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July 17, 2009

"The Employer"

Re: NBMA Article 96-105, subsection 50(1) & 50(2) of 96-105, Use of Diesel Engines Underground and Deviation request from - subsection 220(3) of Reg. 91-191, Requirements for Rollover Protective Structures

The Chief Compliance Officer is writing to acknowledge receipt of the employer's letter dated June 1, 2009, notifying the WorkSafeNB that the employer will be using the following diesel equipment underground:

Mine Equipment No: VP605
Name of Manufacturer:
Model: BT3
Vehicle Type: MacLean Service Truck
Year: 2006
Serial No.: 928-208
Diesel Engine: D.I. X Turbo: "Electronic"
Manufacturer: Mercedes
Model No.: 0M904
Serial No.: 0904.652-7473
HP: 201
Cooling: Liquid
Scrubber Type: Catalytic Muffler and Scrubber
Engine Certification No.: MSHA 7E-B098-0
Fuel Tank Capacity: 152 Litres
Hydraulic Fluid Capacity: 96 Litres
Fire Suppression System: Yes LTE-101-A-30 (6 nozzles)

The employer is requesting a deviation to subsection 220(3) of regulations 91-191, *Occupational Health and Safety Act* for the above-mentioned vehicle. The Employer indicates that this unit will be primarily tramping or assigned to operate in the main haulage drifts and development headings on the 850m level and 1000m level, with occasional use on other levels. The main function of this unit is to service mine operations and materials and hauling shotcrete. When performing the task of loading and delivering materials, the vehicle must be stopped; hydraulic lifting outriggers employed and then the hydraulic lifting boom is engaged. This vehicle has a total height requirement from the top of the driver's seat, plus subsection 34(3) of Regulations 96-105, of 2.72 metres. As compared to other types of equipment operating in the employer's premises without roll over protective structures, the electrical hydraulic scissor bolters are exactly the same at 2.72 metres, emulsion trucks are 2.52 metres, ST-8B LHD are 2.80 metres and the 35 tonne haulage trucks are 2.85 metres. VP605 is the mean average of the group.

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The employer's request for a deviation is based on previous letters that have documented case studies that clearly illustrate that the addition of rollover protective structures on production equipment of this size is not physically possible. The vehicle design and application of this vehicle within the employer's premises poses no risk to rollover, thus the element of risk from rollover as a result of the mining process or drift design is minimal. Also, as per stipulation 3 of the aforementioned letter dated July 23, 1997, the employer has attached a copy of the Joint Health and Safety Committee's recommendation. This letter is signed by the joint co-chairs and indicates that the Joint Health and Safety Committee agrees with the deviation request and acknowledges the operating conditions and limitations in which this vehicle will be applied.

Based on the information the employer has provided, a deviation from 220(3) is granted.

By copy of this letter, the Chief Compliance Officer has advised WorkSafeNB staff and the JHSC Co-chairs of the decision.

Yours truly,

Chief Compliance Officer