

§47 CSR 26 – WATER POLLUTION CONTROL PERMIT FEE SCHEDULES

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 47 CSR 26 on July 03, 2024. The public comment period concluded on August 17, 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 47 CSR 26.

The comments received and the responses to the comments are included in this document.

The transcript of the public hearing is also included for reference.

There were no changes made to 47 CSR 26 because of the comments received.

Comments received on the Water Pollution Control Permit Fee Schedules (47 CSR 26)

1) Following is the list of names of those who sent the **WV Rivers campaign form letter** regarding the fee increase. The form statement is:

"Increase Permit Fees: I support increasing the fees for water pollution control permits. These fees have not been updated since the 1990s and an increase will ensure adequate resources are in place for WVDEP's oversight of industrial pollution. By making these changes, WVDEP will be better positioned to protect public health and our water resources. Thank you for considering my comments."

Jacqueline Abou-Rizk, Katherine Adase, Otha Adkins, Hallie Elizabeth Alfred, Ceili Alder, H Ande, Franklin Anderson, Laura Asher, Diana Avery, Jennifer Baker, Mark Baker, Michael Baranski, Symphony Barnes, Marion Barry, Carroll Bassett, Cynthia Bernett, Linda Bescrypt, Martin Biafora, Kandice Bilisoly, Derek Binelli, Sabrina Blair, Mark Blandford, Solomon Blecher, Eugene Blum, Logan Bockrath, Stephen Bodnar, Diana Bohn, Cassandra Bolen, Ronnie Bolling, Sister Carol Boschert, Kristen Bossert, George Bourlotos, Christine Bowman, Richard Boyce, Lorraine Brabham, John Brady, Beverly Branaman, Anita Brandariz, Elizabet Braun, Joan Breiding, Annette Yurkovich Brichford, Susan Brisby, David Brisell, Lawrence Brown, Cheryl Brown, Damon Brown, Jo Brown, Richard Brown, Edward Bruner, Charlie Burns, Daniel Burval, Jane Butler, Chris Byrd, Alan Canfield, Mark Cappetta, Christy Cardwell, Jerry Carson, Lindsay Casto, Sharon Chambers, Phyllis Chavez, David Childers, Andrea Chin, Laura Chinofsky, AJ Cho, Steven Christian, Craig Clapper, Rick Clark, Melda Clark, James A Clark Jr, Susan Cleaver, Hannah Clipp, Judith Clister, Rebekah Colours, Debi Combs, Sandria Cook, Hope Cossin, Sue Covello, Franklin Crabtree, Jason Crawford, Phillip Cripps, Sarah Cross, GREG D, Ryan Dalton, Janice Dannhauser, Beth Darlington, Claire Davis, Elizabeth Davis, Claire Davis, George De Atley, Jorge De Cecco, Therese Debing, Jaime Deehan, Tom Degen, Toby Degenhardt, Lisa Di Bartolomeo, Jean Diamond, John Dick, Laura Dickey, Adam D'Onofrio, Stephan Donovan, Elaine Donovan, Stephan Donovan, Brian Dorsey, Ann Dorsey, David Dougherty, John Dropp, Ellen Dryer, John Dunn, Stephen Dutschke, Stephen Elko, Cynthia Ellis, Denice Ellis, Cynthia Ellis, Eric Engle, Thomas Epling, Stephen Estrada, Bonnie Faith, Laura Fake, Denise Ferris, Andrea Fetsko, Rachel Fickey, Larry Fish, PAUL Fitzpatrick, Katelyn Fitzpatrick, Marianne Flanagan, Margarita Flener, Marti Foley, Nicole Forrester, Linda Frame, Tom France, Christine Frank,

Courtney Franklin, Bill Franz, Joyce Frohn, Querido Galdo, Nina Gallardo, Ked Garden, Lydia Garvey, Christopher Geukens, Ken Gibb, Scott Gibson, Nicola Giorgio, Art Glick, Penelope Gobar, Martha Gorak, Jesse Gore, Amy Grace, Karyn Graham, Conni Gratop Lewis, Rochelle Gravance, Rhonda Green, Probyn Gregory, Pamyllle Greinke, Gina Griffith, Barbara Griffith, Robert Halfin, Kerren Hall, Richard Han, Paul Hancock, Laura Hanks, Ashley Hanshaw, Shirlene Harris, Tom Harris, Nancy Harris, John Harshbarger, Marc Harshman, Elizabeth Hastings, Pamela Haun, Carolyn Haupt, Kristi Heaton, Gilbert Heiman, Howdy Henritz, Johanna Hermanson, Laura Herndon, Herbert Herschlag, Sarah Elizabeth Hicks, Ruth Hicks, Kathryn Hill, Katherine Hinson, Angela Hoehne, Eloise Hollen, Marcia Hoodwin, Phillip Hope, Lowell Hott, Barb Howe, Constance Howes, Angela Hughes, James Humen, Joanne Husar, Noa Jacob, Priscilla Ireys, Robert Janusko, Kenneth Jenrow, Barb Johnson, Elizabeth Johnson, Heather Johnson, Thomas Johnson, Heather Johnson, Dylan Jones, Michael Jones, Julie Jones, Pat Jones, Linda Jones, Michael Jones, Alistair Kanaan, Tracey Katsouros, Kate Kenner, Tara Kerr, Randolph Kesling, Jeannie Keyes, Susan Riker Kilgore, Brad Kinder, Kathleen King, Douglas Kinney, Dan And Lilly Kittredge, Barbara Klinger, Dennis Knaack, Ann Knott, Lauren Kofsky, Ellen Koivisto, Elaine Komarow, Scott Korman, Rita Kovshun, Michelle Krueger, Suzanne Kruger, Marjorie Laboy-Vagell, Jennifer Lamb, John Lambertson, Liana Lang, Kenneth Lapointe, Pat Lastrapes, Cliff Layman, Kate Leary, Mark Leeson, Esther Leonard, Sue Leonetti, Minnea Lepola, Jody Lewis, Lynn Lewis, Kristy Lindberg, Timothy Lippert, Tina Littleman, Kathy Lloyd, Margaret Lohr, Karol Long, Maria Louise Morandi Long Zwicker, Dennis Love, Laurie Lucas, Steve Lucas, Lois Ludwig, Edward Lynch, Edie M Sadowski, Michael Madden, Kathryn Madison, Steve Malafy, DENNIS MALONEY, Christopher Mancuso, Cathy Marczyk, Diane Marks, Rhonda Marrone, Benjamin Martin, Adrian Mathura, Debora Mattingly, James Mcateer, Shirley Mccarthy, Karen Mccaw, Judi Mccracken, Marley Mcdermott, Katherine Mcgraw, Margaret Meeker, Kimberly Meigh, Tony Menechella, Joanne Metzler, Sandra Middour, Richard Mier, Jacqueline Mier, Cheryl Militello, Jason Miller, Lella Miller, Jack Miller, Beverly Mitchell, Christine Mitsch, Ji Montgomery, Robert Moore, Roberta Moore, Merri Morgan, Brent Morrow, George Moses, Paul Moss, James Mouritsen, John Mullins, Janet Murray, Eric Murrock, Charla Murry, Debbie Naeter, Rose Namay, Tem Narvios, Raquel Narvios, Steven Nasta, Nicola Nicolai, Rebecca Nimmons, Frank O'Hara, L Leon Okes Lokes413@Gmail.Com, Carlo Olivares, Sam Orlich, Caitlyn Park, Katie Parker, Michael Parsons, Deborah Parsons, Dominic Percopo, Alan Peterson, MD., Kimberly Pettit, Justin

Philipps, Susannah Phillips, Meryl Pinque, Lucia Pollock, Holly Pope, Janeene Porcher, Susie Povick, Jonathan Brierley Preston, Cheryl Pullen, Heidi Rain, Patrick Ramsey, Neil Randolph, Meg Reishman, Robert Renfro, Robert Rhodes, III, Annick Richardson, Matt Richmond, Gerard Ridella, Kelly Riley, Charles Rinear, James Roberts, Catherine Rodgers, Borja Rodriguez, Mary Rogge, Kevin Rolfes, David Romine, Rebecca Romine, Lauren Roquet, Steven Rosenberg, Kristen Ross, Patricia Rowell, Pamela Rowley, Maria Russo, Natasha Saravanja, Don Sauter, Rosemarie Sawdon, John Schmittauer, Gary SCHMOOCK, Betsy Scott, Jennifer Scott, Winke Self, Greg Sells, Rob Seltzer, Elizabeth Seltzer, Tufani Sengupta, Elsy Shallman, Pamela Shaw, Andrew Sheppard, Tenley Shewmake, Kim Shiemke, Lynn Shoemaker, Rev. Dr. David Sickles, Vikram Sikand, Rebecca Sillasen, Christopher Sills, Timothy Simmons MD, Hilary Simonetti, Catherine Sims, Steve Sketo, Judith Smallwood, Melinda Smiljanic, Brett Smith, Kim Smith, Donna Smith, Deidra Smith, Kristin Smith, Donna Smith, Kim Smith, Sven Sorge, Nicole Specht, Pattie Squiqui, Rick Stack, Margaret Stange, Gabriel Stanley, Carl Stapler, Richard Stark, Edward Stearns, Lori Stefano, Lorenz Steiniger, John Steponaitis, Nan Stevenson, William Stewart, Christine Stewart, Cynthia Stoner, Allen Strous, Terri Stubbs, Meredith Summers, Rina Sunar, Marika Suval, Tamara Noël Swart, Ruth Swenson, William Tarbox, Guy Taylor, Staci Tefertiller, James Thoman, Deanna Thomas, Scott Toland, TIA TRIPLETT, Lauren Tucker, Michael Turner, Joe Tutt, Margaret Guilfooy Tyler, Ann Unertl, Robin Van Tassell, Joseph Vanderpluym, Pamela Vangiessen, Satya Vayu, Mikael Virji, Steven Vogel, Susan Vogt, Richard Vultaggio, Andrew Wadsworth, Charles Walbridge, Patrice Wallace, Tracy Ward, Caitlin Ware, David Warner, Chris Washington, Megan Watson, Harold Watson, Elizabeth Watts, Joe Webb, Cindy Welch, Madeleine West, Emily West, Catherine Wheeler, Charlotte Whipkey, Rhonda Whitten, Jodi Wick, Carole Williams, Judy Williamson, Sarah Wilmoth, JB Witten, Terry Wolfe, April Woods, Roth Woods, Carol Workman, Caitlyn Wright, Paul Yates, Barry Zuckerman, Robby Abou-Rizk, Dk Anestos, Charlotte Baker-Shenk, Joanne Bario, Chuck Bartley, Robert Belding, Chris Benison, Patricia Blochowiak, Jan Booth, Bear Bowman, Paul Breuer, Donald Briggs, Stephen C Brown, Jeff Collins, Anna Cruikshank, Aileen Curfman, John Doyle, Kathi Elkins, Denise Elliott, Linda Ferland, Blake Flessas, Monty Fowler, Barbara Frierson, Sherrill Futrell, Eve Gettys, Diana Greenhalgh, Beth Healey, Barbara Hoeft, Brian Houser, Alice Johnson, Saran K., Perry Kendall, Mary Kibler, Pam Krinsky, Shelby Laturno, Debra Lombard, Donald Mackler, Giulia Mannarino, George Marsh, Charles Marsh, Judi McCracken, Joe McMurray, Robert Mertz, Damon Mills,

Pamela Moe, Diana Mullis, Cheryl Pullen, Gerard Ridella, Eric Robinson, Marguerite Rockwell, Pamela Ruediger, Kate Ruland, Roseanna Sacco, Amy Scott, Barbara Scott, Linda Silversmith, Robert Stanley, Jane Tabb, Carolyn Thomas, Terry Tucker, Grace Ukoha, Susie Vance, Montie Vannostrand, Martha Walker, Martha Waltman, Burwell Ware, James Wood, Sam Zizzi, and Brent Zutaut.

Response: WVDEP thanks you for your comment and support.

2) Chuck Bartley, chuck.w.bartley@gmail.com,

Comment submitted on 2024-08-09

I am writing to share my thoughts on proposed updates to Water Quality Standards. West Virginia communities deserve strong protection from toxic chemicals and harmful pollutants that threaten our health and environment. I urge you to adopt all of the EPA's recommended Human Health Criteria to protect public health and ensure that no damaged streams are left behind. Other Key Points: + Adopt all remaining EPA Health Criteria: WVDEP should adopt all 38 health criteria remaining from the 94 recommended by the EPA to protect against toxic chemicals regardless of whether or not they are currently in use in West Virginia. This is important for our health, the environment, and our future. + Switch from fecal coliforms to E. coli: I support changing the water quality standard from fecal coliform to E. coli. Additionally, please ensure that enough water quality samples are taken to get accurate results. * Our streams are currently so polluted that you can not eat the fish that you catch in our streams. + New Limited Use Categories: The new categories like 'Limited Aquatic Life' and 'Limited Water Contact Recreation' have the potential to ignore streams that can't support recreation and aquatic life. We need reassurance that these categories will not impact the future restoration of these streams. I want to see a transparent process with opportunity for public comment. * Many Native Brook Trout streams would be overlooked in this category. + Increase Permit Fees: I support increasing the fees for water pollution control permits. These fees have not been updated since the 1990s and an increase will ensure adequate resources are in place for WVDEP's oversight of industrial pollution. * Much unlike the PSC and allowances for industry and Utility fee increases to many poor West Virginians who struggle to make ends meet. By making these changes, WVDEP will be better positioned to

protect public health and our water resources. Thank you for considering my comments and preserving our beautiful state for future generations of Mountaineers!

Response: WVDEP thanks you for your comment and support.

3) Mary Kibler, mialk12@hotmail.com,

Comment submitted on 2024-08-09

I am writing to share my thoughts on proposed updates to Water Quality Standards. West Virginia communities deserve strong protection from toxic chemicals and harmful pollutants that threaten our health and environment. I urge you to adopt all of the EPA's recommended Human Health Criteria to protect public health and ensure that no damaged streams are left behind. Other Key Points: + Adopt all remaining EPA Health Criteria: WVDEP should adopt all 38 health criteria remaining from the 94 recommended by the EPA to protect against toxic chemicals regardless of whether or not they are currently in use in West Virginia. This is important for our health, the environment, and our future. + Switch from fecal coliforms to E. coli: I support changing the water quality standard from fecal coliform to E. coli. Additionally, please ensure that enough water quality samples are taken to get accurate results. + New Limited Use Categories: The new categories like 'Limited Aquatic Life' and 'Limited Water Contact Recreation' have the potential to ignore streams that can't support recreation and aquatic life. We need reassurance that these categories will not impact the future restoration of these streams. I want to see a transparent process with opportunity for public comment. + Increase Permit Fees: I support increasing the fees for water pollution control permits. These fees have not been updated since the 1990s and an increase will ensure adequate resources are in place for WVDEP's oversight of industrial pollution. By making these changes, WVDEP will be better positioned to protect public health and our water resources. I want to stress my personal feeling that designating streams too dirty to do anything about is a very inappropriate thing to do. It is not hopeless, it is a matter of priority. Do we want clean streams, or tax breaks for rich people. Many societal problems come down to this choice. I want the environment to be the priority. Thank you for considering my comments.

Response: WVDEP thanks you for your comment and support.

4) Amy Scott, scott9free@yahoo.com,

Comment submitted on 2024-08-11

I am writing to document my comments on proposed updates to Water Quality Standards. West Virginians deserve strong protection from toxic chemicals and harmful pollutants that threaten their health and environment, the same protections as listed in the entirety of EPA's updated Human Health Criteria. Therefore, I urge you to add the remaining 38 the EPA's recommended Human Health Criteria to protect public health and ensure that no damaged streams are left behind. Please:

- 1) Adopt all remaining EPA Health Criteria: WVDEP should adopt all 38 health criteria remaining from the 94 recommended by the EPA to protect against toxic chemicals regardless of whether or not they are currently in use in West Virginia. This prevents West Virginia's history of having polluting chemicals discharged into water bodies and causing harm to citizens for years, until WVDEP actually prevents further discharge.
- 2) Switch from fecal coliforms to E. coli: I support changing the water quality standard from fecal coliform to E. coli, ensuring that enough water quality samples are taken to get accurate results.
- 3) Reject New Limited Use Categories: These new categories should be public health warnings, posted for the public's safety. Creating WVDEP categories of 'Limited Aquatic Life' and 'Limited Water Contact Recreation' legitimizes having polluted streams that can't support recreation and aquatic life. It actually categorizes polluted waters, not water quality, allowing pollution to continue without immediate remedial action. The history of West Virginia correcting polluting industries and cleaning up polluted water, soil, and air is dismal. I want to see a transparent process with opportunity for public comment.
- 4) Increase Permit Fees: As permit application and renewal fees have not been updated since the an increase is long overdue and can begin to fund adequate resources for WVDEP's oversight of industrial pollution. The shear disparity between the number of inspectors, and thus inspections, and the number of sites to be inspected dictates that increased fees are necessary to begin to address inadequate monitoring. With these four water quality changes, WVDEP will be better positioned to protect public health and our water resources. Please consider my comments.

Response: WVDEP thanks you for your comment and support.

5) Autumn Crowe, WV Rivers Coalition

Oral comments during the public hearing on August 15, 2024

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

Response: WVDEP thanks you for your comment and support.

6) Angie Rosser, angiewv@gmail.com

Oral comments during the public hearing on August 15, 2024

Thank you. Angie Rosser here as an individual citizen from Clay County, West Virginia. I support raising the fees. It's been overdue. The agency needs to have enough revenue in its programs to be able to adequately function and do its job. I don't know if this is in the rule so I would just ask for clarification if there is some kind of mechanism being considered to adjust automatically for inflation so as programmatic costs rise the fees of adjusting automatically and we don't need to go through a rule-making process in the future. That's it. Thank you.

Response: WVDEP thanks you for your comment and support. No, there is no mechanism to adjust the fees based on inflation.

7) Stephanie Catarino Wissman

Executive Director, API Pennsylvania

Appalachia Region



August 14, 2024

Mr. Yogesh P. Patel
WVDEP-DWWM-Permitting
601 57th Street S.E.
Charleston, WV 25304
yogesh.p.patel@wv.gov

RE: Public Comment on Water Pollution Control Permit Fee Schedules (47 CSR 26)

Electronically Submitted to yogesh.p.patel@wv.gov

Dear Mr. Patel:

The American Petroleum Institute (API) represents all segments of America’s natural gas and oil industry, which supports nearly 11 million U.S. jobs—more than 73,000 jobs in West Virginia and contributes nearly \$13 billion toward the state’s economy—and is backed by a growing grassroots movement of millions of Americans. Our approximately 600 members produce, process, and distribute the majority of the nation’s energy, and participate in *API Energy Excellence*[®], which is accelerating environmental and safety progress by fostering new technologies and transparent reporting. API was formed in 1919 as a standards-setting organization and has developed more than 800 standards to enhance operational and environmental safety, efficiency, and sustainability.

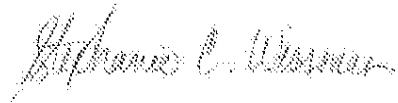
API standards are incorporated into federal regulations and state rules across the nation. API encourages and participates in the development of state regulations and other regulatory documents that are protective of public health and safety, the environment, and the industry workforce. In this context, API offers the following comments and looks forward to continuing to work with the WV Department of Environmental Protection (DEP) on this proposed rule:

While we understand the importance of adequate funding to ensure that our regulatory agencies have the resources they need to manage a wide variety of permitting, inspection, compliance and rulemaking activities that collectively ensure the proper protections of our environment, we do find it concerning that essentially no evidentiary information is included with this measure to support the increases to these water pollution control permits fees in this rulemaking. In some cases, this rulemaking proposes fee increases of 75% and offers new categories with new fee amounts yet suggests that the “economic impact of the rule on the state or its residents” is “none” and lists no fiscal note detail or explanation of cost estimates.

We often see cost or workload analyses, descriptions of a rule’s impact on the regulated community, small business considerations, and other relevant information that can be used to support a rulemaking. In some states, such information is required as part of a rulemaking package. Supporting documentation should be included with this plan so that the regulated community is able to understand why the department is seeking to make these changes and at the levels that are proposed. Again, we want the agency to have sufficient funds to carry out its mission, however, further explanation of these proposed increases is warranted before this rulemaking proceeds through the regulatory process.

We thank you for your time and consideration of these comments. To the extent that you have questions regarding these suggestions, or would like to discuss them further, please do not hesitate to contact us.

Sincerely,



Stephanie Catarino Wissman
Executive Director, API Pennsylvania
Appalachia Region

7) Stephanie Catarino Wissman

Executive Director, API Pennsylvania, Appalachia Region

Comment: We often see cost or workload analyses, descriptions of a rule's impact on the regulated community, small business considerations, and other relevant information that can be used to support a rulemaking. In some states, such information is required as part of a rulemaking package. Supporting documentation should be included with this plan so that the regulated community is able to understand why the department is seeking to make these changes and at the levels that are proposed. Again, we want the agency to have sufficient funds to carry out its mission, however, further explanation of these proposed increases is warranted before this rulemaking proceeds through the regulatory process.

Response: The WVDEP has not updated its fee structure for NPDES permitting rules since 1999. Over the past several decades, inflation, increased operational costs, and the reduction of other funding sources have significantly affected our financial landscape. Although the NPDES program has generated a similar amount of fee revenue over the last 25+ years, the gap between revenue and expenses has widened. As a result, the agency has no choice but to adjust the fee structure. This program relies solely on special revenues, primarily from permit fees and enforcement penalties. The costs associated with maintaining an appropriate permitting program risen, and our current fee structure can no longer adequately support the cost to maintain current operations. To ensure we can continue to offer high-quality services and sustain our operations, it is essential to review and update our fee structure. The agency has communicated this proposal to the Environmental Protection Advisory Council (EPAC) and to all stakeholders through public comment/hearing process as required by State regulations.

The cost of the rules fee increase to State Government is none. The proposed increase in fees for the Water Pollution Control fee rule is based on a 5-yr average revenue collected of \$3,484,367 multiplied by the average increase of 75%. The approximate increase in average revenue will be \$2,613,275 per year once fully implemented, for a total annual revenue of approximately \$6,097,624 to support the program. The fees have not been increased since the 1990's. The cost of this rule to the regulated community will be approximately \$2,613,275 per year.

Thank you for your understanding and continued support.

**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@archsecon.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	(241) 488-0429	CRobinson@WVrivers.org	WVrivers	N
Maggie Davis	1552 Virginia St E Charleston WV 25311	404-578-6009	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	304-437-1274	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.

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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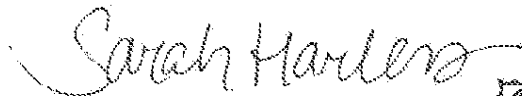
STATE OF WEST VIRGINIA

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



<p style="text-align: center;">1</p> <hr/> <p>17th 3:4 1990s 14:4</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 2:7 4:1,17 8:11 13:13,16 20 2:8 4:2 15:9,14 2012 5:17 2015 7:9 10:16 2024 3:3,4 2025 2:6 24 6:19,22 25304 3:12 26 2:8 4:1 13:17 14:15 15:6</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>30 12:14 14:10 30-day 5:24 6:3 33 2:8 4:2 15:9,14 3rd 3:3</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>47 2:7,8 4:1,17 8:11 13:13,16,17 14:15 15:6</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 3:3 57th 3:11</p>	<p style="text-align: center;">6</p> <hr/> <p>601 3:11</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>accept 13:17 15:8 accessible 9:15 accurate 3:13 5:21 13:9 achieve 3:16 acknowledged 13:7 Act 11:12 Act's 11:16 added 10:17 adding 10:17 address 13:10 addressed 13:4 adequately 14:21 adjust 14:24 adjusting 15:2 adopt 7:8 adopted 6:24 adopting 11:1,20 adversely 10:21 affecting 10:21 agency 2:23 9:14 10:8,17,22 12:10, 19 13:5,9 14:7,12, 20 ahead 5:1 alarm 8:6 12:12 ample 5:21 Angle 8:13 12:13 13:11 14:17</p>	<p>aquatic 7:15 11:14 areas 13:2 aspiration 11:16 attendance 3:14 attention 3:10 11:10 12:2 August 3:4 automatically 15:1,2 Autumn 4:21 5:2,3 6:7 8:7,9 13:22 14:2</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B2 13:4,8 back 3:15 8:7 9:8 bacterial 5:15 basically 8:2 9:23 basics 10:13 bearing 4:14 behalf 5:9 break 15:22 bring 14:6 bucks 9:8</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>cadence 9:20 calculations 6:23 call 3:24 15:5,13,18 calling 3:19 capture 5:20 capturing 5:14 carcinogens 6:11 case 8:4 catch 15:23</p>	<p>categories 7:12, 14 8:5 10:2 11:4,14 category 7:19 8:1 challenging 11:23 change 5:12 Charleston 3:11 chemical 7:5 chemicals 6:10,16 7:4 chief 2:2 Chris 2:12 citizen 8:14 14:18 clarification 14:23 Clay 8:14 9:8 14:18 Clean 11:12,15 close 2:23 4:11 13:16 15:7,15 closes 3:3 Coalition 5:4,9 8:18 Coalitions' 10:15 coli 5:13 12:7 coliforms 5:13 commend 5:5 comment 2:23 3:2, 8 commenters 14:15 15:18 comments 2:15, 18,22 3:7,21 4:3,4, 6,9,11,16,19 5:7,11 7:11,13 8:10 10:13, 15 13:13,17,19,21 15:8,10 communications 2:3 communities 11:18</p>	<p>compare 9:9 compounds 6:12 concern 8:24 concerned 11:6, 13 12:9 concerns 8:4 11:3 13:1 conclusion 4:8 consensus 13:8 considerate 3:18 consideration 2:19 considered 2:24 14:24 consistent 6:13 contact 11:15 12:21 contamination 5:15 continue 9:14 14:11 continuous 12:22 control 6:4 13:18 14:3,8 corner 8:23 correct 6:19 costs 15:1 count 6:21 County 8:14 9:8 14:18 court 2:18 criteria 6:10,12,14, 18 7:8 10:16 Crowe 4:21 5:2,3 6:7 8:7 13:22 14:2 CSR 2:7,8 4:1,2,17 8:11 13:13,16,17 14:15 15:6,9,14</p>
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