

# LEGISLATIVE INTERPRETATIONS

Topic: Baseball caps under hard hats	Issued by: V.P., WorkSafe Services
Statute: <i>General Regulation (Reg.) 91-191</i>	Date Issued: December 11, 2007
Section, subsection or paragraph: 38(1), 38(2)(a), 40(1) and 40(2)	Date Revised: May 21, 2014

**38(1)** Where protective equipment is required to be used by an employee under this Regulation, an employer shall provide the protective equipment required and shall ensure that the employee is instructed and trained in the proper use and care of the protective equipment.

**38(2)(a)** Where protective equipment is required to be used by an employee under this Regulation, an employee shall use the equipment that is required in accordance with the instruction and training received.

**40(1)** On a project site, an employee shall use Class E, Type 1 headwear that conforms to ANSI standard ANSI Z89.1-1997, “American National Standard for Industrial Head Protection” or a standard offering equivalent or better protection.

**40(2)** At a place of employment, other than a project site, where an employee is exposed to a hazard that may injure the employee’s head, the employee shall use protective equipment that is appropriate to the hazard and that conforms to ANSI standard ANSI Z89.1-1997, “*American National Standard for Industrial Head Protection*”, or a standard offering equivalent or better protection.

**Question**

A number of employees wear a baseball cap under their hard hats at my workplace. Is this acceptable?

**Answer**

In New Brunswick we cite American National Standards Institute’s (ANSI) Z89.1-1997 or equivalent, therefore the use of protective headwear in provincial workplaces must meet both the standard and the manufacturer’s requirements.

ANSI standard Z89.1-1997, referred to in both subsections 40(1) and 40(2) of *Reg. 91-191*, is silent when it comes to the wearing of baseball caps under hard hats.

However, subsection 40(1) of *Reg. 91-191* allows the option of using headwear that conforms to a standard offering equivalent or better protection. Furthermore, subsection 40(2) of *Reg. 91-191* allows the option of using protective equipment that is appropriate to the hazard and conforms to a standard offering equivalent or better protection.

While New Brunswick legislation does not cite the most recent Canadian Standards Association (CSA) standard on industrial headwear, CSA standard Z94.1-05, a review of the standard states, in clause 5.7.4, “Because baseball-style caps will interfere with the ability of a suspension to work properly during an impact, they should not be worn under protective headwear.” It must be noted that the use of the term “should” in the CSA standard indicates a recommendation that is advised, but not mandatory.

Subsection 38(1) of *Reg. 91-191* states that employers are responsible to ensure employees are instructed and trained in the proper use of the protective equipment they are required to use. Furthermore, under paragraph 38(2)(a) of *Reg. 91-191*, employees must use the required equipment in accordance with the instruction and training received.

The training manager of one protective headwear manufacturer and distributor indicated that, when training users, they condemn wearing baseball-style caps under protective headwear as they could affect the suspension’s ability to work properly during impact. Therefore, unless the workplace can demonstrate, in writing, that the manufacturer of the hard hat allows the wearing of ball caps under the protective headwear, employees are not allowed to wear baseball-style caps under protective headwear.