



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Brian Becker, Ohio Department of Natural Resources

FROM: Jacob Ritzenthaler, Business Advocate

DATE: March 21, 2024

RE: **CSI Review – Mine Safety (OAC 1501:10-1-01 through 1501:10-1-07 and 1501:10-2-01 through 1501:10-2-27)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of thirty-one amended rules and two no change rules proposed by the Ohio Department of Natural Resources (ODNR) as part of the statutory five-year review requirement. This rule package was submitted to the CSI Office on March 1, 2024, and the public comment period was held open through March 16, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 1, 2024.

The rules in this package set forth requirements for mine safety, including requirements concerning the use of diesel equipment, fuel storage, fire suppression systems, and employee training. Many of the rules in this package are amended to remove unnecessary regulatory restrictions; other amendments are described below. OAC Chapter 1501:10-1 establishes general provisions for mine safety. OAC 1501:10-1-01 lists relevant definitions and is proposed without changes. OAC 1501:10-1-02 sets forth requirements for installation and approval of fire detection devices on conveyor belts. OAC 1501:10-1-03 concerns the use of tag lines and tie-off lines. OAC 1501:10-1-04 and 1501:10-1-05 set forth training and examination requirements for mine medical responders and certification standards for mine forepersons. The rules are amended to remove the fees for training, as ODNR states that the costs associated with processing and accounting for the fees are no longer beneficial.

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OAC 1501:10-1-06 concerns accident reporting, investigations of accidents, and summarization of accidents, injuries, and illnesses in an annual report. OAC 1501:10-1-07 lists the federal regulations incorporated by reference and is amended to update the publishing date.

OAC Chapter 1501:10-2 establishes requirements for the use of diesel equipment in underground coal mines. OAC 1501:10-2-01 sets forth the scope of applicability for the chapter and is proposed without changes. OAC 1501:10-2-02 lists relevant definitions and is amended to remove the definition for the Diesel Technical Advisory Committee (DTAC), as the rule establishing the committee is proposed for rescission. OAC 1501:10-2-03 sets forth general requirements for the use of diesel equipment, including standards for engines, approval status, and prohibitions against leaving equipment unattended during operation. OAC 1501:10-2-04 requires diesel equipment to be approved before being taken underground and listed on an inventory sheet, as well as requiring the approval of maintenance, ventilation, and training plans to be approved. OAC 1501:10-2-05, 1501:10-2-06, and 1501:10-2-07 establish requirements for exhaust systems and ventilation and are amended to remove references to the DTAC. OAC 1501:10-2-08, 1501:10-2-09, and 1501:10-2-10 set forth requirements for the storage, transfer, and transportation of diesel fuel. OAC 1501:10-2-11 and 1501:10-2-12 set forth requirements for fire suppression system installation, operation, inspection, and maintenance for equipment, transportation, and underground storage facilities. OAC 1501:10-2-13 and 1501:10-2-14 prohibit the use of volatile or chemical starting aids and set standards for fueling locations. OAC 1501:10-2-15 requires that all underground mining employees receive training in fighting diesel fires and handling and disposal of equipment filters. OAC 1501:10-2-16 and 1501:10-2-17 establish requirements for the maintenance of diesel equipment and the types of records that operations must maintain. OAC 1501:10-2-18 lists the duties of equipment operators, including information required to be noted during pre-operational and operational examinations. OAC 1501:10-2-19 requires maintenance to be performed on diesel equipment at intervals not to exceed one hundred hours, lists the required types of maintenance activities, and states the conditions for extending the interval for replacing engine oil and filters. OAC 1501:10-2-20 provides guidelines for operations to establish baseline exhaust emissions values. OAC 1501:10-2-21 requires that diagnostic testing be performed on equipment at intervals not to exceed one hundred hours, provides a list of diagnostic activities, and establishes the baselines for failure of the diagnostic test. OAC 1501:10-2-22 through 1501:10-2-26 establish training and operation requirements for employees. OAC 1501:10-2-27 establishes the DTAC and is proposed for rescission.

During early stakeholder outreach, ODNR sent the proposed rules to industry stakeholders for feedback, including the Ohio Coal Association, Ohio Aggregates and Industrial Minerals Association, and Ohio Environmental Council. No comments were received during that time or during the CSI public comment period.

The business community impacted by the rules includes all underground coal and industrial mineral mining operations. The adverse impacts created by the rules include the training of personnel, approval of equipment and plans, and compliance with requirements for the operation of equipment, storage and handling of fuel, fire suppression systems, and records. Mine medical responders are required to complete a training course of at least eighty-three hours and an examination, as well as hold a current emergency medical technician or paramedic certificate. ODNR states that the removal of fees for mine medical responders and mine forepersons will remove burdens for individuals seeking to receive certification. ODNR states that the adverse impacts created by the rules are necessary to comply with statutory requirements and to provide safe working conditions in mines.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that ODNR should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.