

Rule Summary and Fiscal Analysis (Part A)**Department of Natural Resources**

Agency Name

Division of Mineral Resources**Management-Mine Safety**

Division

Brock Miskimen

Contact

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1501:10-2-22

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

General requirements for training diesel-powered equipment operators.**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: **1513.02**
5. Statute(s) the rule, as filed, amplifies or implements: **1513.02, 1567.35**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

To comply with Ohio's five-year-review requirement pursuant to Ohio Revised Code section 106.03.
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 contains the requirements for training and for annual refresher training of diesel-powered equipment operators, including approval of training plans by the Chief of the Division of Mineral Resources Management, and issuance of certificates of qualification by the mine operators.

The Division of Mineral Resources Management has fully reviewed this rule consistent with ORC section 106.03, and has determined that the following revisions are needed:

(D). Error corrected: it is the equipment operator who qualifies to operate the equipment, not the mine operator.

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 incorporates a text by reference that is easily available to the public either on-line from the U.S. Government Printing Office website, or at a public library. This text is:

Mine Safety and Health Administration regulation 30 C.F.R. Part 48.

In this Mine Safety rules package, the Division of Mineral Resources Management is updating the Mine Safety incorporation by reference rule, 1501:10-1-07. This rule tells the public which edition of the Code of Federal Regulations is being incorporated by reference, and provides the specific website address where the federal rules can be found.

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: **2/24/2017**

(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

The amendment proposed in this rule filing consists of a minor correction and will have no fiscal impact on the agency during the current biennium.

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:

The amendment proposed in this rule filing consists of a minor correction and will impose no cost of compliance upon any directly affected persons.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

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? **Yes**

ORC Chapter 1513. requires a coal mining permit to mine coal in Ohio. ORC section 1513.02(A)(8) requires the Chief of the Division of Mineral Resources Management to "Establish programs and adopt rules and procedures governing terms, limitations, and conditions for the use of diesel equipment in an underground coal mine." Appropriate use of diesel equipment would become one of the conditions placed on an underground coal mine permit. This rule requires that the mine operator submit to the Chief a detailed training plan for training equipment operators in the use of diesel-powered equipment that will be used in an underground coal mine. The rule specifies the subjects that must be covered in the training plan and in the annual refresher training plan. The Chief must approve the training course instructor(s) and training plan before the training required by this rule is conducted.

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? **No**

This rule does not impose a penalty, but state law imposes penalties on persons who do not obey the State's coal mining laws. See Ohio Revised Code sections 1513.17 and 1513.99.

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

This rule requires the underground mine operator who wishes to use diesel

equipment underground to develop a training plan for equipment operators and to train and certify each equipment operator; this will require the underground mine operator to spend a significant amount of time and resources.

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 Coal Association

United Mine Workers of America

Ohio Environmental Council

(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.)

Ohio Revised Code sections 1513.02 and 1567.35.

(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 ? **No**

Is the proposed rule or rule amendment more stringent than its federal counterpart ? **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**