street~~ 1615 Washington Street East, Charleston, WV ~~25304~~ 25311.

(b) How to file - All filing may be accomplished by personal delivery or first class mail.

(c) When filing is effective - Filing is effective upon delivery.

5.6. Presiding officer. -- The Chairman or any other member in the Chairman's absence shall preside over every hearing conducted pursuant to this section.

5.7. Powers of the presiding officer. -- The officer presiding over every hearing subject to the rules of this section, may:

(a) Administer oaths and affirmations;

(b) Issue subpoenas in accordance with the provision of section one, article five, chapter twenty-nine-a of the West Virginia Code;

(c) Rule upon offers of proof and receive relevant evidence;

(d) Permit evidentiary depositions to be taken and read as in civil actions in the circuit courts of this state;

(e) Permit discovery depositions;

(f) Regulate the course of a hearing;

(g) Dispose of procedural requests or similar matters;

(h) Hold conferences for the settlement or simplification of the issues with the consent of the parties; and

(i) Take any other action in connection with such hearing authorized by law.

5.8. Representation at hearings. -- At hearings held pursuant to this section, any party may represent himself or be represented by an individual of his choice. In addition, any party has the right to be represented.

5.9. Conduct of hearing

(a) Conduct of attorneys and individuals before the Board shall be the same as required of attorneys before the Circuit Courts of the State of West Virginia. Any person testifying in response to a subpoena or subpoena duces tecum issued by a Presiding Officer and any person testifying in support of a petition or in opposition thereto shall be required to do so under oath or affirmation administered by the Presiding Officer. Witnesses shall be examined with courtesy and respect, and their good faith shall be presumed.

(b) Smoking shall not be permitted in the hearing room during session or during recess.

(c) Electronic recording of any hearing is prohibited except as may be required by the Board for preserving a record thereof for the use of the Board in connection with the matter being heard. The taking of photographs in or broadcasting of proceedings from any hearing room is prohibited.

(d) At the presiding officer's discretion, or on motion of any party, a transcript of testimony shall be taken and preserved as part of the permanent record. Parties may examine the official transcript.

5.10. Hearings held confidential. -- Hearings under this procedure will be held confidential unless so released by the person named in the petition or requested by a court order.

5.11. Written orders.

(a) Within thirty (30) days after the conclusion of a hearing the Presiding Officer shall consider the evidence and any proposals and issue a written order which should include:

(1) A copy of the petition;

(2) A statement of whether the petition is found to be true or false; and

(3) A statement of appropriate action that should be taken upon said petition.

(b) A copy of said order shall be served on all interested parties.