



WorkSafe Services Division
1 Portland Street, PO Box 160
Saint John, NB E2L 3X9
Toll-free 1 800 222-9775
Fax 506 738-4050
Web www.worksafenb.ca

Division des services de travail sécuritaire
1, rue Portland, case postale 160
Saint John, NB E2L 3X9
Sans frais 1 800 222-9775
Télécopieur 506 738-4050
Web www.travailsecuritairenb.ca

July 15, 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 18, 2009, which was provided to the Chief Compliance Officer by the owner notifying WorkSafeNB that the employer will be operating a diesel powered diamond drill rig in the an area of the owner's premises.

Mine Equipment No: Boart 9879
Name of Manufacturer:
Model: MC MDR 150 C
Vehicle Type: Diamond Drill Rig
Year: 2008
Serial No.: 656
Diesel Engine: D.I. & Turbo Charged
Manufacturer: Mercedes Benz, Daimler Chrysler
Model No.: OM 904LA
Serial No.: 904.975-00-702639
HP: 150
Cooling: Liquid, prestone
Scrubber Type: ECS Catalytic Converter Model A20-7016
Engine Certification No.: MSHA Part 7 Certification Number 7E-B098
Fuel Tank Capacity: 100 Litres
Hydraulic Fluid Capacity: 120 Litres
Fire Suppression System: Yes LT-101-A-30 (6)

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 after a short conversation and reflecting on past practices with other vehicles operating within the owner's premises and are owned and operating by mining contractors working for the employer, the agreement was that it was only right that members of the employer's Safety committee request this deviation and acknowledge the fact that this Drill Rig 9879 does not have a Roll Over Protective structure and the operating parameters and constraints of this Drill Rig.

It was the formal request of the owner's JHSC that this request for deviation be signed by the employer's Safety Committee.

The members of the employer's JHSC agree with the request and acknowledge that the Drill Rig 9879 is equipped with a Fall On Protective Canopy and not a Roll Over Protective Structure and that this poses no risk to the safe operation of this Mine Drill rig within the owner's premises and agrees with the request for deviation from Section 220(1) of Regulation 91-191.

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The owner has also provided the following information with this request:

- This drill rig is designed and built with a fall-on protective canopy, model 15517360. The canopy was designed by normet Corporation of Finland and is complete with an ISO certification. The overall height of the drill rig from the ground to its highest point is 3.0 metres, which is currently an amber light located on the top of the canopy. The employer plans to relocate this light from the canopy top so the finished height will be 2.74 metres.
- The access ramp from surface to the 50 metre level was driven at varying grades of 10 to 185, typical to other ramps throughout the underground. The planned diamond drill program for this area will be completed within six months. The back (ceiling) of this travel route also varies in heights due to several recondition projects over the life of the ramp. The area is currently accessed by Vallee forklift trucks and Kubota farm tractors without any incidents. Supervision of the owner's premises will ensure the floor of the ramp is well conditioned so as to eliminate any depressions that could cause instability, resulting in a rollover condition.
- Knowing the MDR 50C has a FOP canopy, the travel route as explained, and past experiences with other vehicles that travel in the same ramps the owner would like to request exemption of subsection 22091) as per subsection 220(3) of Regulation 91-191 for this vehicle.

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

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

Yours truly,

Chief Compliance Officer