

*Title 40
Procedural rule*

FILED

1984 OCT -5 PM 3:03

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~
OFFICE OF WEST VIRGINIA
OIL AND GAS INSPECTORS' EXAMINING BOARD SECRETARY OF STATE

~~CHAPTER 22-4~~

SERIES 481

1984^e

SUBJECT: Matters pertaining to the Rules and Regulations dealing with *Oil & Gas Inspector's Examining Board*

SECTION 1.00 - GENERAL INFORMATION

1.01 - Scope - These regulations set forth herein shall govern and apply to proceedings under Section 1(a)(4), 1c, 1d, of Article 4, Chapter 22, of the Code concerning Oil & 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 of Mines.

1.02 - Authority - These regulations are promulgated pursuant to the authority of Code 22-4-1e and Article 3, Chapter 29A of the Code.

1.03 - Effective Date - These regulations were promulgated on the 4th of October, 1984, and became effective on the 5th of November, 1984.

1.04 - Filing Date - These regulations were filed in the Office of the Secretary of State on the 5th day of October, 1984, and became effective on the 5th day of November, 1984.

1.05 - Forms - A copy of any forms currently used under or required by these regulations may be obtained from the ~~Administrator of the Office of Oil and Gas of the Department of Mines.~~ *Department of Energy*

SECTION 2.00 - DEFINITIONS

2.01 - STATUTORY DEFINITIONS - As Used in these regulations, the terms "Administrator", "Department" or "Department of Mines", "Office of Oil and Gas" or "Office" shall have the meanings as set forth in Code 22-4-1.

2.2 "Director" means the Director of the Department of Mines as defined in Code 22-1-1(b)(3).

~~2.02 - DEFINITION ADOPTED BY REGULATION~~

a) 2.3 "Board" means Oil and Gas Inspectors' Examining Board created in Code 22-4-1e.

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

c) 2.5 "Chairman" means the Chairman of the Oil and Gas Inspectors' Examining Board as set out in 22-4-1e.

SECTION 3.00 - APPLICATION

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

3.02 - 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 22-4-1d)

3.03 - 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.

3.04 - 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.

3.05 - Examination Content - The examination will consist of two parts. The first part is a two hour written examination covering the principles and practice of oil and gas operations in West Virginia, not limited to, but including Article 4, Chapter 22 of the 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.

3.06 - Passing Grade - The passing grade the board requires for the examination is 70%.

3.07 - Failure of Examination - An applicant who fails the examination may be re-examined, provided that, after three failures the applicant has to wait two (2) full years before taking the examination again.

3.08 - 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.

3.09 - As soon as all tests are graded, the board will certify to the Administrator and Director a roster as provided for in Code 22-4-1e.

SECTION 4.00

COMPENSATION FOR INSPECTORS AND SUPERVISING INSPECTORS

4.01 - The Administrator shall review each inspector's performance annually and forward to the Board his evaluation and proposed merit raises.

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

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

4.04 - Any inspector is entitled to be present at the Review of the Administrator's recommendations.

SECTION 5.00 - HEARINGS BEFORE THE BOARD

5.01 - Hearings on the following are subject to this section:

--petitions brought by the Director or the Administrator for the removal of an inspector under Code 22-4-1d;

--appeals by inspectors of suspension orders made by the Administrator under Code 22-4-1a; and

--appeals of the striking of any candidate's name from the register by the Director or the Administrator under Code 22-4-1c.

5.02 - 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 Code 22-4-1d or revocation of the actions taken by the Administrator or Director.

5.03 - 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, Administrator, or Director, 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.
- e) The petition, if all the alleged facts were true, would not warrant

removal under 22-4-1d or revocation of the actions taken by the Administrator or Director. When the Board summarily disposes of a petition it shall notify all interested parties in writing.

5.04 - 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 15 days and not more than 30 days after receipt of the petition by the Administrator.

5.05 - Filing

a) Where to File - Any petitions filed will be filed with the Administrator at Building #1, EW-153, Charleston, WV 25305.

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.

5.06 - Presiding Officer - The Chairman or any other member in the Chairman's absence shall preside over every hearing conducted pursuant to this Section.

5.07 - Powers of the Presiding Officer - The officer presiding over every hearing subject to the rules of this section, may;

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas in accordance with the provision of Code 29A-5-1;
- (3) Rule upon offers of proof and receive relevant evidence;
- (4) Permit evidentiary depositions to be taken and read as in civil actions in the circuit courts of this state;
- (5) Permit discovery depositions;
- (6) Regulate the course of a hearing;
- (7) Dispose of procedural requests or similar matters;
- (8) Hold conferences for the settlement or simplification of the issues with the consent of the parties; and
- (9) Take any other action in connection with such hearing authorized by law.

5.08 - 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.

5.09 - 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 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.
 - 3) A statement of appropriate action that should be taken upon said petition.

A copy of said Order shall be served on all interested parties. †



State of West Virginia
Department of Mines
Oil and Gas Division
Charleston 25305

WALTER N. MILLER
DIRECTOR

THEODORE M. STREIT
ADMINISTRATOR

October 5, 1984

The Honorable A. James Manchin
Secretary of State
State Capitol
Suite 157-K
Charleston, WV 25305

Dear Mr. Manchin:

Please find enclosed three (3) copies of procedural regulations of the Oil and Gas Examining Board.

These regulations were first proposed on July 30, 1984 and a public hearing was held on September 14, 1984. On October 4, 1984, the board approved these regulations as amended.

Sincerely,

A handwritten signature in cursive script, appearing to read "T.M. Streit".

Theodore M. Streit, Executive Secretary
Oil and Gas Examining Board

TMS/mmy

Enclosures as stated

FILED
1984 OCT -5 PM 3:03
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE