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February 27, 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 February 25, 2009, notifying the WHSCC that the employer will be using the following diesel equipment underground:

Mine Equipment No: VH196
Name of Manufacturer:
Model: MT436B
Vehicle Type: Haulage Truck
Year: 2009
Serial No.: DB36P0223
Diesel Engine: D.I. X Turbo: "Electronic"
Manufacturer: Detroit Diesel
Model No.: 6063EK32
Serial No.: 06RE123865
HP: 325
Cooling: Liquid
Scrubber Type: Rock tough ECS
Engine Certification No.: MSHA 7E-B049
Fuel Tank Capacity: 439 Litres
Hydraulic Fluid Capacity: 238 Litres
Fire Suppression System: Yes LT-101-A-30 (2 manual actuators, 8 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 the employer has reviewed mining and tramming processes to which this vehicle will be repetitively exposed on the 1,000m level, including access ramps, according to stipulations 1 and 2 of a letter dated July 23, 1997 from WHSCC. Stated operations are carried out in drifts where there are minimal grade differences and/or embankments.

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.

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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