

STATE OF WEST VIRGINIA

**Update of the
PRELIMINARY PERFORMANCE REVIEW OF THE
Oil and Gas Inspectors' Examining Board**

**Board has Improved
its Performance**

**It is Recommended that
the Board's Functions
still be Transferred to
the Division of Personnel**

**OFFICE OF LEGISLATIVE AUDITOR
Performance Evaluation and Research Division
Building 1, Room W-314
State Capitol Complex**

**CHARLESTON, WEST VIRGINIA 25305
(304) 347-4890**

August 2000

PE 00-19-177

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August 2000

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Antonio E. Jones, Ph.D.
Director

August 20, 2000

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

The Honorable Vicki V. Douglas
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

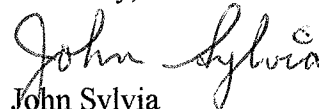
Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting an **Update of the Preliminary Performance Review of the Oil and Gas Inspectors' Examining Board**, which will be presented to the Joint Committee on Government Operations on Sunday, August 20, 2000. The issues covered herein are "*Board has Improved its Performance; and It is Recommended that the Board's Functions still be Transferred to the Division of Personnel.*"

We conducted an exit conference by telephone with John Johnston, Chief of the Oil and Gas Inspectors' Examining Board on August 8, 2000. We received the agency response on August 9, 2000.

Let me know if you have any questions.

Sincerely,


John Sylvia
Acting Director

JS/wsc

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Update of the 1999 Preliminary Performance Review of the Oil and Gas Inspectors' Examining Board

Background

The Oil and Gas Inspectors' Examining Board is a five member board created by West Virginia Code §22C-7-3. There are two ex-officio members of the board. These are the Chief of the Office of Oil and Gas of the Division of Environmental Protection, who serves as chair of the board; and the Chief of the Office of Water Resources of the Division of Environmental Protection. The remaining three members of the Board include: a representative of the public who is knowledgeable about the subject of oil and gas production, and who has no financial interest that exceeds an average of \$600 per year; a member to represent the viewpoint of independent oil and gas operators; and a member to represent the major oil and gas operators.

One major responsibility of the Oil and Gas Inspectors' Examining Board is to provide an annual examination to test individuals for employment as oil and gas inspectors with the Office of Oil and Gas. This examination process includes a written and an oral examination. The board then maintains a list of qualified candidates to be employed as oil and gas inspectors when a position is vacated. **All management and supervision of the inspectors is conducted by the Office of Oil and Gas, not the examining board.**

In addition, the Board is responsible for: 1) adopting and promulgating rules and regulations **relating to the examination, qualification and certification of candidates for appointment.** 2) hearing and determining proceedings for the removal of inspectors. 3) hearing and determining appeals of suspension orders made by the director of the DEP against the inspectors or the supervising inspector. 4) making an annual report to the Governor concerning the administration of oil and gas inspection personnel in the state service, and making recommendations.

Update of 1999 Preliminary Performance Review

In the 1999 review, the Legislative Auditor concluded that the functions of the Oil and Gas Inspectors' Examining Board were similar to those functions already provided by the Division of Personnel. The Legislative Auditor felt that the testing of inspectors could be provided by DOP and the oral examination could be done by the Office of Oil and Gas. DOP could assist in any grievance issues or disciplinary actions, which is a function of the Division of Personnel, and which the Office of Oil and Gas is, in essence, already paying for since they are paying personnel fees to DOP. According to the Director of the Division of Personnel, the duties of the Board could be absorbed by DOP with very little performance or fiscal cost, thus eliminating the need for the Oil and Gas Inspectors' Examining Board. The report resulted in the following two recommendations which require Legislative action:

Recommendation 1:

If the Legislature believes that there should be an Oil and Gas Board to advise the Director of the Division of Environmental Protection of industry concerns, and participation in the promulgation of rules regulating the examination of inspectors, the Legislature should consider renewing the Oil and Gas Inspectors' Examining Board while transferring the Board's testing functions to the Division of Personnel.

Recommendation 2:

If the Legislature does not adopt recommendation #1, the Legislature should consider sunsetting the Oil and Gas Inspectors' Examining Board in accordance with the West Virginia Sunset Legislation §4-10-5. The duty of test examination of the Oil and Gas Inspectors' Examining Board could be transferred and absorbed by the West Virginia Division of Personnel.

During the review, the report also discussed the lack of record keeping of meetings and actions performed by the board. The Board had no records of meeting minutes - - - thus no member attendance records - - - and no annual reports which were required by WVC §22C-7-3. Thus, the Legislative Auditor concluded that the Board had not been very active in its duties.

Following the release of the report, the Chief of the Office of Oil and Gas who serves as the Board's Chairman reorganized the Board making some improvements including better record keeping. These improvements include: more scheduled Board meetings; minutes taken of each meeting; and an annual report is being provided to the Governor. **This improved record keeping has shown that the Oil and Gas Inspectors' Examining Board has become more active than in previous years.** In the previous review, lack of meeting minutes prevented the Legislative Auditor from determining the number of meetings of the Board and the attendance. In order to make an estimate of the number of Board meetings, the Legislative Auditor was relegated to using per diem reimbursement payments from the State Auditor's Office. This data showed that there were few meetings, and that they were sparsely attended. Since PERD's report, the board has begun to meet on a regular basis and is well attended. The Board met 4 times in 1999 since the report release, and 2 times thus far in 2000. Table 1 shows the meeting dates, scheduled meetings for 2000, and attendance where applicable.

**Table 1
1999 and 2000 Meetings**

| Meeting Date | Number of Members Present (Possible of 5) |
|--|--|
| June 30, 1999 | 4 |
| October 7, 1999 | 4 |
| December 1, 1999 | 4 |
| December 16, 1999 (Inspector Examination) | 5 |
| March 9, 2000 | 3 |
| June 28, 2000 | 5 |
| July 20, 2000 (Scheduled Inspector Examination) | |
| August 2000 (Proposed) | |
| October 2000 (Proposed) | |

In addition to more meetings, improved attendance and record keeping, the Board also for 1999 submitted an annual report to the Governor's Office as required by Code, which had not been done in previous years. In addition, the Board has stated:

Hereafter, the Annual Report will be submitted to the Governor by January 10 of each year for the previous year's activities and status of the Oil and Gas inspectors.

Another finding from the 1999 report was that only one inspector had been hired from the roster in the past five years as a result of the examination. In essence, the Board's only function for five years was to hire one person. Officials from the Office of Oil and Gas responded by stating that this was not necessarily a deficiency of the Board, but because of the low turnover among the inspector corps. According to the Chief of the Office of Oil and Gas, this may be changing in the near future because of inspector retirements. One inspector has been hired from the roster since the 1999 report, and according to the chief, one more inspector has submitted their retirement resignations, and another is also expected to submit their retirement plans within the year. Thus, the necessity for the annual examination will become more important within the next couple of years.

Conclusion

The Legislative Auditor commends the Board members for making improvements to the Oil and Gas Inspectors' Examining Board. Meeting minutes and annual reports do show better attendance and more activity than in previous years, and pending inspector retirements will prove that the examination functions for new inspectors will be required. While the Board has made improvements, the Legislative Auditor stands by its previous recommendations that the Legislature should consider sunsetting the Inspectors' Board. The Board is a duplication of duties of the Division of Personnel, and its functions could be absorbed by DOP. As a result of this update, the Legislative Auditor adds one more recommendation.

Recommendation 1:

Should the Legislature choose not to sunset the Oil and Gas Inspectors' Examining Board, the Legislative Auditor recommends that the Board continue to meet on a regular basis, maintain adequate records of its activities, and provide an annual report to the Governor as required by Code.

APPENDIX A

Agency Response



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West Virginia Division of Environmental Protection

Cecil H. Underwood
Governor

Michael C. Castle
Director

DEP/OO&G-1699

August 9, 2000

Mr. Denny Rhodes, Sr. Research Analyst
Performance Evaluation and Research Division
West Virginia Legislature
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Re: Oil and Gas Inspectors' Examining Board Preliminary Performance Review

Dear Mr. Rhodes:

In response to the "Draft" Preliminary Performance Review of the Oil and Gas Inspectors' Examining Board I would like to submit the following comments.

1. The Title of the review should reflect the 1998-year, possibly titled "Update of the 1999 Preliminary Performance Review of the Oil and Gas Inspectors' Examining Board for the 1998 Year."
2. The section following the "Background" should read "Update of 1999 Preliminary Performance Review for the 1998 Year."
3. In the "Conclusion" it should be noted that "following the release of the 1998 report, meeting minutes and annual reports do show better attendance..."

I would like to reiterate that the Board has improved meeting attendance, record keeping and compliance with W. Va. §Code 22C-7-3 in 1999, thus far in 2000 and will continue to do so. With inspector retirements forthcoming, the Board's function is imperative to the success of the Office of Oil and Gas.

"To use all available resources to protect and restore West Virginia's environment in concert with the needs of present and future generations."

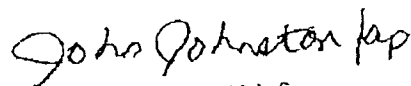


West Virginia
Division of
Environmental Protection

Mr. Denny Rhodes
August 9, 2000
Page 2

If I may be of further assistance, please contact me at 759-0514.

Sincerely,

A handwritten signature in black ink that reads "John Johnston" followed by a stylized flourish.

John H. Johnston, Chief
Office of Oil and Gas

JHJ/ap