

Hearing Summary

Rule Package: DAPC - 3745-107 - Power Plant Rules - New 2020, ERF Package #188511

Original filing date: 9/10/2020

Public comment start date: 9/10/2020

Public comment end date: 10/16/2020, 5:00 PM

Public hearing date: 10/16/2020, 10:30 AM, Held Virtually

List of Rules: OAC 3745-107-01 to 3745-107-04

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 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
New Rules: Ohio Administrative Code Chapter 107 "Power Plant Efficiency Rules"**

Notice is hereby given that the Director of Environmental Protection, under the authority of Section 3704.03 (E) of the Ohio Revised Code (ORC) and in accordance with Chapter 119, proposes to newly file the following rules of the Ohio Administrative Code (OAC):

OAC Rules 3745-107-01 to 3745-107-04, "Power Plant Efficiency Rules"

These rules address the implementation of federal carbon dioxide (CO₂) standard of performance regulations. The purpose of this rule making is to implement the federal Affordable Clean Energy Rule (ACE rule). The federal rule requires states to conduct a heat rate efficiency study and develop carbon dioxide standards of performance for large coal-fired electric generating units (EGUs).

Ohio EPA will be holding a virtual public hearing on the proposed new rules **on Friday, October 16, 2020 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>.

The rules and associated documents are available on DAPC's Web page for review and electronic downloading. The URL is: <http://epa.ohio.gov/dapc/DAPCrules.aspx> . Please see the information under the "proposed rules" tab.

Pursuant to Section 111(d) of the Clean Air Act, the state of Ohio is required to establish a state plan for implementation of the federal ACE rules. Ohio EPA plans to submit the above-mentioned rules as a part of Ohio's plan. The above-mentioned hearing shall be considered the public hearing for this rulemaking portion of the plan submittal.

To facilitate the scheduling of oral presentations, persons intending to give testimony at the hearing should notify the Ohio EPA Public Interest Center, P.O. Box 1049, Columbus, Ohio 43216-1049, (614) 644-2160. Prior registration will ensure that registrants are heard ahead of those individuals who register at the hearing. Oral testimony may be limited to five minutes, depending on the number of persons testifying. All interested persons are entitled to attend or be represented and to present oral and/or written comments concerning the proposed rule making.

Written testimony should be sent to the attention of Paul Braun at the Division of Air Pollution Control (DAPC), P.O. Box 1049, Columbus Ohio 43216-1049. Written comments may also be submitted to the Hearing Officer at the public hearing. Written testimony will receive the same consideration as oral testimony. All testimony received at the hearing or by close of business on

Friday October 16, 2020, 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 Paul Braun, at the Division of Air Pollution Control at (614) 644-3734.

To receive a copy of the proposed rules, please contact Paul Braun, at the DAPC at (614) 644-3734. In addition, full copies of all proposed rules are available for review at any Ohio EPA district office and at the Ohio EPA central office. The proposed rules are also accessible on the DAPC web page at: <http://epa.ohio.gov/dapc/DAPCrules.aspx>.

Event Name: Public Hearing: Power Plant Efficiency Rules, Division of Air Pollution Control

Event Start Date : October 16, 2020 New York Time

FirstName	LastName	Email	Registered	Attended	Title	Company
Andrew	Huffman	ahuffman@gpgrhr.com	Yes	Yes	Andrew Huffman	Governmental Policy Group, Inc.
Paul	Teasley	ptasley@hannah.com	Yes	Yes	Editor	Hannah News Service
Tony	Licata	tonylicataleec@aol.com	Yes	Yes	VP	Licata Energy & Environmental Consultants, Inc.
Brooke	Canter	bcanter@ovec.com	Yes	Yes		
Jeff	Jackson	j.jackson@gaiconsultants.com	Yes	Yes	Sr. Project Engineer	GAI
Steven	Scavuzzo	sascavuzzo@babcock.com	Yes	No	Engineer - Technical Consultant	The Babcock & Wilcox Co.
Desiree	Loveless	desiree.loveless@vistracorp.com	Yes	Yes		
Thomas	KIRKPATRICK	keith.kirkpatrick@mchale.com	Yes	Yes	Vice President	McHale and Associates Inc.
Ryan	Coleman	rcoleman@ohioec.org	Yes	No	Environmental Specialist	Buckeye Power
David	Shotts	david.shotts@erm.com	Yes	Yes	Partner	ERM
Frank	Michell	flmichell01@gmail.com	Yes	Yes	Consultant	Power Industry Consulting LLC
Greg	Fouche	gfouche@jcarr.state.oh.us	Yes	Yes		JCARR
Breanna	Bukowski	bukowskib@michigan.gov	Yes	Yes	Environmental Quality Analyst	
Stephanie	Hammonds	stephanie.e.hammonds@wv.gov	Yes	Yes	ERS	WVDEP-Division of Air Quality
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Michael	Cope	mcope@ohiocoal.com	Yes	Yes	President	Ohio Coal Association
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Steven	Scavuzzo	sascavuzzo@frontier.com	Yes	Yes	Steven A Scavuzzo	

DAPC Power Plant Efficiency Proposed Rules

October 16, 2020

TURN ON PRESENTER RIGHTS UP TOP AND TO THE RIGHT

START RECORDING

Hello and welcome to Ohio EPA's virtual public hearing regarding Division of Air Pollution Control proposed rules. My name is Mary McCarron and I'm hosting today's public hearing. With me online from Ohio EPA are Paul Braun 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 Air Pollution Control is proposing to newly file the following rules of the Ohio Administrative Code: 3745-107-01 to 3745-107-04.

These rules address the implementation of federal carbon dioxide standard of performance regulations. The purpose of this rule making is to implement the federal Affordable Clean Energy Rule. The federal rule requires states to conduct a heat rate efficiency study and develop carbon dioxide standards of performance for large coal-fired electric generating units.

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, Oct. 16, 2020. These comments may be typed into the chat today or emailed to paul.braun@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



Division of Air Pollution Control Response to Comments

Rule: OAC Chapter 3745-107 - Power Plant Efficiency Rules

Agency Contact for this Package

Division Contact: Christopher Beekman, DAPC, christopher.beekman@epa.ohio.gov, 614-644-3597

Ohio EPA held a public hearing on October 16, 2020 and a comment period which began on September 10, 2020 ending on October 16, 2020 regarding proposed new rules in Ohio Administrative Code (OAC) Chapter 3745-107, "Power Plant Efficiency Rules." This document summarizes the comments and questions received at the public hearing and during the comment period.

Ohio EPA reviewed and considered all comments received at the public hearing and during the public 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/Overall Concerns

Comment 1: The commenter submitted documents and comments supplied to U.S. EPA regarding the development of the Affordable Clean Energy Rule rulemaking. **(The American Society of Mechanical Engineers' (ASME) Research Committee on Energy, Environment, & Waste (RCEEW))**

Response 1: The documents provided by the RCEEW do not directly provide comments specific to Ohio's rulemaking. Regardless, Ohio EPA will review the material and take them into consideration as we develop our full plan submittal to USEPA.

Comment 2: The following comment was received during the October 16, 2020 public hearing: "How will the heat rate efficiency studies be required to be conducted? Will they be based on ASME test code methodologies (ASME PTC 46, ASME PTC 4, ASME PTC 6, etc.)?"

(Thomas Kirkpatrick, Vice President, McHale and Associates Incorporated)

Response 2: In accordance with the federal ACE rule and to maintain unit-specific flexibility, Ohio EPA does not intend to limit or require a specific test code methodology or methodologies for conducting heat rate efficiency studies as a part of our rulemaking. Ohio EPA will review the merits of testing methodologies requested as a part of a heat rate study and determine appropriateness at that time.

Comment 3: OUG appreciates the efforts by Ohio EPA to develop a flexible approach to implementing US EPA's ACE rules. Because of the wide differences in operation and future plans of the units subject to the new rule, Ohio EPA has correctly avoided a "one size fits all" regulatory scheme.
(Michael E. Born, Shumaker, Loop & Kendrick, LLP on behalf of the Ohio Utilities and Generators Group (OUG))

Response 3: Thank you for the comment in support of our approach. Ohio EPA recognizes and understands the varied nature of Ohio's coal fired fleet and the need to avoid a one-size-fits-all approach.

Comment 4: OUG supports Ohio EPA's decision to adopt a regulatory program that adheres to the federal rule. §3704.03(E) of the Revised Code authorizes the Director to adopt rules to meet the requirements of the Clean Air Act. It does not authorize the creation of rules to exceed the limits of the federal act, especially a rule that for which there is no NAAQS. As the ACE rule is the only lawfully adopted regulatory program in effect; Ohio can adopt that program, but only that program. Efforts to adopt a broader or more far reaching rule would exceed RC 3704.03 (E).
(Michael E. Born, Shumaker, Loop & Kendrick, LLP on behalf of the Ohio Utilities and Generators Group (OUG))

Response 4: Thank you for the comment. Ohio EPA intends to work closely with the affected entities in developing our state plan to implement the federal rule.

3745-107-02 EGU-specific operational characteristics, heat rate study and standard of performance.

Comment 5: As for the specifics of the proposal, OUG commented on the IP Draft of these rules about the requirement for economic and operating projections out to 25 years in the future. Since Ohio no longer has a

regulated generation market, any projection beyond 3 - 5 years will be highly speculative. Ohio EPA will have to expect most companies to caveat any long term projections.

(Michael E. Born, Shumaker, Loop & Kendrick, LLP on behalf of the Ohio Utilities and Generators Group (OUG))

Response 5:

Thank you for your comment which we believe is in reference to OAC rule 3745-107-02. Ohio EPA is sensitive to the difficulties in projecting future operational and market conditions to 2035. However, the federal rule, 40 CFR 60.5740a(a)(4)(F)(iv), requires State plans to include projections of these and other factors to 2035. Ohio EPA believes the utilities themselves are in the best position based on their expertise and experience to provide such projections. Ohio EPA will work with the utilities on methods that can use the information available to the utilities to develop realistic projections. While Ohio EPA is again sensitive to the burden this places on the owners and operators of affected units, this currently is a federal requirement that must be included in the state plan.

End of Response to Comments