

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

Agency Name

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

Division

Ben Pendery

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1501:10-2-22

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

General requirements for training diesel-powered equipment operators.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB443**General Assembly: **126**Sponsor: **Uecker**

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 section 1513.02 (A)(8) of the Revised Code, which was created by HB 443 of the 126th General Assembly and states that the Chief of the Division of Mineral Resources Management shall: "Establish programs and adopt rules and procedures governing terms, limitations, and conditions for the use of diesel equipment in an underground coal mine."

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, and issuance of certificates of qualification by the mine operators.

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.

As part of this rule package, the Division of Mineral Resources Management is also filing a new rule, 1501:10-1-07, that tells the public which edition of the Code of Federal Regulations is being incorporated by reference in the Mine Safety rules, and provides the specific website address where the 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:

Not Applicable.

12. 119.032 Rule Review Date:

(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

Please note: Rules 1501:10-2-01 to 1501:10-2-27, which will provide for and regulate the use of diesel equipment in underground coal mines in Ohio, are being filed for adoption as an entire rule package. The fiscal impact of these rules is discussed as a whole package, rather than on a rule-by-rule basis.

The Division anticipates that, once they are fully implemented, the diesel equipment rules will require about one Full Time Equivalent of staff time annually. The Division does not plan to hire a new staff person for this purpose, but will spread the work out among various mine safety staff. For example, some Mine Safety staff will work with the Diesel Technical Advisory Committee to accomplish the baseline monitoring, equipment model approvals, and other reviews required by these rules before diesel equipment can be used in underground mines. Other Mine Safety staff will be assigned to inspect the use of underground diesel equipment at the mines.

The Division has already purchased the engine exhaust emissions analyzers that it will need to fulfill its responsibilities under these rules.

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 Division believes that Ohio's underground coal operators will benefit financially from these diesel rules, although it is not possible to estimate the cost savings of these rules, since their implementation is likely to take place gradually and incrementally at most mines.

The Division expects that all underground coal mines in Ohio will eventually use diesel equipment to some extent. Each operator will weigh the costs and benefits of bringing in new diesel equipment compared to continuing to use old electric equipment and will decide when and how to best make use of diesel. The new diesel rules will allow the operator to maximize efficiency by allowing the use of both kinds of equipment in the best combination for an individual mine. The new diesel rules will also level the playing field for Ohio's underground coal mining compared to other underground coal mining states, since most other major underground coal-producing states already allow the use of diesel equipment.

The Division believes that these diesel rules will not reduce the safety of underground coal mining. Diesel equipment is reliable and safe when it is used and maintained properly, and Ohio's rules contain the safeguards necessary to assure miners' safety.

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.

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Rule Number: 1501:10-2-22

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

Ohio Environmental Council

United Mine Workers of America

(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.)

Paragraph (A)(8) of section 1513.02 of the Ohio Revised Code.

Section 1567.35 of the Ohio Revised Code.

MSHA regulations, 30 CFR Parts 7, 40, 48, and 75.

- (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**