

**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



August 10, 2007

"The Employer"

Re: Deviation request from - subsection 220(1), 220(3)(b)&(c) of Reg. 91-191, Requirements for Rollover Protective Structures

The Chief Compliance Officer is writing to acknowledge receipt of the employer's letter dated August 1, 2007, requesting the above-mentioned deviation in relation to the following diesel equipment:

Mine Equipment No: CS8356  
Name of Manufacturer:  
Model: MK7-2  
Vehicle Type: Terex Ree Drill  
Year: 2007  
Serial No.: MK7-2-004  
Diesel Engine: Direct Injected  
Manufacturer: Mercedes  
Model No.: OM 904 LA  
Serial No.: 0904579876  
HP: 148  
Cooling: Liquid  
Scrubber Type: Catalytic Exhaust, NETT N 70N C  
Engine Certification No.: MSHA 7E-B098-0  
Fuel Tank Capacity: 35.5 gallons  
Hydraulic Fluid Capacity: 52 gallons  
Fire Suppression System: Ansul 101A, c/w 8 nozzles 2-30 pds

The employer is requesting a deviation to subsection 220(3) of regulations 91-191, *Occupational Health and Safety Act* for the above-mentioned vehicle, which is owned and will be operated by the employer's employees, while working for the owner.

The employer indicates that after viewing the Development Jumbo, observing its movements and tramming, the owner's bargaining unit members of the JHSC requested that, since this vehicle will be operated by the employer's employees, that the members of the employer's JHSC sign the request and acknowledge the removal of the fall protective device.

The owner has also requested a deviation for this Development Jumbo and has indicated that this has been delivered to the owner's premises with fall on protective (FOP) structure. The actual height of this FOP device in the tramming position is 2.76m from ground floor to the top of the structure. This tramming position included a one meter height from the top of the drivers seat to the inside of the FOP canopy, which exceeds the minimum criteria of 1.32m as per subsection 103(3)(a)(b). The addition of 0.30m to meet subsection 34(3) of 91-105 makes the overall minimum height of 3.07. This development

**WorkSafe • Travail sécuritaire**

jumbo with the addition of this FOP will physically not fit through the drifts in the owner's premises and maintain compliance to subsections mentioned.

The owner has also indicated that recent studies concluded several back points where heights measured less than the minimum requirement 3.07m of these points, several were less than 2.89m with the lowest points being 2.61m. Physically the proposed CS 8356 Terex Ree Drill with a FOP or ROP structure will not fit in these drifts.

The owner knowing the proposed operating process, area of limitations and past experience with vehicles, has also recommended that the hydraulically operated FOP structure be removed from this equipment.

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

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

Yours truly,

Chief Compliance Officer