



Division of Air Pollution Control Response to Comments

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

Agency Contact for this Package

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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