



Stakeholder Consultation Results:

Propose fall protection amendments under

General Regulation 91-191

Fall 2021

In this document:

A. Background

B. Consultation Methodology

C. Stakeholder Response

D. Results Summary

E. Conclusion

A. Background

WorkSafeNB is proposing amendments to New Brunswick's fall protection regulations to harmonize with national standards. Harmonizing these regulations to a national standard plays an important role in improving the health, safety, and environment of New Brunswickers by ensuring the products and services we use are safe, reliable, and consistent. Harmonization also supports the economy by promoting innovation and reducing red tape.

Fall protection regulations impact many employers operating in New Brunswick. As part of WorkSafeNB's commitment to consulting with stakeholders in its decision-making process, the consultation was held for four weeks, which ended October 20, 2021. This document shares the feedback from this consultation.

One of the primary objectives of the consultation was to determine the financial impact on employers if WorkSafeNB adopted enhanced safety regulations focused on the following topics:

- Fall protection energy absorbers / lanyards
- Full body harnesses
- Rope grabs / vertical lifelines
- Self-retracting devices
- Connecting components (carabiners / snap hooks)
- Type 2 headwear

B. Consultation methodology

WorkSafeNB's Compliance and Regulatory Review Department identified sections of the regulation for stakeholders to review, which included the language from the existing regulation, the proposed amendments, and the rationale behind the proposal.

The consultation campaign was launched September 22, with background information and a list of the amendments under consideration posted on WorkSafeNB's corporate website for any interested parties to provide feedback. The consultation was featured prominently on the WorkSafeNB homepage, directing visitors to the survey and supporting material. WorkSafeNB also featured the consultation prominently in weekly social media posts on Twitter, LinkedIn and Facebook.

Communications also sent email invitations to key stakeholders, which included impacted employers identified through the North American Industry Classification System.

The third-party survey tool, Novi Survey, used in the stakeholder consultation provided respondents the opportunity to share feedback on the topics under review. Respondents were asked direct Yes/No questions and were also able to discuss any thoughts or feedback regarding the proposed amendments. Responses varied.

Participants were not required to answer every question, meaning a respondent could answer only those questions that pertained to them.

The survey was confidential and anonymous; however, respondents were given the opportunity to provide their name, organization, and contact information. They could also choose whether or not WorkSafeNB could publish their name or comments in this report.

This report quantifies the responses, identifies a response rate, and gives an overview of the opinions of those stakeholders who participated. The consultation results will be one piece of information considered in the regulatory amendment process.

C. Stakeholder response

WorkSafeNB invited close to 3,500 registered employers to participate by email. Members of the public could also participate through postings on WorkSafeNB's website and social media pages. WorkSafeNB received 52 (n=52) partial or complete responses to the consultation:

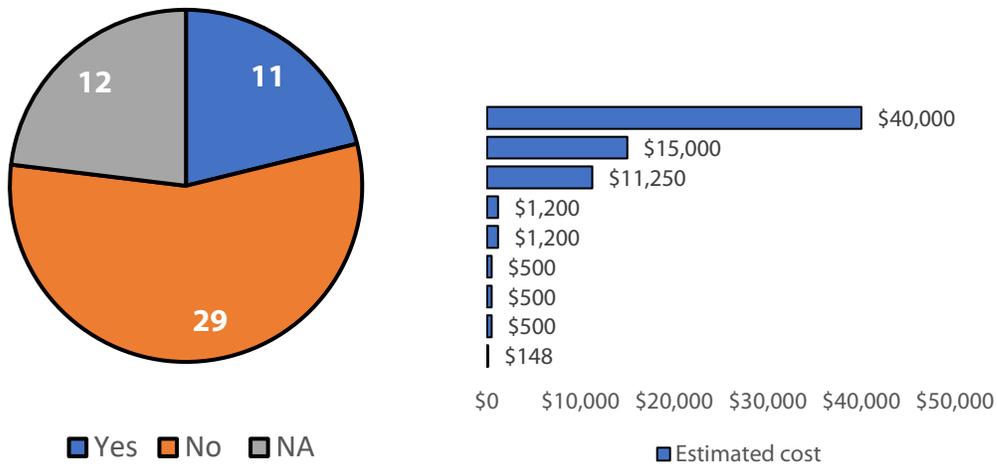
- 46 English and six French responses were received via Novi Survey, totalling 52.

Note: *Due to the fact questions did not require an answer, the total respondents per question may not total 52. Some responses have been edited for clarity.*

D. Results summary

Fall protection energy absorbers / lanyards

Do you have fall protection energy absorbers and/or lanyards in good operating condition that will have to be replaced because they don't meet the requirements of CSA Z259.11-17? If yes, please estimate the cost.



Stakeholder comments:

"Yes. Until such time any "after pre use and annual third-party inspection" in use E4 and E6 lanyards permitted for use from the existing standard should be permissible."

"As we replace ours, we update to the latest available."

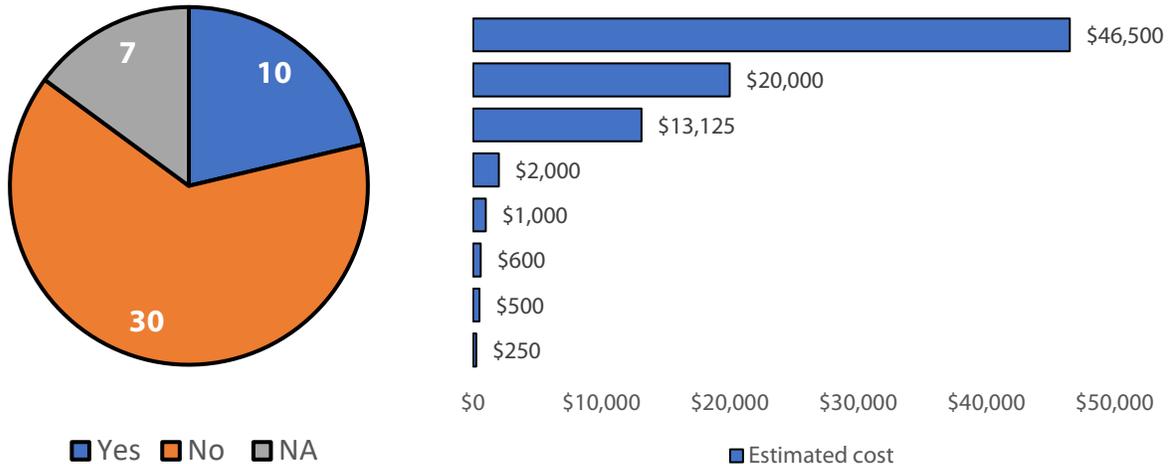
"No. The wording "...or a standard offering equivalent or better protection;" opens itself up to ANSI, CE, DEN, and a multitude of others. Should this not read "...or a CSA standard...". Otherwise, it may put undue duress on the PPE inspection industry to purchase and know what each of these alternative standards may describe."

"No, just purchased new and fall under this regulation."

"I feel that adding "or a standard offering equivalent or better protection" can and probably will be interpreted in various ways depending on the reader. What is considered equivalent protection? The new wording is misleading."

Full body harnesses

Do you have any full body harnesses that are in good operating condition that will need to be replaced because they don't meet the requirements of CSA Z259.10-18? If yes, please estimate the cost.



Stakeholder comments:

"The second bullet indicates that a major change to harness requirements is that the harness must have a permanent waist-belt or back strap. The standard further explains that the waist-belt/back strap must be at least 6 inches from the d-ring. We have three harnesses with moveable d-rings. It is therefore possible to position the d-ring such that it is closer than six inches from the d-ring. If WorkSafeNB determines these harnesses (that comply with the 2006 version) are not 'equivalent', they will have to be replaced at an additional cost of \$600 from what was indicated above."

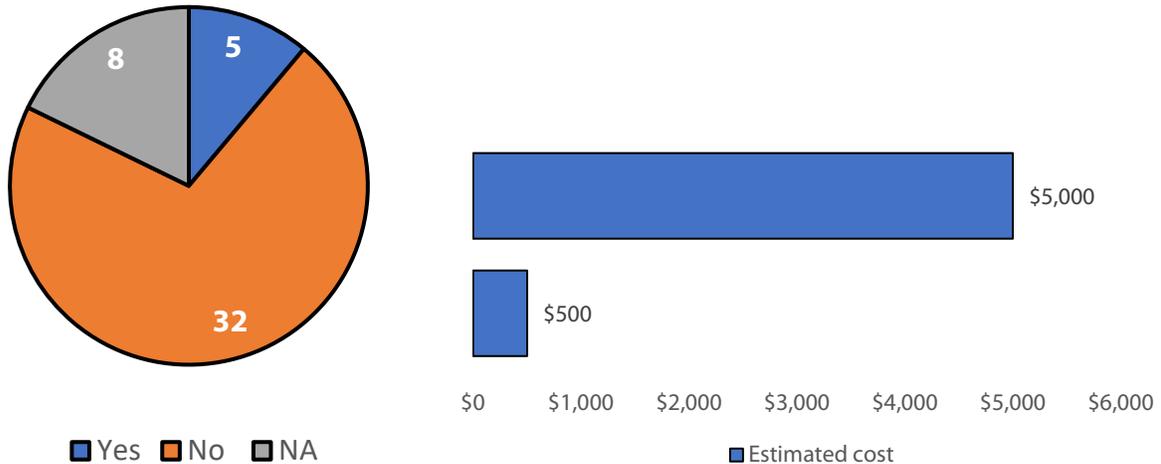
"It seems to allude that other standards would be applicable. Is the intent to allow people to use ANSI or CE certified harnesses and lanyards?"

"If I have a good inspection log, harnesses can last longer than five years."

"Our harnesses have webbing across the top of the back to keep the shoulder straps from separating. A permanent back strap would also be fine but a permanently attached waist belt would be suboptimal. It would get in the way of the body belts that our powerline technicians use for climbing poles. Our two-piece harness/belt solutions allow for the body belt to be worn when climbing poles and removed when working from a bucket. Having the waist belt permanently attached would add extra weight and bulk to the harness when it isn't necessary (i.e. in the bucket), therefore introducing an unnecessary ergonomic hazard. There is also concern regarding an electrical hazard (e.g. if metal D-rings were introduced). If the webbing solution of our current harnesses meet the new standard, then we do not have any harnesses that would need to be replaced. If we did have to replace them all, the approximate cost would be \$15-20,000."

Rope grabs or vertical lifelines

Do you have rope grabs or vertical lifelines that are in good operating condition that will need to be replaced because they don't meet the requirements of CSA Z259.2.4-15? If yes, please estimate the cost.



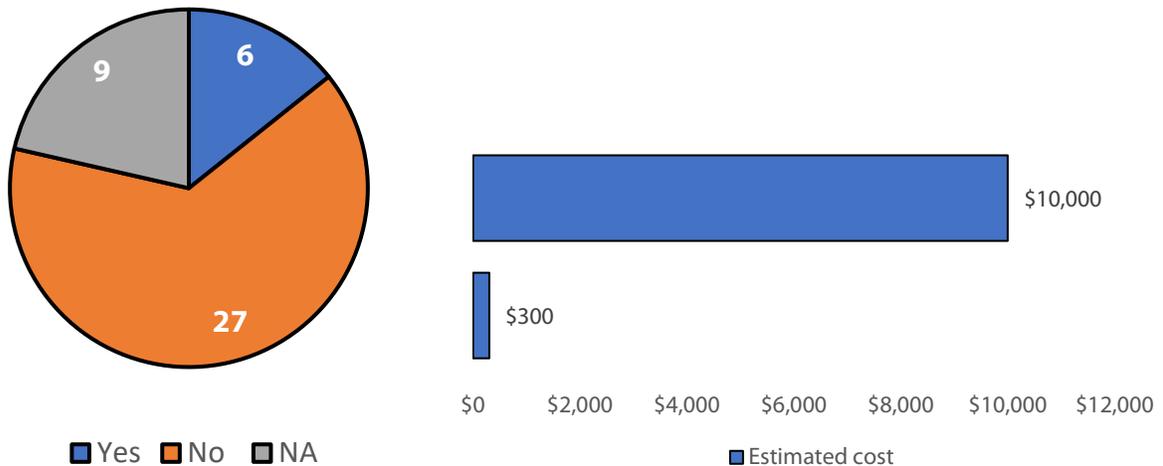
Stakeholder comments:

"We don't have fall arresters that are used with vertical rails... however we do have three rope grabs for use with VLLs that comply with Z259.2.5-98 (manufactured in 2014 & 2015). We want to determine if integral connection of the lanyard is a significant change and if there are other significant differences between the 98 and 2015 versions of the standard that would result in us having to replace them once the legislative changes to 91-191 come into force."

"Vertical systems should be stainless steel to prolong life in harsh conditions and cable grabs must not be able to be put on backwards. Vertical rope and grabs should be replaced by leading edge SRL where applicable."

Self-retracting devices

Do you have self-retracting devices that are in good operating condition that will need to be replaced because they don't meet the requirements of CSA Z259.2.2-17? If yes, please estimate the cost.



Stakeholder comments:

"My employer has many SRLs in use. These are becoming most common in the construction world. Wire rope should be the only SRLs permitted. Synthetic rope should be terminated."

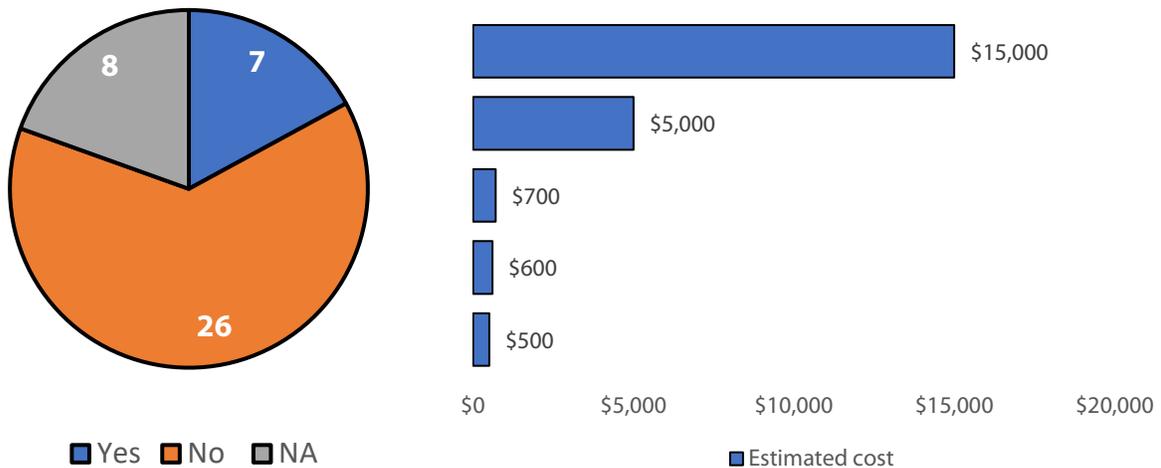
"We have three SRLs manufactured in 2015 & 2016 that will be 'equivalent'."

"If devices that do not contain wire rope are still allowable, then there is no issue. Devices containing wire rope would present an electrical hazard for our powerline technicians."

"Good amendment."

Connecting components (carabiners / snap hooks)

Carabiners and snap hooks that comply with previous versions of the CSA standard will have to be replaced. Do you have connecting components in good operating condition that will need to be replaced because they don't meet the requirements of CSA Z259.12-16? If yes, please estimate the cost.

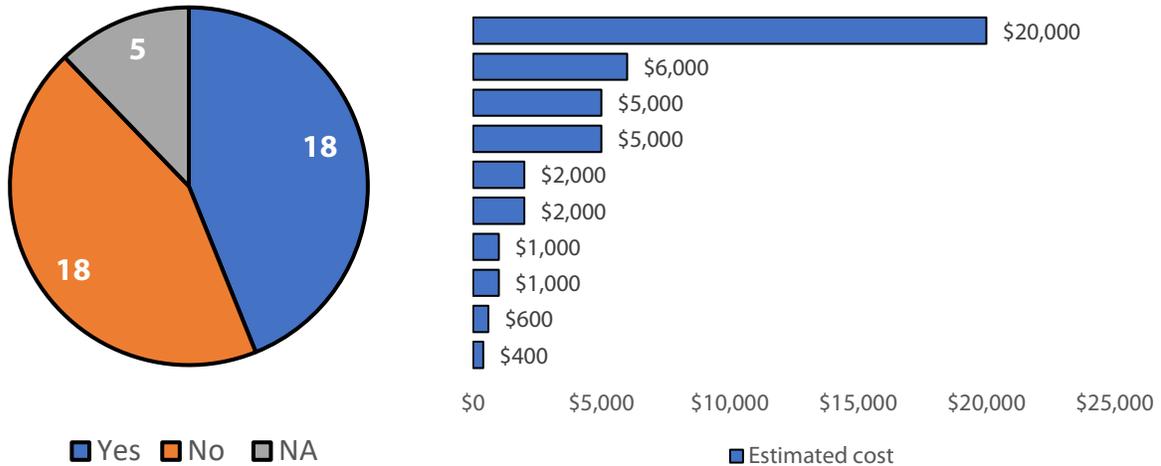


Stakeholder comments:

"The wording "...or a standard offering equivalent or better protection;" opens itself up to ANSI, CE, DEN, and a multitude of others. Should this not read "...or a CSA standard...". Otherwise, it may put undue duress on the PPE inspection industry to purchase and know what each of these alternative standards may describe."

Type 2 headwear

If we adopt the new standard, will you have to purchase Type 2 headwear to comply? If yes, please estimate the cost.



Stakeholder comments:

"None of our workers have type 2 headwear."

"Will this apply to rope access work?"

"Our organization has already moved to Type 2 as they provide the required protection for our workers."

"We already use Type 2."

"We work in all Maritime provinces and use type II in other provinces. We do not see it as a big issue for workers to wear the type II hardhats. If workers can wear either it is harder to comply at all times."

"Adding an exception for a written head hazard assessment that verifies a lesser level of protection is appropriate puts the onus on the person or entity with the most control, and allows an appropriate control when situations do not require the side impact protection."

"We are a construction company. We use our Field Level Hazard Assessment to determine which hard hat is needed; 95% of our tasks does not need side protection."

"All our workers wear Type II hard hats; none complained. We did tests and found weights were similar."

"We already require Type 2 on all sites."

"We already require type 2 headwear for our employees."

Do you have any other feedback?

"Regulations need to keep up with what is available to the industry." – **Mike Waddell, Modern Construction (1983) Limited**

"You have granted OHS officers the power to hand out fines to businesses, employees, and owners, directly and with no judicial process. This legislation was passed in September of 2020 at the height of the pandemic when the public was being bombarded with COVID-19 messaging and the legislative assembly was not even meeting. In the past, if there was an infraction (and we've had none in our decade of operation) it would need to be dealt with by a prosecution process, which at the very least leaves a small business the opportunity to state its side of the case. With these new rules an officer can impose a fine on the spot with no judicial process involved; far too much power to place in the hands of the officer. The minimum fine is \$500 for the business, \$250 for the owner (usually one in the same), and \$100 for the employee. This is appalling considering all that small business has endured in 2020 and 2021 already. I was told that there was a "consultation process" before these oppressive measures were enacted; yet I saw no notice as a business owner. If this is the next "consultation process" that will result in even more oppressive measure by OHS all in the name of safety; then I completely disagree. I am aware this will fall on deaf ears, but I feel I must take any opportunity I can to stand up for small business in the constant attacks from the current New Brunswick government." – **Steve Butler, Yard Gear Inc.**

"Great amendments package." – **Neil Clements, Clements Law Office**

"When referring to standards in the legislation, adding a section including the phrase "or most current version" keeps the regulations moving in the right direction without making continual changes. It has been far too long since the last fall protection revision and a "or most current version" clause helps to prevent huge gaps in the regulations that occur as standards and technology advances." – **Robin Creelman, RUSafe Inc.**

"Great! I suggest the changes be presented to all in the same format as I just reviewed as a "cheat-sheet" until we become accustom to these changes. Presented with the before and after changes explaining what is now different."

"As we are a firm that operates throughout Canada, harmonization amongst the provinces and territories is very desirable...thank you!"

"In New Brunswick and other Maritime provinces more attention has to be paid to OH&S compliance on residential projects. I have been involved recently on a large home project and the contractors coming to the projects without any training. They never attended an orientation before coming to our site, never were asked to provide WHMIS, fall protection or EWP training. They advise that they are operating the equipment on other residential projects with no problems. It is time that resources were placed on residential as some of these home contracts are larger than a medium sized commercial venture."

"Too many regulations as is. Being tied off on a walkable roof is more of a tripping hazard than anything else. Thanks."

E. Conclusion

The 52 responses, while varying in opinion, did share some similar themes WorkSafeNB can consider during the drafting phase. With the exception of adopting type 2 headwear, the other proposed amendments impacted less than 25% of respondents.

WorkSafeNB thanks all respondents for taking the time to share their opinions on this consultation. This is a topic that impacts many New Brunswick workplaces and, as such, this feedback is greatly appreciated and will be taken into consideration during the regulatory amendment process.