WEST VIRGINIA CODE: §22-6-2

§22-6-2. Secretary – powers and duties generally; department records open to public; inspectors.

(a) The secretary shall have as his or her duty the supervision of the execution and enforcement of matters related to oil and gas set out in §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code.

(b) The secretary is authorized to propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code necessary to effectuate the above stated purposes.

(c) The secretary shall have full charge of the oil and gas matters set out in §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code. In addition to all other powers and duties conferred upon him or her, the secretary shall have the power and duty to:

(1) Supervise and direct the activities of the Office of Oil and Gas and see that the purposes set forth in §22-6-2(a) and §22-6-2(b) of this code are carried out;

(2) Determine the number of supervising oil and gas inspectors and oil and gas inspectors needed to carry out the purposes of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code and appoint them as such. All appointees must be qualified civil service employees, but no person is eligible for appointment until he or she has served in a probationary status for a period of six months to the satisfaction of the secretary;

(3) Supervise and direct such oil and gas inspectors and supervising inspectors in the performance of their duties;

(4) Make investigations or inspections necessary to ensure compliance with and to enforce the provisions of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code;

(5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector in making their findings, orders, and notices upon inspections made in accordance with §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code;

(6) Employ a hearing officer and such clerks, stenographers, and other employees as may be necessary to carry out his or her duties and the purposes of the Office of Oil and Gas and fix their compensation;

(7) Hear and determine applications made by owners, well operators, and coal operators for

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the annulment or revision of orders made by oil and gas inspectors or the supervising inspector, and to make inspections, in accordance with the provisions of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, and §22-9-1 *et seq.* of this code;

(8) Cause a properly indexed permanent and public record to be kept of all inspections made by the secretary or by oil and gas inspectors or the supervising inspector;

(9) Conduct research and studies as the secretary shall deem necessary to aid in protecting the health and safety of persons employed within or at potential or existing oil or gas production fields within this state, to improve drilling and production methods, and to provide for the more efficient protection and preservation of oil and gas-bearing rock strata and property used in connection therewith;

(10) Collect a permit fee of $400 for each permit application filed other than an application for a deep well, horizontal wells regulated pursuant to §22-6A-1 *et seq.* of this code, or a coalbed methane well; and collect a permit fee of $650 for each permit application filed for a deep well: *Provided*, That no permit application fee is required when an application is submitted solely for the plugging or replugging of a well, or to modify an existing application for which the operator previously has submitted a permit fee under this section. All application fees required hereunder are in lieu of and not in addition to any fees imposed under §22-11-1 *et seq.* of this code relating to discharges of stormwater but are in addition to any other fees required by the provisions of §22-6-1 *et seq.* of this code: *Provided, however*, That upon a final determination by the United States Environmental Protection Agency regarding the scope of the exemption under Section 402(l)(2) of the federal Clean Water Act (33 U.S.C. 1342(l)(2)), which determination requires a "national pollutant discharge elimination system" permit for stormwater discharges from the oil and gas operations described therein, any permit fees for stormwater permits required under §22-11-1 *et seq.* of this code for such operations may not exceed $100;

(11) On or after July 1 of each year, collect from the responsible operator of the first 400 wells subject to §22-6-1 *et seq.*, §22-6A-1 *et seq.* or §22-21-1 *et seq.* of this code that has not yet been plugged, and that produces more than an average, calculated by dividing the annual production by 365, of 250,000 cubic feet of gas per day or more as reported to the State Tax Commissioner in the previous reporting year, an annual oversight fee of $350 for each well;

(12) On or after July 1 of each year, collect from the responsible operator of the first 400 wells subject to §22-6-1 *et seq.*, §22-6A-1 *et seq.* or §22-21-1 *et seq.* of this code that has not yet been plugged, and that produces an average, calculated by dividing the annual production by 365, of less than or equal to 250,000 cubic feet of gas but more than 60,000 cubic feet of gas per day as reported to the State Tax Commissioner in the previous reporting year, an annual oversight fee of $75 for each well;

(13) On or after July 1 of each year, collect from the responsible operator of the first 4,000 wells subject to §22-6-1 *et seq.*, §22-6A-1 *et seq.* or §22-21-1 *et seq.* of this code that has not

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yet been plugged, and that produces an average, calculated by dividing the annual production by 365, of less than or equal to 60,000 cubic feet of gas but more than 10,000 cubic feet of gas per day as reported to the State Tax Commissioner in the previous reporting year, an annual oversight fee of $25 for each well; *Provided*, That responsible operators with 500 or fewer unplugged wells that produce an average, calculated by dividing the annual production by 365, of less than or equal to 60,000 cubic feet of gas but more than 10,000 cubic feet of gas per day are not subject to fees under this subdivision;

(14) Perform all other duties which are expressly imposed upon the secretary by the provisions of this chapter;

(15) Perform all duties as the permit issuing authority for the state in all matters pertaining to the exploration, development, production, storage, and recovery of this state's oil and gas;

(16) Adopt rules with respect to the issuance, denial, retention, suspension, or revocation of permits, authorizations, and requirements of this chapter, which rules shall assure that the rules, permits, and authorizations issued by the secretary are adequate to satisfy the purposes of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-7-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq*. of this code particularly with respect to the consolidation of the various state and federal programs which place permitting requirements on the exploration, development, production, storage, and recovery of this state's oil and gas; and

(17) Perform such acts as may be necessary or appropriate to secure to this state the benefits of federal legislation establishing programs relating to the exploration, development, production, storage, and recovery of this state's oil and gas, which programs are assumable by the state.

(d) The secretary shall have authority to visit and inspect any well or well site and any other oil or gas facility in this state and may call for the assistance of any oil and gas inspector or inspectors or supervising inspector whenever such assistance is necessary in the inspection of any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and supervising inspectors shall have authority to visit and inspect any well or well site and any other oil or gas facility in this state. Such inspectors shall make all necessary inspections of oil and gas operations required by §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq*. of this code; administer and enforce all oil and gas laws and rules; and perform other duties and services as may be prescribed by the secretary. The inspectors shall note and describe all violations of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq*. of this code and promptly report those violations to the secretary in writing, furnishing at the same time a copy of the report to the operator concerned. Any well operator, coal operator operating coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said coal seams beneath said tract of land, may request the secretary to have an immediate inspection made. The operator or owner of every well or well site or any other oil or gas facility shall cooperate with the secretary, all

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oil and gas inspectors and the supervising inspector in making inspections or obtaining information.

(e) Subject to the provisions of §29B-1-1 *et seq*. of this code, all records of the office shall be open to the public.

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