

1 safety through available technology, engineering controls and
2 performance requirements and shall further consider the cost,
3 availability, adaptability and suitability of any available
4 technology, engineering controls and performance requirements as
5 they relate to the use of diesel equipment in underground coal
6 mines.

7 (b) In promulgating the initial rules pursuant to subsection
8 (a) of this section, the commission shall follow the procedures set
9 forth in article three, chapter twenty-nine-a of this code that are
10 prescribed for an agency proposing a legislative rule, to the point
11 where an agency would approve a rule for submission to the
12 Legislature. At that point, the commission shall proceed to final
13 adoption of the initial rules and file a notice of the final
14 adoption in the State Register and with the Legislative Rule -
15 Making Review Committee. Final adoption of the initial rules may
16 be approved only upon a majority vote of all six members of the
17 commission. All six members must be present when a vote is taken.
18 Upon final adoption by the commission, the initial rules are
19 thereby promulgated and have the effect of law without further
20 action by the commission or the Legislature. The initial rules
21 shall be published in the code of state rules and continue in
22 effect until modified or superseded in accordance with the
23 provisions of this article.

24 (c) Following the promulgation and effective date of the

1 initial rules governing the operation of diesel equipment in
2 underground coal mines required by this section, an operator may
3 use diesel powered equipment without further delay, if such
4 equipment is operated and maintained in strict compliance with said
5 initial rules. A diesel inspector, employed by the West Virginia
6 Office of Miners Health, Safety and Training, shall inspect the
7 equipment before it is taken underground.

NOTE: The purpose of this bill is to allow properly maintained diesel equipment to be operated in underground coal mines after rules are passed and the equipment has been inspected.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.