

WorkSafe Services

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Services de travail sécuritaire

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May 16, 2005

"The Employer"

The Chief Compliance Officer is writing in response to the employer's letter dated May 4, 2005, in which the employer requests a deviation from the *Occupational Health and Safety Act*, General Regulation 91-191, Section 221(1)(a) that states:

An employer shall ensure that powered mobile equipment that has been fitted with a roll-over protective structure is provided with

a) seat belts for the operator and passengers that comply with or exceed whichever of the following Society of Automotive Engineers' Recommended Practices is appropriate:

(i) SAE J386 NOV97, "Operator Restraint Systems for Off-Road Work Machines";

(ii) SAE J117 JAN 1970, "Dynamic Test Procedure – Type 1 and Type 2 Seat Belt Assemblies"; or

(iii) SAE J800 APR 86, "Motor Vehicle Seat Belt Assembly Installations"; or

b) where the wearing of seat belts is impracticable, restraining devices such as shoulder belts, bars, gates, screens or other similar devices designed to prevent the operator and passengers from being thrown outside the rollover protective structure.

The employer has requested this deviation on behalf of a unionized conventional skidder owner-operator. Subsequent to the skidder owner-operator undergoing kidney transplant surgery, the skidder owner-operator's physician issued a slip certifying that the patient is unable to tolerate wearing a lap seat belt due to medical reasons resulting from the operation. The employer's physician examined the skidder owner-operator and concurred with the restriction. The employer has included copies of the doctor's findings as supporting documentation.

The employer proposes to replace the factory-installed lap seat belt with shoulder belts that would restrain the operator securely in the seat and prevent the operator from being thrown about inside the screened-in roll-over protective structure. The employer believes that a deviation, if granted, would permit safe accommodation for a long-service employee in the workplace.

The employer and the skidder owner-operator have identified a garage as having the capability to install shoulder belts in the Timberjack 240 Skidder. If the deviation is granted, the employer would require that the skidder owner-operator use the shoulder belts during the course of his work.

Please be advised that a deviation of Section 221 of General Regulation 91-191 is not required as Section 221(1)(b) (included above) allows for the use of restraining devices such as shoulder belts. The restraining device should meet Type 2 of SAE J117 Jan 1970 that is cited in Section 221(1)(a)(ii). As such, it is not necessary for the Chief Compliance Officer to render a decision on the employer's request for a deviation.

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

Regards,

Chief Compliance Officer

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