

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Natural Resources, Division of Mineral Resources Management

Regulation/Package Title: 2017 Mine Safety Five-Year Review

Rule Number(s): 1501:10-1-01, 1501:10-1-02, 1501:10-1-03, 1501:10-1-04,
1501:10-1-05, 1501:10-1-06, and 1501:10-1-07.

Date: August 20, 2018

Rule Type:

☐ New

☒ Amended

☒ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

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The Division of Mineral Resources Management (DMRM) is submitting this Business Impact Analysis (BIA) for seven Mine Safety rules to the Common Sense Initiative (CSI) for CSI's review pursuant to Ohio Revised Code (ORC) section 107.52.

Four of these rules – 1501:10-1-02, 1501:10-1-03, 1501:10-1-04, and 1501:10-1-05 – were new rules five years ago and were reviewed by CSI in a BIA submitted on March 7, 2012. Amended rule 1501:10-1-06 was reviewed by the CSI in a separate BIA submitted on that same date.

After reviewing these rules in accordance with the five-year review requirements of ORC section 106.03, DMRM proposes to continue four of these seven rules with no changes and amend three rules as follows:

- One rule needs to be amended due to changes made by HB 49, effective 9/29/2017, to add a clarification, and to make an addition requested by a stakeholder.
- One rule needs to be amended to correct the phone number of the Emergency Operations Center.
- The incorporation by reference rule needs to be changed to update the publication date of the Code of Federal Regulations.

The attachment to this BIA contains a copy of each rule; each rule with proposed amendments is accompanied by a summary containing a complete list of every change proposed for the rule.

The following is a list of the rules and their key provisions.

Chapter 1501:10-1 of the Ohio Administrative Code (OAC). This chapter contains general provisions for mine safety. Some rules in this chapter apply only to underground coal mines, while others apply to surface and underground coal mines and to underground industrial minerals mines.¹ All seven rules in this chapter comprise this BIA.

- **1501:10-1-01 Definitions. No-Change rule.** Contains definitions of terms used in the mine safety rules of OAC Chapters 1501:10-1 and 1501:10-2.
- **1501:10-1-02 Fire detection devices. No-Change rule.** Establishes the design, types, and number of fire detection devices required on a conveyor belt in an underground coal mine, and establishes a procedure for notification of the chief that the operator has installed the fire detection devices and a procedure for inspection of the devices.

¹ Mine safety rules for Ohio's industrial minerals surface mines are in Ohio Administrative Code Chapter 1501:14-2.

- **1501:10-1-03 Tag lines and tie-off lines. No-Change rule.** Establishes a definition of "tag line" and "tie-off line," including a description of when tag lines and tie-off lines are acceptable, and establishes procedures and requirements for the use of tag lines and tie-off lines in underground coal mines and procedures for their approval and inspection. (Tag lines and tie-off lines are used during mine emergencies and rescues to link together all members of a mine crew.)

- **1501:10-1-04 Mine medical responder.** Establishes training and examination requirements, and refresher training requirements, for mine medical responders in underground coal mines; establishes the fees that the DMRM will charge for this training and examination. **Amendments proposed:** fund change in (C)(6) per HB 49; clarification added to (E)(2); paramedics added to (B), (E) and (F) as persons who are automatically eligible for mine medical responder certification and to be instructors for mine medical certification.

- **1501:10-1-05 Additional requirements for the certification of mine forepersons or forepersons of gaseous mines and mine forepersons or forepersons of nongaseous mines. No Change rule.** Establishes fees for the certification and recertification of mine forepersons or forepersons of underground coal mines. Prescribes the requirements, criteria and procedures for the recertification of a mine foreperson or foreperson who has not worked in an underground coal mine for more than two years and for the retraining of a mine foreperson or foreperson who has not worked in an underground coal mine for more than one year.

- **1501:10-1-06 Accident reporting; investigation by chief; annual report.** Establishes requirements for all coal mines and for industrial minerals underground mines regarding: reporting mine accidents to the DMRM; investigations by the Chief; and the Chief's obligation to summarize accident reports in an annual report. **Amendment proposed:** Emergency Operations Center phone number corrected.

- **1501:10-1-07 Incorporation by reference.** Contains the dates of publication of the Code of Federal Regulations for those federal regulations that are incorporated by reference in the Mine Safety rules, and tells the public where these regulations can be found. **Amendment proposed:** publication date of federal regulations to be updated.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

ORC sections 1561.03 and 1561.05 authorize the Chief of DMRM to adopt mine safety rules. The following statutes provide additional authority for these rules:

<u>Ohio Administrative Code</u>	<u>Statutory Authority</u>
1501:10-1-02:	ORC section 1567.681
1501:10-1-03:	ORC section 1567.64
1501:10-1-04:	ORC section 1565.15
1501:10-1-05:	ORC sections 1561.16 and 1561.17
1501:10-1-06:	ORC sections 1561.011, 1561.04, 1561.36, 1561.37, 1563.43, 1565.12, 1567.55, and 1567.78
1501:10-1-07:	ORC sections 1561.16, 1561.17, 1561.36, 1561.37, 1565.15, 1567.64, and 1567.681

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No, Ohio's mine safety program is separate from the federal Mine Safety and Health Administration (MSHA). However, to ease the burden on industry of complying with the state requirements for rules 1501:10-1-02 and 1501:10-1-03, DMRM uses the same standards as implemented by MSHA. Likewise, for the retraining requirements of rule 1501:10-1-05, DMRM uses an MSHA training requirement that was already used by the industry.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

To protect mine workers; to maintain safe working conditions in mines; to correct mine safety problems and to prevent the recurrence of those problems.

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6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of these rules will be measured by the safety provided by them. Under these rules and their related statutes, DMRM's Mine Safety Program trains and certifies mine forepersons and mine medical responders, conducts safety inspections, investigates accidents, and monitors mining accident, injury and illness reports. The DMRM uses the information gathered from inspections, investigations, and reports to improve mine safety training and mine inspections to prevent accidents from recurring and to be aware of and respond to new safety problems that may be developing.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

In November 2017, DMRM Rules Coordinator Ann Laubach e-mailed an advance copy of the proposed rule changes to the following persons, requesting their review:

Mike Cope, President, Ohio Coal Association (OCA); and
Pat Jacomet, Executive Director, Ohio Aggregates and Industrial Minerals Association (OAIMA).

Neither organization had any comments on the rules.

By letter dated December 7, 2017, DMRM Chief Erdos provided these rules with their proposed changes, by e-mail, to Mike Cope, Pat Jacomet, and Trent A. Dougherty, General Counsel, Ohio Environmental Council. Chief Erdos requested comments on the rules by January 7, 2017. DMRM received no comments on the rules from any of these organizations.

In addition, for the review of rule 1501:10-1-04, as required by ORC section 1565.15(E), DMRM consulted with persons certified under ORC Chapter 4765. to teach in an emergency medical services training program. The EMT instructors who reviewed the rule are Paula Moore, Russ Byers and Jerry Murphy; they were e-mailed a copy of rule 1501:10-1-04 on December 20 or 21, 2017. Russ Byers and Jerry Murphy each responded on December 21 but did not recommend any changes to the rule. Paula Moore responded on December 20; see question 8 for more information on her comment.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Paula Moore responded to DMRM's request for review of rule 1501:10-1-04, stating, "The only change I see that should be made is the addition of the title Paramedic in with EMT-Basic and EMT-I for reciprocity and new instructor." As a result of this comment, DMRM revised paragraphs (B), (E) and (F) to add paramedics, for the following reason:

(B), (E), and (F) and sub-paragraphs. Revised to allow certified paramedics to be automatically eligible for mine medical responder certification and to be instructors for mine medical certification, just as EMTs already are under this rule. The reason paramedics are being added to this rule is because they have similar qualifications under Ohio law. ORC section 4765.01 defines an EMT-basic, EMT-I, and paramedic as "an individual who holds a current valid certificate issued under section 4765.30 of the Revised Code..." ORC sections 4765.30 and 4765.31 have the same certification and continuing education qualifications for paramedics as for EMTs.

The OAC does differentiate between certified EMTs and certified paramedics -- under OAC Chapter 4765-17, paramedics must meet more difficult additional training requirements than EMTs. Paramedics are therefore more highly trained emergency care providers than EMTs and would clearly meet the statutory requirements for being automatically eligible for mine medical responder certification and as instructors for mine medical certification.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

These rules were developed due to direct mandates in Ohio's mine safety law. The changes proposed in this five-year review are small corrections or clarifications that will not change the requirements of these rules.

Four of these rules -- 1501:10-1-02, 1501:10-1-03, 1501:10-1-04 and 1501:10-1-05 -- amplify statutory provisions that were enacted in 2008 by SB 232 following the recommendation of Governor Taft's Mine Safety Task Force, which was convened after several highly publicized mine fatalities in 2006 and was comprised of Ohio coal industry leaders, labor representatives, and Mine Safety staff. The goal of the Task Force was to increase protection Ohio's most valuable coal resource -- their coal miners.

Rule 1501:10-1-06 amplifies numerous inspection, investigation and reporting provisions in Ohio mine safety law.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Generally, Ohio law does not allow for exemptions or alternative means of compliance for these rules. However, rule 1501:10-1-04 provides an alternative means for providing mine medical responder training: a coal company can employ or hire its own Chief-approved mine medical responder instructors to train its employees, rather than sending the employees to DMRM for such training.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

No, because the law dictated the parameters of the regulations.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

All of Ohio's mine safety regulations fall under the purview of the DMRM's Mine Safety Program.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The changes proposed in this five-year review are small corrections or clarifications that will not change the requirements of these rules. These rules have been in effect for at least 5 years so there are no implementation concerns.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community;
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
- c. Quantify the expected adverse impact from the regulation.

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The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

Answer to questions a., b., and c.:

The rules presented in this BIA that are proposed to be changed will not have any greater adverse impact on business than the statute and rules already impose, since the changes are small corrections and clarifications. The currently effective rules of OAC Chapter 1501:10-1 do impose a cost on the operators of Ohio’s coal and underground industrial minerals mines, but this cost is imposed in order to protect Ohio’s miners. DMRM’s Mine Safety Program rules implement the statutory mandate of ORC section 1561.03 that the Chief of DMRM enforce and supervise the execution of all laws enacted for the health and safety of persons and the protection and conservation of property within, about, or in connection with mines, mining and quarries.

For rules 1501:10-1-02 and 1501:10-1-03, the affected business community is Ohio's underground coal operators. As noted above in the answer to Question 3, Ohio adopted the same requirements as MSHA for these two rules. The cost of the notification requirements of rule 1501:10-1-02 in operator time and resources is minimal. Rule 1501:10-1-03 imposes no additional costs on the operator beyond those imposed by MSHA.

For rule 1501:10-1-04, the affected business community is Ohio's underground coal operators, persons holding EMT-basic, EMT-I and paramedic certifications, and mine employees and prospective mine employees wishing to be certified as mine medical responders. The rule has a significant positive impact on the affected business community because using mine medical responders is a faster and less expensive way for an underground coal operator to meet the safety requirements of ORC section 1565.15(B).

For rule 1501:10-1-05, the affected business community is all persons who apply for certification as a mine foreperson or foreperson of an underground mine, and all persons who hold such certification but who have not worked in an underground coal mine for at least one year. The adverse impact on this community is the cost of certification (for those applying for original certification), the time required for retraining (for those who only need re-training), and the time and money required for retraining, examination and recertification (for those who need to be both re-trained and re-certified). The DMRM estimates that two or three persons each month need to be re-trained, or re-trained and re-certified, pursuant to this rule.

For rules 1501:10-1-01, 1501:10-1-06, and 1501:10-1-07, the affected business community is all coal mine operators and all underground industrial minerals operators.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

ORC Chapters 1561., 1563., 1565., and 1567. dictated the parameters of these rules.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. Ohio's mine safety laws (as listed above in the answer to Question 2) do not provide for any exemptions or alternative means of compliance to these mine safety requirements.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Section 119.14 is not applicable to the collection of mine safety information because failure by an operator to submit any of the information required by these rules could present a direct danger to public health and safety.

18. What resources are available to assist small businesses with compliance of the regulation?

DMRM's Mine Safety Program staff are available to help anyone who needs guidance or assistance in complying with these rules.

2017 Mine Safety Five-Year Review Rules

No Change rules

1501:10-1-01 Definitions.

1501:10-1-02 Fire detection devices.

1501:10-1-03 Tag lines and tie-off lines.

1501:10-1-05 Additional requirements for the certification of mine forepersons or forepersons of gaseous mines and mine forepersons or forepersons of nongaseous mines.

Proposed to amend

1501:10-1-04 Mine medical responder.

Fund change in (C)(6) per HB 49; clarification added to (E)(2).

1501:10-1-06 Accident reporting; investigation by chief; annual report.

Emergency Operations Center phone number corrected.

1501:10-1-07 Incorporation by reference.

Publication date of federal regulations to be updated.

The rules are included below in chronological order. Each rule proposed for amendment is accompanied by an explanation of the proposed changes.

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No Change rule.

1501:10-1-01 Definitions.

As used in Chapters 1501:10-1 and 1501:10-2 of the Administrative Code:

- (A) "Chief" means the chief of the division of mineral resources management of the Ohio department of natural resources.
- (B) "MSHA" means the mine safety and health administration in the United States department of labor.

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No Change rule.

1501:10-1-02 Fire detection devices.

This rule applies to operators of underground coal mines that use conveyor belts in the operation of the mine.

- (A) The operator shall install fire detection devices on each conveyor belt that is used in the mine. The design, type, number, installation and use of fire detection devices shall provide for the earliest possible detection of a fire and shall meet the requirements of 30 C.F.R. 75.1103-1 to 30 C.F.R. 75.1103-8.
- (B) The operator shall follow a procedure that meets the requirements of 30 C.F.R. 75.1103-8 for the inspection of the fire detection devices installed on each conveyor belt.
- (C) Initial approval of fire detection devices.
 - (1) Existing underground coal operators. Within thirty days of the effective date of this rule, each existing underground coal operator shall submit a letter to the chief notifying the chief that the mine's fire detection devices have been installed in compliance with 30 C.F.R. 75.1103-1 to 30 C.F.R. 75.1103-8. The chief shall inspect the fire detection devices, approve or disapprove the installation of the fire detection devices, and notify the operator of the chief's decision.
 - (2) New underground coal operators. A new underground coal operator shall submit to the chief a plan for fire detection devices that meets the requirements of this rule. After the operator has installed the fire detection devices, he or she shall submit a letter to the chief notifying the chief that the mine's fire detection devices have been installed in compliance with 30 C.F.R. 75.1103-1 to 30 C.F.R. 75.1103-8. The chief shall inspect the fire detection devices, approve or disapprove the installation of the fire detection devices, and notify the operator of the chief's decision.
- (D) Modifications to fire detection devices. When an operator submits a proposed revision or modification to a mine's fire detection devices to MSHA for approval, the operator shall at the same time submit this proposed revision or modification to the chief for approval. The chief shall review the proposed revision or modification, approve or disapprove it, and notify the operator of the chief's decision.

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No Change rule.

1501:10-1-03 Tag lines and tie-off lines.

- (A) "Tag line" and "tie-off line" mean a durable rope or tether, or equivalent material, that allows members of a mine crew to link together while evacuating the mine during an emergency.
- (B) A tag line or tie-off line is acceptable when it allows all members of a mine crew to physically link together while evacuating the mine during an emergency.
- (C) The operator of an underground coal mine shall have, for each miner at the mine, tag lines or tie-off lines stored and available for emergency use and escape. The operator shall provide and employees of the mine shall use tag lines or tie-off lines in accordance with the requirements and procedures established in this rule. The operator shall provide and store tag lines and tie-off lines in accordance with the requirements of 30 C.F.R. 75.1714-6 and paragraphs (a)(1) and (b) of 30 C.F.R. 75.1714-4.
- (D) Inspection and approval of the use of tag lines and tie-off lines in a mine. As part of the regular quarterly inspection of a mine pursuant to section 1561.31 of the Revised Code, a deputy mine inspector shall inspect tag lines and tie-off lines to verify that they meet the requirements of this rule and section 1567.64 of the Revised Code.

Draft Rule 1501:10-1-04, dated 1/23/2018.

This is a summary of the changes made to this rule.

(B), (E), and (F) and sub-paragraphs. Revised to allow certified paramedics to be automatically eligible for mine medical responder certification and to be instructors for mine medical certification, just as EMTs already are under this rule. The reason paramedics are being added to this rule is because they have similar qualifications under Ohio law. Ohio Revised Code (ORC) section 4765.01 defines an EMT-basic, EMT-I, and paramedic as “an individual who holds a current valid certificate issued under section 4765.30 of the Revised Code...” ORC sections 4765.30 and 4765.31 have the same certification and continuing education qualifications for paramedics as for EMTs.

The Ohio Administrative Code (OAC) does differentiate between certified EMTs and certified paramedics -- under OAC Chapter 4765-17, paramedics must meet more difficult additional training requirements than EMTs. Paramedics are therefore more highly trained emergency care providers than EMTs and would clearly meet the statutory requirements for being automatically eligible for mine medical responder certification and as instructors for mine medical certification.

(C)(6). Fund changed per HB 49 of the 132nd General Assembly, effective 9/29/2017. HB 49 amended ORC section 1561.26 to state that fees collected under that section shall be deposited in the Mining Regulation and Safety Fund created in ORC section 1513.30. Section 1561.26 addresses training of rescue crew members, including mine medical responders, and as well as other safety, first aid, and rescue classes.

(E)(2). Clarification added that the mine medical responder instructor shall be an EMT-basic, EMT-I or paramedic "as defined in section 1565.15 of the Revised Code." The rule already applies this clarification to EMTs in paragraphs (E)(1) and (F)(1). This clarification is also needed for EMTs or paramedics who are contracted by the Division to provide instruction.

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Dated 1/23/2018 Changes to (B), (C)(6) and (E), and (F).

1501:10-1-04 Mine medical responder.

- (A) Training requirements. A mine medical responder, as defined in section 1565.15 of the Revised Code, shall be trained and certified in accordance with this rule. Mine medical responder training shall include all of the following:
- (1) An initial mine medical responder training course of a minimum of eighty-three hours, taught by a mine medical responder certification instructor. The training course shall be developed by the mine safety program of the division of mineral resources management and approved by the chief and shall include a course agenda and material that specifically focus on treating injuries and illnesses associated with underground coal mining;
 - (2) A final examination, developed by the mine safety program of the division of mineral resources management and approved by the chief, taken at the completion of the initial training course, that directly measures the skills, abilities and learned proficiencies of the student. Part of this examination shall be written; part shall be verbal and hands-on, during which the student shall exhibit acquired skills and proficiencies for the treatment of injured miners including splinting, bandaging, control of bleeding and preparation for transport;
 - (3) A mine medical responder refresher training course of a minimum of sixteen hours every two years following initial certification as a mine medical responder, taught by a mine medical responder certification instructor. The training course shall be developed by the mine safety program of the division of mineral resources management and approved by the chief and shall include a course agenda and material that specifically focus on treating injuries and illnesses associated with underground coal mining; and
 - (4) Any other requirements, criteria or procedures that the chief determines are necessary regarding the training, examination, and refresher training of mine medical responders.
- (B) Eligibility requirements for mine medical responder.
- (1) Persons with a current EMT or paramedic certificate.
 - (a) An EMT-basic, ~~or an~~ EMT-I or paramedic, as defined in section 1565.15 of the Revised Code, whose certification is current shall automatically receive the mine medical responder certification upon submission to the chief of an application for certification and presentation of his or her current EMT or paramedic certificate. An EMT-basic, ~~or an~~ EMT-I or paramedic from a state other than Ohio shall also submit to the chief a letter from the certifying authority stating that the applicant's EMT or paramedic certification is current and in good standing in that state.
 - (b) An EMT-basic, ~~or an~~ EMT-I or paramedic who automatically receives the mine medical responder certification under paragraph (B)(1)(a) of this rule and who does not renew his or her EMT-basic, ~~or~~ EMT-I or paramedic certificate pursuant to rule 4765-8-04 of the Administrative Code shall continue to meet the requirements of a mine medical responder

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provided he or she applies for and successfully completes the mine medical responder refresher training course described in paragraph (A)(3) of this rule during the same calendar year as the date of the expiration of his or her EMT-basic, ~~or~~ EMT-I or paramedic certificate. This person shall attend the entire mine medical responder refresher training course in order to successfully complete it.

(2) Persons applying for initial mine medical responder training and certification. A person who applies for initial training, examination, and certification as a mine medical responder shall:

(a) Be able to read and write the English language; and

(b) Show proof of successful completion of new miner training, which shall include all parts of the new miner training required under 30 C.F.R. 48.5 with the exception of the approximately eight hours of training that shall be given at the minesite as required under paragraph (a) of 30 C.F.R. 48.5.

(C) Fees for initial training, examination, and refresher training.

(1) An applicant for initial training as a mine medical responder shall pay a non-refundable fee of two hundred fifty dollars, submitted on the first day of the initial mine medical responder training course.

(2) An applicant for the mine medical responder final examination shall pay a non-refundable fee of two hundred fifty dollars, submitted at the time the examination is taken.

(3) An applicant applying to retake part or all of the final examination shall pay a non-refundable fee of fifty dollars, submitted at the time the examination is retaken.

(4) An applicant for mine medical responder refresher training shall pay a non-refundable fee of one hundred dollars, submitted on the first day of the mine medical responder refresher training course.

(5) The fee shall not be refunded if the applicant does not successfully complete the mine medical responder training course, examination, or refresher training course.

(6) Fees collected under paragraph (C) of this rule shall be paid into the state treasury to the credit of the mining regulation and safety fund created in section ~~1561.48~~ 1513.30 of the Revised Code.

(D) Certification.

(1) The chief shall issue a mine medical responder certificate to each applicant for mine medical responder certification who successfully completes the initial mine medical responder training course under paragraph (A)(1) of this rule and passes the final examination of paragraph (A)(2) of this rule.

(a) The applicant shall attend all parts of the training course in order to successfully complete it.

(b) The applicant shall attain a grade of eighty per cent or higher on each part of the examination to pass.

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- (c) An applicant not attaining a passing grade on one part of the examination may apply to retake that part only. An applicant not attaining a passing grade on two or more parts of the examination shall wait at least thirty days and may then apply to retake the entire examination. The chief shall allow an applicant to retake the examination only one time.
 - (d) An applicant who fails to pass the examination after retaking all or part of it shall not be certified unless he or she again successfully completes the initial mine medical responder training course of paragraph (A)(1) of this rule and then passes the final examination of paragraph (A)(2) of this rule.
 - (2) Certification shall expire two years after the date of issuance unless the mine medical responder applies for and successfully completes the mine medical responder refresher training course described in paragraph (A)(3) of this rule during the same calendar year as the date of expiration of the certification. The mine medical responder shall attend the entire refresher training course in order to successfully complete it. The mine safety program of the division of mineral resources management shall establish a regular schedule for mine medical responder refresher training.
 - (3) A person who allows his or her mine medical responder certification to expire may apply to the chief for recertification, including with the application a detailed explanation of why the certification was not renewed on time. The chief shall review such an application on a case-by-case basis and shall determine whether the person may be recertified by successfully completing the mine medical responder refresher training course of paragraph (A)(3) of this rule or by successfully completing the initial mine medical responder training course and passing the final examination of paragraphs (A)(1) and (A)(2) of this rule.
- (E) Credentials for mine medical responder certification instructors. A mine medical responder certification instructor shall be:
- (1) An employee of the division of mineral resources management who is an EMT-basic, ~~or an EMT-I~~ or paramedic, as defined in section 1565.15 of the Revised Code;
 - (2) An EMT-basic, ~~or an EMT-I~~ or paramedic, as defined in section 1565.15 of the Revised Code, contracted by the division of mineral resources management to provide mine medical responder instruction; or
 - (3) An EMT-basic, ~~or an EMT-I~~ or paramedic who meets the requirements of paragraph (F) of this rule.
- (F) Mine medical responder training provided by an operator. A operator of an underground coal mine who wishes to provide mine medical responder training for his or her own employees shall follow the requirements and modified fee structure of paragraph (F) of this rule.
- (1) Mine medical responder certification instructors hired by an operator. An operator may use an employee or a contracted worker to conduct the initial mine medical responder training of paragraph (A)(1) of this rule and the mine medical responder refresher training of paragraph (A)(3) of this rule provided the employee or contracted worker is an EMT-basic, ~~or an EMT-I~~ or paramedic, as defined in section 1565.15 of the Revised Code, who meets the following requirements:

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- (a) The EMT-basic, ~~or~~ EMT-I or paramedic shall apply to the chief to be approved as a mine medical responder certification instructor, successfully complete the initial mine medical responder training course of paragraph (A)(1) of this rule, pass the examination of paragraph (A)(2) of this rule, and pay the fees required under paragraphs (C)(1) and (C)(2) of this rule. An EMT-basic, ~~or an~~ EMT-I or paramedic from a state other than Ohio shall also submit to the chief a letter from the certifying authority stating that the applicant's EMT or paramedic certification is current and in good standing in that state. An EMT-basic, ~~or~~ EMT-I or paramedic who meets the requirements of this paragraph shall be approved by the chief as a mine medical responder certification instructor; and
- (b) An EMT-basic, ~~or~~ EMT-I or paramedic who is approved by the chief as a mine medical responder certification instructor shall annually submit to the chief documentation to show that his or her EMT-basic, ~~or~~ EMT-I or paramedic certification is current.
- (2) Initial mine medical responder training. An EMT-basic, ~~or~~ EMT-I or paramedic who is approved by the chief as a mine medical responder certification instructor under paragraph (F)(1) of this rule shall use the initial mine medical responder training course of paragraph (A)(1) of this rule to conduct initial mine medical responder training and shall complete and sign an MSHA form 5000-23 for each applicant who, pursuant to paragraph (D)(1)(a) of this rule, successfully completes the initial mine medical responder training. The applicant shall submit a copy of the completed and signed MSHA form 5000-23 to the chief when applying to take the final examination of paragraph (A)(2) of this rule.
- (3) Mine medical responder refresher training. An EMT-basic, ~~or~~ EMT-I or paramedic who is approved by the chief as a mine medical responder certification instructor under paragraph (F)(1) of this rule shall use the refresher training course of paragraph (A)(3) of this rule to conduct mine medical responder refresher training and shall complete and sign an MSHA form 5000-23 for each applicant who, pursuant to paragraph (D)(2) of this rule, successfully completes the refresher training. The applicant shall submit a copy of the completed and signed MSHA form 5000-23 to the chief to show that he or she has met the refresher training requirements of paragraph (D)(2) of this rule.
- (4) Modified fee structure for mine medical responder training provided by an operator. An applicant for initial mine medical responder training who is being trained pursuant to paragraph (F)(2) of this rule shall not pay the fee required under paragraph (C)(1) of this rule. An applicant for mine medical responder refresher training who is being trained pursuant to paragraph (F)(3) of this rule shall not pay the fee required under paragraph (C)(4) of this rule.

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No Change rule.

1501:10-1-05 Additional requirements for the certification of mine forepersons or forepersons of gaseous mines and mine forepersons or forepersons of nongaseous mines.

- (A) A person who applies for a certificate as a mine foreperson or a foreperson of gaseous mines shall meet the requirements of division (B) of section 1561.16 of the Revised Code and shall pay a fee of twenty-five dollars to the chief on the first day of the examination. A person who applies for a certificate as a mine foreperson or a foreperson of nongaseous mines shall meet the requirements of division (A) of section 1561.17 of the Revised Code and shall pay a fee of twenty-five dollars to the chief on the first day of the examination.
- (B) Retraining of mine foreperson or foreperson. A person who has been issued a certificate as a mine foreperson or a foreperson under section 1561.16 or 1561.17 of the Revised Code and who has not worked in an underground coal mine for a period of one or more calendar years shall successfully complete a retraining course that meets the requirements of experienced miner training of 30 C.F.R. 48.6 before performing the duties of a mine foreperson or foreperson. The person shall attend all parts of the retraining course in order to successfully complete it.
- (C) Recertification of mine foreperson or foreperson. A person who has been issued a certificate as a mine foreperson or a foreperson under section 1561.16 or 1561.17 of the Revised Code and who has not worked in an underground coal mine for a period of more than two calendar years shall apply for and obtain recertification from the chief pursuant to paragraph (C) of this rule before performing the duties of a mine foreperson or foreperson.
- (1) Prior to applying for recertification, the person shall successfully complete a retraining course pursuant to paragraph (B) of this rule.
- (2) An applicant for recertification shall be examined by the chief in accordance with section 1561.15 of the Revised Code. The applicant shall pay a fee of twenty-five dollars to the chief on the first day of the examination.
- (D) Fees collected under this rule are non-refundable.

Draft Rule 1501:10-1-06, dated 8/29/2017.

This is a summary of the changes made to this rule.

(A)(2). Phone number for the Emergency Operations Center corrected.

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Dated 8/29/2017

1501:10-1-06 Accident reporting; investigation by chief; annual report.

Nothing in this rule applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code; such activities shall follow the reporting, investigation, and annual report requirements of Chapter 1501:14-2 of the Administrative Code. All other mines under the jurisdiction of the division of mineral resources management (DMRM) shall follow the reporting, investigation, and annual report requirements of this rule.

(A) Accidents requiring immediate direct notification.

- (1) Operators of mines required to comply with the MSHA immediate notification requirement of 30 C.F.R. 50.10 shall provide immediate direct notification in accordance with paragraph (A)(2) of this rule concurrent with the required notification to MSHA. All such operators shall also file a written report of the accident by submitting to the chief, within ten working days, a copy of the required MSHA accident report concurrent with the submission of the report to MSHA.
- (2) For a life-threatening mine emergency in which there has been a serious accident or a fatality or for which a mine rescue team is needed, the operator shall make direct notification to the emergency operations center of the Ohio department of natural resources by telephone at (614) 799-~~9574~~[9538](tel:6147999538). For all other accidents for which the operator is required to comply with the MSHA immediate notification requirement of 30 C.F.R. 50.10, the operator shall make direct notification to the appropriate DMRM mine safety supervisor or resident mine inspector.
- (3) For the purposes of this rule, "direct notification" means person to person or phone contact between an operator or his or her authorized representative and the appropriate DMRM mine safety supervisor or resident mine inspector, or the emergency operations center of the Ohio department of natural resources. Voice mail or electronic mail messages are not considered direct notification.

(B) Accidents, occupational injuries and occupational illnesses requiring written notification.

Operators of mines required to comply with the MSHA written notification requirements 30 C.F.R. Part 50 Subpart C shall file written reports of accidents, occupational injuries or occupational illnesses with the chief within ten working days of occurrence of the accident or injury, or diagnosis of the illness, by submitting a copy of the required MSHA report to the chief.

(C) The DMRM will conduct an investigation of any fatality immediately upon receipt of notice; any accident deemed serious by the chief shall be investigated within twenty-four hours of notice. In conducting such investigation(s), the DMRM shall prepare a written report concerning the factors contributing to the accident. Such reports shall be provided to the mine operator. A mine operator may provide written comments to the chief concerning such reports. Such reports and comments shall become a part of the accident investigation file and official inspection records maintained by the DMRM.

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- (D) The DMRM accident investigator(s) shall provide written recommendations to the chief concerning appropriate remedial measures to prevent the reoccurrence of a fatality or serious accident.

The chief shall provide notice to other inspectors and the mining industry, as appropriate, in an effort to preclude a similar occurrence at another mine. The chief shall summarize such accident, injury, and illness reports on an annual basis in preparation of the report required by section 1561.04 of the Revised Code.

Draft Rule 1501:10-1-07, dated 9/7/2017.

This is a summary of the changes made to this rule.

Update of the date of publication of the federal regulations referenced in the Mine Safety rules, Ohio Administrative Code Chapters 1501:10-1 and 1501:10-2.

Before this rule is filed with JCARR, the dates in the rule will be updated with the most recent federal publication dates.

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1501:10-1-07 Incorporation by reference.

The federal regulation references included in the rules of Chapters 1501:10-1 and 1501:10-2 of the Administrative Code can generally be found in public libraries or electronically at the website <http://www.gpo.gov/fdsys/>. The publishing date for Title 30 is July 1, 2016. These regulations are:

- (A) 30 C.F.R. Part 7;
- (B) 30 C.F.R. Part 40;
- (C) 30 C.F.R. Part 48;
- (D) 30 C.F.R. Part 50;
- (E) 30 C.F.R. Part 75.

Before this rule is filed with JCARR, the dates in the rule will be updated with the most recent federal publication dates.