

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2828 Session of
1996

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JUNE 28, 1996

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 7, 1996

AN ACT

1 Amending the act of July 17, 1961 (P.L.659, No.339), entitled
2 "An act relating to bituminous coal mines; amending,
3 revising, consolidating and changing the laws relating
4 thereto; providing for the health and safety of persons
5 employed in and about the bituminous coal mines of
6 Pennsylvania and for the protection and preservation of
7 property connected therewith; prescribing powers and duties
8 in connection therewith; prescribing penalties; and repealing
9 existing laws," providing standards and procedures for the
10 use and maintenance of diesel-powered equipment; establishing
11 the Technical Advisory Committee on Diesel-Powered Equipment;
12 providing for the committee's powers and duties; creating a
13 fund; and making editorial changes.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 103(13), (14) and (15) of the act of July
17 17, 1961 (P.L.659, No.339), known as the Pennsylvania Bituminous
18 Coal Mine Act, are amended and the section is amended by adding
19 clauses to read:

20 Section 103. Definitions.--Subject to additional definitions
21 contained in the subsequent articles, or sections hereof, and
22 unless the context otherwise requires in this act, the following

1 words and terms shall have these meanings:

2 * * *

3 (13) "Department"--The Department of [Mines and Mineral
4 Industries organized and operating in the Commonwealth of
5 Pennsylvania] Environmental Protection of the Commonwealth,
6 hereinafter referred to as the department.

7 (14) "Secretary [of Mines and Mineral Industries]"--The
8 [head of the Department of Mines and Mineral Industries
9 appointed and commissioned by the Governor] Secretary of
10 Environmental Protection of the Commonwealth or his designee
11 hereinafter referred to as the secretary.

12 (15) "Deputy [Secretary of Mines and Mineral Industries]
13 secretary"--A person appointed by the secretary, with approval
14 of the Governor, to assist and aid the secretary in carrying out
15 the provisions of this act, hereinafter referred to as the
16 deputy secretary.

17 * * *

18 (28) "MSHA"--The Mine Safety and Health Administration
19 within the United States Department of Labor.

20 (29) "DPEP"--Diesel-powered equipment package.

21 (30) "Advisory committee"--The Technical Advisory Committee
22 on Diesel-Powered Equipment established in section 224-A.

23 Section 2. Sections 104(a) and 113 of the act are amended to
24 read:

25 Section 104. The Secretary and the Deputy Secretary.--(a) It
26 shall be the duty of the secretary to [devote the whole of his
27 time to duties of his office, and to] see that the mining laws
28 of the Commonwealth are faithfully executed. The secretary shall
29 appoint, with the approval of the Governor, a deputy secretary
30 [for the bituminous division] to assist with his duties. The

1 secretary and the deputy secretary are hereby invested with the
2 same power and authority as the inspectors to enter and examine
3 any mine within the Commonwealth, and the works and machinery
4 connected therewith, and to give such aid and instruction to the
5 inspectors from time to time as they may deem best calculated to
6 protect the health and promote the safety of all persons
7 employed in and about the mines.

8 * * *

9 Section 113. Electrical Inspector; Expenses.--Each
10 electrical inspector may also incur traveling expenses, and such
11 other expenses as may be necessary for the proper discharge of
12 his duties under the provisions of this act. The secretary,
13 through the Department of [Property and Supplies] General
14 Services, shall purchase for the electrical inspectors such
15 instruments and equipment as he deems necessary to assist them
16 in carrying out the duties imposed upon them by this act.

17 Section 3. Section 123 of the act, amended December 21, 1973
18 (P.L.436, No.154), is amended to read:

19 Section 123. Discretionary Power of Mine Inspectors.--The
20 mine inspector shall exercise sound discretion in the
21 performance of his duties under the provisions of this act, and
22 if the operator, superintendent, mine foreman, or other person
23 employed in or about any mine, shall be dissatisfied with any
24 decision the mine inspector has given in the discharge of his
25 duties, which decision shall be in writing, it shall be the duty
26 of the dissatisfied person to appeal from said decision to the
27 secretary, who shall at once appoint a commission to accompany
28 promptly the mine inspector in the district to make further
29 examination into the matter in dispute. If the said commission
30 shall agree with the decision of the mine inspector in the

1 district, their decision shall be final and conclusive, unless
2 an appeal is taken in accordance with the provisions of [the act
3 of June 4, 1945 (P.L.1388, No.442), known as the "Administrative
4 Agency Law."] 2 Pa.C.S. (relating to administrative law and
5 procedure).

6 Section 4. Section 126(b) of the act is amended to read:

7 Section 126. Mine Rescue Station; Equipment; Instructors.--*

8 * *

9 (b) The secretary, with the consent of the Governor, shall
10 have the authority to purchase, through the Department of
11 [Property and Supplies] General Services, two trucks equipped
12 with the necessary breathing apparatus, gas masks, first-aid
13 supplies, analytical apparatus and such other chemical and
14 scientific instruments commonly used and necessary in the work
15 of first aid and mine rescue. The secretary, with the consent of
16 the Governor, shall also have the authority to purchase, through
17 the Department of [Property and Supplies] General Services, such
18 emergency mine rescue trucks and equipment, as in his opinion
19 shall be deemed necessary, for use in mine catastrophies.

20 * * *

21 Section 5. Section 242(c) of the act, amended November 24,
22 1967 (P.L.544, No.266), is amended to read:

23 Section 242. Ventilation Requirements.--* * *

24 (c) Where belt conveyors are installed, main stoppings and
25 regulators shall be so arranged as to reduce the quantity of air
26 traveling in the belt conveyor entry to a minimum for effective
27 ventilation and to provide an intake air split as an escapeway
28 from the face area to the main air current.

29 This provision does not apply to approved mobile belt
30 conveyors when such are considered part of the equipment

1 required for face mining operations, provided doors are
2 installed in all stoppings between the two belt conveyor entries
3 to provide an escapeway in cases of fire, smoke, or any other
4 emergency, providing the application submitted by the operator
5 has the approval of a Commission of Mine Inspectors designated
6 by the [Secretary of Mines and Mineral Industries.] secretary.

7 * * *

8 Section 6. Section 269(b) of the act is amended to read:

9 Section 269. Underground Equipment; Use and Maintenance.--*

10 * *

11 (b) Underground equipment powered by internal combustion
12 engines using petroleum products, alcohol, or any other compound
13 shall not be used in a coal mine unless such equipment has been
14 approved by the secretary for underground use in bituminous coal
15 mines[.] and the equipment is operated and maintained in
16 compliance with Article II-A.

17 * * *

18 Section 7. The act is amended by adding an article to read:

19 ARTICLE II-A.

20 DIESEL-POWERED EQUIPMENT

21 Section 201-A. Underground Use.--(a) Underground use of
22 inby and outby diesel-powered equipment, including mobile
23 equipment, stationary equipment and equipment of all horsepower
24 ratings, may only be approved, operated and maintained as
25 provided in this article, except for emergency firefighting
26 equipment to be used specifically for that purpose.

27 (b) All diesel-powered equipment shall be attended while in
28 operation with the engine running in underground mines. For
29 purposes of this paragraph, "attended" shall mean an equipment
30 operator is within sight or sound of the diesel-powered

1 equipment.

2 (c) Inby and outby diesel-powered equipment may be used in
3 underground mines if the inby or outby diesel-powered equipment
4 uses an engine approved or certified by MSHA, as applicable, for
5 inby or outby use that, when tested at the maximum fuel-air
6 ratio, does not require an MSHA approval plate ventilation rate
7 exceeding 150 c.f.m. per rated horsepower.

8 Section 202-A. Diesel-Powered Equipment Package.--(a) All
9 diesel-powered equipment shall be approved by the department as
10 a complete diesel-powered equipment package which shall be
11 subject to all of the requirements, standards and procedures set
12 forth in this article.

13 (b) Diesel engines shall be certified or approved, as
14 applicable, by MSHA and maintained in accordance with MSHA
15 certification or approval and department approval.

16 Section 203-A. Exhaust Emissions Control.--(a) (1)
17 Underground diesel-powered equipment shall include an exhaust
18 emissions control and conditioning system that has been
19 laboratory tested with the diesel engine, except as provided in
20 paragraph (3), using the ISO 8178-1 test and has resulted in
21 diesel particulate matter emissions that do not exceed an
22 average concentration of 0.12 mg over m to the third power when
23 diluted by fifty per cent of the MSHA approval plate ventilation
24 rate for that diesel engine.

25 (2) The exhaust emissions control and conditioning system
26 shall be required to successfully complete a single series of
27 laboratory tests conducted at a laboratory accepted by the
28 secretary for each diesel engine, except as provided in
29 paragraph (3).

30 (3) An exhaust emissions control and conditioning system may

1 be approved for multiple diesel engine applications through a
2 single series of laboratory tests, known as the ISO 8178-1 test,
3 only if data is provided to the advisory committee that reliably
4 verifies that the exhaust emissions control and conditioning
5 system will meet, for each diesel engine, the in-laboratory
6 diesel particulate matter standard established by this
7 subsection. Data provided to satisfy this provision shall
8 include diesel particulate matter production rates for the
9 specified engine as measured during the ISO 8178-1 test, if
10 available. If ISO 8178-1 test data for diesel particulate matter
11 production is not available for a specified engine, comparable
12 data may be provided to the advisory committee that reliably
13 verifies that the exhaust emissions control and conditioning
14 system will meet, for the specified diesel engine, the in-
15 laboratory diesel particulate matter standard established by
16 this subsection. This standard shall only be used for in-
17 laboratory testing for approval of diesel-powered equipment for
18 use underground.

19 (b) The exhaust emissions control and conditioning system
20 shall include the following:

21 (1) A Diesel Particulate Matter (DPM) filter capable of an
22 average of ninety-five per cent or greater reduction of DPM
23 emissions.

24 (2) An oxidation catalyst or other gaseous emissions control
25 device capable of reducing undiluted carbon monoxide emissions
26 to 100 ppm or less under all conditions of operation at normal
27 engine operating temperature range.

28 (3) An engine surface temperature control capable of
29 maintaining significant external surface temperatures below
30 three hundred two degrees Fahrenheit.

1 (4) A heat exchanger capable of reducing the exhaust gas
2 temperature below three hundred two degrees Fahrenheit.

3 (5) An automatic engine shutdown system that will shut off
4 the engine before the exhaust gas temperature reaches three
5 hundred two degrees Fahrenheit, and, if waterjacketed components
6 are used, before the engine coolant temperature reaches two
7 hundred twelve degrees Fahrenheit. A warning shall be provided
8 to alert the equipment operator prior to engine shutdown.

9 (6) A spark arrestor system.

10 (7) A flame arrestor system.

11 (8) A sampling port for measurement of undiluted and
12 untreated exhaust gases as they leave the engine.

13 (9) A sampling port for measurement of treated, undiluted
14 exhaust gases before they enter the mine atmosphere.

15 (10) For inby diesel equipment, any additional requirements
16 of MSHA regulations at 30 CFR Pt. 36 (relating to mobile diesel-
17 powered transportation equipment for gassy noncoal mines and
18 tunnels).

19 (c) On-board engine performance and maintenance diagnostics
20 systems shall be capable of continuously monitoring and giving
21 read-outs for clauses (1), (2), (3), (4), (5), (6), (7) and (8)
22 of this subsection. The diagnostics system shall identify levels
23 that exceed the engine and/or component manufacturer's
24 recommendation or the applicable MSHA or bureau requirements as
25 to the following:

26 (1) Engine speed.

27 (2) Operating hour meter.

28 (3) Total intake restriction.

29 (4) Total exhaust back pressure.

30 (5) Cooled exhaust gas temperature.

1 (6) Coolant temperature.

2 (7) Engine oil pressure.

3 (8) Engine oil temperature.

4 (d) The DPEP shall include a quality control plan for
5 assuring that the diesel fuel used shall be a low volatile
6 hydrocarbon fuel classified as ASTM D975 fuel with a cetane
7 index of at least 45, a maximum aromatic content of thirty-five
8 per cent, a sulfur mass of less than five hundredths of one per
9 cent and a flash point of one hundred degrees Fahrenheit or
10 greater at standard temperature and pressure.

11 Section 204-A. Ventilation.--(a) Minimum quantities of
12 ventilating air where diesel-powered equipment is operated shall
13 be maintained pursuant to this section.

14 (b) Each specific model of diesel-powered equipment shall be
15 approved by the department before it is taken underground. The
16 department shall require an approval plate that must be attached
17 to each piece of the diesel-powered equipment. The approval
18 plate shall specify the minimum ventilating air quantity for the
19 specific piece of diesel-powered equipment. The minimum
20 ventilating air quantity shall be determined by the bureau based
21 on the amount of air necessary at all times to maintain the
22 exhaust emissions at levels not exceeding the exposure limits
23 established in section 219-A.

24 (c) The minimum quantities of air in any split where any
25 individual unit of diesel-powered equipment is being operated
26 shall be at least that specified on the approval plate for that
27 equipment. Air quantity measurements to determine compliance
28 with this requirement shall be made at the individual unit of
29 diesel-powered equipment.

30 (d) Where multiple units are operated, the minimum quantity

1 shall be at least one hundred per cent of the highest approval
2 plate air quantity plus seventy-five per cent of the next
3 highest quantity plus fifty per cent of the approval plate
4 quantity of each additional unit operating in that split. Air
5 quantity measurements to determine compliance with this
6 requirement shall be made at the most downwind unit of diesel-
7 powered equipment that is being operated in that air split.

8 (e) The minimum quantities of air in any split where any
9 diesel-powered equipment is operated shall be in accordance with
10 the minimum air quantities required in subsections (a) and (b)
11 and shall be specified in the mine diesel ventilation plan.

12 Section 205-A. Fuel Storage Facilities.--(a) A mobile
13 underground diesel fuel storage facility shall be any facility
14 designed and constructed to provide for the temporary storage of
15 diesel fuel transportation units or the dispensing of diesel
16 fuel.

17 (b) Diesel-powered equipment shall be used underground only
18 with low volatile hydrocarbon fuel classified as ASTM D975
19 diesel fuel with a cetane index of at least 45, a maximum
20 aromatic content of thirty-five per cent, a sulfur mass of less
21 than five hundredths of one per cent and a flash point of one
22 hundred degrees Fahrenheit or greater at standard temperature
23 and pressure.

24 (c) Underground diesel fuel storage facilities shall meet
25 the following general requirements:

26 (1) Fixed underground diesel fuel storage facilities are
27 prohibited.

28 (2) No more than five hundred gallons of diesel fuel shall
29 be stored in each mobile underground diesel fuel storage
30 facility.

(d) Mobile underground diesel fuel storage facilities shall be located as follows:

(1) at least one hundred feet from shafts, slopes, shops and explosives magazines;

(2) at least twenty-five feet from trolley wires, haulage ways, power cables and electric equipment not necessary for the operation of the storage facilities; and

(3) in an area that is as dry as practicable.

(e) (1) Mobile underground diesel fuel storage facilities shall meet the construction requirements and safety precautions enumerated in this subsection.

(2) Mobile underground diesel fuel storage facilities shall meet all of the following:

(i) Be constructed of noncombustible materials and provided with a means for automatic enclosure.

(ii) Be ventilated directly into the return air course using noncombustible materials.

(iii) Be equipped with an automatic fire suppression system complying with section 209-A.

(iv) Be equipped with at least two portable twenty-pound multipurpose dry chemical type fire extinguishers.

(v) Be marked with conspicuous signs designating combustible liquid storage.

(vi) Be included in the pre-shift examination.

(3) Welding or cutting other than that performed in accordance with paragraph (4) shall not be done within fifty feet of a diesel fuel storage facility.

(4) When it is necessary to weld, cut or solder pipelines, cylinders, tanks or containers that may have contained diesel fuel, the following requirements shall apply:

1 (i) Cutting or welding shall not be performed on or within
2 containers or tanks that have contained combustible or flammable
3 materials until such containers or tanks have been thoroughly
4 purged and cleaned or inerted and a vent or opening is provided
5 to allow for sufficient release of any buildup pressure before
6 heat is applied.

7 (ii) Diesel fuel shall not be allowed to enter pipelines or
8 containers that have been welded, soldered, brazed or cut until
9 the metal has cooled to ambient temperature.

10 Section 206-A. Transfer of Diesel Fuel.--(a) Diesel fuel
11 shall be transferred as provided in this section.

12 (b) When diesel fuel is transferred by means of a pump and a
13 hose equipped with a nozzle containing a self-closing valve, a
14 powered pump may be used only if:

15 (1) the hose is equipped with a nozzle containing a self-
16 closing valve without a latch-open device; and

17 (2) the pump is equipped with an accessible emergency
18 shutoff switch.

19 (c) Diesel fuel shall not be transferred using compressed
20 gas.

21 (d) Diesel fuel shall not be transferred to the fuel tank of
22 diesel-powered equipment while the equipment's engine is
23 running.

24 (e) Diesel fuel piping systems shall be designed and
25 operated as dry systems.

26 (f) All piping, valves and fittings shall meet the
27 following:

28 (1) Be capable of withstanding working pressures and
29 stresses.

30 (2) Be capable of withstanding four times the static

1 pressures.

2 (3) Be compatible with diesel fuel.

3 (4) Be maintained in a manner that prevents leakage.

4 (g) Vertical pipelines shall have manual shutoff valves
5 installed at the surface filling point and at the underground
6 discharge point.

7 (h) Unburied diesel fuel pipelines shall not exceed three
8 hundred feet in length and shall have shutoff valves located at
9 each end of the unburied pipeline.

10 (i) Horizontal pipelines shall not be used to distribute
11 fuel throughout the mine.

12 (j) Diesel fuel piping systems shall be used only to
13 transport fuel from the surface directly to a single underground
14 diesel fuel transfer point.

15 (k) When boreholes are used, the diesel fuel piping system
16 shall not be located in a borehole with electric power cables.

17 (l) Diesel fuel pipelines located in any shaft shall be
18 included as part of the required examination of the shaft.

19 (m) Diesel fuel piping systems located in entries shall not
20 be located on the same side of the entry as electric cables or
21 power lines.

22 (n) Diesel fuel pipelines shall not be located in any
23 trolley-haulage entry except that they may cross the entry,
24 perpendicular, if buried or otherwise protected from damage and
25 sealed.

26 (o) Diesel fuel piping systems shall be protected to prevent
27 physical damage.

28 Section 207-A. Containers.--(a) Containers for the
29 transport of diesel fuel shall meet the requirements of this
30 section.

1 (b) Diesel fuel shall be transported only in containers
2 specifically designed for the transport of diesel fuel.

3 (c) No more than one safety can, conspicuously marked, shall
4 be transported on a vehicle at any time.

5 (d) Containers other than safety cans used to transport
6 diesel fuel shall be provided with the following:

7 (1) Devices for venting.

8 (2) Self-closing caps.

9 (3) Vent pipes at least as large as the fill or withdrawal
10 connection, whichever is larger, but not less than one and one-
11 fourth inch nominal inside diameter.

12 (4) Liquid tight connections for all container openings that
13 are identified by conspicuous markings and closed when not in
14 use.

15 (5) Shutoff valves located within one inch of the tank shell
16 on each connection through which liquid can normally flow.

17 (e) When tanks are provided with openings for manual
18 gauging, liquid tight caps or covers shall be provided and shall
19 be kept closed when not open for gauging.

20 (f) Containers used for the transport of diesel fuel shall
21 not exceed a capacity of five hundred gallons.

22 (g) Containers, other than safety cans, used for the
23 transport of diesel fuel shall be permanently fixed to the
24 transportation unit.

25 (h) Diesel fuel transportation units shall be transported
26 individually and not with any other cars, except that two diesel
27 fuel transportation units up to a maximum of five hundred
28 gallons each may be transported together.

29 (i) Diesel fuel shall not be transported on conveyor belts.

30 (j) When transporting diesel fuel in containers other than

1 safety cans, a fire extinguisher shall be provided on each end
2 of the transportation unit. The fire extinguishers shall be
3 multipurpose type dry chemical fire extinguishers containing a
4 nominal weight of twenty pounds.

5 (k) Diesel fuel transportation units shall have a fire
6 suppression system that meets the requirements of section 208-A.

7 (l) In mines where trolley wire is used, diesel fuel
8 transportation units shall be provided with insulating material
9 to protect the units from energized trolley wire, and the
10 distance between the diesel fuel transportation unit and the
11 trolley wire shall not be less than twelve inches, or the
12 trolley wire shall be de-energized when diesel fuel
13 transportation units are transported through the area.

14 (m) Unattended diesel fuel transportation units shall be
15 parked only in mobile underground diesel fuel storage
16 facilities.

17 (n) Safety cans shall be used for emergency fueling only.

18 (o) Safety cans shall be clearly marked, have a maximum
19 capacity of five gallons, and be constructed of metal and
20 equipped with a nozzle and self-closing valves.

21 Section 208-A. Fire Suppression for Equipment and
22 Transportation.--(a) Fire suppression systems for diesel-
23 powered equipment and fuel transportation units shall meet the
24 requirements of this section.

25 (b) The system must be an automatic multipurpose dry powder
26 type fire suppression system suitable for the intended
27 application and listed or approved by a nationally recognized
28 independent testing laboratory. Installation requirements are as
29 follows:

30 (1) The system shall be installed in accordance with the

manufacturer's specifications and the limitations of the listing or approval.

(2) The system shall be installed in a protected location or guarded to minimize physical damage from routine operations.

(3) Suppressant agent distribution tubing or piping of the system shall be secured and protected against damage, including pinching, crimping, stretching, abrasion and corrosion.

(4) Discharge nozzles of the system shall be positioned and aimed for maximum fire suppression effectiveness in the protected areas. Nozzles shall also be protected against the entrance of foreign materials such as mud, coal dust or rock dust that could prevent proper discharge of suppressant agent.

(c) The fire suppression system shall provide automatic fire detection and suppression for all of the following:

(1) The engine, transmission, hydraulic pumps and tanks, fuel tanks, exposed brake units, air compressors and battery areas, as applicable, on all diesel-powered equipment.

(2) Fuel containers and electric panels or controls used during fuel transfer operations on fuel transportation units.

(d) The fire suppression system shall include a system fault and fire alarm annunciator that can be seen and heard by the equipment operator.

(e) The fire suppression system shall provide for automatic engine shutdown. Engine shutdown and discharge of suppressant agent may be delayed for a maximum of fifteen seconds after the fire alarm annunciator alerts the operator.

(f) At least two manual actuators shall be provided with at least one manual actuator at each end of the equipment. If the equipment is provided with an operator's compartment, one of the mechanical actuators shall be located in the compartment within

easy reach of the operator. For stationary equipment, the two manual actuators shall be located with at least one actuator on the stationery equipment and at least one actuator a safe distance away from the equipment and in intake air.

Section 209-A. Fire Suppression for Storage Areas.--(a) Fire suppression systems for diesel fuel storage areas shall meet the requirements of this section.

(b) The system shall be an automatic multipurpose dry-powder type fire suppression system or other system of equal capability, suitable for the intended application and listed or approved by a nationally recognized independent testing laboratory. The system shall meet the following installation requirements:

(1) The system shall be installed in accordance with the manufacturer's specifications and the limitations of the listing or approval.

(2) The system shall be installed in a protected location or guarded to minimize physical damage from routine operations.

(3) Suppressant agent distribution tubing or piping of the system shall be secured and protected against damage, including pinching, crimping, stretching, abrasion and corrosion.

(4) Discharge nozzles of the system shall be positioned and aimed for maximum fire suppression effectiveness in the protected areas. Nozzles must also be protected against the entrance of foreign materials such as mud, coal dust and rock dust that could prevent proper discharge of suppressant agent.

(c) The fire suppressant system shall provide automatic fire detection and suppression for the fuel storage tanks, containers, safety cans, pumps, electrical panels and control equipment in fuel storage areas.

1 (d) Audible and visual alarms to warn of fire or system
2 faults shall be provided at the protected area and at a surface
3 location that is always staffed when persons are underground. A
4 means shall also be provided for warning all endangered persons
5 in the event of fire.

6 (e) Fire suppression systems shall include two manual
7 actuators with at least one located within the fuel storage
8 facility and at least one located a safe distance away from the
9 storage facility and in intake air.

10 (f) The fire suppression system shall remain operative in
11 the event of electrical system failure.

12 (g) If electrically operated, the detection and actuation
13 circuits shall be monitored and provided with status indicators
14 showing power and circuit continuity. If not electrically
15 operated, a means shall be provided to indicate the functional
16 readiness status of the system.

17 (h) Fire suppression devices shall be visually inspected at
18 least once each week by a person qualified to make such
19 inspection.

20 (i) Each fire suppression device shall be tested and
21 maintained.

22 (j) A record shall be maintained of the inspection required
23 by this paragraph. The record of the weekly inspections shall be
24 maintained at an appropriate location for each fire suppression
25 device.

26 (k) All miners normally assigned to the active workings of a
27 mine shall be instructed about any hazards inherent to the
28 operation of all fire suppression devices installed and, where
29 appropriate, the safeguards available for each device.

30 Section 210-A. Use of Certain Starting Aids Prohibited.--The

use of volatile or chemical starting aids is prohibited.

Section 211-A. Fueling.--(a) Fueling of diesel-powered equipment shall not be conducted in the intake escapeway unless the mine design and entry configuration make it necessary. In those cases where fueling in the intake escapeway is necessary, the mine operator shall submit a plan for approval to the department outlining the special safety precautions that will be taken to insure the protection of miners. Such plan shall specify a fixed location where fueling will be conducted in the intake escapeway and all other safety precautions that will be taken, which shall include an examination of the area for spillage or fire by a qualified person.

(b) Diesel fuel and other combustible materials shall be cleaned up and not be permitted to accumulate anywhere in an underground mine or on diesel-powered or electric equipment located therein.

(c) At least one person, specially trained in the cleanup and disposal of diesel fuel spills, shall be on duty at the mine when diesel-powered equipment or mobile fuel transportation equipment is being used or when any fueling of diesel-powered equipment is being conducted.

Section 212-A. Fire and Safety Training.--(a) All underground employes at the mine shall receive special instruction related to fighting fires involving diesel fuel. This training may be included in annual refresher training under MSHA regulations at 30 CFR Pt. 48 (relating to training and retraining of miners), or included in the fire drills required under MSHA regulations at 30 CFR § 75.1101-23 (relating to program of instruction; location and use of fire fighting equipment; location of escapeways, exits and routes of travel;

1 evacuation procedures; fire drills).

2 (b) All miners shall be trained in precautions for safe and
3 healthful handling and disposal of diesel-powered equipment
4 filters. All used intake air filters, exhaust diesel particulate
5 matter filters and engine oil filters shall be placed in their
6 original containers or other suitable enclosed containers and
7 removed from the underground mine to the surface. Arrangements
8 will be made for safe handling and disposal of these filters
9 within a timely manner after they have reached the surface.

10 Section 213-A. Maintenance.--(a) Diesel-powered equipment
11 shall be maintained in an approved and safe condition as
12 described in this article or removed from service. Failure of
13 the mine operator to comply with the maintenance requirements of
14 this subsection may result in revocation of the department's
15 approval of the complete diesel-powered equipment package,
16 provided appropriate notification has been given to the mine
17 operator and the procedures of this section have been taken.
18 Upon receiving such notice, the mine operator shall have thirty
19 days to submit a plan to achieve and maintain compliance. Such
20 plan shall be evaluated by the department, and, upon approval,
21 the mine operator shall implement the plan. The department shall
22 monitor the mine operator's compliance. If the department then
23 determines that the mine operator is unable or unwilling to
24 comply, the department shall revoke the mine operator's
25 approval.

26 (b) To acquire and maintain approval of a complete diesel-
27 powered equipment package, the mine operator shall comply with
28 the following requirements:

29 (1) All service, maintenance and repairs of approved
30 complete diesel-powered equipment packages shall be performed by

mechanics who are trained and qualified in accordance with
section 222-A.

(2) Service and maintenance of approved complete diesel-
powered equipment packages shall be performed according to:

(i) the specified routine maintenance schedule;

(ii) on-board performance and maintenance diagnostics
readings;

(iii) emissions test results; and

(iv) component manufacturer's recommendations.

Section 214-A. Records.--(a) A record shall be made of all
emissions tests, pre-operational examinations and maintenance
and repairs of complete diesel-powered equipment packages. The
records made pursuant to this section shall meet the
requirements of this section.

(b) The person performing the emissions test, examination,
maintenance or repair shall certify by date, time, engine hour
reading and signature that the emissions test, examination,
maintenance or repair was made.

(c) Records of emissions tests and examinations shall
include the specific results of such tests and examinations.

(d) Records of maintenance and repairs shall include the
work that was performed, any fluids or oil added, parts replaced
or adjustments made and the results of any subsequently required
emissions testing.

(e) Records of pre-operational examinations shall be
retained for the previous one hundred-hour maintenance cycle.

(f) Records of emissions tests, one hundred-hour maintenance
tests and repairs shall be countersigned once each week by the
certified mine electrician and mine foreman.

(g) All records, except as specified in subsection (e),

required by this section shall be retained for at least one year
at a surface location at the mine and made available for
inspection by the department's district mine inspector and by
miners and their representatives.

Section 215-A. Duties of Operator.--(a) Prior to using a
piece of diesel-powered equipment during a shift, the equipment
operator shall conduct an examination as follows:

(1) Check the exhaust emissions control and conditioning
system components to determine that the components are in place
and not damaged or leaking.

(2) Assure that the equipment is clean and free of
accumulations of combustibles.

(3) Assure that the machine is loaded safely.

(4) Check for external physical damage.

(5) Check for loose or missing connections.

(6) Check engine oil level.

(7) Check transmission oil level.

(8) Check other fluid levels if applicable.

(8) Check for hydraulic, coolant and oil leaks.

(10) Check fan, water pump and other belts.

(11) Check the fan for damage.

(12) Check guards.

(13) Check the fuel level.

(14) Check for fuel leaks.

(15) Comply with recordkeeping requirements pursuant to
section 214-A.

(b) After the engine is started and warmed up, the equipment
operator shall conduct an examination as follows:

(1) Check all on-board engine performance and maintenance
diagnostics system gauges for proper operation and in-range

readings. The equipment operator shall immediately shut down the engine and notify the operator if the on-board readings indicate any of the following:

(i) Intake restriction at full engine speed is greater than the manufacturer's recommendation.

(ii) Exhaust restriction at full engine speed is greater than the manufacturer's recommendation.

(iii) Coolant temperature is at or near two hundred twelve degrees Fahrenheit.

(iv) Low engine oil pressure.

(v) High engine oil temperature.

(2) Check safety features, including, but not limited to, the throttle, brakes, steering, lights and horn.

(3) Comply with recordkeeping requirements pursuant to section 214-A.

Section 216-A. Scheduled Maintenance.--At intervals not exceeding one hundred hours of engine operation, a qualified mechanic shall perform the following maintenance and make all necessary adjustments or repairs or remove the equipment from service:

(1) Wash or steam-clean the equipment.

(2) Check for and remove any accumulations of coal, coal dust or other combustible materials.

(3) Check the equipment for damaged or missing components or other visible defects.

(4) Conduct electrical and safety component inspections.

(5) Replace engine oil and oil filter.

(6) Check the transmission oil level and add oil, if necessary.

(7) Check hydraulic oil level and add oil, if necessary.

1 (8) Check the engine coolant level and add coolant, if
2 necessary.

3 (9) Check all other fluid levels and add fluid, if
4 necessary.

5 (10) Check for oil, coolant and other fluid leaks.

6 (11) Inspect the cooling fan, radiator and shroud. Remove
7 any obstructions and make necessary repairs.

8 (12) Check all belts. Tighten or replace if necessary.

9 (13) Check the battery and service as necessary.

10 (14) Check the automatic fire suppression system.

11 (15) Check the portable fire extinguisher.

12 (16) Check the lights.

13 (17) Check the warning devices.

14 (18) With the engine operating, check and replace or repair
15 the following:

16 (i) Oil pressure.

17 (ii) Intake air restriction, at full engine speed.

18 (iii) Exhaust gas restriction, at full engine speed.

19 (iv) Exhaust flame arrestor.

20 (v) All gauges and controls.

21 (19) Conduct repeatable loaded engine operating test in
22 accordance with section 218-A.

23 (20) Evaluate and interpret the results of all of the above
24 tests and examinations and make all necessary repairs or remove
25 equipment from service.

26 (21) Comply with recordkeeping requirements pursuant to
27 section 214-A.

28 Section 217-A. Emissions Monitoring and Control.--(a)
29 Emissions for diesel-powered equipment shall be monitored and
30 controlled as provided in this section.

1 (b) When any diesel-powered machine first enters service at
2 a mine, baseline emission values shall be determined by a
3 qualified mechanic. The qualified mechanic shall:

4 (1) Verify that the seal on the engine fuel injector is in
5 place and that the proper fuel pump is on the equipment.

6 (2) Install a new clean intake air cleaner, measure and
7 record the intake restriction pressure.

8 (3) Check the level of engine oil.

9 (4) Change the engine lubrication oil if not fresh.

10 (5) Check the level of the transmission fluid.

11 (6) Flush the exhaust system and install a new diesel
12 particulate filter, measure and record the exhaust back
13 pressure.

14 (7) Test the brakes.

15 (8) Place the equipment into an intake entry.

16 (9) Set the brakes and chock the wheels.

17 (10) Install the portable carbon monoxide (CO) sampling
18 device into the untreated exhaust gas coupling provided in the
19 operator's cab.

20 (11) Start the engine and allow it to warm up to operating
21 temperature.

22 (12) For mobile equipment, shift into second gear and put
23 the engine at full throttle, or for stationary equipment, induce
24 a load and put the engine at full throttle.

25 (13) Start the CO sampler and measure and record CO levels
26 every minute for five minutes.

27 (14) Comply with recordkeeping requirements pursuant to
28 section 214-A.

29 Section 218-A. Diagnostic Testing.--At intervals not
30 exceeding once every one hundred hours of engine operation, a

1 qualified mechanic shall perform equipment maintenance
2 diagnostic testing of each piece of diesel-powered equipment in
3 the mine. The qualified mechanic shall:

4 (1) verify the identification numbers on the equipment;
5 (2) check the level of the engine lubricating oil;
6 (3) check the level of the transmission fluid;
7 (4) set the brakes and chock the wheels;
8 (5) install the portable CO sampling device into the
9 untreated exhaust port coupling provided in the operator's cab;
10 (6) start the engine and allow it to warm up to operating
11 temperature;

12 (7) check the intake restriction and the exhaust
13 backpressure at high idle speed;

14 (8) if the intake restriction is more than the
15 manufacturer's maximum recommended intake restriction, replace
16 the intake filter with a clean one;

17 (9) if the exhaust backpressure is more than the
18 manufacturer's maximum recommended exhaust backpressure, replace
19 the diesel particulate filter with a clean one and/or clean out
20 the heat exchanger;

21 (10) for mobile equipment, shift into second gear and put
22 the engine at full throttle, or for stationary equipment, induce
23 a load and put engine at full throttle;

24 (11) start the CO sampler and record CO levels every minute
25 for five minutes;

26 (12) install the portable CO sampling device into the
27 treated exhaust port coupling provided in the operator's cab and
28 repeat steps (10) and (11);

29 (13) if the average CO reading for untreated exhaust gas is
30 greater than twice the baseline established under section 217-

A(b), or if the average CO reading for treated exhaust gas is greater than 100 ppm, the equipment has failed and must be serviced and retested before it is returned to regular service; and

(14) comply with recordkeeping requirements pursuant to section 214-A.

Section 219-A. Exhaust Gas Monitoring and Control.--(a) In monitoring and controlling exhaust gases, the ambient concentration of exhaust gases in the mine atmosphere shall not exceed 35 ppm ceiling for carbon monoxide (CO), 25 ppm ceiling for nitric oxide (NO) and 3 ppm ceiling for nitrogen dioxide (NO₂). The concentration of these exhaust gases shall be measured at the equipment operator's or equipment attendant's position and in by the last piece of diesel-powered equipment operating in the same split of air. Measurements shall be made weekly or more often if necessary by a qualified person and shall be conducted pursuant to the requirements of this section.

(b) Measurement of exhaust gases shall be made with a sampling instrument no less precise than detector tubes.

(c) If the concentration of any of the gases listed in subsection (a) is seventy-five per cent or more of its exposure limit, changes to the use of the diesel equipment, the mine ventilation or other modifications to the mining process shall be made.

(d) If the concentration of any of the gases listed in subsection (a) exceeds the exposure limit, the diesel equipment operating in that split shall be removed from service immediately and corrective action taken. After corrective action has been taken by the mine operator, the diesel equipment may be returned to service in its regular operating mode for emissions

testing purposes only, and emissions testing shall be conducted immediately to assure that the concentration does not exceed seventy-five per cent of the exposure limit. Corrective action must be taken until the concentration does not exceed seventy-five per cent of the exposure limit before the diesel equipment can be returned to full operation.

(e) In addition to the other maintenance requirements set forth in this article, the mine operator shall comply with the following requirements:

(1) Repair or adjustment of the fuel injection system shall only be performed by qualified mechanics authorized by the engine manufacturer.

(2) Complete testing of the emissions system in accordance with section 218-A shall be conducted prior to any piece of diesel-powered equipment being put into service, after any repair or adjustment to the fuel delivery system, engine timing or exhaust emissions control and conditioning system.

(3) Service and maintenance of the intake air filter, exhaust particulate filter and the exhaust system shall be performed at specific time intervals based on the component manufacturers recommendation, compliance with the engine or emissions control operation specifications and, as needed, based on the on-board diagnostics and/or emissions test results. Accurate records shall be maintained of all such service and maintenance.

Section 220-A. Training and General Requirements.--(a) All training course instructors and all training plans required by this section and sections 221-A and 222-A shall be approved by the department. Operator training and qualification shall meet the requirements of this section.

1 (b) Training shall be conducted in the basics of the
2 operation of a diesel engine, Federal and State regulations
3 governing their use, company rules for safe operation, specific
4 features of each piece of equipment and the ability to recognize
5 problems shall be provided to each equipment operator and the
6 mine health and safety committee if one exists. This training
7 shall be designed to bring every operator to a level of good
8 understanding of diesel equipment operation. Each operator will
9 be qualified by attending a minimum eight-hour course including
10 classroom training on diesel fundamentals and equipment specific
11 hands-on training on the job.

12 (c) Upon successful completion of both training sessions,
13 the operator shall be issued a Certificate of Qualification that
14 qualifies him or her to operate a specific type of diesel-
15 powered equipment. An operator may be qualified to operate more
16 than one type of equipment by completing additional equipment-
17 specific training covering differences specific to each
18 additional type of equipment.

19 (d) Refresher training, separate from that required by MSHA
20 regulations at 30 CFR Pt. 48 (relating to the training and
21 retraining of miners), shall be required annually.

22 (e) The minimum eight-hour training required by subsection
23 (b) shall include instruction in the following classroom
24 subjects:

25 (1) Engine fundamentals, which shall include an introduction
26 to the function of a diesel engine and recognition of all major
27 components and their functions.

28 (2) Diesel regulations, which shall include an introduction
29 to Federal and State regulations governing the use of diesel
30 equipment.

1 (3) Diesel emissions, which shall include an introduction to
2 diesel emissions and their adverse health effects.

3 (4) Factors that affect diesel emissions, which shall
4 include a detailed presentation of engine faults and diesel fuel
5 quality and their effect on emissions and the preventive actions
6 that can be taken to minimize emissions levels.

7 (5) Emissions control devices, which shall include a
8 detailed presentation of the different emissions control devices
9 employed to reduce emissions and details about actions the
10 operator must take to keep the devices in working order.

11 (6) Diagnostic techniques, which shall include a
12 presentation of techniques that can be employed by the operator
13 to assure the equipment is in safe operating condition and
14 instruction about how to recognize and diagnose certain engine
15 faults that may cause increases in emissions.

16 (7) The pre-operational inspection, which shall include a
17 presentation of the purpose, benefits and requirements of the
18 pre-operational inspection.

19 (8) Ventilation, which shall include an introduction to
20 special ventilation requirements for areas where diesel-powered
21 equipment will operate.

22 (9) Fire Suppression System, which shall include an
23 introduction to the fire suppression system and its function and
24 when and how to activate the fire suppression manually.

25 (10) Operating rules, which shall include a detailed
26 presentation of the driving rules, safe driving speeds, traffic
27 control devices and equipment limitations.

28 (11) Emergency procedures, which shall include discussion of
29 emergency situations, such as fire, diesel fuel spills,
30 component failure, loss of ventilation air and emergency escape

procedures and discussion of the potential use of the diesel-powered vehicle as an emergency escape vehicle in case of a mine emergency situation.

(12) Recordkeeping and reporting procedures, which shall include a presentation on required recordkeeping and reporting procedures for problems or unsafe conditions, high emissions level and pre-operational inspections made by the equipment operator.

(f) A new Certificate of Qualification shall be issued annually after the equipment operator has received the annual refresher training.

Section 221-A. Equipment-Specific Training.--Equipment-specific, hands-on orientation training shall be given in an area of the mine where the equipment will be operated. This orientation shall be specific to the type and make of the diesel machine and shall be presented in small groups. The following subjects shall be included in the training:

(1) Equipment layout, which shall include familiarization with the layout of the equipment, the operator's compartments and the controls.

(2) Pre-operation inspection, which shall include familiarization with the pre-operation inspection procedure and review of specific details of the inspection and location of the components to be inspected.

(3) Equipment limitations, which shall include instruction relating to equipment performance, speeds, capacities and blind areas.

(4) Operating areas, which shall include instruction relating to areas in which the equipment may be operated.

(5) Operation, which shall include familiarization with the

controls, gauges and warning devices and safe operating limits of all indicating gauges.

(6) Refueling procedure which shall include familiarization with fuel handling, permissible refueling areas, spill prevention, cleanup and potential hazards from diesel fuel.

(7) Emergency devices, which shall include instruction relating to the location and use of the fire extinguisher and fire suppression devices.

(8) Driving practice, which shall include supervised operation of the equipment.

Section 222-A. Diesel Mechanic Training.--(a) Diesel mechanic training and qualification shall meet the requirements of this section.

(b) Diesel mechanics shall be trained and qualified to perform maintenance, repairs and testing of the features of diesel equipment certified by MSHA and the department.

(c) To be qualified, a diesel mechanic must successfully complete a minimum of sixteen hours of a training program approved by the department regarding the general function, operation, maintenance and testing of emissions control and conditioning components. The diesel mechanic must be qualified to perform these tasks on the specific machines used at the mine or mines where they are employed. Additional engine-specific training shall be provided to diesel mechanics in accordance with a plan approved by the department.

(d) Annual retraining programs for diesel mechanics shall be required and approved by the department. The annual retraining shall include refresher training as well as new procedure and new technology training as necessary. Such training shall be separate from refresher training pursuant to MSHA regulations at

30 CFR Pt. 48 (relating to training and retraining of miners)
and electrical training required by MSHA.

(e) The minimum sixteen-hour diesel mechanic training
programs shall be submitted for approval to the department and
shall include training in the following minimum subject
requirements:

(1) Federal and State requirements regulating the use of
diesel equipment.

(2) Company policies and rules related to the use of diesel
equipment.

(3) Emissions control system design and component technical
training.

(4) On-board engine performance and maintenance diagnostics
system design and component technical training.

(5) Service and maintenance procedures and requirements for
the emissions control systems.

(6) Emissions testing procedures and evaluation and
interpretation of test results.

(7) Troubleshooting procedures for the emissions control
systems.

(8) Fire protection systems test and maintenance.

(9) Fire and ignition sources and their control and
elimination.

(10) Fuel system maintenance and safe fueling procedures.

(11) Intake air system design and components technical
training and maintenance procedures.

(12) Engine shutdown device tests and maintenance.

(13) Special instructions regarding components, such as the
fuel injection system, that shall only be repaired and adjusted
by a qualified mechanic who has received special training and is

1 authorized to make such repairs or adjustments by the component
2 manufacturer.

3 (14) Instruction on recordkeeping requirements for
4 maintenance procedures and emissions testing.

5 (15) Other subjects determined by the department to be
6 necessary to address specific health and safety needs.

7 Section 223-A. Operation of Diesel-Powered Equipment.--(a)
8 In addition to other requirements of this article, diesel-
9 powered equipment shall be operated pursuant to the standards
10 set forth in this section.

11 (b) All diesel-powered equipment shall be attended while in
12 operation with the engine running in underground mines.

13 (c) Unnecessary idling of diesel-powered equipment shall be
14 prohibited.

15 (d) All roadways where diesel-powered equipment is operated
16 shall be maintained as free as practicable from bottom
17 irregularities, debris and wet or muddy conditions that will
18 affect control of the equipment.

19 (e) Operating speeds shall be consistent with conditions of
20 roadways, grades, clearances, visibility and traffic and type of
21 equipment used.

22 (f) Equipment operators shall have full control of the
23 mobile equipment while it is in motion.

24 (g) Traffic rules, including speed, signals and warning
25 signs, shall be standardized at each mine and posted.

26 (h) All diesel-powered equipment shall be maintained in a
27 safe and healthful operating condition. Equipment in an unsafe
28 or unhealthful condition or not maintained in accordance with
29 the engine or emissions control operating specifications shall
30 be removed from service immediately and shall not be returned to

1 service until all necessary corrective actions have been taken.

2 Section 224-A. Technical Advisory Committee on Diesel-
3 Powered Equipment.--(a) There is hereby created a Technical
4 Advisory Committee on Diesel-Powered Equipment for the purpose
5 of advising the secretary regarding implementation of this
6 article and evaluation of alternative technology or methods for
7 meeting the requirements for diesel-powered equipment as set
8 forth in this article. Any alternative technology or methods
9 recommended by the advisory committee and/or approved by the
10 secretary shall not reduce or compromise the level of health and
11 safety protection afforded by this article.

12 (b) The advisory committee shall consist of two members who
13 shall be residents of this Commonwealth and appointed by the
14 Governor. The Governor shall appoint one member to represent the
15 viewpoint of the coal operators in this Commonwealth within
16 thirty days from receipt of a list containing one or more
17 nominees submitted by the major trade association representing
18 coal operators in this Commonwealth, and shall also appoint one
19 member to represent the viewpoint of the working miners in this
20 Commonwealth within thirty days from receipt of a list
21 containing one or more nominees submitted by the highest ranking
22 official within the major employee organization representing
23 coal miners in this Commonwealth.

24 (c) Members of the advisory committee shall be appointed for
25 a term of three years. If renominated and reappointed, a member
26 may serve up to three successive three-year terms.

27 (d) Members of the advisory committee shall be compensated
28 on a per diem basis of one hundred fifty dollars (\$150) per day
29 plus all reasonable expenses incurred while performing their
30 official duties.

1 (e) The advisory committee shall meet at least twice during
2 each calendar year or more often as may be necessary.

3 (f) All actions of the advisory committee shall require the
4 participation of both members which shall constitute a quorum.

5 (g) Upon application of a coal miner, coal mine operator,
6 diesel-related technology manufacturer, or on its own motion,
7 the advisory committee shall consider requests for the use of
8 alternative diesel-related health and safety technologies with
9 general underground mining industry application that are
10 consistent with this article. Approval of an application made
11 under this subsection shall make the alternative technology or
12 method available for use by any coal operator in this
13 Commonwealth, but shall not be construed to require that a coal
14 mine operator use such approved alternative technology or
15 method. Upon receipt of an application, the advisory committee
16 shall conduct an investigation, which investigation shall
17 include consultation with a representative or representatives of
18 the major trade association representing coal operators in this
19 Commonwealth and with a representative or representatives of the
20 major employee organization representing coal miners in this
21 Commonwealth.

22 (h) Upon application of a coal mine operator, the advisory
23 committee shall consider site-specific requests for use of
24 alternative diesel-related health and safety technologies. The
25 committee's recommendations on applications submitted under this
26 subsection shall be on a mine-by-mine basis. Upon receipt of a
27 site-specific application, the advisory committee shall conduct
28 an investigation, which investigation shall include consultation
29 with the mine operator and the authorized representatives of the
30 miners at the mine. Authorized representatives of the miners

1 shall include a mine health and safety committee elected by
2 miners at the mine, a person or persons employed by an employee
3 organization representing miners at the mine, or a person or
4 persons authorized as the representative or representatives of
5 miners of the mine in accordance with MSHA regulations at 30 CFR
6 Pt. 40 (relating to representative of miners). Where there is no
7 authorized representative of the miners, the advisory committee
8 shall consult with a reasonable number of miners at the mine.

9 (i) (1) Within one hundred eighty days of receipt of an
10 application for use of alternative technologies or methods, the
11 advisory committee shall complete its investigation and make a
12 recommendation to the secretary. The time period may be extended
13 with the consent of the applicant.

14 (2) The advisory committee shall forward to the secretary
15 three possible recommendations:

16 (i) a unanimous recommendation to approve the application
17 for use of alternative technologies or methods;

18 (ii) a unanimous recommendation to reject the application
19 for use of alternative technologies or methods; or

20 (iii) a divided recommendation where one member of the
21 advisory committee recommends approval of the application for
22 use of alternative technologies or methods and one member of the
23 advisory committee recommends rejection of the application for
24 use of alternative technologies or methods.

25 (3) In the event recommendations described in subclauses (i)
26 and (ii) of clause (2) are forwarded to the secretary by the
27 advisory committee, the secretary shall have thirty days in
28 which to render a final decision adopting or rejecting the
29 advisory committee's recommendation and the application. In the
30 event of a divided recommendation as described in subclause

(iii) of clause (2), the secretary shall convene, within thirty days, a meeting with the members of the advisory committee to discuss the reasons for the divided recommendation and to determine whether additional information and further discussion might result in a unanimous recommendation by the advisory committee. The secretary shall render a decision on the application within thirty days from the date of the meeting with the advisory committee.

(4) The advisory committee members shall only recommend approval of an application made under this section if, at the conclusion of the investigation, the committee members have made a determination that the use of the alternative technology or method shall not reduce or compromise the level of health and safety protection afforded by this article.

(5) Any advisory committee recommendation to the secretary for approval of an application made under this section for use of alternative technologies or methods shall be made in writing and shall include the results of its investigation and specific conditions of use for the alternative technology or method.

(6) An advisory committee decision to reject an application made under this section for use of alternative technologies or methods shall be made in writing to the secretary and shall outline in detail the basis for the rejection.

(7) In the event of a divided vote as described in subclause (iii) of clause (2), each member of the committee shall submit a detailed report to the secretary within fourteen days of the committee's vote outlining the member's position for or against the application.

(j) Within thirty days of receipt of an advisory committee's unanimous recommendation to approve an application made under

this section, the secretary shall approve or reject, without modification, except as unanimously approved by the advisory committee, the advisory committee's recommendations, including all recommended conditions of use. Any alternative technologies or methods approved by the secretary shall not reduce or compromise the level of health and safety protection afforded by this article. The time period for the secretary's decision may be extended with the consent of the applicant.

(k) The secretary shall establish, based on recommendations made by the advisory committee, conditions of use for the use of diesel-powered equipment in shaft and slope construction operations at coal mines. All conditions of use proposed by the advisory committee shall be considered by the secretary and shall be adopted or rejected by the secretary without modification, except as approved by the advisory committee.

(l) In performing its functions, the advisory committee shall have access to the services of the department. The secretary shall make clerical support and assistance available to enable the advisory committee to carry out its duties. Upon the request of both members of the advisory committee, the secretary may draft proposed conditions of use and reports or perform investigations.

(m) Any action taken by the secretary to either approve or reject the use of an alternative technology or method under subsection (g), (h) or (j) shall be final and binding and not subject to further review except where a decision by the secretary may be deemed to be an abuse of discretion or contrary to law. If any party affected by a decision of the secretary believes that the decision is an abuse of discretion or contrary to law, that party may file a petition for review with the

1 Commonwealth Court in accordance with Pa. R.A.P. Ch. 15
2 (relating to judicial review of governmental determinations).
3 The court, in finding that any decision made by the secretary is
4 an abuse of discretion or contrary to law, shall vacate and, if
5 appropriate, remand the case.

6 (n) The powers and duties of the advisory committee shall be
7 limited to the matters regarding the use of diesel-powered
8 equipment in underground coal mines.

9 (o) ~~Appropriations~~ FUNDING for the operation of the advisory <—
10 committee and to implement the provisions of this article are to
11 be derived from the general government fund APPROPRIATION of the <—
12 department at the discretion of the secretary. <—

13 Section 8. Sections 334(b) and 401 heading of the act are
14 amended to read:

15 Section 334. Technological Improvement.--* * *

16 (b) Upon receipt of this proposal, it shall be given
17 preliminary review by the secretary. If such review indicates
18 that the proposal has potential merit, the secretary may, at his
19 discretion, appoint either a commission or a committee
20 consisting of three representatives of the department, three
21 operators' engineers, a representative of the mine employes, and
22 any others he deems pertinent. Such commission or committee
23 shall investigate and review said proposal to determine its
24 effect on safety and property and report their findings in
25 writing to the [Secretary of Mines and Mineral Industries.]
26 secretary.

27 * * *

28 Section 401. Explosion or Accident; Investigation by
29 Department [of Mines and Mineral Industries]; Inquests.--* * *

30 Section 9. All acts and parts of acts are repealed insofar

1 as they are inconsistent with this act.

2 Section 10. This act shall take effect in 60 days.