

## **§33 CSR 20 – Hazardous Waste Management System Rule**

### **Response to Public Comments from July 03-August 15, 2024**

The WV Department of Environmental Protection (WVDEP), Division of Water and Waste Management (DWWM) commenced the public comment period for proposed legislative rule 33 CSR 20 on July 03, 2024. The public comment period concluded on August 15, 2024, after satisfying the minimum 30-day period. A public hearing was held in the Coopers Rock Conference Hall, WVDEP in-person on August 15, 2024 at 5.00 PM, to accept oral and written comments regarding the proposed revisions to legislative rule 33 C.S.R. 20.

There were no comments received on 33 CSR 20 and there were no changes made to 33 CSR 20 based on the comments.

Attached is the transcript of the public hearing that was conducted on August 15, 2024 that also included the public hearing for two other rules, 47 CSR 26 and 47 CSR 02.

**PUBLIC HEARING TO ACCEPT ORAL AND WRITTEN COMMENTS REGARDING THE  
PROPOSED REVISIONS TO LEGISLATIVE RULES 33 CSR 20, 47 CSR 02 AND 47 CSR 26.**

August 15, 2024, at 5.00 PM  
Coopers Rock Conference Hall

**LIST OF PARTICIPANTS**

**WVDEP Staff**

Terry A Fletcher

Scott Mandirola

Yogesh Patel

Mindy Neil

Dawn Newell

Johnsely Cyrus

Chris Smith

# SIGN IN SHEET

WVDEP Public Hearing  
 DWWM 2025 Proposed Legislative Rules  
 August 15, 2024 – 5 p.m. • Charleston, W.Va.

The West Virginia Department of Environmental Protection asks for the information below so that agency staff may provide responses and information about decisions to you. *The information you voluntarily provide on this sheet becomes part of the public record related to this topic and may be released if requested under the Freedom of Information Act.*

Name (PLEASE PRINT)	Mailing Address	Phone Number	Email Address	Organization Represented	Do you wish to provide official comments (Y/N)?
Jennie Henthorn	jhenthorn@ardvark.com	304-645-2574	1960 Angel Fork Rd St Albans, WV 26117	Arch Coal	N
DAWN NEWELL	WVDEP Kanawha City Office Room 216A	304-414-1114	DAWN.A.NEWELL@WV.GOV	WVDEP	N
Charise Robinson	108 Angel Fork Rd St Albans, WV 26117	(304) 414-6429	CRobinson@WVrivers.org	WV Rivers	N
Maggie Davis	1552 Virginia St E Charleston WV 25311	404-518-6009	davisms@usc.edu	n/a	N
Hanna Ho		304-947-6155	hho24@uchicago.edu	WVDEP	N
Autumn Crane			acrane@wvrivers.org	WV Rivers	Y
Angie Rosser	PO Box 31 Precious WV 25164	304-431-1274	angiew@gmail.com	None/Self	Y





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West Virginia Department of Environmental Protection  
Public Hearing for the 2025 Proposed Legislative Rules for its  
Division of Water and Waste Management.

August 15, 2025

5:00 p.m.

1           TERRY FLETCHER: Good evening, everyone.  
2 My name is Terry Fletcher. I am the chief  
3 communications officer for the West Virginia  
4 Department of Environmental Protection. I want to  
5 welcome everyone to the DEP's public hearing for the  
6 2025 proposed legislative rules for its division of  
7 Water and Waste Management. These include 47 CSR 2;  
8 47 CSR 26; and 33 CSR 20.

9           With me tonight is staff from the DEP's  
10 Division of Water and Waste management, including  
11 Yogest Patel, Mindy Neil, Dawn Newell, Johnsely  
12 Cyrus, and Chris Smith, as well as, Deputy Secretary  
13 Scott Mandirola.

14           The purpose for this public hearing is to  
15 give you the opportunity to share your comments or  
16 information about these proposed rules with the DEP.

17           Tonight's hearing is being recorded by a  
18 court reporter so that the comments you share can be  
19 taken into consideration and entered into the public  
20 record for these proposed rules.

21           Please note that a decision will not be  
22 made this evening. All comments received by the  
23 agency prior to the close of the comment period will  
24 be reviewed and considered by staff and you'll

1 receive notification once a decision has been made.

2 The comment period for these proposed rules  
3 opened on July 3rd, 2024 and closes at 5 p.m. on  
4 Friday, August 17th, 2024. The proposed rules are  
5 available in their entirety on the DEP website as  
6 well as the Secretary of State's website.

7 Please note that written comments can be  
8 submitted at any point during the comment period via  
9 regular mail. And you can send those to the  
10 attention of the DEP's Public Information Office at  
11 601 57th Street, Southeast, Charleston, West  
12 Virginia 25304 or by e-mail to [depcomments@wv.gov](mailto:depcomments@wv.gov).

13 To ensure that we have an accurate record  
14 of those in attendance tonight we ask that you  
15 please sign in at the back of the room. And to  
16 ensure that we successfully achieve the purpose of  
17 this hearing we ask that everyone be respectful and  
18 considerate of each other by refraining from using  
19 foul language and name calling and interrupting  
20 others while they are speaking. And we also ask  
21 that you keep your comments on the topic of these  
22 proposed rules so that our time together is used  
23 efficiently.

24 I will first call speakers for proposed

1 rule 47 CSR 2 followed by 47 CSR 26 and finally  
2 33 CSR 20. Each speaker will have five minutes per  
3 rule to provide their comments. And when you start  
4 your comments will you please state your name and  
5 any organizations that you represent.

6 Again, written comments can also be  
7 submitted and if you have those with you tonight you  
8 can hand them to me after the conclusion of your  
9 comments.

10 After all speakers have provided their  
11 comments for a rule we will then close the record  
12 for the evening and move on to the next proposed  
13 rule.

14 I want to thank everyone for bearing with  
15 me through those opening remarks. At this point we  
16 will now open the hearing and allow for comments for  
17 Proposed Legislative Rule 47 CSR 2, Requirements  
18 Governing Water Quality Standards. If you would  
19 like to provide comments on this rule, please raise  
20 your hand and come on up next to the podium.

21 AUTUMN CROWE: This is water quality  
22 standards, right?

23 TERRY FLETCHER: Yes, ma'am. I'll set the  
24 timer here for five minutes and whenever you are

1 ready go ahead.

2           AUTUMN CROWE: Good evening, everyone. I  
3 am Autumn Crowe, interim executive director for West  
4 Virginia Rivers Coalition. Thank you for hosting  
5 this public hearing tonight. I want to commend West  
6 Virginia DEP for providing the opportunity for  
7 public comments and being good stewards of our  
8 water.

9           West Virginia Rivers Coalition on behalf of  
10 our members and partnering organizations have  
11 comments on the proposed changes for water quality  
12 standards. We support the proposed change to  
13 transition from total coliforms to E. coli. This is  
14 a more standardized method for capturing the  
15 bacterial contamination in our waters. And we think  
16 this is a good move and this is one that has been  
17 recommended by EPA, I believe, since 2012. So we  
18 are supportive of DEP making this transition.

19           We want to make sure that the methods to  
20 capture the data for the geometric mean, we want to  
21 make sure that there is accurate and ample sampling  
22 so that we are able to have a good data set to be  
23 able to get to that geometric mean. And we also  
24 recommend DEP incorporate a 30-day period for this

1 purpose following EPA's guidance. And we recommend  
2 that a standard for the Ohio mainstem retain the  
3 30-day period requirement as well.

4 The water pollution control, is that  
5 separate?

6 TERRY FLETCHER: Yes.

7 AUTUMN CROWE: Okay. I'll save those.

8 We support the proposed inclusion of some  
9 of the six organic pollutants for the human health  
10 criteria. These include many toxic chemicals and  
11 carcinogens, such as DDE. And we want to note that  
12 the numeric criteria for the proposed compounds are  
13 consistent with EPA's national recommended water  
14 quality criteria for human health.

15 We want to make sure that we are protecting  
16 the public health from all toxic chemicals and so we  
17 want to recommend that DEP also include the other  
18 criteria that has not been included, and I believe  
19 that is 24, and correct me if I'm wrong. This has  
20 been an ongoing process for five years now and so  
21 I've kind of lost count as to where we are at in the  
22 process, but I believe it is 24 that our  
23 calculations have determined that are recommended by  
24 EPA but have not been adopted by DEP. So we

1 appreciate the inclusion of these seven that are  
2 currently in use in West Virginia. And we want to  
3 make sure we are protecting public health from all  
4 chemicals so that if an industry were to come in and  
5 purpose to use this chemical that was not included  
6 we would have standards in place even though it is  
7 not currently being used. So we recommend that DEP  
8 adopt all of the remaining human health criteria  
9 that the EPA had recommended in 2015.

10 I've got a minute left so I might skip some  
11 of these comments and focus on the limited use  
12 categories. We will also be submitting written  
13 comments prior to the deadline.

14 So for the limited use categories for  
15 aquatic life and recreation, we recognize that, you  
16 know, there are streams in West Virginia that are  
17 not meeting our water quality standards. So we  
18 understand where DEP is coming from to propose this  
19 limited use category but we have a fear that these  
20 streams, once they get into this limited use  
21 designation, that they will be written off or  
22 forgotten and that they won't receive the help and  
23 the resources they need to get them on the path to  
24 recovery. So we don't want these streams to get put

1 in this limited use category that could be recovered  
2 and then they are not and they basically go there to  
3 die. So we want to make sure that that is not the  
4 case and so we have serious concerns about these  
5 limited use categories.

6 (Alarm sounds.)

7 AUTUMN CROWE: I'll be back up for the  
8 water pollution.

9 TERRY FLETCHER: Thank you, Autumn. Is  
10 there anyone else that would like to make comments  
11 on 47 CSR 2, Requirements Governing Water Quality  
12 Standards?

13 ANGIE ROSSER: Hello. I am Angie Rosser.  
14 I'm here is an individual citizen from Clay County,  
15 West Virginia, not representing any organization  
16 tonight. But it is worth noting that I was the  
17 former executive director of West Virginia Rivers  
18 Coalition. I think this would be my fourth  
19 triangular review to participate in.

20 Elk River is my primary drinking water  
21 source and also my primary source of recreation,  
22 though I like to recreate and have recreated in  
23 about every corner of the state. And so these water  
24 quality standards are of great personal concern to

1 me.

2 I want to thank as always the great job  
3 that the staff does hosting these public hearings.  
4 I was surprised not to see a virtual option. And  
5 now that I'm on the other side of not getting paid  
6 to be here and not being paid to travel here -- you  
7 know, I had to leave work an hour early. I had to  
8 pay ten bucks to get here and back from Clay County.  
9 That doesn't even compare to what we would have to  
10 expect from folks from our Eastern Panhandle to make  
11 a four to eight hour round trip and probably miss a  
12 day of work. I know that DEP does an excellent job  
13 with virtual hearings. I would just encourage the  
14 agency to continue a virtual format to make it more  
15 accessible to people all over the state.

16 Also what I noticed this round is a lack of  
17 public meetings around water quality standards  
18 changes. The past three rounds I have been involved  
19 in there were regular quarterly -- I think on a  
20 quarterly cadence where all of the public was  
21 invited to meet with water quality standards staff  
22 and to learn about the proposals, to ask questions,  
23 to have a dialogue, to basically raise our literacy,  
24 public literacy, and education around what these

1 changes mean. And when I saw two new proposed water  
2 use categories come in I've got a lot of questions.  
3 And a lot of things that are stated in this rule on  
4 paper that it's just not fair to expect the public  
5 to understand the intricacies, the implications of  
6 what a UUA is, for example.

7 So I really regret and would encourage the  
8 agency in the future to reinstate that practice of  
9 quarterly public meetings so you are educating the  
10 public about these issues and not just having this  
11 one-way dialogue.

12 I will put my questions in my written  
13 comments, but to get to just the basics of what I  
14 want to get out tonight, support West Virginia  
15 Rivers Coalitions' comments. Glad to see the seven  
16 human health criteria from 2015 recommendations  
17 finally get added. But why is the agency not adding  
18 them all? I just don't understand what the harm  
19 would be when we know that these toxins -- EPA has  
20 shown us, told us, that these are known toxins  
21 affecting, adversely affecting, human health. Why  
22 wouldn't the agency proactively put these in  
23 regulations so we are making sure that public health  
24 in West Virginia is fully protected? I just don't

1 understand what the harm would be in adopting those  
2 all now that it has been nine years later.

3 I share West Virginia Rivers concerns about  
4 the limited use categories. I mean, when I see  
5 limited use, when I see things like, quote, found to  
6 have limited value, I get really concerned. Like,  
7 who's making that judgment? How does this UUA work?  
8 What does it mean that, you know, a river or a  
9 segment that I love to recreate doesn't have enough  
10 value to deserve the attention and the full  
11 restoration that other streams in this state are  
12 entitled to under the Clean Water Act.

13 So I'm very concerned about this road going  
14 down these limited use categories, both for aquatic  
15 life and contact recreation. I think the Clean  
16 Water Act's aspiration is swimmable, fishable  
17 waters, but not for some of our West Virginia  
18 waters, not for some of our communities but others.  
19 How do we uphold the values of environmental justice  
20 when thinking about adopting such policies? And we  
21 know we all also have variances in the rule  
22 existing. Why not use that as a mechanism to deal  
23 with some of these problematic or more challenging  
24 situations we face in certain parts of the state

1 around this idea of limited use or needing more  
2 attention?

3 Let's see. And to the point, why are we  
4 giving up on some streams and not others? And,  
5 again, a dialogue, a public meeting, a public forum  
6 to discuss this I think would be really valuable.

7 Finally, glad to see E. coli, that  
8 transition finally happening. I think that is a  
9 good move. Also concerned about the resources the  
10 agency has and needs to be able to do enough  
11 frequency of sampling. I personally as a high --

12 (Alarm sounding.)

13 ANGIE ROSSER: Keep going? One more  
14 minute -- 30 seconds --

15 -- just who enjoys swimming, especially  
16 this summer has been fabulous for something in the  
17 Elk River. I have been seeing numbers of people  
18 enjoying the Elk that I've never seen before. But  
19 how can -- what can the agency do to provide more  
20 public knowledge, education about the safety of  
21 contact recreation. I would love to see something  
22 be explored around continuous monitoring of high  
23 recreation waters so that there could be more  
24 information shared about when it is safe or when the

1 public needs to weigh concerns about the safety of  
2 recreation in certain areas.

3 And finally, disappointed to see the trout  
4 issue, the B2 waters not addressed in this. I was  
5 glad that the agency formed a trout work group, not  
6 sure why that disbanded or what status of that is,  
7 but it was acknowledged in that work group. There  
8 was consensus that the B2 list is outdated. It's  
9 not accurate. Why isn't the agency taking steps to  
10 address that? Thank you.

11 TERRY FLETCHER: Thank you, Angie.

12 Is there anyone else that would like to  
13 make comments on 47 CSR 2, Requirements Governing  
14 Water Quality?

15 Not seeing any other speakers. So we will  
16 now close the record for the evening on 47 CSR 2.

17 Next we will accept comments on 47 CSR 26,  
18 which is Water Pollution Control Permit Fee  
19 Schedules. If you like to provide comments on this  
20 rule we ask that you would please come to the podium  
21 and provide your comments.

22 AUTUMN CROWE: I don't know that this is  
23 going to take five minutes.

24 TERRY FLETCHER: That's all right. Get it

1 in anyway.

2           AUTUMN CROWE: So for increasing fees on  
3 water pollution control permits. Yay. The fees  
4 haven't been updated since the 1990s, I think. So  
5 it is past due. And we think this is a good move  
6 for DEP to increase the fees to be able to bring in  
7 more resources for agency staff to be able to  
8 oversee the water pollution control permitting  
9 process. So we are encouraged to see that. We hope  
10 that this is not -- that it doesn't take another 30  
11 years, that we can stay on pace and continue to, you  
12 know, make sure that the agency has the resources  
13 they need to oversee the program.

14           TERRY FLETCHER: Thank you. Are there any  
15 other commenters or speakers on 47 CSR 26? Come on  
16 up.

17           ANGIE ROSSER: Thank you. Angie Rosser  
18 here as an individual citizen from Clay County, West  
19 Virginia. I support raising the fees. It's been  
20 overdue. The agency needs to have enough revenue in  
21 its programs to be able to adequately function and  
22 do its job. I don't know if this is in the rule so  
23 I would just ask for clarification if there is some  
24 kind of mechanism being considered to adjust

1 automatically for inflation so as programmatic costs  
2 rise the fees of adjusting automatically and we  
3 don't need to go through a rule-making process in  
4 the future. That's it. Thank you.

5 TERRY FLETCHER: One last call for speakers  
6 for 47 CSR 26. Seeing no other hands raised we will  
7 close the record for this rule for the evening.

8 Finally, we will now accept comments on  
9 33 CSR 20, Hazardous Waste Management System. So if  
10 you would like to provide comments on this proposed  
11 rule we ask you raise your hand and come to the  
12 podium.

13 One last call. I am not seeing any hands  
14 for 33 CSR 20, Hazardous Waste Management Systems.  
15 We will now close the record for this evening for  
16 this rule.

17 If there are no other -- I guess I will  
18 give one last call for any other commenters they may  
19 wish to speak on any of the rules, just please  
20 identify which rule you are speaking to.

21 (An off the record discussion was held.)

22 (A break was taken.)

23 TERRY FLETCHER: We will resume and catch  
24 some of our visitors up on the hearing.

1           So for those just joining us, my name is  
2 Terry Fletcher. I'm the chief communications  
3 officer for the State Department of Environmental  
4 Protection. I want to welcome you all to the DEP's  
5 public hearing for the agency's 2025 Proposed  
6 Legislative Rules for its Division of Water and  
7 Waste Management; 47 CSR 2, which is Requirements  
8 Governing Water Quality Standards; 47 CSR 26, which  
9 is the Water Pollution Control Permit Fee Schedules;  
10 and 33 CSR 20, which is his Hazardous Waste  
11 Management System.

12           We have already heard some comments from a  
13 few of our attendees already here. And the purpose  
14 of this meeting or hearing is to give you the  
15 opportunity to share your comments or information  
16 about these proposed rules with the agency.

17           So at this point if you would like to  
18 provide comments on any of the previously named  
19 rules, be happy to raise your hand and come on up to  
20 the podium. And just state which rules your  
21 commenting on as well your name, any organizations  
22 you represent, and then you can proceed with your  
23 comments. We will give everybody five minutes per  
24 rule. So if you want to comment on each rule that's

1 five minutes for each rule. So come on up.

2 And just to point out, if you have  
3 questions we will respond in writing once we make  
4 final decisions on the rules.

5 BEER BOWMAN: Thank you. My name is Beer  
6 Bowman and I am in agreement with all of the things  
7 that were proposed with them before. I just wanted  
8 to have it on record saying that I -- we are from  
9 Danese and I wanted to find out more information as  
10 to what is a long-term solution for what we need to  
11 do to have our water be something that is not a  
12 roll-the-dice. And if there was any possibility to  
13 have us be water testers at large, if that is  
14 something that's helpful. And be able to, like,  
15 help with our community, be able to just -- even if  
16 it's just getting little flasks and strips and  
17 whatever it is that we need to do, but do things  
18 that are going to be able to be helpful. Because I  
19 know we are definitely short on money and manpower  
20 on a lot of these things. That's it.

21 TERRY FLETCHER: Thank you. Is there  
22 anyone else that would like to provide comments on  
23 the 2025 proposed legislative rules?

24 Yes, ma'am. You can come on up.

1           CHRSTINE BOWMAN: Hi. I am Christine  
2 Bowman and basically I am from the same area there  
3 by Babcock there off 41 out at Danese. And I am  
4 concerned because we regularly have not only  
5 interruption of service messages -- in fact, we had  
6 one last week, boil water advisory. And considering  
7 that specific area where we are trying to promote  
8 tourism because of it having the recent designation  
9 of America's newest national park.

10           I'm just very concerned about where we are  
11 with water quality and where we are heading with a  
12 big influx of tourists. For example, people that I  
13 know and possibly ourselves, are considering having  
14 rental -- short-term rental properties and have  
15 people -- tourists come, but they can't drink the  
16 water. That's very bad publicity for our area but  
17 it's also potentially a liability if people are, you  
18 know, getting sick or developing any kind of  
19 condition. And, you know, then of course all the  
20 other adjunct issues of where and tear on your  
21 household plumbing and the effect that this poor  
22 quality water will have on your appliances.

23           So anyway, I just wanted to go on record as  
24 being a concerned citizen for our area. And, you

1 know, I would also be very interested if we could  
2 have more access to find out where exactly our water  
3 comes from and what sorts of specific testing is  
4 done of our water. I know right down Route 41 from  
5 our house is a pipe that comes out and everybody is  
6 there filling their water bottles and it is supposed  
7 to be safe but how do we know? So concerned  
8 citizen. Thank you.

9 TERRY FLETCHER: Thank you for your  
10 comments.

11 I'm going to make one last call for any of  
12 the proposed rules here, welcome to the floor for  
13 any of them if anyone would like to make official  
14 comments.

15 Seeing no other hands raised, this will  
16 conclude the public hearing on the 2025 Proposed  
17 Legislative Rules for the DEP's Division of Water  
18 Waste Management 47 CSR 2, 47 CSR 26, and 33 CSR 20.

19 To properly receive your agency response  
20 please make sure your contact information is  
21 complete on the sign-up sheet. And, again, the  
22 comment period will end at 5 p.m. on Friday,  
23 August 17th, and comments can be submitted to the  
24 agency via regular mail or e-mail at

1 depcomments@wv.gov.

2 AUTUMN CROWE: Saturday.

3 TERRY FLETCHER: I'm sorry?

4 AUTUMN CROWE: Saturday. You said Friday.

5 TERRY FLETCHER: Did I? I apologize.

6 Saturday, August 17th at 5 p.m.

7 I want to thank you all very much for your  
8 interest and for taking her time to attend this  
9 hearing. Good night and drive home safe.

10 (The hearing concluded.)

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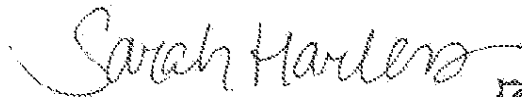
STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to wit;

I, Sarah E. Harless, Certified Court Reporter, Notary Public and Commissioner within and for the County and State aforesaid, duly commissioned and qualified, do hereby certify that the attached hearing of The West Virginia Department of Environment Protection Public Hearing, was duly taken by me and before me at the time and place and for the purpose specified in the caption hereof.

I do further certify that the said hearing was correctly taken by me in verbatim, and that the same was accurately written in full and reduced to typewriting.

My commission expires March 29, 2028. Given under my hand this 16th day of August, 2024.



Sarah E. Harless, CCR  
Court Reporter



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