

Preliminary Performance Review

The Oil and Gas Inspectors' Examining Board

The Oil and Gas Inspectors' Examining Board Is In Compliance With Past Recommendations; However, The Board Still Duplicates Services That Can Be Provided By The Division of Personnel.



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John Sylvia
Director

August 18, 2002

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 a 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 18, 2002. The issues covered herein are "The Oil and Gas Inspectors' Examining Board Is In Compliance with Past Recommendations; However, the Board Still Duplicates Services that Can Be Provided by the Division of Personnel;" and "The Oil and Gas Inspectors' Examining Board Needs to Update Its Procedural Rules."

We transmitted a draft copy of the report to the Oil and Gas Inspectors' Examining Board on July 26, 2002. We had an Exit Conference with the Board on July 29. We received the agency response on August 7, 2002.

Let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "John Sylvia".

John Sylvia

JS/wsc

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Executive Summary

Issue 1: The Oil and Gas Inspectors' Examining Board Is In Compliance with Past Recommendations; However, the Board Still Duplicates Services that Can Be Provided by the Division of Personnel.

The Board is in compliance with recommendations made in the 1999 Preliminary Performance Review conducted by the Legislative Auditor's Office. The Board has become compliant in taking meeting minutes, submitting annual reports to the Governor's Office and improving overall record keeping. The Board has also increased its level of activity. However, the Board still duplicates services that can be provided by the Division of Personnel. All of DEP's civil service employees are tested and selected through the Division of Personnel, with the exception of the twelve oil and gas inspectors which are selected through the Board. There is no apparent justification for oil and gas inspectors to be selected through a different process. None of the bordering states have an examining board for this profession. DEP pays the Division of Personnel \$2,100 (\$175 per person) for services that DEP actually provides in hiring oil and gas inspectors. Basically, DEP is paying twice for the selection of oil and gas inspectors, once through the Board and again through the Division of Personnel, whose services DEP doesn't use for these positions. The annual expenses of the Board have been around \$4,000 which includes the \$2,100 payment to the Division of Personnel. This does not include the time DEP officials spend in attending the Board's meetings. Despite the fact that the amount of money and staff time is relatively small, the existence of the Board represents a duplicative use of money and staff time. The Division of Personnel should be responsible for providing oil and gas inspectors to the DEP or the Board should be exempt from having to pay Personnel for oil and gas inspectors.

Issue 2: The Oil and Gas Inspectors' Examining Board Needs to Update Its Procedural Rules.

In review of these procedural rules, it was noted that the code site referenced in the rules did not match up with the current West Virginia Code site listing the Oil and Gas Inspectors' Examining Board. The code sites listed in the procedural rules are WVC §22B-1-1, and WVC §22-13-1through 3. The current code site is WVC §22C-7-1 through 3.

Recommendations:

1. The Legislative Auditor recommends either the sunset of the Oil and Gas Inspectors' Examining Board with its functions transferred to the Division of Personnel or the continuation of the Board with the Department of Environmental Protection being exempted from paying the Division of Personnel for the number of oil and gas inspectors hired through the Board.
2. The Board, if continued, should update its procedural rules so that they correspond with its sites in the West Virginia Code.

Review Objective, Scope and Methodology

This Preliminary Performance Review of the Oil and Gas Inspectors' Examining Board (the Board) is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10, Section 5 of the West Virginia Code, as amended. The Board is responsible for developing and administering an examination for candidates who wish to become inspectors for the Office of Oil and Gas within the Department of Environmental Protection. From this examination the Board provides a list of qualified and eligible candidates to the Secretary of the Department of Environmental Protection.

Objective

The objective of this review is to determine if the Board has fulfilled the requirements of the previous audit recommendations and to determine if the Board is a duplication of services that could be provided by the Division of Personnel.

Scope

This review covers the period from January 1999 to June 2002.

Methodology

Information used in this review has been acquired from the West Virginia Code, interviews and correspondence with the Office of Oil and Gas, the Governor's Office, Division of Personnel, and the government agencies from the bordering states that oversee oil and gas inspectors. Documentation received from the Board included: (1) meeting minutes and annual reports completed since the previous 1999 PERD audit; (2) cost of the Board to the state from FY 1999 through FY 2002; and (3) a current register of eligible candidates for hire, the number of inspectors hired in the past three years, expected number of inspectors to be hired in the near future, and expected losses due to retirements in the next six years. The review also included a survey of surrounding states on the method used to test and hire oil and gas inspectors in their state; a response from the Governor's Office concerning the meeting of a Code-mandated reporting requirement to its office by the Board; a response from the Division of Personnel on the cost to handle the examination for oil and gas inspectors; and Procedural Rule, Title 40, Series 1. Every aspect of this review complied with Generally Accepted Government Auditing Standards (GAGAS).

Issue 1

The Oil and Gas Inspectors' Examining Board Is In Compliance with Past Recommendations; However, the Board Still Duplicates Services that Can Be Provided by the Division of Personnel.

The Oil and Gas Inspectors' Examining Board (the Board) is a five member board created under WVC §22C-7-3 to develop and administer an examination for candidates who wish to become inspectors for the Office of Oil and Gas within the Department of Environmental Protection (DEP). From this examination, the Board provides a list of qualified and eligible candidates to the Secretary of DEP for appointment as oil and gas inspectors or as supervising inspectors. The makeup of the Board is as follows: (1) the Chief of the Office of Oil and Gas, who serves as Chair of the Board; (2) the Chief of the Office of Water Resources, (3) a representative of the public who is knowledgeable about the subject of oil and gas production, and who has no direct financial interest other than the receipt of royalty payments which do not exceed ten percent of his or her annual income, (4) a member to represent the viewpoint of independent oil and gas operators and (5) a member to represent the major oil and gas operators.

The Board has come into compliance with recommendations made in the 1999 Preliminary Performance Review conducted by the Legislative Auditor's Office, however, the Board still duplicates services that can be provided by the Division of Personnel. The Board has become compliant in taking meeting minutes, submitting annual reports to the Governor's Office and improving overall record keeping. The Board has also increased its level of activity. All of DEP's civil service employees are tested and selected through the Division of Personnel, with the exception of the twelve oil and gas inspectors which are selected through the Board. There is no apparent justification for oil and gas inspectors to be selected through a different process. None of the bordering states have an examining board for this profession. DEP pays the Division of Personnel \$2,100 (\$175 per person) for services that DEP actually provides in hiring oil and gas inspectors. Basically, DEP is paying twice for the selection of oil and gas inspectors, once through the Board and again through the Division of Personnel, whose services DEP doesn't use for these positions. In addition, the annual expenses of the Board have been around \$2,000. Therefore, the annual expenditure for the Board is approximately \$4,000. This does not include the time DEP officials spend in attending the Board's meetings. Despite the fact that the amount of money and staff time is relatively small, the existence of the Board represents an duplicative use

of money and staff time. The Division of Personnel should be responsible for providing oil and gas inspectors to the DEP as it does other positions.

Board Is in Compliance with Past Recommendations

The Board has continued to make improvements in its operations since the previous audit. The 1999 report discussed the lack of record man 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 provided to the Governor's Office.

Board Has Increased Its Level of Activity

In 2001, the Board placed notice for the testing of oil and gas inspectors. The Board received 18 applications for testing. The Board reviewed and identified 12 applicants who were eligible for testing. Upon completion of testing the Board provided the Office of Oil and Gas with a register of 7 qualified candidates eligible for hire. Currently there are 12 oil and gas inspectors employed throughout the state. Three candidates from the register have been hired as inspectors in the past 3 years. The Chief of the Office of Oil and Gas anticipates the hiring of 3 new inspectors within the next 2-3 months and expects the loss of at least 4 inspectors through retirement within the next 6 years.

Board Still Represents an Unnecessary Duplication

The main duty of the Board, which is to test individuals and provide a list of potential candidates to the Office of Oil and Gas, is a duplication of the duties of the Division of Personnel (DOP). The DOP provides eligibility, testing, classification of candidates, as well as other services for various agencies within state government. Moreover, the DOP is currently providing the same function for the remainder of DEP personnel and the personnel for other state agencies. The Legislative Auditor concludes that there is no evidence for the need of a Board for testing since the duties of the Board duplicate services provided by the DOP.

In 1993, the question was raised by the Chairman of the House Government Organization Committee about placing the responsibilities and functions of the Oil and Gas Inspectors' Examining Board within the

DOP. According to a letter from the Chairman to DOP, members of the Board, and members of the Joint Committee on Government Operations indicated that it may be in the best interest of the state to place the responsibilities and functions of that particular board within the DOP. The Director of the DOP replied with the following statement dated October 28, 1993:

...the terms and conditions of employment (including protections) for Oil and Gas Inspectors are very similar to those of classified (i.e. civil service) employees. In addition, the statutorily specified process of competitive examination, creation of a register of successful applicants and selection from among the highest scoring applicants closely parallels the process we use for classified employment...

Based on our review we have concluded that if we took on the responsibilities of the Oil and Gas Inspectors' Examining Board there would be very little additional fiscal or performance effect on this Division since we already have systems and processes in place for this type of work. It appears that the assignment of this responsibility to the Division of Personnel could be accomplished by the elimination of West Virginia Code '22-13-1 et seq. And the addition of statutory language placing Oil and Gas Inspectors in the classified service.

The Legislative Auditor's Office went back to the Division of Personnel and asked if its 1993 response still held true. The Division of Personnel is still in agreement on placing the responsibilities and functions of the Oil and Gas Inspectors' Examining Board under its authority. The DOP further stated:

... there would be no additional cost to the Office of Oil and Gas if the Division of Personnel were responsible for the examination of Oil and Gas Inspectors.

The Department of Environmental Protection Is Already Paying the Division of Personnel for These Twelve Positions.

The Department of Environmental Protection is required to pay the Division of Personnel an annual fee for all employees under the De-

partment. An annual fee of \$175 per Full Time Equivalent (FTE) position provides services that include the development and administration of competitive selection procedures (examinations, ratings of training and experience, etc.) and the referral of successful applicants to employing agencies. The Department of Environmental Protection currently pays DOP \$2,100 annually for its 12 inspectors.

None of the Bordering States Have a Separate Examining Board for Oil and Gas Inspectors

None of the surrounding states utilize a separate board in the selection and hiring process of oil and gas inspectors. Most of the states utilize a personnel division within the agency or a separate personnel agency and in one case are selected directly by a panel led by the division director (See Table 1). Therefore, it is not uncommon for a state to be without a separate examining board for oil and gas inspectors.

Financial Impact to the State Is Minimal

The impact is minimal as the total expenditure for the Board is around \$4,000. The Department of Environmental Protection currently pays DOP \$2,100 for the 12 inspectors. The Board costs approximately \$2,000 annually to operate. The maximum amount the state would save around \$2,000, irregardless if the Board were eliminated or if DEP no longer has to pay DOP's fees for the twelve oil and gas inspectors. In addition, the time spent by Chiefs of the Office of Oil and Gas and the Office of Water Resources could be better spent doing other, more important, duties.

Conclusion

The Oil and Gas Inspectors' Examining Board is providing a service that the Division of Personnel can provide. In fact, the Department of Environmental Protection is already paying the Division of Personnel an annual fee for personnel services. The Division of Personnel could test for the Office of Oil and Gas just like it currently tests the remainder of DEP personnel. None of the surrounding states utilize an Inspectors' Examining Board in the process of hiring inspectors, therefore it is not uncommon to be without a separate examining board. The recommendation that the Board be sunset and the mission be turned over to the Division of

Table 1 Surrounding States' Practices for Hiring Oil and Gas Inspectors

State	Source	Process Used
Kentucky	External Personnel Agency	To become an oil and gas inspector requires the applicant to interview with the Personnel Cabinet and then test. All candidates must meet the minimum of education/oilfield experience and pass the test. The Personnel Cabinet determines the applicants that qualify. The examination is given at the Personnel Cabinet's office. The Personnel Cabinet forwards the list of applicants qualifying to our Department. The Director of the Oil and Gas Division will choose the qualified candidate(s).
Maryland	Internal Personnel Division	Maryland Department of the Environment has a compliance program that does all the inspections for its permits. The Department has its own Human Resources Department and applicants are interviewed and selected by Department staff. There is no specific exam for Oil & Gas.
Ohio	Internal Personnel Division	The Ohio Department of Natural Resources, Division of Mineral Resources Management utilizes a classification entitled Mineral Resources Inspector. This classification encompasses the duties of oil & gas well inspectors as well as coal and industrial minerals inspectors. After a vacancy is posted, applications are reviewed to determine which applicants will receive an interview. Applicants must meet the minimum qualifications of the Mineral Resources Inspector. Once it is determined the applicants meet the minimum qualifications, interviews are conducted and selection is made. The interview panel usually consists of the supervisor of the position along with a human resources representative.
Pennsylvania	External Personnel Agency	An Oil and Gas Inspector candidate must have 5 years of related industry experience. The candidate must take an examination and be ranked by the State Civil Service Commission. They are ranked based on their test score and placed on a list of candidates. When a vacancy occurs, the top three candidates from the list are interviewed. The supervisor of the position interviews and recommends the most desirable candidate which is approved by the Deputy Secretary of Management and Technical Services on behalf of the Department Secretary.
Virginia	Division Director	Interviewed by panel consisting of division director and at least two others from the department. Reference check by division director to include past employers. No examination given. The division director with approval of the department director selects candidates for hire.

Personnel has been given in the previous two audits. Although recommended for sunset, the Board has met its mission and corrected its shortfalls that were identified in the 2000 audit. The cost of the Board is approximately \$4,000 per year which includes \$2,100 going to the Division of Personnel for unused services. Although the cost is minimal, it is an duplicative use of resources.

Recommendation 1:

The Legislative Auditor recommends either the sunset of the Oil and Gas Inspectors' Examining Board with its functions transferred to the Division of Personnel or the continuation of the Board with the Department of Environmental Protection being exempted from paying the Division of Personnel for the number of oil and gas inspectors hired through the Board. A second option would be to continue the Board and exempt the Department of Environmental Protection from paying the Division of Personnel for the number of oil and gas inspectors hired through the Board. A second option would be to continue the Board and exempt the Department of Environmental Protection from paying the Division of Personnel for the number of oil and gas inspectors hired through the Board. A second option would be to continue the Board and exempt the Department of Environmental Protection from paying the Division of Personnel for the number of oil and gas inspectors hired through the Board.

Issue 2

The Oil and Gas Inspectors Examining Board Needs to Update Its Procedural Rules.

In accordance with WVC §22C-7-3 the Board shall adopt and promulgate reasonable rules relating to the examination, qualification and certification of candidates for appointment, and relating to hearings for removal of inspectors or the supervising inspector, required to be held by this article. All of such rules shall be printed and a copy thereof furnished by the secretary of the Board to any person upon request.

In 1990, the Board filed its procedural rules with the Legislature. These became “Title 40, procedural rules, Oil and Gas Inspectors’ Examining Board, Series 1, Matters Pertaining to the Rules and Regulations Dealing with Oil and Gas Inspectors’ Examining Board.”

In review of these procedural rules, it was noted that the code site referenced in the rules did not match up with the current West Virginia Code site listing the Oil and Gas Inspectors’ Examining Board. The code sites listed in the procedural rules are WVC §22B-1-1, and WVC §22-13-1 through 3. The current code site is WVC §22C-7-1 through 3.

This indicates that the procedural rules have not been updated since 1990 and are out of date. The rules need updated in order to list the proper West Virginia Code site.

Recommendation 2:

The Board, if continued, should update its procedural rules so that they correspond with its sites in the West Virginia Code.

Appendix A: Transmittal Letter To Agency

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

July 26, 2002

James Martin, Chief
Office of Oil and Gas
Department of Environmental Protection
1356 Hansford Street
Charleston, West Virginia, 25301-5929

Dear Mr. Martin:

This is to transmit a draft copy of the Preliminary Performance Review on the Oil and Gas Inspectors Examining Board. This report is scheduled to be presented at the Sunday, August 18, 2002 interim meeting of the Joint Committee on Government Operations held in Wheeling, West Virginia. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have. We would like to schedule an exit conference to discuss the report with you on Thursday, August 1, 2002 at 10:00 a.m., if this is convenient with you. We would appreciate your written response by Wednesday, August 7, 2002 at 4:00 p.m. in order for it to be included in the final report.

We request that your personnel treat the draft report as confidential and request that it not be disclosed to anyone except those agency employees who will prepare the response to the report or who will participate in the exit conference. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/ec

Joint Committee on Government and Finance

Appendix B: Agency Response



Oil and Gas Inspectors' Examining Board
1356 Hansford Street
Charleston, WV 25301
Telephone Number (304) 558-6075
Fax Number (304) 558-6047

West Virginia Department of Environmental Protection

Bob Wise
Governor

Michael O. Callaghan
Cabinet Secretary

August 7, 2002

Mr. John Sylvia
Director
Performance Evaluation and
Research Division
WV Legislature
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610

R E C E I V E D
AUG 07 2002

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Dear Mr. Sylvia:

The Oil and Gas Inspectors' Examining Board (Board) has reviewed the performance report your staff submitted on July 26, 2002. The Board appreciates the recognition in the report regarding accomplishments made since the 1999 review.

Generally, the Board believes the report to be factually correct. Since the report information was gathered, the Office of Oil and Gas (Office) has had one inspector resignation and has had two new hires, which changes the twelve inspectors in the report to a total of thirteen. The Office expects to hire another inspector in the next month or two.

The Board recognizes the concerns raised in issue number 1 and the subsequent recommendation. However, the Board encourages the legislature to address this issue through an exemption of payment to the Division of Personnel and allow for the continuance of the Board.

Regarding recommendation number 2, the Board is in full agreement with the review and would propose that, if continued, that recommendation be addressed as soon as possible.

The Board appreciates the opportunity to respond to this review and looks forward to further response before the Joint Committee on Government Operations on the 18th in Wheeling.

Sincerely,

James Martin,
Oil and Gas Inspectors'
Examining Board



West Virginia Department
of Environmental Protection

"Promoting a healthy environment."