

Hearing Summary

Rule Package: Organic Chemical Monitoring Requirements (Rule 3745-81-24)

Original filing date: 7/28/2020

Public comment start date: 7/28/2020

Public comment end date: 9/3/2020

Public hearing date: 9/3/2020

List of Rules: 3745-81-24

Were there any participants in this public hearing beyond Ohio EPA staff or JCARR staff?

☒ Yes

☐ No

Were there comments received during the public comment period outside of those presented at this hearing?

☒ Yes

☐ No

This hearing summary has been compiled to meet the requirements of Section 119.03 of the Revised Code.

This hearing summary includes this cover sheet and the following attachments:

1. **Attachment A** - A copy of the public notice for this hearing.
2. **Attachment B** - A copy of the sign-in sheet for this hearing.
3. **Attachment C** - A copy of the script read into the record to begin and end the hearing.
4. **Attachment D** – A copy of the chats Q & A from the recorded session
5. **Attachment E** - A copy of the Response to Comments

Ohio EPA's response to comments document includes the comments received, who commented, the agency response to comments, and a statement of whether or not the rule was changed due to the comments.

Ohio EPA digitally records all public hearings for rules. The digital recordings are available upon request in a WAVE (.wav) file format. These recordings may be sent out for transcription if necessary.

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

Public Notice
Proposed Rulemaking Governing
Rule 3745-81-24 (Organic Chemical Monitoring Requirements)

Notice is hereby given that the Director of Environmental Protection, under the authority of Sections **106.03** and **106.031** of the Ohio Revised Code and in accordance with Chapter 119, proposes to **Original File** the following rule of the Ohio Administrative Code:

3745-81-24

This rule **establishes organic chemical monitoring requirements.**

The purpose of this rule making is **to set forth in rule a triggered approach to diagnosing the best treatment options for consecutive systems who have elevated Disinfection byproduct (DBP) levels.**

A public hearing on this proposed rule making will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code.

Ohio EPA will be holding a virtual public hearing on the rules on **September 3rd at 10:30 am.** The meeting will be held exclusively online. During the virtual hearing the public can submit written comments that will be read into the record by the hearing host.

The virtual hearing may be accessed through Ohio EPA's website at: <http://epa.ohio.gov/virtual>.

Written comments may be submitted during the virtual public hearing. In addition, written testimony can be emailed to the attention of **Emma Brown, DDAGW** at the ddagw_rulecomments@epa.ohio.gov. All comments received at the virtual hearing or via email by close of business on **September 3rd** will be considered by Ohio EPA prior to final action on this rulemaking proposal. Written comments submitted after this date may be considered as time and circumstances permit.

Questions regarding this rule package should be directed to **Emma Brown** of the **Division of Drinking and Ground Waters** at **(614) 728-1219**.

At this time, the proposed rules are only accessible on the **DDAGW** web page at <https://www.epa.ohio.gov/ddagw/rules>.

Please note: Comments for this hearing will only be accepted electronically as Ohio EPA is unable to access physical mail at this time.

Event Name : Public Hearing: Drinking Water Disinfection Byproduct Proposed Rules

Event Date: September 3, 2020

User Type	FirstName	LastName	Email	Title	Company
Panelist	Mandi	Payton	amanda.payton@epa.ohio.gov		
Panelist	Emma	Brown	emma.brown@epa.ohio.gov		
Attendee	Anne	Speakman	anne.speakman@epa.ohio.gov	Environmental Specialist 3	Ohio EPA
Attendee	Hayley	Nininger	hayley.nininger@epa.ohio.gov	Environmental Specialist	
Attendee	Hayley	Nininger	hayley.nininger@epa.ohio.gov	Environmental Specialist	
Attendee	Robert	Shaver	water@fostoriaohio.gov	water superintendent	City of Fostoria
Attendee	Greg	Fouche	gfouche@jcarr.state.oh.us		JCARR
Attendee	K	B	kimberly.burnham@epa.ohio.gov		Burnham
Attendee	Ziad	Musallam	zmusallam@fultoncountyoh.com	Ziad Musallam	Fulton County
Attendee	Alan	Brown	abrown@hullinc.com		
Attendee	Tya	Darden	tya.darden@epa.ohio.gov	Environmental Supervisor	
Attendee	Justin	Burke	justin.burke@epa.ohio.gov		Ohio EPA

DDAGW Disinfection Byproducts Proposed Rules

September 3, 2020

TURN ON PRESENTER RIGHTS UP TOP AND TO THE RIGHT

START RECORDING

Hello and welcome to Ohio EPA's virtual public hearing regarding the Division of Drinking and Ground Water proposed rules. My name is Mary McCarron and I'm hosting today's public hearing. With me online from Ohio EPA are Emma Brown and Mandi Payton. I'd like to note that we are recording this hearing. We will save all comments submitted during the hearing.

Before I start, I have a couple of tips about the technical end of today's hearing:

- 1) You should see a floating control panel on your screen in the WebEx app. During the event, the sound may fade in and out due to your internet connection. If you experience problems with the sound during the hearing, either wait a moment or two to see if it is restored or, using the icon on the floating control panel, close or disconnect from the audio portion of the presentation, then reconnect to restore the audio.
- 2) Please use the chat feature to report or receive assistance with technical issues.
- 3) Please also use the chat feature to submit comments during the hearing.

PUBLIC HEARING SPEECH

Thank you for taking time to attend this hearing before Ohio EPA. The purpose of the hearing today is to obtain comments from any interested person regarding Ohio EPA's proposed rules.

Ohio EPA Division of Drinking and Ground Waters is proposing to original file the following rule of the Ohio Administrative Code:
3745-81-24

This rule establishes organic chemical monitoring requirements. The purpose of this rule making is to set forth in rule a triggered approach to diagnosing the best treatment options for consecutive systems who have elevated Disinfection byproduct (DBP) levels.

These rules have been filed with the Joint Committee on Agency Rule Review. Copies of the rules are available for public review on our website.

All interested persons are entitled to attend or be represented, and to present written comments concerning the proposed rules. All written comments received as part of the official record will be considered by the director of Ohio EPA.

To be included in the official record, written comments must be received by Ohio EPA by the close of business, today, Sept. 3, 2020. These comments may be typed into the chat today or emailed to ddagw_rulecomments@epa.ohio.gov. All emailed comments submitted for the record receive the same consideration as typed testimony given today.

Written statements submitted after today may be considered as time and circumstances permit but will not be part of the official record of the hearing.

This hearing affords citizens an opportunity to provide input. Therefore, we will not be able to answer questions today.

YOU MAY NOW SUBMIT COMMENTS IN WRITING. I will read aloud any comments we receive in the hearing chat. I will keep the chat open until 11 a.m. to provide time for participants to type in comments.

CLOSING

We will close the hearing. After the hearing closes, we will accept written comments through 5:00 p.m. today. You can send those comments to the email address on the screen.

Thank you for your comments, cooperation and participation in Ohio EPA's decision-making process. The time is now _____ and this hearing is concluded.

CAPTURE CHATS AND Q&A

from K B to host (privately): 10:31 AM

Hi, KB is Kimberly Burnham from NWDO, so if you're not required to complete the hearing if no one from the public shows up, don't count me as the public. :-)

from K B to host (privately): 10:33 AM

Oh, never mind, I see there are several other attendees, they just weren't displayed.

from Mary McCarron to K B (privately): 10:40 AM

Sorry. My computer' completely shut down at 10 and I was able to restart it at 10:25!

from Alan Brown to host (privately): 10:40 AM

Will you be reading the comments submitted in writing prior to today as noted in the public hearing notice?

from Alan Brown to host (privately): 10:44 AM

What is the proposed timeline for making the proposed rules or a version of the proposed rules, final?

from K B (privately): 10:45 AM

No worries! I bet that adds excitement to the hearing...



Division of Drinking and Ground Waters Response to Comments – Organic Chemical Monitoring Requirements (Rule 3745-81-24)

Rule Title

3745-81-24 (Amend) Organic Chemical Monitoring Requirements

Agency Contact for this Package

Emma Brown, Division of Drinking and Ground Waters (DDAGW)
(614) 728 - 1219, Emma.Brown@epa.ohio.gov

Ohio EPA issued public notice and requested comments for the public hearing comment period of July 28, 2020 to September 3, 2020 on the proposed rules. This document summarizes the comments and questions received during the comment period.

Ohio EPA reviewed and considered all comments received during the comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

General Comments

Comment 1: “What is the proposed timeline for making the proposed rules or a version of the proposed rules, final?” (Alan Brown, Public Hearing)

Response 1: Ohio EPA plans to have January 1, 2021 as the effective date in order to enforce the rule with data from the first quarter of 2021. (Ohio EPA)

Comment 2: “I would like to receive a copy of any submitted public comments for the public hearing regarding proposed rules for 3745-81-24.” (Alan Brown, Public Hearing)

Response 2: OEPA has sent Alan Brown representing Hull & Associates Inc., the comments received by both region 5 and Burr Oak. (Ohio EPA)

Comment 3: “The proposed rule changes will negatively impact the rural water systems through additional sampling costs and potentially higher water rates due to the wholesale supplier adding additional treatment processes. The result will eventually force the affected water systems to raise water rates or cease operations, leaving Villages and rural county residents without an affordable drinking water supply...The Ohio EPA stresses they want to see all people in the State have availability to drinking water, while proposing rules which have and will discourage water suppliers and consecutive systems from doing additional expansion projects.” (Burr Oak)

Response 3: The Agency considers the overall cost for complying with these regulations to be minor in comparison with ensuring the public is supplied with a safe and reliable source of drinking water.

3745-81-24 (C)

Comment 4: This states that a change to a monitoring plan would require systems to replace the existing monitoring location with the lowest LRAA with a new location with expected high monitoring levels. This strategy would not be representative of our system as different sections of the distribution are supplied by a differing number of storage tanks which represent a variety of water age. Would you want to eliminate sampling of an entire section of the system that was being monitored by eliminating the lowest LRAA location?

Response 4: LRAA sampling locations should be representative of the entire distribution system.

Comment 5: First, 0.040 mg/l is an unrealistic threshold. What was the basis for determining this level? And in this situation, why would quarterly and annual monitoring schedules have a different threshold? Again, the TTHM LRAA number should reflect a maximum of 0.060 mg/l for quarterly monitoring to match the proposal for systems on annual monitoring schedules. A basis for the 0.060 mg/l would be appreciated too.

Comment 6: The public water system should return to routine monitoring once results for four quarters of sampling indicate they are below the MCL of

0.080 mg/l for TTHM and 0.060 mg/l for HAA5. This rule should not require a sample result lower than the MCL to be in compliance.

Response 5 & 6:

U.S. EPA is responsible for making determinations as to the health standards needed to protect public health. The Ohio Administrative Code reflects these federal requirements.

Comment 7:

Operational levels should be considered exceeded when the LRAA (not any location) exceeds 0.080 mg/l for TTHM and 0.060 MG/L for HAA5. A single sample result would trigger an OEL using this proposed language. Laboratory errors do occur and in the event of one, this proposed rule would require an operational plan even if a number of previous or subsequent results showed otherwise.

Response 7:

Analytical variability is present in most drinking water methods, but U.S. EPA does not build analytical uncertainty into compliance requirements with the MCLs or determining OELs. As analytical methods improve, analytical uncertainty should decrease.

Comment 8:

Why have the LRAAs if Ohio EPA is considering using results for just two quarters to require additional monitoring? If the OEPA is using two quarters of results to trigger this section's sampling, why not use two quarters instead of four quarters to get back into compliance.

Response 8:

Requiring additional sampling after a second OEL within a 12- month period ensures that the continued elevated DBP levels will be investigated and measures evaluated to possibly prevent an MCL exceedance from occurring.

Comment 9:

This section states that both consecutive and wholesale systems will sample from the master meter location concurrently. This serves no purpose for both to sample the same location within the same timeframe. Does the Ohio EPA's business impact analysis not matter? Why have concurrent sampling? What happens when results from concurrent samples vary?

Response 9:

Ohio EPA revised the proposed language to allow just the consecutive system to monitor or to allow the wholesale systems to request sampling at a point near the master meter if the consecutive system is already monitoring at the master meter location.

Comment 10:

What is meant by “consistently below the MCL”? Again, a timeframe should be declared within the rule.

Response 10:

Ohio EPA will use enforcement discretion to determine, along with various coinciding factors, what constitutes “consistently below” for each PWS.

End of Response to Comments