

WorkSafe Services

PO Box 160
Saint John NB E2L 3X9
Phone 506 632-2200
Toll free (Claims) 1 800 222-9775
N.E. Regional Office 1 800 561-2524
Web www.whscc.nb.ca

Services de travail sécuritaire

Case postale 160
Saint John NB E2L 3X9
Téléphone 506 632-2200
Sans frais (Réclamations) 1 800 222-9775
Bureau de la Région du N.-E. 1 800 561-2524
Web www.whscc.nb.ca



June 28, 2006

"The Employer"

The Chief Compliance Officer is writing in response to the employer's letter dated May 25, 2006 in which the employer has requested a deviation from Regulation 91-191 Section 220(3) that states:

220(3) Notwithstanding subsections (1) and (2), the Chief Compliance Officer may give permission in writing for a deviation, under such terms and conditions as he considers advisable, for powered mobile equipment to be used without a rollover protective structure if there is no significant chance of upset and

- (a) the equipment has a frame that is not capable of supporting the stresses introduced by a rollover protective structure during upset,*
- (b) the equipment has a low centre of gravity that makes upset unlikely, or*
- (c) the installation of a rollover protective structure constitutes an operating hazard in the circumstances in which the equipment is operating.*

The employer indicates, in the employer's letter, that the employer's request for deviation is for a Pavement Profiler (Grinder) that is currently in operation throughout New Brunswick. The employer states that the unit has a low centre of gravity that makes upsetting unlikely. This equipment is designed for pavement rehabilitation and operates on paved roadways. The employer advises that the operator is standing while operating the equipment and must be mobile to operate the machine. While the machine is in operation the maximum speed is 108 fpm.

The employer has provided the Chief Compliance Officer with copies of the Safe Job Procedures for the grinder, Training Records, Technical Specifications, Float Loading and Unloading Procedures. One of the key elements of the employer's procedure to prevent roll-over of the grinder is that it not be operated on a slope exceeding 15 %.

Based on the information the employer has provided, the Chief Compliance Officer is prepared to grant a deviation from Section 220 (3) for the operation of the grinder. However, before granting a deviation the Chief Compliance officer would appreciate receiving from the employer more detailed information as to how the operator (s) of the grinder will avoid or be prevented from operating on a grade exceeding 15%. One possible source of information could include a detailed survey of the ground that will be covered for the duration of the project.

By copy of this letter, the Chief Compliance Officer has informed WHSCC staff of the decision.

Yours truly,

Chief Compliance Officer

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