

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III**

\$6.00 w/out Fed. Reg's

■
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR15 - "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61"

Type of Rule: X Legislative Interpretive Procedural

Agency: Office of Air Quality

Address: 7012 MacCorkle Avenue, SE

Charleston, WV 25304-2943

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of Above Estimates:

With the exception of asbestos removal oversight which is supported by general revenue and federal grants, costs anticipated to be incurred in the implementation of federal rules promulgated under 40 CFR Part 61 as of June 1, 2001 will be covered under prior budget estimates for implementing Title V of the Clean Air Act, as amended, under 45CSR30.

3. Objectives of These Rules:

This rule establishes general provisions for emission standards for hazardous air pollutants and other regulatory requirements pursuant to section 112 of the Clean Air Act, as amended. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the Clean Air Act, as amended.

Rule Title: 45CSR15 - "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61"

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

See section 2.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

No impact above that resulting from the currently applicable federal emission standards. However, OAQ expects there to be some amount of cost savings to industry as a result of a reduction of redundant and overlapping requirements and the additional flexibility provided by 40 CFR Part 65.

C. Economic Impact on Citizens/Public at Large.

No impact above that resulting from the currently applicable federal requirements.

Date: _____

Signature of Agency Head or Authorized Representative:

DEPARTMENT OF ENVIRONMENTAL PROTECTION
BRIEFING DOCUMENT

Rule Title: 45CSR15 - "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61"

A. AUTHORITY: W.Va. Code §§22-5-1 et seq.

B. SUMMARY OF RULE:

45CSR15, in conjunction with existing rule 45CSR34, establishes general provisions for emission standards for hazardous air pollutants (NESHAP) and other regulatory requirements promulgated by USEPA as of June 1, 2001, pursuant to section 112 of the federal Clean Air Act, as amended. 45CSR34 incorporates hazardous air pollutant standards codified by USEPA under 40 CFR Part 63 whereas this rule, 45CSR15, incorporates hazardous air pollutant standards promulgated by USEPA under 40 CFR Part 61. This rule codifies general procedures and emission standards for certain stationary sources that emit (or have the potential to emit) one or more of the eight substances listed as hazardous air pollutants in section 61.01(a) of 40 CFR Part 61 (asbestos, benzene, beryllium, coke oven emissions, inorganic arsenic, mercury, radionuclides, and vinyl chloride). This revised rule incorporates by reference additional provisions relating to the Consolidated Federal Air Rule: Synthetic Organic Chemical Manufacturing Industry; and Amendments for Testing and Monitoring Provisions.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

Any person who constructs, modifies, or operates an affected facility after the effective date of any standard promulgated under 40 CFR Part 61 must comply with the national emission standards for hazardous air pollutants. The final adoption of the proposed rule amendment will enable the Department of Environmental Protection, Division of Air Quality (DAQ) to become the primary enforcement authority for NESHAP promulgated by U.S. EPA as of June 1, 2001. Promulgation of these amendments to 45CSR15 by the Legislature is necessary for the State to fulfill its responsibilities under the Clean Air Act, as amended.

Briefing Document
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**D. FEDERAL COUNTERPART REGULATIONS -
INCORPORATION BY REFERENCE/DETERMINATION OF
STRINGENCY:**

A federal counterpart to this proposed rule exists. In accordance with the Secretary's recommendation, and with limited exception, the Division of Air Quality proposes that the rule incorporate by reference the federal counterparts.

Because the proposed rule incorporates by reference the federal counterpart, no determination of stringency is required.

E. CONSTITUTIONAL TAKINGS DETERMINATION:

In accordance with §22-1A-1 and 3(c,) the Secretary has determined that this rule will not result in taking of private property within the meaning of the Constitutions of West Virginia and the United States of America.

**F. CONSULTATION WITH THE ENVIRONMENTAL PROTECTION
ADVISORY COUNCIL:**

At its May 29, 2001 meeting, the Environmental Protection Advisory Council reviewed and discussed this rule. Their comments are contained in the attached minutes.

45CSR15

FILED

TITLE 45

LEGISLATIVE RULE

DIVISION DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF AIR QUALITY

2001 JUN -6 P 4: 57
OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 15

EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
PURSUANT TO 40 CFR PART 61

§45-15-1. General.

1.1. Scope. -- This rule adopts emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency pursuant to section 112 of the federal Clean Air Act, as amended (CAA). It is the intent of the ~~Director~~Secretary to adopt these standards by reference. It is also the intent of the ~~Director~~Secretary to adopt associated reference methods, performance specifications and other test methods which are appended to such ~~these~~ standards.

1.2. Authority. -- W. Va. Code §22-5-1 et seq.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Incorporation by Reference. -- Federal Counterpart Regulation. The ~~Director~~Secretary has determined that a federal counterpart regulation exists, and in accordance with the ~~Director~~Secretary's recommendation, with limited exception, this rule incorporates by reference, 40 CFR Parts 61 and 65, to the extent referenced in 40 CFR Part 61, effective July 1, 1999~~2000~~, as amended by the Federal Register through June 1, ~~2000~~2001.

1.6. Former Rules. -- This legislative

rule amends 45CSR15 "Emission Standards For Hazardous Air Pollutants Pursuant to 40 CFR Part 61" which was filed ~~April 28, 1995~~June XX, 2001, and which became effective ~~May 1, 1995~~July 1, 2001.

§45-15-2. Requirements.

2.1. No person may construct, reconstruct, modify, or operate, or cause to be constructed, modified, or operated any National Emission Standards for Hazardous Air Pollutants (NESHAP) source which results, or will result, in a violation of this rule.

§45-15-3. Definitions.

3.1. "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her authorized representative.

3.2. "Clean Air Act" ("CAA") means 42 U.S.C. §§7401 et seq.

~~3.3. "Director" means the director of the division of environmental protection or such other person to whom the Director has delegated authority or duties pursuant to W. Va. Code §22-1-6 or §22-1-8.~~

3.43. "Hazardous air pollutant" means any air pollutant listed pursuant to 40 CFR Part 61.01(a).

45CSR15

3.4. "Secretary" means the secretary of the department of environmental protection or such other person to whom the secretary has delegated authority or duties pursuant to W. Va. Code §§22-1-6 or 22-1-8.

§45-15-4. Adoption of Standards.

4.1. Standards. -- The ~~Director~~Secretary hereby adopts and incorporates by reference the provisions of 40 CFR Parts 61 and 65, to the extent referenced in 40 CFR Part 61, including any reference methods, performance specifications and other test methods which are appended to ~~such~~these standards and contained in 40 CFR Parts 61 and 65, effective July 1, ~~1999~~2000, as amended by the Federal Register through June 1, ~~2000~~2001, for the purposes of implementing a program for emission standards for hazardous air pollutants, except as follows:

4.1.a. 40 CFR Part 61.16 is amended to provide that information shall be available to the public in accordance with W. Va. Code §§22-5-1 et seq., W. Va. Code §§29B-1-1 et seq., and 45CSR31; or

4.1.b. Subparts B, H, I, K, Q, R, T, and W; Methods 111, 114, 115 and Appendix D and E of 40 CFR Part 61 shall be excluded.

§45-15-5. ~~Director~~Secretary.

5.1. Any and all references in 40 CFR Parts 61 and 65 to the "Administrator" are amended to be the "~~Director~~Secretary" except as follows:

5.1.a. where the federal

regulations specifically provide that the Administrator shall retain authority and not transfer such authority to the State;

5.1.b. where provisions occur which refer to:

5.1.b.1. alternate means of emission limitations;

5.1.b.2. alternate control technologies;

5.1.b.3. innovative technology waivers;

5.1.b.4. alternate test methods;

5.1.b.5. alternate monitoring methods;

5.1.b.6. waivers/adjustments to recordkeeping and reporting;

5.1.b.7. emissions averaging; or

5.1.b.8. applicability determinations; or

5.1.c. where the context of the regulation clearly requires otherwise.

§45-15-6. Permits.

6.1. Nothing contained in this adoption by reference shall be construed or inferred to mean that permit requirements in accordance with applicable rules shall in any way be limited or inapplicable.

§45-15-7. Inconsistency Between Rules.

7.1. In the event of any inconsistency between this rule and any other existing rule of the Director~~West Virginia~~ Department of Environmental Protection,

45CSR15

such inconsistency shall be resolved by the determination of the ~~Director~~Secretary and such determination shall be based upon the application of the more stringent provision, term, condition, method, or rule.

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

ADVISORY COUNCIL MEETING – MINUTES

**Tuesday, May 29, 2001 ~ 1:00 p.m.
Second Floor Conference Room - Nitro**

Attendees:

Advisory Council Members:

Michael O. Callaghan – Chairman
Lisa Dooley
Jackie Hallinan
Larry Harris
Bill Raney
Rick Roberts
Bill Samples

DEP:

Bill Adams
John Ailes
Dave Bassage
John Benedict
Bill Brannon
Laura Crowder
Mike Dorsey
Lewis Halstead

Randy Huffman
Pam Nixon
Ken Politan
Charlie Sturey
Allyn Turner
Dave Watkins
Karen Watson
Mike Zeto

CITIZENS:

Victoria Moore
Elaine Purkey
Freda Williams

The meeting was called to order at 1:00 p.m. by Chairman Michael O. Callaghan.

Welcome/Opening Remarks - Chairman Callaghan:

Chairman Callaghan opened the meeting by announcing that he had reorganized the West Virginia Department of Environmental Protection (WV DEP) and consolidated certain offices into four divisions: Division of Mining and Reclamation, Matt Crum, Director; Division of Waste Management, Ken Ellison, Director; Division of Water

Resources, Allyn Turner, Director; and Division of Air Quality, Director position currently vacant. Other appointments by Chairman Callaghan include Dave Bassage, Coordinator of Innovative Policy; Cap Smith, Head of Special Projects; and John Ailes, Special Advisor for Mining Affairs. Mr. Callaghan distributed a copy of May 29th news release, announcing the restructuring (see attached).

2001 Legislative Session Overview:

William E. Adams, Jr., Deputy Secretary, provided an overview of the 2001 legislative session. Mr. Adams commented that DEP was successful in getting all but two of their rules passed during the session, and he distributed a copy of a news release covering the scope of legislative action regarding DEP's rules (news release attached).

Presentation of 2002 Proposed Legislative Rules:

Office of Air Quality -

John Benedict presented rules 45CSR1 and 45CSR26 to the Council.
Karen Watson presented rules 45CSR 8, 9, 15, 16, 18, 25, 33 and 34.

Office of Mining and Reclamation -

Lewis Halstead presented rules 38CSR2 and 38 CSR 4.

Office of Waste Management -

Mike Dorsey presented rule 33CSR20.

Office of Water Resources -

Ken Politan presented rules 47CSR5A and 47CSR30.
David Watkins presented rules 47CSR57B and 47CSR13.
Allyn Turner - Discussed the anti-degradation legislation passed during the 2001 legislative session and the need to file any proposed 2002 rules after July 1, 2001 because the authority for the promulgation of this rule will not vest with the DEP until then.

Environmental Enforcement -

Mike Zeto presented the rule for Administrative Proceedings and Civil Penalty Assessment.

Upon conclusion of rules presentations, Randy Huffman, DEP Assistant Secretary, thanked everyone for coming and commented that the rules will be filed with the Secretary of State's office by Wednesday, June 06, 2001, for the thirty-day comment period and then go to public hearings. Cindy Lawson read the 2002 rules filing guideline and deadline dates. Mr. Huffman asked for guidance from the council members. A comment was made that the rules should be in the hands of the Advisory Council a week preceding the meeting and Mr. Huffman stated that this was the goal of the agency. With the legislative session beginning 30 days later this year, however, the process was delayed as an overlapping of final filing and pre-filing for 2002 could not be prevented.

Bill Raney, Council Member, made a motion that the Advisory Council acknowledges the submission and presentation of the 2002 rules. William Samples, Council Member, seconded the motion.

A motion to adjourn the meeting was made by Bill Raney and seconded by Larry Harris, Council Member. The meeting adjourned 3:50 p.m.

Attachments



News Release

Department of Environmental Protection
West Virginia

Release: May 29, 2001
For Information: (304) 759-0515

DEP program offices consolidated from eight to four; Crum to head mining office

CHARLESTON — The state's environmental protection agency is being reorganized into four primary regulatory divisions and a former federal prosecutor is taking over the mining office, the state's foremost environmentalist said Tuesday.

Under the change, four office heads, who will be called division directors, will report directly to DEP Secretary Michael O. Callaghan, the Cabinet secretary said.

They are directors of the Division of Air Quality, Division of Water Resources, Division of Waste Management and Division of Mining & Reclamation.

The reorganization takes in the current program offices of Abandoned Mine Lands & Reclamation, Air Quality, Environmental Remediation, Explosives and Blasting, Mining and Reclamation, Oil & Gas, Waste Management and Water Resources.

"These changes are long overdue and are necessary to make the entire structure of the new Department of Environmental Protection more manageable," Callaghan said.

The Legislature at the request of Gov. Bob Wise this year elevated the agency from the Division of Environmental Protection to department status and made Callaghan a Cabinet-level secretary.

"I want the agency head to be immediately accessible to those who are in critical decisionmaking positions," Callaghan said. "This is needed to respond to environmental problems promptly and for the complex process of issuing permits. These changes give the division heads more authority than the old chiefs had and I hope groups them together as environmental protectors rather than as eight entities doing their individual thing."

Callaghan also announced he has named Matthew B. Crum, an environmental lawyer with the U.S. Justice Department in Washington, as director of the mining office, taking over for John Ailes, who has been acting chief.

Crum, 35, who lives in Fairfax, Va., has been a lawyer in the environmental enforcement section for the Justice Department since 1998. He previously worked for the Division of Environmental Protection and The Nature Conservancy.

Ailes has been named as a special adviser for mining affairs and will report directly to Callaghan.

"Matt incorporates all the leading assets the agency needs to move the mining regulatory and permitting program forward," Callaghan said. "John Ailes will serve equally well in a key advisory capacity to the secretary. I am building a new mining program and am looking at least a decade into the future to set those plans in place."



News Release

Department of Environmental Protection
West Virginia

Release: May 29, 2001
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Reorg 2-2-2

Ken Ellison, who has been chief of the Office of Remediation, will become director of the waste office. Former Office of Waste Management Chief Cap Smith is joining Callaghan's staff as head of special projects. Office of Water Resources Chief Allyn Turner takes over the water division.

Callaghan is seeking a director for the Air Division after Skipp Kropp, former chief of the Office of Air Quality, submitted his resignation last week.

Dr. Dee Ann Staats, Ph.D, rounds out the staff reorganization. DEP has suffered for years by the lack of a formal science adviser, particularly in the areas over which Ellison will have control. Staats is being hired in the newly created position of science adviser and will deal primarily with Ellison's office.

Staats, 44, of South Charleston, earned an undergraduate degree in chemistry from West Virginia Wesleyan in 1979 and her doctorate in pharmacology toxicology from West Virginia University in 1987.

Callaghan has been promising changes in the top management of DEP since he took over the agency Feb. 13.

"This agency long has failed to adequately complete its mission," Callaghan said. "It has been plagued by faltering, indecision and a lack of self-confidence. The management structure has failed to meet the expectations and output of the 800 fine employees who have made every effort to do the right thing for the agency and properly perform its mission. It is time for management to support the effort of these quality employees."

Earlier, Callaghan named general counsel Bill Adams as his sole deputy secretary, eliminating two other deputy positions. He also named former Deputy Randy Huffman as assistant secretary.

Continuing to report directly to Callaghan will be Environmental Advocate Pam Nixon, Innovative Policy Director Dave Bassage, Enforcement Coordinator Mike Zeto, and the Public Information Office.

**Department of
Environmental Protection**

SECRETARY
Michael Callaghan

DRAFT
5/23/01

Asst. Secretary
Randy Huffman

Dep. Secretary
Bill Adams

**Division of
Air Quality**
(Vacant), Director

**Division of Water
Resources**
*Alynn Turner,
Director*

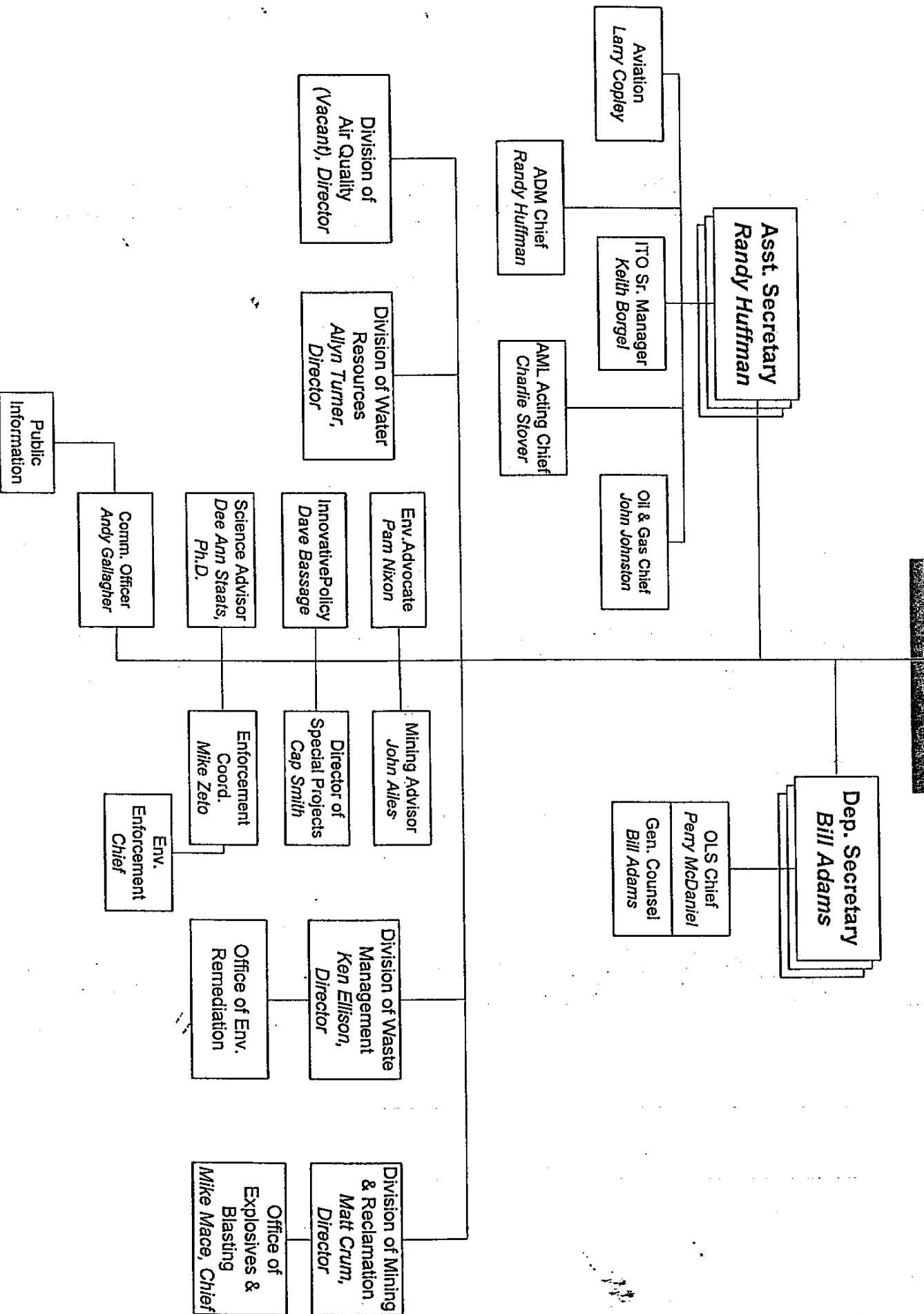
**Division of Waste
Management**
*Ken Ellison,
Director*

**Division of Mining
& Reclamation**
*Matt Crum,
Director*

Department of Environmental Protection

SECRETARY
Michael Callaghan

DRAFT
5/23/01





News Release

Department of Environmental Protection
West Virginia

Release: May 29, 2001
For Information: (304) 759-0515

Justice Department environmental lawyer to head up the DEP's mines office

NITRO — An environmental lawyer with the U.S. Department of Justice is taking over West Virginia's mining regulatory program, Department of Environmental Protection Secretary Michael O. Callaghan said Tuesday.

Matthew B. Crum, named chief of the Office of Mining and Reclamation, begins work June 11. He replaces John Ailes, who becomes a special adviser to Callaghan, focusing on mining issues.

Crum, 35, who lives in Fairfax, Va., has been a lawyer in the environmental enforcement section for the Justice Department since 1998. He previously worked for the Division of Environmental Protection and The Nature Conservancy.

He was lead counsel representing the federal government in the prosecution of civil enforcement cases under the Clean Water Act; the Clean Air Act; the Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act.

"Matt incorporates all the leading assets the agency needs to move the mining regulatory and permitting program forward," Callaghan said. "We are extremely fortunate to attract a person of his ability and character to head this program, which has seen too much turbulence in recent years.

"I believe Matt will give the program the stability it needs to help Governor Wise fulfill his mission for West Virginia," Callaghan said.

"I recognize that the department is facing several complex and contentious issues regarding the mining program," Crum said. "I look forward to returning to the agency to directly address these challenges. My family and I are very pleased to be coming back to the state of West Virginia."

Crum also has been involved in negotiations with the regulated community to resolve environmental enforcement issues, with emphasis on the prevention of illegal discharge of pollutants into waterways, the improper handling or storage of hazardous wastes and the unpermitted emission of airborne contaminants; negotiations designed to resolve conflict with corporations and individuals without compromising the integrity of the environment.

He has been involved in the management of litigation teams consisting of U.S. Environmental Protection Agency regional counsel and technical personnel.

From 1994 to 1997, Crum was a deputy chief for the Office of Legal Services for the former Division of Environmental Protection.



News Release

Department of Environmental Protection
West Virginia

Release: May 29, 2001
For Information: (304) 759-0515

Crum 2-2-2

He served as lead counsel before circuit courts and administrative tribunals regarding enforcement actions against numerous corporations and municipalities. He also defended agency permits.

In 1996, Crum was an acting deputy attorney general in Charleston and served as supervisor of operations of the energy and environment division. He was in the environmental and litigation departments of the Charleston law firm of Robinson & McElwee from 1991 to 1994.

Crum and Perry McDaniel, head of the DEP legal office, were on opposite sides during a longtime dispute over licensing of a pulp mill at Apple Grove on the Ohio River. The proposal eventually was abandoned. Crum, who was working for the DEP at the time, was defending the agency's issuance of the permit. McDaniel, who represented the challengers, opposed it.

"I thought he was fair and I got along fine with him," McDaniel said. "I believe Matt is a good choice to head up this important program and I look forward to working with him."

Crum won commendations in 1997 from the U.S. Attorney General for outstanding performance and invaluable service to the Justice Department relating to environmental enforcement and from the U.S. Environmental Protection Agency for environmental enforcement.

He previously served as director of development and communications for The Nature Conservancy of West Virginia in 1997.

Crum is a 1991 graduate of Washington and Lee University's College of Law and holds a political science undergraduate degree from Virginia Tech.

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News Release

Department of Environmental Protection
West Virginia

Release: May 29, 2001
For Information: (304) 759-0515

Science adviser position created and Staats added to staff

CHARLESTON – To beef up the science component of the Department of Environmental Protection, a toxicologist is being added to the agency staff, Cabinet Secretary Michael O. Callaghan said Tuesday.

"I am very pleased to announce Doctor Dee Ann Staats is joining the staff on June 1," Callaghan said. She is a Ph.D.

"She will be an invaluable addition to help us with a number of complex health issues," Callaghan said. "She will be the science adviser." It is a newly created position attached to the secretary's staff. Callaghan created the position to emphasize the importance of having a more science-orientation to the way DEP does business.

While Staats is part of the central office, she will be assigned to the critical area of the Office of Waste & Remediation, the unit that is attempting to bring back into production industrial sites that were polluted in the past.

"We have needed someone of Doctor Staats caliber for some time," Waste & Remediation Director Ken Ellison said. "We will be able to use her expertise in a number of different areas. I am eager for her to begin work. With her, we now can start looking at environmental protection more from a health risk standpoint."

Staats, 44, has been president of her own consulting firm, D.A. Staats Inc., since September 1991. She specialized in environmental and occupational toxicology, consulting nationwide for the federal government.

She is a native of West Virginia, however, and wanted to return to the state. Her brother, Ed Staats, is chief of operations for Gov. Bob Wise. Dee Ann Staats now lives in South Charleston.

"I am happy to be home in West Virginia," Staats said. "I'm honored to contribute my expertise in environmental health in the service of her people."

Staats earned her undergraduate degree in chemistry from West Virginia Wesleyan in 1979 and her doctorate in pharmacology toxicology from West Virginia University in 1987.

Environmental agency has successful legislative session

CHARLESTON – Lawmakers provided nearly \$1 million for water measurements, established new water protection standards and increased water pollution penalties during the 2001 session of the West Virginia Legislature.

The House of Delegates approved the state's budget 81-12 and the Senate on a vote of 27-0 Monday night to end the legislative session.

"We faced a number of serious and difficult challenges during this session and I believe came to the forefront in facing each," said Michael O. Callaghan, who was confirmed as DEP director by the Senate on a 34-0 vote.

"Governor Bob Wise was solidly behind our environmental initiatives and I want to personally thank him and the members of the House of Delegates and the state Senate for their steadfast support," Callaghan said Tuesday.

The new state budget, adopted in the extended session of the Legislature, includes \$946,000 to permit the DEP's Office of Water Resources to develop studies on impaired streams, a program commonly known as total maximum daily loads. The TMDLs determine how much pollution a stream can assimilate and still meet federal protection standards.

TMDLs will be used in the future to determine whether development can take place along impaired streams. The federal government had been doing the studies and the state wanted to assume control of them.

After a lengthy battle, legislators also adopted standards aimed at providing additional protections to more than 2,000 miles of trout and other high-quality streams in West Virginia.

The antidegradation legislation rewrote rules to prevent water sources in the state from being further polluted by industrial activity.

"We believe the proposal crafted by the DEP and pushed vigorously by Office of Water Resources Chief Allyn Turner is a good compromise that will be found acceptable by the U.S. Environmental Protection Agency," Callaghan said. "It will protect streams, provide for future protections, and still allow development."

A key element retained by DEP is a classification of a stream known as tier 2.5, which allows only limited additional wastes to be discharged on those waters. It is a higher standard than that found under federal law. The bill also allows for landowners to petition Callaghan for a redress of their complaints if they believe their water has been improperly classified.

EPA has indicated it supports the legislation.

This same bill also included a number of other rule changes the agency wanted that dealt with air, mining, hazardous waste, underground storage, blasting and other offices.

One of the proposals provides a limited exemption to the prohibition of disposing yard waste in landfills by allowing it only where no other option is available.

After a three-year push, the DEP was successful, with the cooperation of business, particularly the West Virginia Manufacturers Association, and conservation groups, in increasing penalty limits for water pollution violations.

The proposal, advocated by Chief Inspector Mike Zeto, brings the state in line with surrounding states and had been sought by EPA.

It takes the maximum potential daily fine to \$25,000 from the current \$10,000.

Legislation also was approved to change the division into the Department of Environmental Protection, to make Callaghan a Cabinet-level secretary and give him a pay raise.

The change reflects the importance Governor Wise places on the DEP in protecting the state's environment and in also furthering business development.

Legislation to provide change in last year's blasting laws to ensure homeowners receive copies of preblast surveys also was enacted. The surveys are done prior to blasting to document whether the explosions have damaged a residence or water sources. The federal government sought the changes. The measure also adds inspection, enforcement and appeals procedures.

The Legislature approved a bill to continue the operations of the Department of Environmental Protection until July 2, 2002.

Only one major bill was lost by the DEP this session when a member of the House of Delegates blocked enactment of the Senate-passed measure. It was legislation to protect people living downstream from dangerous dams. The bill died in the House of Delegates.