

Prevention Services Division

PO Box 160
Saint John NB E2L 3X9
Phone 506 453-2467
Toll free 1 800 442-9776
Fax 506 453-7982
Web www.whscc.nb.ca

Division des services de prévention

Case postale 160
Saint John NB E2L 3X9
Téléphone 506 453-2467
Sans frais 1 800 442-9776
Télécopieur 506 453-7982
Web www.whscc.nb.ca



March 12, 2004

“The Employer”

Re: New Brunswick Mining Regulation 96-105, under the Occupational Health and Safety Act-
Section 50 (1) –Notification of Diesel Engine for underground use.

This is in response to the employer’s notification dated March 10, 2004 advising the Chief Compliance Officer of the use of a diesel operated powered mobile equipment to be used underground and the employer’s request for a deviation from Section 94 (1) (a) of the Underground Regulation 96-105.

The piece of equipment in question is a Kubota Rubber Track Excavator model KX 121-2. The excavator is powered by a 42.6 h.p., Kubota diesel engine model D2203-BH-4. Engine certification is through CANMET DNR. The intended use of the vehicle is to excavate overburden in an abandoned raise so as to expose the solid rock walls and collar around a raise that descend from the 425 3 Sub Level.

Section 94 (1) (a) of 96-105 states that:

*An employer shall ensure that each mining machine, stationary engine and piece of mobile equipment using hydraulic fluid with tank capacity greater than twenty litres
(a) is equipped and maintained with an adequate fire suppression system, or*

Since the duration of the work is only two to three days and the excavator is not equipped with a fire suppression system and the hydraulic fluid is not fire resistant, the employer is requesting a deviation to operate this equipment for this short duration work without a fire suppression system.

The employer’s proposal to compensate for the lack of a fire suppression system is to post a fire watch (guard) while the vehicle is in operation. The fire watch will be a trained mine rescuer provided with three-20lb fire extinguishers. During the work, the employee will be standing close to the excavator, prepared to intervene in case of a fire emergency. In addition, the employer has stated that the vehicle will not be driven in any ramps and it is the employer’s intention to transport the vehicle directly one Level on a skid from the other level’s Shaft main cage.

Based on the information provided, a deviation from Section 94 (1) (a) is granted. Please note that this decision is in effect for the duration of this work only.

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

Yours Truly,

Chief Compliance Officer

WorkSafe • Travail sécuritaire