

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE OHIO POWER
SITING BOARD'S REVIEW OF RULE 4906-4-
08 OF THE OHIO ADMINISTRATIVE CODE.

CASE No. 16-1109-GE-BRO

ENTRY

Entered in the Journal on January 18, 2018

I. SUMMARY

{¶ 1} The Ohio Power Siting Board requests comment for an additional revision to Ohio Adm.Code 4906-4-08(C)(3), as described in Paragraph 10. All responsive comments should be filed by February 1, 2018.

II. DISCUSSION

{¶ 2} R.C. 111.15(B) requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules.

{¶ 3} R.C. 106.03(A) requires that the Ohio Power Siting Board (Board) determine whether the rules:

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
- (b) Need amendment or rescission to give more flexibility at the local level;
- (c) Need amendment or rescission to eliminate unnecessary paperwork;
- (d) Incorporate a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by R.C. 121.74, and whether the incorporation

by reference meets the standards stated in R.C. 121.71, 121.75, and 121.76;

- (e) Duplicate, overlap with, or conflict with other rules;
- (f) Have an adverse impact on businesses, as determine under R.C. 107.52; and
- (g) Contain words or phrases having meanings that, in contemporary usage, are understood as being derogatory or offensive.

{¶ 4} In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled “Establishing the Common Sense Initiative,” which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Board must: review its rules to determine the impact that a rule has on small businesses; attempt to balance the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.

{¶ 5} The Board initiated the above-captioned rulemaking docket to formally consider Staff’s proposed revisions to Ohio Adm.Code 4906-4-08, resulting from an informal stakeholder workshop held for a previous rulemaking proceeding. *In re the Board’s Review of Ohio Adm.Code Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17*, Case No. 12-1981-GE-BRO, Second Finding and Order (Nov. 12, 2015) at 5-12.

{¶ 6} Staff evaluated Ohio Adm.Code 4906-4-08, as well as the comments received at the June 9, 2016 workshop, and recommended certain amendments to Ohio Adm.Code 4906-4-08, as well as a newly proposed rule, Ohio Adm.Code 4906-4-09.

{¶ 7} On September 22, 2016, the Board issued Staff's recommendations for amending Ohio Adm.Code 4906-4-08 and the proposed new rule under Ohio Adm.Code 4906-4-09, and requested comments to assist in the review. Comments were filed by several stakeholders.

{¶ 8} In considering the comments filed in response to the September 22, 2016 Entry, the Board issued its Finding and Order on May 4, 2017, finding that Ohio Adm.Code 4906-4-08 should be amended and the newly proposed Ohio Adm.Code 4906-4-09 should be adopted.

{¶ 9} Subsequently, by Entry on Rehearing issued August 17, 2017 (Second Entry on Rehearing), the Board revised the previously adopted rule language to reflect changes recommended by various stakeholders in their respective applications for rehearing.

{¶ 10} At this time, the Board requests comment on an additional revision on the first sentence of Ohio Adm.Code 4906-4-08(C)(3). Specifically, the Board seeks comment on modifying the language of Ohio Adm.Code 4906-4-08(C)(3) as follows:

"Setback waivers. The owner(s) of all property adjacent to any wind farm property may waive the minimum setback requirements by signing a waiver of their rights."

{¶ 11} Accordingly, the Board requests comments from interested persons to further assist in the review required by R.C. 111.15 and Executive Order 2011-01K. Comments should be filed, via electronic filing or in hard copy, by February 1, 2018.

{¶ 12} Comments should be limited to the one proposed modification contained in Paragraph 10. The Board will not consider any comments falling beyond the scope of this Entry.

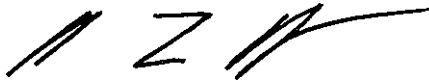
III. ORDER

{¶ 13} It is, therefore,

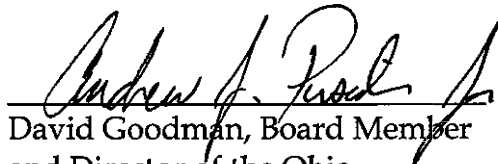
{¶ 14} ORDERED, That comments regarding the proposed language revision in Paragraph 10 be filed by February 1, 2018. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all commenters and interested persons of record in this matter.

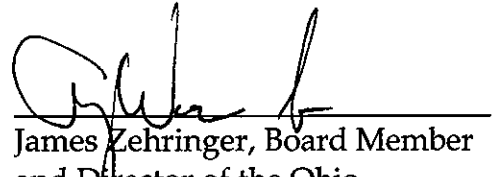
THE OHIO POWER SITING BOARD




Asim Z. Haque, Chairman
Public Utilities Commission of Ohio




David Goodman, Board Member
and Director of the Ohio
Development Services Agency



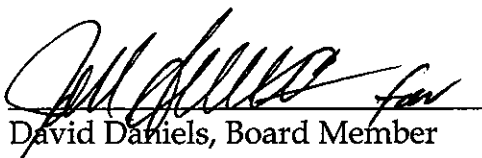
James Zehringer, Board Member
and Director of the Ohio
Department of Natural Resources



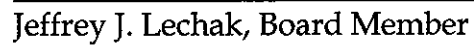
Lance Himes, Board Member
and Director of the Ohio
Department of Health



Craig Butler, Board Member
and Director of the Ohio
Environmental Protection Agency




David Daniels, Board Member
and Director of the Ohio
Department of Agriculture



Jeffrey J. Lechak, Board Member
and Public Member

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Barcy F. McNeal
Secretary