

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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1501:10-2-27

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Diesel technical advisory committee.**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: **121.13, 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 establishes the Diesel Technical Advisory Committee in accordance with section 121.13 of the Revised Code and sets forth the requirements for this advisory body.

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)(1) and (L)(1). The terms "Chapter 1501:10-2 of the Administrative Code" and "rules 1501:10-2-01 to 1501:10-2-27 of the Administrative Code" changed to "this chapter" so the entire rule uses this reference consistently. "This chapter" also conforms to LSC rule-drafting protocol.

(E). The source of the reimbursement monies is proposed to be removed because there are various sources of funding for the Mine Safety Program. Not including a specific fund will increase the flexibility of the rule.

(K)(3). Revised to remove "a written request by the chief" and replace with "written approval of the chief" because the action that the Chief takes in (K)(1) and (2) is to approve the investigation, not to make a request.

(M). Revised to clarify that only certain action taken by the Chief under this rule is subject to appeal: only the Chief's action under paragraph (L) to approve or reject a recommendation or to not make a decision on a recommendation within the time requirements.

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 response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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 amendments proposed in this rule consist of minor changes, clarifications and corrections 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 amendments proposed in this rule consist of minor changes, clarifications and corrections 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? **No**

This rule does not require a permit but 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." The Diesel Technical Advisory Committee established by this rule provides the Chief with technical advice and recommendations concerning the technical operating aspects of underground diesel-powered equipment.

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? **No**

This rule explains how the Diesel Technical Advisory Committee acts to advise and support the Chief in matters concerning the use of diesel equipment in underground coal mines. This rule does not impose a cost on industry.

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 121.13, 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**