

WorkSafe Services

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Services de travail sécuritaire

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February 10, 2005

"The Employer"

The Chief Compliance Officer is writing in response to the employer's letter dated February 1, 2005 in which the employer has requested an exemption (deviation) from the requirement for supervisory staff operating ATV's at the site of a fire to wear helmets as prescribed by the regulations under the Motor Vehicle Act.

The employer indicates that the employer uses ATV's for a number of tasks on the site of a fire, such as:

- to deliver meals and water
- to carry equipment to and from the fire line
- to provide supervisors efficient access to a number of crews, allowing them to make more visits per day to each crew without undo exhaustion on the part of the supervisor

The employer's exemption request pertains specifically to the last item. The employer requests that the employer's supervisors be allowed to use a hard hat with chinstrap instead of the regular approved helmet while operating an ATV on a fire line. The employer indicates that the employer's supervisors are essentially in the fire area most of the time and on the ATV's for short periods of time. The employer contends that it is difficult for supervisory staff to constantly change headgear throughout the workday.

The requirement for ATV operators to wear helmets is covered under the *Off-Road Vehicle Act*, which is enforced and administered by the Department of Public Safety. Section 21 of the *Off-Road Vehicle Act* reads:

No person shall drive an off-road vehicle or be an occupant of such a vehicle unless he is properly wearing a helmet that complies with the standards prescribed by the regulations under the Motor Vehicle Act. An all-terrain vehicle is defined as an off-road vehicle, other than a motorized snow vehicle.

Due to the fact that a hard hat with chinstraps has not been designed to protect wearers from a head injury while operating an ATV and that the wearing of helmets while operating an all-terrain vehicle is regulated under the *Off-Road Vehicle Act*, the Chief Compliance Officer is unable to grant a deviation as requested.

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

Regards,

Chief Compliance Officer

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