

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1501:10-2-22

Rule Type: Amendment

Rule Title/Tagline: General requirements for training diesel-powered equipment operators.

Agency Name: Department of Natural Resources

Division: Division of Mineral Resources Management-Mine Safety

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 4/11/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 1513.02
5. **What statute(s) does the rule implement or amplify?** 1513.02, 1567.35
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

To comply with Ohio's five-year-review requirement pursuant to Ohio Revised Code section 106.03. And to comply with ORC 121.95 and 121.951.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

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 proposed amendment would remove regulatory restrictions.

9. **Does the rule incorporate material by reference? Yes**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates a text by reference that is easily available to the public either online from the U.S. Government Publishing Office website, or at a public library. This text is: 30 C.F.R. Part 48.

This rule also references the Ohio Administrative Code, 1501:10-1-07 which tells the public which edition of the Code of Federal Regulations is being incorporated by reference, and provides specific website address where the federal rules can be found.

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0

The amendments proposed in this rule are minor and will have no fiscal impact on the agency during the current biennium.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The amendments proposed in this rule are minor and will impose no additional cost of compliance upon any directly affected persons.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). Yes**
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not applicable.

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office? Yes**
18. **Does this rule have an adverse impact on business? Yes**
 - 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.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? 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, resources and thus increasing expense.

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

- 19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

- A. How many new regulatory restrictions do you propose adding to this rule? 0**

- B. How many existing regulatory restrictions do you propose removing from this rule? 38**

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1501:10-2-22 (A) shall

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1501:10-2-22 (F)(12) required

1501:10-2-22 (G) shall

1501:10-2-22 (G) shall

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable

Rule Summary and Fiscal Analysis

Part C - Environmental Rule Questions

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.

(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
Ohio Aggregates and Industrial Minerals Association
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**