

## **§33CSR20 – Hazardous Waste Management System Rule Response to Public Comments from July 8, 2020-August 11, 2020**

The WV Department of Environmental Protection (DEP), Division of Water and Waste Management (DWWM) commenced the public comment period for proposed legislative rule 33 C.S.R. 20 on July 8, 2020. The public comment period concluded on August 11, 2020 after satisfying the minimum 30-day period. A public hearing was held virtually via Zoom on August 11, 2020 to accept oral and written comments regarding the proposed revisions to legislative rule 33 C.S.R. 20.

There were no changes made to 33 C.S.R. 20 because of the comment.

**Comment #1:** The Household & Commercial Products Association (HCPA): “HCPA supports DEP’s amendment of modifying West Virginia Hazardous Waste Management System to include aerosol cans in West Virginia’s Universal Waste Program.”

***Response**      WVDEP thanks you for your comment and support.*

August 11, 2020

Joseph Sizemore  
Assistant Chief Inspector  
West Virginia Department of Environmental Protection  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

Subject: HCPA Comments on Amendment<sup>1</sup> to 33 CSR 20<sup>2</sup>

Dear Mr. Sizemore,

The Household & Commercial Products Association<sup>3</sup> (HCPA) appreciates the opportunity to offer comments to on the West Virginia Department of Environmental Protection (DEP) on their amendment to the West Virginia Hazardous Waste Management System. DEP will amend the Hazardous Waste Management System to include regulations published by the EPA through September 8, 2020, which includes adoption of EPA's Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations<sup>4</sup> rule by reference. HCPA supports DEP's amendment of modifying West Virginia Hazardous Waste Management System to include aerosol cans in West Virginia's Universal Waste Program.

HCPA represents a wide range of products, from household cleaners and air fresheners to commercial disinfectant and pest control whose use of aerosol technology makes the aerosol industry an integral part of the household and commercial products industry. HCPA has represented the U.S. aerosol products industry since 1950 through its Aerosol Products Division, representing the interest of companies that manufacture, formulate, supply and market a wide variety of products packaged in an aerosol form.

The amendment to West Virginia Hazardous Waste Management System not only maintains consistency with the Federal Resource Conservation and Recovery Act (RCRA), but it provides a clear, protective system for managing discarded waste aerosol cans; alleviates the regulatory burden on retail stores, aerosol product manufacturers, aerosol product marketers and others that discard waste aerosol cans by reducing the number of cans that must be treated as

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<sup>1</sup> Can be found at <http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=53427&Format=PDF>

<sup>2</sup> Can be found at <https://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=33-20>

<sup>3</sup> The Household & Commercial Products Association (HCPA) is the premier trade association representing companies that manufacture and sell \$180 billion annually of products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

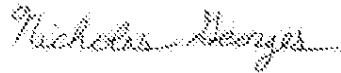
<sup>4</sup> 83 FR 11654-11667; <https://www.govinfo.gov/content/pkg/FR-2018-03-16/pdf/2018-05282.pdf>

hazardous waste; promotes the collection and recycling of aerosol cans; and encourages the development of municipal and commercial programs to reduce the quantity of aerosol can waste going to municipal solid waste landfills.

The amendment incorporates flexibility for handlers of discarded waste aerosol cans and lessens the regulatory burden on the regulated community, allowing more aerosol cans that are properly discarded to be recycled. By incorporating the federal rule, DEP ensures that programs developed in West Virginia can also be safely and universally implemented in other states so that waste handlers with multiple locations within the United States can have one consistent program to handle aerosol cans across multiple sites.

For the reasons stated above, HCPA supports DEP's amendment to incorporate EPA's rule by reference. If you have any questions about our support or about aerosol cans, please do not hesitate to contact me directly at (202) 833-7304 or [ngeorges@thehcpa.org](mailto:ngeorges@thehcpa.org).

Sincerely,

A handwritten signature in cursive script that reads "Nicholas Georges".

Nicholas Georges  
Vice President, Scientific and International Affairs  
Household & Commercial Products Association

STATE OF WEST VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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IN RE: PROPOSED LEGISLATIVE RULES FOR 2020 RULE 33CSR20, RULE 60CSR3

PUBLIC HEARING

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BEFORE: Terry Fletcher, Chair

Erin Brittain

Ross Brittain

Casey Korbini

Joe Sizemore

Julie Wandling

HEARING: Tuesday, August 11, 2020

6:00 p.m.

LOCATION: Zoom (<https://us02web.zoom.us/j/85680933629>)

## PROCEEDINGS

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CHAIR: Good evening. My name is Terry Fletcher, and I'm with the West Virginia Department of Environmental Protection's Public Information Office.

Welcome to the virtual public hearings on the proposed rules for the 2021 West Virginia Legislature: 33CSR20 – Hazardous Waste Management System and 60CSR3 – the Voluntary Remediation and Redevelopment Rule.

With me tonight is Joe Sizemore and Julie Wandling with the DEP's Hazardous Waste Division, and Casey Korbini and Erin and Ross Brittain with the DEP's Office of Environmental Remediation. The purpose for our public hearings is to give you the opportunity to share your comments or information about these rules with the DEP.

We will begin the evening with the public hearing on proposed rule 33CSR20 – Hazardous Waste Management Systems. Once those who wish to speak or comment on this rule have done so, we will close the hearing and the record.

We will then begin the hearing on proposed rule 60CSR3 – the Voluntary Remediation and Redevelopment Rule. Once those who wish to speak or comment on this rule have done so, we will close the hearing and the record.

Tonight's hearings are being recorded so that the comments you share can be taken into consideration and entered into the public record for these rules. A decision will not be made this evening. The transcript will be reviewed and considered by the staff, and you will receive notification once a decision is made.

Please note that written comments can also be submitted in addition to oral comments via email to [DEP.Comments@wv.gov](mailto:DEP.Comments@wv.gov). I'll put that in the chat box here in case anyone needs that for reference.

Because we are here to hear your comments and get them on record, this is not a forum to engage the DEP in open discussion or debate about these rules, and we cannot answer questions about these rules during the hearing portion.

To ensure that we successfully achieve the purpose of these hearings, we ask that everyone be respectful and considerate of each other by refraining from using foul language; refraining from name calling; and keeping your comments on the topic of these rules so that our time together is used efficiently.

Before we get started, we want to make sure that we have an accurate record of everyone in attendance this evening and also have a way for us to contact you so that you may receive the agency's final decision on the rule.

To do this, we're asking for everyone to make sure your name is visible in the participants list and to type in your email addressing using the Zoom "group chat" function.

Please note that similar to in-person public hearings, your name and email address will become part of the public record for these hearings and can be made available to others upon request via the Freedom of Information Act.

In order to make sure your name is visible, click on the "participants" icon at the bottom center of your screen. At the bottom of the window on the right side of the screen, click on the button labeled "rename" to update your in-room display name.

Once your name is visible, please click the “chat” icon at the bottom of your screen. Type in your email address at the bottom of the chat window and hit enter. This group chat will be saved as part of the public record for the hearing.

So now that we have everyone’s name visible and we have your contact information, we’ll go over the process for identifying those who wish to speak. If you wish to speak, you’ll need to utilize the “raise hand” function. To do this, click on the “participants” icon at the bottom of the window on the right side of your screen, click the “raise hand” icon. Your digital hand is now raised, indicating that you wish to speak.

You may have noticed that you were muted upon entering this meeting. Once I call your name, I will unmute you and indicate when to proceed with your comments. Once you have finished with your comments, please say that you are done speaking, so that I can mute your microphone and proceed to the next speaker. This is to ensure that we do not cut someone off before finishing their comments.

Once the last speaker has finished their comments, I will ask for anyone who we may have missed or joined the hearing late to indicate in the group chat whether or not they wish to speak. We want to ensure we do not miss any comments.

Thanks everyone for bearing with me on those instructions. As I’ve said before, this format is somewhat new to us and our agency and can be new to some of you as well. So, we just want to make sure that we’re all on the same page and this is as easy as possible for everyone.

All that being said, we will now begin the public hearing for proposed rule 33CSR20 – Hazardous Waste Management System. If you wish to comment on this proposed rule, please utilize the “raise hand” function now.

I’ll give it a few more minutes, but I’m not seeing anyone who’s wishing to speak.

So, it looks like there are no commenters this evening for the proposed rule 33CSR20. If there are no further comments, we will now close the record for proposed rule 33CSR20.

At this time, we will now begin the public hearing for proposed rule 60CSR3 – the Voluntary Remediation and Redevelopment Rule. If you wish to comment on this proposed rule, please utilize the “raise hand” function now.

We have one speaker, Angie Rosser. Angie, I’m going to unmute you. Go ahead with your comments.

MS. ROSSER: Alright, and if I start breaking up, Terry, please interrupt me, and I’ll try it without the video; we’ll try it with for now. I’m Angie Rosser with the West Virginia Rivers Coalition, and I really want to, again, express our gratitude and congratulations for adapting to this virtual platform so well and quickly... really a model for other state agencies, so good job, Terry.

And thanks to OER for serving a really important function of the agency, in environmental remediation. By going through a 107-page rule gave me a little bit more appreciation for how highly technical and important this is in terms of restoring degraded facets of our environment to a way they can be used again and used safely.

I’ve got two questions that I hope could be addressed in a responses to comments. The first dealing with the de minimis standards and I can really appreciate the, I think the intent behind this to make sure that the standards are updated in a timely fashion based on the best available science. It is going to be a different process and my questions revolve around our members’ interest in transparency and decision making processes, especially when they come to things like human health, and I’m wondering if the agency has contemplated how the annual review process will be shared in terms of what data was reviewed and what decisions were come

to. I assume that updates will be made via the guidance manual, but I guess what I'm getting at is, I'm more familiar in the water standards world where we're also looking at human health criteria and the latest science that informs updates in water quality standards. There are some arguments about methodology and sources of data and how those are modeled and calculated, so I'm curious the level of the review that will be conducted and how that process will be shared with the public and stakeholders moving forward. So, that's a thought on the de minimis standards.

On the change to go from sampling, from, how I'm reading it, is going from a four-year semi-annual monitoring regimen now to a two-year quarterly. I'm just curious if there's any suggestion or evidence from the agency's experience where that year three and four has shown up anything different than years one and two and what we might be missing if we condense that time period. Certainly, the more frequent monitoring is something that we would support, but are we going to miss anything by not extending it to that four-year period and making it a shorter period?

So those are our comments on Rule 60CSR3. Thanks for the opportunity.

CHAIR: Thank you, Angie. Is there anyone else who would like to comment on proposed rule 60CSR3?

It's not looking like we have any more commenters. So, at this time, we will now close the record for proposed rule 60CSR3.

This concludes the scheduled public hearings for this evening. I want to thank everyone for your interest for your interest and for taking the time to attend these hearings. Have a good evening.

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HEARING CONCLUDED AT 6:15 P.M.

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**Public Hearing for WVDEP Proposed Legislative Rules for 2020**

**Rule 33CSR20 and Rule 60CSR3**

Date: Tuesday, August 11, 2020

Time: 6:00PM

Location: Zoom (<https://us02web.zoom.us/j/85620933629>)

**Attendees**

<b>Name</b>	<b>Organization (if applicable)</b>
Erin Brittain	WVDEP – Office of Environmental Remediation
Ross Brittain	WVDEP – Office of Environmental Remediation
Terry Fletcher	WVDEP – Public Information Office
Nicholas Georges	Household & Commercial Products Association
Casey Korbini	WVDEP – Office of Environmental Remediation
Angie Rosser	WV Rivers Coalition
Joe Sizemore	WVDEP – Division of Water and Waste Management
Julie Wandling	WVDEP – Division of Water and Waste Management