

June 4, 2009

"The Employer"

The Chief Compliance Officer is writing in response to the employer's email dated June 2, 2009 requesting a deviation from Section 207(1)(b) Regulation 91-191, which states:

*207(1) An employer shall ensure that a hoisting apparatus is*

*...*

*(b) equipped with suitable ropes, chains, slings, hooks and other fittings,*

*so as to ensure the safety of a person who uses the apparatus or works in its vicinity.*

The employer indicates the following in the employer's request for deviation:

On Friday, May 29<sup>th</sup>, 2009, a Health & Safety Officer was at the employer's shop and asked why the employer would require a hook without a safety latch and it just so happened that the employer had an application where the hook with the latch actually poses more of a hazard than the hook without.

The type of work the employer performs to electric motors requires the employer to place them in a 7' deep tank. In order to remove the hook the employer would have to climb down into the tank and disengage the latch by hand.

The employer currently has a ' latch-less' hook which negates the need to climb into the tank. The employer feels that this is the best and safest option available.

This is the only application in the employer's shop where this deviation would be required, all other areas have the required latches currently installed.

The employer has provided the Chief Compliance Officer with images for the Chief Compliance Officer's consideration.

A review of the legislation has found that Section 207(1)(b) of the Regulation does not specify when a safety latch on a hook is required, therefore it is up to those involved in the operation to determine when such devices are suitable to ensure the health and safety of workers. As a result a deviation from Section 207(1)(b) is not required. However, the employer must comply with the Section 211(2)(c) of Regulation 91-191:

Loads shall be raised vertically in order to prevent the hook from slipping off of the load.

*211(2)(c) An operator of a hoisting apparatus shall raise a load vertically unless it is necessary to raise a load obliquely.*

Also, the employer shall ensure that hooks being used have not had their safety latches removed, as this would be considered removing or rendering ineffective a safety device.

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

Yours truly,

Chief Compliance Officer