

**Rule Summary and Fiscal Analysis (Part A)****Ohio Environmental Protection Agency**

Agency Name

**Division of Drinking and Ground Water  
(DDAGW)**

Division

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**3745-81-23**

Rule Number

**NO CHANGE**

TYPE of rule filing

Rule Title/Tag Line

**Inorganic chemical monitoring requirements.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **Yes**2. Are you proposing this rule as a result of recent legislation? **No**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **6109.04**5. Statute(s) the rule, as filed, amplifies or implements: **6109.04**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule has been reviewed pursuant to Ohio Revised Code 106.031 and determined to be appropriate and relevant in scope and content, and is therefore being file with no changes.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

This rule requires that all public water systems monitor their drinking water for nitrate and nitrite and all community and nontransient noncommunity public water systems monitor for certain other inorganic contaminants and details the specific monitoring requirements for each.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule references rules and chapters of the Administrative Code. In accordance with section 121.76 of the Revised Code references to the Administrative Code are exempt from the requirements of sections 121.71 to 121.75.

This rule also references EMSL94 methods 200.7, 200.8, and 200.9. These methods are generally accepted industry standards cited in an understandable manner and generally available to the persons affected by this rule, and have also been dated because they are subject to change. In accordance with section 121.75 of the Revised Code these references are therefore also exempt from the requirements of sections 121.71 to 121.74.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. Five Year Review (FYR) Date: **1/29/2015** and **01/29/2020**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

Filing this rule with no changes has no effect on agency revenues or expenditures.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

See attachment A, "Cost of Compliance 3745-81-23 and 3745-81-77" for a detailed cost of compliance.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component

dealing with environmental protection as defined in R. C. 121.39? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

Violation of this rule could subject a public water system to potential civil, administrative or criminal penalties in accordance with ORC Chapter 6109.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Public water systems are required to monitor for inorganic contaminants. There are provisions in this rule for reducing the frequency of monitoring and waivers for specific monitoring.

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**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

See attachment A, "Cost of Compliance 3745-81-23 and 3745-81-77" for a detailed cost of compliance.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

See attachment A, "Cost of Compliance 3745-81-23 and 3745-81-77" for a detailed cost of compliance.

(a) Personnel Costs

See above.

(b) New Equipment or Other Capital Costs

See above.

(c) Operating Costs

See above.

(d) Any Indirect Central Service Costs

See above.

(e) Other Costs

See above.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

The 1996 Amendment to the Safe Drinking Water Act provided capitalization grants to states with primary enforcement authority to help fund infrastructure improvements needed to comply with the new requirements. These grants fund the Water Supply Revolving Fund, which provides low-interest loans to community and not for profit water systems. Loans can provide support design work in addition to capital improvements. Operating costs would be supported through conventional mechanisms such as collecting fees from customers based on the amount of water used or rental fees.

7. Please provide a statement on the proposed rule's impact on economic development.

This rule is not expected to have an impact on economic development.

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**Environmental Rule Adoption/Amendment Form**

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
  - (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
  - (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
  - (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.
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- (A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted ? **Yes**

Please list each contact.

Ohio EPA invited interested parties to comment on this rule during the period of October 27 to November 19, 2014. Comments were received, considered and addressed outside of this rules filing. A list of interested parties will be furnished upon request.

- (B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered ? **Yes**

Please list the information provided and attach a copy of each piece of documentation to this form. (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION.)

40 CFR Part 141.23 was considered. A copy of this rule will be furnished upon request.

- (C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program ?

**Yes**

Is the proposed rule or rule amendment more stringent than its federal counterpart ? **No**

Not Applicable

- (D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? **No**



**Attachment A****Cost of Compliance, OAC Rules 3745-81-23 and 3745-81-77**

This cost estimate is based on an economic analysis conducted by USEPA as it applies to public water systems in Ohio. The federal economic analysis was published with the final Stage 2 Disinfectants/Disinfection Byproducts Rule (DBPR) on January 4, 2006 in Volume 71, Number 388 of the Federal Register. That cost estimate represented total annualized capital and operational costs to comply with all requirements of the Stage 2 DBPR. These costs include non-treatment costs of rule implementation, Initial Distribution System Evaluations (IDSEs), Stage 2 DBPR monitoring plans, additional routine monitoring, and operational evaluations. Systems required to install treatment to comply with the MCLs will accrue the additional costs of treatment installation as well as operation and maintenance.

Because the requirements associated with the Stage 2 DBPR are distributed among multiple rules, this cost estimate represents costs associated with OAC rules 3745-81-12, 3745-81-22, 3745-81-23, 3745-81-24, 3745-81-70 and 3745-81-77.

Table 1 provides a summary of the federal analysis broken down according to system size and type of source water (i.e., surface water or ground water).

**Table 1 (D/DBP). USEPA Economic Analysis Summary**

<b>System Type, Source Water and Population Served</b>	<b>Number of Systems</b>	<b>Total Cost * (in \$ Millions/Year)</b>	<b>Cost per System *</b>
Community surface water >10,000	2406	\$ 39.98	\$ 16,617
Community ground water >10,000	1424	\$ 11.60	\$ 8,146
Community surface water <10,000	9397	\$ 11.89	\$ 1,265
Community ground water <10,000	28806	\$ 17.05	\$ 592
Nontransient noncommunity surface water >10,000	6	\$ 0.09	\$ 15,000
Nontransient noncommunity ground water >10,000	3	\$ 0.02	\$ 6,666

Nontransient noncommunity surface water <10,000	771	\$ 0.84	\$ 1,089
Nontransient noncommunity ground water <10,000	5479	\$ 1.80	\$ 329

\* U.S. Department of Labor, Bureau of Labor Statistics Inflation Calendar used to account for inflation from 2009 - 2014.

Ohio EPA determined how many public water systems in Ohio fall into the above categories and broke the categories down further by type of ownership. This breakdown is presented in Table 2 below.

**Table 2 (D/DBP). Summary of Affected Ohio Water Systems**

System Ownership	Source Water and Population Served			
	Surface Water >10,000	Ground Water >10,000	Surface Water <10,000	Ground Water <10,000
School Districts	0	0	0	128
Counties	11	17	17	46
Townships	1	1	1	7
Municipalities	54	45	74	306
All Systems <sup>1</sup>	66	65	96	1040

<sup>1</sup> Includes government and non-government owned systems.

Ohio EPA then applied the USEPA cost estimate to the different categories of water systems identified in Table 2 to arrive at a very approximate cost estimate for Ohio. A summary is provided in Table 3 below.

**Table 3 (D/DBP). Summary of Costs to Affected Ohio Water Systems**

System Ownership	Source Water and Population Served				Totals
	Surface Water >10,000	Ground Water	Surface Water <10,000	Ground Water <10,000	

School Districts	0	0	0	128 systems X \$328/system = \$41,984	\$41,984
Counties	11 systems X \$16,616/syste m = \$182,776	17 systems X \$8,143/syste m = \$138,431	17 systems X \$1,264 system = \$21,488	46 systems X \$592/system = \$27,232	\$369,927
Townships	1 system X \$16,616 /system = \$16,616	1 system X \$8,143/syste m = \$8,143	1 system X \$1,264/syste m = \$1,264	7 systems X \$592/system = \$4,144	\$30,167
Municipalities	54 systems X \$16,616/syste m = \$897,264	45 systems X \$8,143 system = \$366,435	74 systems X \$1,264/syste m = \$93,563	306 systems X \$592/system = \$181,152	\$1,538,414
All systems <sup>1</sup>	66 systems X \$16,616/syste m = \$1,096,656	65 systems X \$8,143/syste m = \$529,295	96 systems X \$1,264/syste m = \$121,344	1,040 systems X \$592/system = \$615,680	\$2,362,975

<sup>1</sup> Includes government and non-government owned systems

\* U.S. Department of Labor, Bureau of Labor Statistics Inflation Calendar used to account for inflation from 2009 - 2014.

It should be noted that USEPA assigned an uncertainty factor of  $\pm 30$  per cent to their cost estimate. The uncertainty is associated with the anticipated number of affected systems, the unit costs estimates for different technologies as they are applied to individual systems, and monitoring costs. The cost per water system can only be considered a numerical average and not an accurate estimate of the actual cost per system. The actual costs per system will vary widely depending on technologies employed by each system and monitoring costs.