



Final Industry Guidelines For the Management of Electrical Product Safety

Ontario Regulation 438/07

Electrical Product Safety

June 15, 2008

Revised February 10, 2010

Legal Disclaimer.

This document contains **GUIDELINES ONLY** to assist members of industry in interpreting Ontario Regulation 438/07 – Product Safety - made under subsection 113(1) of Part VIII of the *Electricity Act, 1998*. These guidelines do not have the force of law. Where there is a conflict between these guidelines and any legislation or regulation which may apply, the relevant law prevails.

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Acknowledgements:

Without the enthusiastic participation and concentrated effort of the members of all the ESA Product Safety Working Groups covering risk assessment and prioritization, reporting, corrective action and public notification, rules regarding revocation of product approval and the recognition of a Certification Bodies and Field Evaluation Agencies, this guideline would not have been developed. ESA gratefully acknowledges the contributions of the following individuals who were members of the Working Groups:

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1. Introduction

On August 1, 2007, the Ministry of Government and Consumer Services (MGCS) filed Ontario Regulation 438/07 (Product Safety) to improve electrical product safety in Ontario. The regulations seek to enhance the process and requirements for the approval and revocation of approval of electrical products governed by the Ontario Electrical Safety Code (OESC) sold or offered for sale in Ontario. The regulation applies to both consumer and non-consumer electrical products covered by the OESC.

The new regulations will improve the Electrical Safety Authority's (ESAs) ability to respond to unsafe electrical products in the Ontario marketplace by establishing stronger mechanisms to protect consumers and the public against unsafe electrical products and provide a process to address identified safety hazards.

To assist affected stakeholders comply with the new requirements, ESA consulted with stakeholders to establish operational guidelines to support the implementation of the regulation.

2. Purpose

The purpose of this guidance document is to assist suppliers, certification bodies (CBs) and field evaluation agencies (FEAs)¹ to understand and comply with their obligations arising from the *Product Safety Regulations* made under Part VIII of the *Electricity Act 1998*.²

This guidance document is intended to provide assistance and direction to affected stakeholders regarding:

- the reporting of serious electrical incidents or accidents or defects under Section 8 of the *Product Safety* regulation;
- the reporting thresholds and a case prioritization methodology that will be used in applying the *Product Safety* regulation by the ESA;
- the requirement for public notification under Section 9 of the *Product Safety* regulation; and
- the requirement to take corrective action under Section 113(11) of Part VIII of the *Electricity Act, 1998*.³

¹ For the purposes of the guidelines Inspection Bodies, as defined by the Standards Council of Canada (CSS) will be referred to as Field Evaluation Agencies (FEAs) as defined in the regulation.

² Ontario Gazette, *Ontario Regulation 438/07*, Electricity Act, Sections 8(1) and 8(2) August 18, 2007.

³ Ontario Gazette, *Ontario Regulation 438/07*, Electricity Act, Sections 9, August 18, 2007.

The reporting provisions are intended to ensure that ESA is made aware of serious electrical incidents, accidents and defects in a timely manner in order to allow the ESA to effectively investigate incidents and manage the associated risks. The guidelines will also provide templates and forms for reporting and checklists to assist those who may have obligations under the regulation.

The corrective action and notification provisions are intended to reduce the occurrence of serious electrical incidents and accidents by correcting a defect in a product and alerting the public to the risks and informing them of actions they should follow to protect themselves and others. The guidelines will also provide advice on selecting, planning and implementing effective corrective actions and public notifications.

The document will also assist medical professionals, fire and police officials and others who may wish to voluntarily share information about serious electrical incidents with ESA.

This guidance document is designed to supplement the legislation and regulations and, if a conflict exists between this guidance document and the Act or regulations, the Act and regulations shall take precedence.

The action chosen by the Authority will depend on a number of factors, including, but not limited to: the laws of Ontario, the assessed level of risk, the existence and nature of a contract or agreement between the certification body or field evaluation agency and their client; and the seriousness of the potential hazard.

Notwithstanding the above, the Authority may order such action as it considers necessary or advisable for the safety of persons or the protection of property as per section 113 (11) of the *Electricity Act, 1998*.

3. Background

The new regulation provides a means for ESA to more effectively manage the risks associated with electrical products by providing the Authority tools to detect, identify and respond to dangerous or potentially dangerous electrical products at an early stage.

Prior to this regulation, there was no mandatory requirement for manufacturers, distributors, retailers, importers, CBs or IBs to report to ESA any serious accidents, incidents or defects involving electrical products. Reports of product incidents were rarely submitted to ESA; most reports were

submitted on a voluntary basis by mostly consumers and other regulatory bodies; forcing ESA to react to events rather than managing the issues.

By requiring manufacturers, importers, wholesalers, distributors, retailers, certification bodies and field evaluation agencies to report serious electrical product incidents, accidents, defects or substantial property damage of which they are aware, ESA will be better able to manage the risks associated with problem electrical products.

In addition, the regulation provides the Authority with a formal mechanism to ensure compliance with the product approval regime in Ontario. The new regulation provides the Authority with additional powers to ensure that the requirements of the regulation are met and that those governed by the regulation comply with the new regulatory requirements.

4. Scope

This Guideline is to be used by manufacturers, wholesalers, importers, distributors, retailers, CBs, and IBs of to both consumer and non-consumer electrical products covered by the OESC and subject to the Product Safety regulation (Regulation 438/07) made under Part VIII of the *Electricity Act, 1998*. Specifically, the guidance document:

- assists those with reporting requirements to determine whether they are obligated to report an incident, accident or defect to ESA;
- can be used for both mandatory and voluntary reporting of serious electrical incidents, accidents or defects that affect or could affect the safety of persons or damage property;
- will be used by the ESA in determining what actions to take in response to such reports;
- covers all types of corrective actions, including public notification, that may be undertaken by those responsible to eliminate, reduce or remove a safety risk arising from electrical products governed by the OESC (which include electrical consumer products, electrical medical devices, industrial products and wiring products);
- provides those affected by the regulation with a process that the ESA will follow when implementing the regulation.

5. Definitions

Accreditation: Third-party attestation of a certification body's (CB) or field evaluation agency's (FEA) demonstrated competence to carry out specific conformity assessment tasks. For the purposes of this document, it is the formal initial and continued attestation by Standards Council of Canada (SCC) of a body to operate a certification or inspection program in Canada on a continuing basis in a specific subject area(s), in accordance with specific criteria, procedures and requirements.

Accident: An event that results in death, injury or property damage

Appeal: A formal request in writing to the Authority, given in accordance with Ontario Regulation 3/05 (Reviews and Appeals of Orders Issued by the Electrical Safety Authority) and the accompanying rules.

As Soon As Practicable: The time period within which a mandatory report is to be submitted to ESA. For the purposes of the regulation, ESA defines this to be 48 hours for an initial report and 10 days for a follow-up report.

Certification Body (CB): A body accredited in accordance with the *Standards Council of Canada Act* (Canada) to certify electrical products and devices and recognized by the Authority.

Corrective action: An action or a range of actions taken in order that no further serious electrical incidents or accidents occur and/or any defect that affects or is likely to affect the safety of any person or cause damage to property is corrected. Corrective action includes public notification.

Defect: A fault, flaw or irregularity in an electrical product that causes weakness, failure, or inadequacy in form or function of the product in question.

Electrical products: An “electrical product or device” as defined in subsection 113.12.1 of Part VIII of the *Electricity Act, 1998* which states, “any thing used or to be used in the generation, transmission, distribution, retail or use of electricity.”

Field evaluation: The product examination process undertaken by an accredited field evaluation agency to determine product compliance to specific requirements.

Field Evaluation Agency: An inspection body accredited in accordance with the *Standards Council of Canada Act* (Canada) to evaluate electrical products and devices and recognized by the Authority.

Incident: An event that could have resulted in death, injury or property damage.

Non-compliance: Violation of the *Electricity Act, 1998*, the Ontario Electrical Safety Code, the regulations or the Authority’s product safety guidelines and rules and/or SCC accreditation requirements.

Recognition: A formal process whereby the Authority, acting as the provincial authority having jurisdiction, accepts and recognizes certification

bodies that certify electrical products or field evaluation agencies that perform field evaluation of electrical products.

Serious Injury: Permanent impairment of a body function or permanent damage to a body structure, chronic health effects or any injury requiring hospitalization or professional medical treatment.

Subsequently hazardous product: A product that has been previously certified or field evaluated but has been subsequently identified to be hazardous.

Substantial property damage: A loss attributed to flame emitted from a product, or failure to contain an ignition source or hazardous material, or an impact on building and contents ranging from partial to total loss.

Product Supplier: A manufacturer, importer, distributor, retailer, or wholesaler; the person, organization or agent in the product supply chain who by way of sale, exchange, lease, hire or contract is responsible for the product being offered for sale, sold or used in the province of Ontario.

Suspension: The process for temporary removal of the approval of a product. For the purposes of the regulation, suspension may be limited to a specific product or category of products.

Retailer: A retailer also includes those who sell in or into Ontario via the internet, through mail order arrangements, auctions, flea markets and those who sell second hand goods.

Revocation of product approval: The process to revoke the approval of a product.

Revocation of recognition: The process to revoke the recognition of a certification body or field evaluation agency. Revocation applies to the full scope of recognition of a certification body or field evaluation agency.

6. Reporting of Accidents, Incidents and Defects

6.1. What are the new Provisions for Mandatory Reporting?

The *Product Safety* regulation (Regulation 438/07) made under *Part VIII of the Electricity Act, 1998* was proclaimed August 15, 2007. These regulations included the following requirements for the mandatory reporting of serious electrical incidents or accidents or defects that affect the safety of individuals or cause damage to property or defects.

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8. (1) *A manufacturer, wholesaler, importer, product distributor or retailer that becomes aware of a serious electrical incident or accident or a defect in the design, construction or functioning of an electrical product or device that affects or is likely to affect the safety of any person or cause damage to property, shall report to the Authority as soon as practicable after becoming aware of the serious electrical incident or accident or defect.*

(2) *A certification body or field evaluation agency that becomes aware of a serious electrical incident or accident or a defect in the design, construction or functioning of an electrical product or device that was the subject of a report given by the certification body or field evaluation agency that affects or is likely to affect the safety of any person or cause damage to property shall report to the Authority as soon as practicable after becoming aware of the serious electrical incident or accident or defect.*

(3) *A report under subsection (1) or (2) may be given by telephone, fax or other form of electronic transmission or by any other means that brings the report to the attention of the Authority.*

(4) *A report under subsection (1) or (2) must include,*

(a) contact details of the person making the report or on whose behalf the report is being made, including name, address, email address and telephone number;

(b) information that permits precise identification of the product or device;

(c) details of the serious electrical incident or accident or the defect in the design, construction or functioning of the electrical product or device, including any damage or harm to property or persons; and

(d) any other relevant information that is required by the Authority, in a form required by the Authority.

(5) *Upon the request of the Authority, the following persons or organizations shall assist in the investigation of the serious electrical incident or accident or the defect in the design, construction or functioning of the electrical product or device:*

1. The manufacturer, wholesaler, importer, product distributor or retailer of the electrical product or device that is the subject of the report.

2. The certification body that certified the electrical product or device that is the subject of the report.

3. The field evaluation agency that examined the electrical product or device that is the subject of the report.

6.2. Determining whether an accident meets the threshold for reporting

Incidents, accidents and defects must be reported to ESA whenever:

- a) the severity of actual impact passes the defined threshold for 'death or serious injury' or 'substantial property damage', or
- b) the nature of the incident, accident or defect means it has the potential to cause 'death or serious injury' or 'substantial property damage'.

An accident must be reported if its actual impact resulted in death, serious injury or substantial property damage.

ESA interprets '**serious injury**' to mean *permanent impairment of a body function or permanent damage to a body structure, chronic health effects or any injury requiring hospitalization or professional medical treatment.*

ESA interprets '**substantial property damage**' to mean *a loss attributed to flame emitted from a product, or failure to contain an ignition source or hazardous material, or an impact on building and contents ranging from partial to total loss.*

The reporting decision should be based on assessment of an accident's consequence on both people and property. If either consequence exceeds the defined severity threshold, a report must be submitted. The severity identified for an accident should be the higher of the impacts on people and property.

To assist those who have an obligation to report incidents, accidents or defects, screening tools have been created which state the minimum thresholds for reporting to ESA. The Screening Tools are included in Appendix 2 and Appendix 3 of this guidance document.

Although low severity accidents need not be reported, such events should be subject to the same assessment criteria applied to incidents and defects to determine whether the reasonably foreseeable consequence could have exceeded one of the reporting thresholds.

6.3. Assessing defects

ESA interprets a '**defect**' to mean *a fault, flaw or irregularity that causes weakness, failure, or inadequacy in form or function.*

ESA is interested in **defects** that **affect or are likely to affect the safety of any person or cause damage to property.**

A defect could be the result of a manufacturing or production error; or it

could result from the design of, or the materials used in, the product.

A defect could also occur in a product's contents, construction, finish, packaging, warnings, and/or instructions.

A defect could also consist of a failure to meet applicable electrical standards.

A defect may create hazards of an electrical, mechanical, chemical or other nature that are addressed in the safety requirements for electrical products under the OESC.

Not all products that are inherently hazardous are defective. An electric paint stripper is one such example. The stripper has to be hot and must produce heat to allow the consumer to remove or soften paint prior to removal. The heat is not a product defect, even though some consumers may burn themselves while using the stripper.

Promotion of a product outside of its intended use is unacceptable and reportable, but is not a product defect unless undertaken or condoned by the manufacturer. Parts on the stripper will reach a temperature capable of causing personal injury in some usage scenarios.

Promotion of product use that is outside what is intended by or that is excluded by the manufacturer is unacceptable if such use presents a hazard unknown or unforeseeable to the user.

A hypothetical example would be the promotion of the aforementioned paint stripper to rapidly evaporate water. While using the paint stripper to evaporate a small amount of water spilled on a kitchen floor might be accomplished without injury or property damage, attempting to dry out an electrical appliance that has been immersed or flooded could foreseeably result in a shock hazard if carried out without first disconnecting the latter appliance from the electrical supply. Promotion of a paint stripper to evaporate water is therefore unacceptable as not all users would be aware of the potential shock hazard involved in such use. In this example, a hazard exists even though the user behaviour is reasonable (the paint stripper was used as promoted) and the paint stripper itself is not defective.

6.4. Determining whether an incident or defect meets the threshold for reporting

The minimum thresholds for reporting incidents and defects are summarized in the Screening Tools included in Appendix 2 and Appendix 3 of this guidance document. The screening tools are to be used to determine whether an initial report is required.

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The minimum thresholds state that the following incidents must be reported to ESA if there is:

- a) Flame or fire outside the product (i.e. product enclosure);
- b) Release of a highly flammable substance (i.e., natural gas) from an electrical product;
- c) Failure of the product or component in the product to perform its primary safety and/or protection function (e.g., smoke detector, CO detector)
- d) Overheating causing actual or potential property damage;
- e) A product failure that can cause actual or potential personal injury or shock (e.g. exposed live wires);
- f) Knowledge of a pattern of individual incidents or low-severity accidents that may be a warning sign of more serious problems (e.g. consistent user error or misuse; consistent product defect)

Defects must be reported to ESA if instructions fail to address hazards associated with product use or if a failure mode exists that causes one or more of consequences a) through g) above.

Consideration must be given to actual or potential personal injury or property damage. Judgment must be used as to whether an incident or defect is otherwise “likely to affect the safety of any person or cause damage to property” with a degree of severity exceeding the reporting thresholds.

The potential severity of impact may differ depending on the scenarios in which the incident or defect is envisaged to materialize into an accident. For example, a product failure of some battery powered portable products (e.g., a battery operated toothbrush) could not result in any significant shock to an individual because the maximum voltage level of the product is too low, and this impact would be assessed as insignificant or minor.

A scenario could be envisaged, however, where a failure of the 120V toothbrush charger unit, if connected to the toothbrush while in use, could cause heart arrhythmia requiring hospitalization, and this impact would be assessed as moderate. Similarly, there are different types of property damage, including fire, explosion, flooding and freezing. For example, a failure of a motor protector could result in the motor overheating, causing a fire. This impact would be assessed as high.

A failure of the same motor with the motor protector operating correctly might produce some smoke when it fails, but this failure would be assessed as insignificant because it would not result in a fire outside the product.

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The range of incident and defect scenarios that can be envisaged is virtually limitless. However, the judgment as to whether an incident or defect is “likely to affect the safety of any person or cause damage to property” (and therefore be reportable) should be based on evidence and/or reasonable assumptions about user behaviour and foreseeable use of the product.

6.5. User behaviour and foreseeable product use

Human behaviour has a significant influence on product safety. It is foreseeable that consumers cannot be prevented from using a product in virtually any manner they choose, whether reasonably or unreasonably.

Experience indicates that the highest likelihood of safety is realized by using a product as intended by its manufacturer and following all instructions. However, there is no practical method of assuring that the product will always be used in this way. There is always a possibility of hazard arising from product ‘misuse’, although there is also a possibility of the product being used for a non-intended purpose or not in accordance with instructions without consequential hazard.

The following table gives examples of the range of reasonable and unreasonable user behaviour.

Examples of Reasonable User Behaviour	Examples of Unreasonable User Behaviour
<ul style="list-style-type: none"> • Product used as Manufacturer intended vis-à-vis: <ul style="list-style-type: none"> ➤ purpose (utility) ➤ operating environment (temperature, humidity, moisture, pollution) ➤ market (industrial versus commercial versus consumer) • Product used as promoted 	<ul style="list-style-type: none"> • Product used for purpose expressly excluded by the manufacturer • Product modified for other than recommended use • Product subjected to degrading environment • Product used to produce deliberate harm
<ul style="list-style-type: none"> • All product instructions are followed vis-à-vis: <ul style="list-style-type: none"> ➤ hazard avoidance (cautions and warnings) ➤ assembly ➤ installation ➤ operation, including duty cycle 	<ul style="list-style-type: none"> • Interacting with product (assembly, installation, operation, maintenance or repair) while judgment impaired by alcohol or drugs • Warning(s) disregarded • Safeguard(s) bypassed or removed

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<ul style="list-style-type: none">➤ maintenance➤ repair➤ disposal	<ul style="list-style-type: none">• Product used while obviously damaged• Product abused to destruction• Product disassembled other than as recommended in the manufacturer's instructions• Product repaired other than as recommended by the manufacturer• Failure to comply with installation, inspection and disposal regulations
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Knowledge of an isolated instance of unreasonable user behaviour would be considered in relation to the incident where it occurred, but this does not mean that similar behaviour must be assumed in the future.

For the purpose of making judgements about reporting incidents or defects to ESA because of its potential to cause 'death or serious injury' or 'substantial property damage', reasonable user behaviour should be assumed except foreseeable use should be considered likely to affect the safety of a person or cause property damage in circumstances where:

1. Reasonable user behaviour may be considered dangerous, for example:
 - a) packaging promotes use of the product in an unsafe way;
 - b) advertising promotes use of the product in an unsafe or otherwise unintended way.
2. Users are not equipped to use reasonable behaviour, for example:
 - a) the product is used by people such as children, the elderly and the disabled who have a reduced ability to understand the importance of warnings or safeguards which are critical to safe use of the product;
 - b) the product is used by people such as children, the elderly and the disabled who have , or a reduced physical ability to take action on such warnings or safeguards;
 - c) the statement of intended use and/or product instructions is absent or unclear;
 - d) safe use of the product requires a level of skill, ability, care or supervision that is absent or unlikely to be provided.
3. There is a known trend of unreasonable user behaviour, for example:
 - a) the usage history of the product or similar products provides evidence that warnings are not followed;

- b) the usage history of the product or similar products shows a pattern of unsafe product usage.

For greater clarity, those making judgments about reporting incidents and defects because of their potential to cause 'death or serious injury' or 'substantial property damage' should assume reasonable user behaviour except in circumstances 2 and 3 above.

Knowledge of an isolated instance or instances of unreasonable user behaviour does not mean that similar behaviour must be assumed in future.

In addition, consideration should be given to the possibility that hazard could arise from reasonable user behaviour, for example where:

- a) packaging promotes use of the product in an unsafe way;
- b) advertising promotes use of the product in an unsafe or otherwise unintended way;
- c) the statement of intended use and/or product instructions is absent or unclear.

6.6. Disclosure of Reported Information

The disclosure of information supplied to ESA is subject to:

- **Section 113.15 of the *Electricity Act 1998*** which states that "an inspector shall not disclose any document or information obtained in the course of an inspection except for the purposes of carrying out his or her duties under this Act. 2004"; and
- **ESA's privacy policy** which states that "*ESA shall refuse to disclose records that constitute: (ii) records containing commercial, proprietary, technical or financial information of ESA or any person or business that has supplied records to ESA in confidence, if disclosure would result in undue loss or gain, prejudice a competitive position or interfere with contractual or other negotiations.*"

Therefore, a record will be kept **confidential** and will not be released until an investigation has been completed.

In the case of consumer electrical products or medical devices every effort will be made to coordinate the investigation and announcement of any corrective action with other provincial and federal jurisdictions within Canada.

Once a corrective action plan (including a public notification) has been agreed upon, the ESA will communicate this to other provincial authorities having jurisdiction and Health Canada.

6.7. Who is Responsible for Reporting to ESA?

a) Product Supply Chain

Section 8 of the Product Safety regulation (Ontario Regulation 438/07) specifies that a product supplier, which includes the:

- manufacturer;
- wholesaler;
- importer;
- retailer or
- product distributor

must report to ESA when they become aware of a serious electrical incident or accident, or a defect in the design, construction or functioning of an electrical product or device that affects or is likely to affect the safety of any person or cause damage to property.

This obligation applies whether the serious incident, accident or defect occurred in Ontario or outside of Ontario with a product that is certified for Canada or is similar to a product manufactured for sale in or into Ontario.

Retailers also include those who sell in or into Ontario via the internet, through mail order arrangements, auctions, flea markets and those who sell second hand goods.

If a distributor or retailer becomes aware of a serious electrical accident or defect in a product that has actually affected the safety of any person or caused actual property damage, they **must** inform the manufacturer or importer of the accident or defect, and **must** provide ESA with a report, regardless of whether or not the manufacturer or importer has also reported to ESA.

In the case of serious electrical incidents and defects that may affect the safety of any person or may cause property damage, retailers, wholesalers and distributors **must** inform the manufacturer or importer of their concerns and **must** be able to demonstrate to ESA that they have done so.

The intent of the regulation is that product suppliers report the products that caused or could cause serious electrical accidents or property damage related to the products that they manufacture, import, or sell.

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A report to ESA is required when the manufacturer or importer learns of a serious electrical incident or defect in a product that affects or is likely to affect the safety of any person or causes damage. The manufacturer or importer may have contractual obligations to inform the certification body, distributor or retailer of the report to ESA.

If a reportable incident occurs outside of Ontario on a product available for sale or sold in Ontario, the supplier must report the incident to ESA according to the process described above.

ESA encourages product suppliers to voluntarily report adverse incidents involving other products for which they are not responsible though may become aware of.

Appendix 1 of this guidance document sets out the relationships among the Product Supply chain.

b) Product Certifiers and Evaluators (CBs and FEAs)

Section 8 of the Product Safety regulation (Ontario Regulation 438/07) specifies that

- a certification body or
- field evaluation agency

must also report to ESA when they become aware of a serious electrical incident or accident or a defect in the design, construction or functioning of an electrical product or device it certified or evaluated that affects or is likely to affect the safety of any person or cause damage to property.

This obligation applies whether the serious incident occurred in Ontario or outside of Ontario with a product they have certified for Canada or is similar to a product they certified which is manufactured for sale in or into Ontario.

The intent of the regulation is that certifiers or evaluators of electrical products report incidents, accidents or defects resulting from products that they certify or evaluate which caused or could cause serious electrical accidents or property damage.

ESA encourages product certifiers and evaluators to voluntarily report adverse incidents involving other products for which they are not responsible though may become aware of.

c) Others

There are no obligations under the regulations for those who service or install electrical products to report products not approved for use in

Ontario to ESA. These products violate the regulation and the installer should inform the consumer that:

- the product is not approved for use in Ontario
- legally, they cannot service or install it; and
- the consumer should contact ESA to obtain information on how to have the product approved for use in Ontario

Although installers do not have mandatory reporting obligations, ESA encourages installers and others who encounter non-approved products to report these products to ESA.

In addition to the reports required to be sent to ESA, there may be other mandatory reporting requirements for certain products under other federal and/or provincial legislation. For example, manufacturers and importers of electrical medical devices that have caused adverse health effects must also be reported to Health Canada and accidents in the workplace must be reported to the Ministry of Labour.

Currently, a number of organizations, such as the Ontario Fire Marshal's Office, share information with ESA about electrical accidents that have caused fires, affected the health or safety of the public or are defective; ESA would like to encourage the continuation of the sharing of information on a voluntary basis from the fire services, the medical profession, the insurance community, the public and the private sector and other regulatory authorities outside Ontario. Moreover, ESA would like to receive reports of non-approved or counterfeit products.

Consumers are not required to report however ESA would like to encourage the reporting of all suspected unsafe, non-approved or counterfeit products.

6.8. What are the Criteria for Making a Report?

6.8.1. Does the regulation apply to the product?

The first step in deciding whether or not to make a report to ESA is to determine if the product is approved for sale in Canada or Ontario and if the new regulations apply to the product.

The *Product Safety* regulations cover all electrical products and devices governed by the OESC which includes:

- consumer electrical products;
- commercial electrical products;
- electrical medical devices;
- industrial electrical products; and
- wiring devices and products.

The OESC does not cover electrical products:

- used to generate or transmit electricity to be sold to the public;
- used in transportation vehicles such as aircrafts; cars; trains;
- used in facilities used in the operation of an electric railway or electric street railway;
- used in railway vehicles or equipment used to operate a railway;
- used in mines;
- used in transportation or
- that are battery operated.

Only the recharging unit or transformer that plugs into the power supply of battery operated products is governed by the Regulation.

Since the product itself is outside the scope of the OESC as well as the Electrical Code, an incident relating to a consumer battery operated product will be referred to Health Canada and dealt with under the *Hazardous Products Act*.

6.8.2. Was the product involved in a serious electrical incident or accident ?

A serious electrical incident or accident is defined in section 1 of the regulations as:

“An electrical incident or accident that:

- a) Results in death or serious injury to a person,*
- b) Has the potential to cause death or a risk of serious injury to a person, or*
- c) Causes or has the potential to cause substantial property damage.”*

Reference should also be made to section 7 of this guidance document, which explains ESA’s risk prioritization methodology to determine the meaning of serious injury or substantial property damage.

6.8.3. Does the product contain a defect that must be reported?

A defective product has been defined as a product containing a fault, flaw or irregularity that causes weakness, failure, or inadequacy in form or function.

A product may be considered defective if the intended or foreseeable use of the product results in or could result in injury, death or property damage.

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A defective electrical product as defined above must be assessed to determine whether or not it should be reported.

Products containing defects that affect or have the potential to affect the safety of a person or cause damage to property as defined by the risk assessment and prioritization guidelines outlined in section 7 below must be reported.

To assist suppliers in determining whether or not an initial report should be made to ESA, screening tools were developed. See Appendix 2 and Appendix 3 of this guidance document for details.

6.9. What Types of Hazards Must Be Reported?

Any hazards or defects in electrical products covered by the OESC that have caused death, serious injury or substantial property damage or are likely to cause such death, injury or damage must be reported.

Examples of reportable hazards include:

- electrical;
- mechanical;
- chemical;
- thermal;
- radiological; or
- other nature.

Reference should also be made to the guidelines on risk prioritization in section 7 of this guidance document to determine the meaning of serious injury or substantial damage.

In addition, ESA encourages product suppliers, certifiers, evaluators and others to voluntarily share information or provide a report when they become aware of products bearing counterfeit labels or approval marks or unapproved products.

6.10. What Information Must Be Reported?

According to the regulations, a report must include:

- *Contact details of the person making the report or the person or firm on whose behalf the report is being made should include the name, address, email address and telephone number;*

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- *Detailed information that permits ESA to identify the product or device which is interpreted to mean a general description of the product, brand, model number, serial number, date codes, UPC;*
- *Details of the serious electrical incident or accident or the defect in the design, construction or functioning of the electrical product or device, including details of any injury or damage to property or persons; and*
- *Any other relevant information that is required by the Authority, in a form required by the Authority. Information such as where and when the product was manufactured, imported, distributed or sold and the number of products involved is required.*

This is the minimum information required for a complete report. However, those responsible should alert ESA to a potential problem by submitting an initial report within **48 hours** containing all information available at the time the accident, incident or defect using the online form found on ESA's website or obtaining a paper copy of the ESA form and faxing it to ESA. The online form can be accessed on ESA's website www.esa-safe.com. A copy of the form is included in Appendix 7 of this guidance document.

If additional information becomes available, the product supplier, product certifier or evaluator is requested to provide that information in their follow-up report which is required to be submitted within **10** days.

Suppliers may also be required to report an accident, incident or defective product(s) to Health Canada, the Technical Standards and Safety Authority (TSSA) in Ontario, the Ministry of Labour in Ontario, the Ministry of Transportation in Ontario and/or the US Consumer Product Safety Commission (CPSC) among others. ESA will accept a copy of these reports, if applicable and modified for the Ontario/Canadian marketplace.

6.11. When Must a Report Be Made?

A report is required to be made "as soon as practicable after those responsible for reporting become aware of the serious electrical incident or defect."

ESA interprets '**as soon as practicable**' to mean that *an initial report with the information that is available should be made within 48 hours followed by a follow-up report within 10 business days.*

The ESA **considers a company to have** obtained knowledge of a serious incident, accident or defective product when information regarding a

reportable incident is received by an employee or official of the company *"who may reasonably be expected to be capable of appreciating the significance of that information."*

Sources of such information could include:

- Reportable safety-related complaints received from consumers;
- Information brought to those responsible by other organizations or individuals, medical professionals, fire and police, insurance companies;
- Legal actions;
- Safety-related non-compliance identified by quality control procedures;
- Monitoring of products in the marketplace;
- Service work orders, and
- Information from scientific developments and publications on product safety.

6.12. What is required to assist ESA in an Investigation?

The regulations specify that the manufacturer, wholesaler, importer, product distributor, retailer, certification body and field approval agency are required to assist with an investigation if so requested by ESA.

ESA interprets **assistance** to include *information that is available to the responsible party(s).*

Retailers and Distributors shall be expected to assist by:

- providing information on product distribution, customers, suppliers;
- providing information about complaints, returns, repairs or service orders;
- providing samples for testing purposes;
- providing access to the products in question if applicable;
- providing information on nature of complaints, returns, repairs or service orders;
- taking further action to correct the problem if the manufacturer or importer fail to do so;
- cooperating on market surveillance activities; and/or
- informing the public about the product defect.

Primary Producers (Manufacturers, importers and national brand owners) shall be expected to assist by:

- providing all supporting information;
- providing information obtained through normal processes;

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- undertaking internal investigations and/or testing required to determine the root cause of a suspected product defect as requested by ESA;
- cooperating with any testing that may be required.

Examples of the type of assistance product suppliers may be requested to provide include:

- providing information on product distribution, design, materials;
- providing information about complaints, returns, repairs or service orders;
- providing information on nature of defect or defects identified in the evaluation or testing of the product;
- taking further action to correct the problem, and
- providing additional information or evidence to help:
 - identify the hazard,
 - assess the risk,
 - determine corrective action and/or prevention such as
 - test data,
 - safety-related complaints,
 - design and production data,
 - certification or field evaluation reports,
 - cooperating on market surveillance activities, or
 - informing the public about the product defect.

Providing assistance in determining and implementing the appropriate corrective action may also be required.

Product suppliers are expected to respond to a request for assistance as follows:

- Priority 1 cases – within 2 weeks;
- Priority 2 cases – within 1 month;
- Priority 3 cases – within 60 days (2 months).

Certifiers or **evaluators** shall be expected to provide:

- available information; or
- information that they would obtain through their normal processes to investigate an accident, incident or defect with a product they certified or evaluated.

This shall include:

1. Responding to **Product Incident Reports (PIRs)** issued by ESA staff as outlined below:
 - The CB or FE agency shall provide, within the timelines outlined below, all relevant information on any and all similar incidents with the same or similar product types that may provide evidence of a pattern of failure, a product defect or any other safety concern.

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- A preliminary report shall be submitted to ESA as follows:
 - Priority 1 cases – within 2 weeks;
 - Priority 2 cases – within 1 month;
 - Priority 3 cases – within 60 days (2 months).

 - A final report shall be submitted to ESA within 90 days. It is the responsibility of the CB/FE agency to advise ESA in a timely fashion if submission of the final report within 90 days is not possible.

 - A CB/FE agency will, at ESA's request, provide updates (by telephone or email) on an ongoing investigation or report, at intervals no greater than every two weeks.

 - For the purposes of the regulation, reports will generally observe the following format:
 - Section A: Number of Reported Incidents (to either or both of the CB/FE agency or manufacturer, including those with the same component or same product type with different model or colour);
 - Section B: Additional Information about Contributing Factors;
 - Section C: Root Cause Analysis (root cause of incident and summary of analysis);
 - Section D: Recommendations and Action Plan (suggestions for corrective action, if required, and implementation plan);
 - Section E: Additional Information (if available);
 - Section F: Appendices (if available).

A copy of the report template is included in Section 7 of this guidance document.

 - A preliminary report will contain Sections A to C, inclusive. A final report will contain Sections A to D, inclusive, and may contain Sections E and/or F at the CB/FE agency's option.
2. Providing assistance in the **investigation and assessment** of accidents, incidents or defects involving products they certified or evaluated as outlined below:
- When requested, the certifier or evaluator shall be expected to provide assistance in determining the root cause of the defect in the product, which may include testing of the product in question.

 - When requested, the CB or FE agency shall assist in determining the appropriate corrective action that may be required to protect public safety.

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For these investigations, there shall be a mutually agreed upon scope of work, timelines and outputs.

To respect confidentiality, test facilities and test results shall remain confidential unless maintaining confidentiality could result in undue hazard to the public.

3. Provide consultation on **development of a corrective action** as outlined below:
 - When requested, the CB or FE agency shall provide assistance in consultation with ESA and the involved manufacturer, retailer, distributor or importer to determine and evaluate an appropriate corrective action when the need for such has been confirmed.

As indicated by the regulation, a certifier or evaluator would only be requested to provide assistance for products that they had certified or evaluated.

6.13. How will a report be made?

A report may be made by:

- telephone;
- fax;
- other form of electronic transmission (online); or
- any other means that brings it to the attention of the Authority.

A copy of the reporting form can be found on ESA's website www.esa-safe.com. A copy of the reporting form is included in Appendix 7 of this guidance document.

(Note: ESA is in the process of establishing an electronic online reporting system. The report forms will be available in both languages.)

6.14. Steps for Submitting an Incident Report

1. Determine if the incident is reportable using the screening tool contained in Appendix 2 or Appendix 3.
2. If the incident is reportable, obtain a copy of the reporting form from ESA, attached in Appendix 7 or from ESA's website.
3. Complete the form with as much information as possible and submit to ESA within 48 hours:
 - by **fax to 905-712-3020**;
 - electronically at www.esa-safe.com; or

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- Or report by telephone to the Electrical Safety Authority (ESA) at 1-877-372-7233 or 1-877-ESA-SAFE between 7:00 am and 4:30 pm Eastern time.
4. ESA will acknowledge receipt of the report and will issue a unique reference number and will request further information, if needed.
 5. You may also be required to report the accident, incident or defect to other organizations:
 - **Workplace incidents** can be reported to the Ministry of Labour. A list of Ministry of Labour offices can be found at: http://www.labour.gov.on.ca/english/about/reg_offices.html
 - **Medical devices** contact Health Canada at
Health Products and Food Branch Inspectorate
Inspectorate Compliance and Enforcement Officer
Health Canada
250 Lanark Avenue,
Graham Spry Building, 3rd Floor
Address Locator 2003D
Ottawa, Ontario, K1A 0K9
Telephone: 1-800-267-9675
Fax 1-613-954-0941.
Email: mdpr@hc-sc.gc.ca
(Note: Indicate MDPR in the subject line to receive automatic confirmation of receipt).
 - **Gas Products** (including gas fireplaces, boilers and stoves), in Ontario contact [Technical Standards and Safety Authority \(TSSA\)](#)
 - **Battery operated products**, contact [Health Canada](#)
 - Electrical equipment used in the operation of an **electric railway** or electric street railway; railway vehicles, contact [Ministry of Transportation](#)
 - Equipment used to operate a **railway; mines; or transportation**, contact [Ministry of Labour](#)
 - **Dissatisfaction with business practices**, contact [The Consumer Protection Branch - Government of Ontario](#)
 6. Submit a follow-up report within 10 days including the original reference number.

Flow charts depicting the reporting process for primary producers, retailers, distributors, wholesalers, certifiers and evaluators are included in Appendix 4, Appendix 5 and Appendix 6 of this guidance document.

A copy of the reporting form is included in Appendix 7 of this guidance document.

7. ESA's Prioritization Methodology

7.1. How will ESA determine what action to take on reports received?

ESA's response strategy will vary according to whether the product is:

1. Uncertified or unapproved;
2. Counterfeit; or
3. Certified or approved but unsafe.

In addition, ESA will classify cases as Priority 1, Priority 2 or Priority 3, based on the estimated risk of future death, injury or property damage.

Section 7.2 to 7.9 describes when and how that classification will be arrived at.

The corrective action that will be required by ESA and involved parties is based on the classification of risk and priority level of each reported accident, incident or defect

7.2. Why is ESA making its case prioritization methodology public?

Prioritization of reported cases may contain elements of subjective judgment. A prioritization methodology provides a consistent framework within which to exercise judgment.

ESA is making its prioritization methodology available to stakeholders to enhance the transparency of their decision-making processes and to better enable the responsible party(s) to assist and cooperate with ESA.

7.3. In what situations will ESA use its case prioritization methodology?

ESA will use its case prioritization methodology in three situations:

1. In assessing the potential future harm or damage that may be caused by a known defect;

2. In assessing the potential future harm or damage that may be caused by an unapproved product, where there is no known defect; and
3. In assessing the potential future harm or damage that may be caused by a counterfeit product, where there is no known defect.

This will allow ESA to determine their response to reports received and, over time, to determine whether its guidance for reporting such accidents, incidents or defects should be further enhanced.

7.4. What are the steps in ESA's case prioritization methodology?

ESA's case prioritization methodology has four basic steps:

1. Understand the nature of the product defect, if any
2. Assess the severity of the potential impact
3. Assess the likelihood of the potential impact
4. Determine how to act based on the resulting priority rating

The starting point for ESA's case prioritization assessment is a reported incident, accident or defect. The methodology is designed with this in mind. It addresses the most common forms of harm from electrical products, being shock, fire and burns.

Other impacts resulting from an accident, incident or defect with an electrical product, such as hypothermia, hyperthermia, laceration, suction, blunt impact, crushing, pinching, hair entrapment, drowning, chemical irritation, shrapnel, projectile laser and radiation will also be considered.

7.5. How will ESA seek to understand the nature of the product defect?

ESA will consider the matters set out under the heading "Assessing Defects" above.

ESA's Product Safety Engineer or Product Safety Technician will collect and research information to enable a case prioritization assessment to be performed, consulting with the party that submitted the report and with others in the supply chain and safety chain as necessary to gain a sufficient understanding of the matter.

7.6. How will ESA assess the severity of the potential impact?

ESA will consider the matters set out in section 6.3 "Determining whether an incident or defect meets the threshold for reporting".

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ESA will also consider other information in its possession and consult others as appropriate to identify whether the accident, incident or defect reported is part of a larger trend or pattern.

The following table will be used in determining the severity of the potential impact.

Loss Severity	Impact on People	Impact on Property
Major	Death, need for permanent life support, permanent impairment of a body function, permanent damage to a body structure, chronic health effect or long term psychological trauma.	Loss attributed to flame emitted from product, or failure to contain an ignition source or hazardous material. Partial or total loss of contents accompanied by structural damage to or total loss of building.
Moderate	Recoverable injury requiring hospitalization or professional medical treatment.	Loss attributed to flame emitted from product, or failure to contain an ignition source or hazardous material. Partial loss to contents without structural damage to building.
Minor	Recoverable injury requiring only first-aid treatment.	Superficial damage to building and contents e.g. smoke ¹ and / or heat emitted from product causing discolouration of adjacent surface or material but without ignition. No evidence that flame, a potential ignition source or hazardous material escapes from product.
Insignificant	Startle reaction or momentary fright without physical injury.	Product fails without external consequence. No evidence that flame, a potential ignition source or hazardous material escapes from product.

Note 1: Smoke emitted from product in sufficient volume to threaten life is covered by the "Impact on People" column.

Comparing the table to the reporting thresholds set out in Sections 6.2 to 6.5 of this guidance document, ESA interprets that *any incident, accident or defect that caused or could cause a **moderate or major impact on***

people would pass the threshold as a serious injury and therefore reporting to ESA is mandatory.

Comparing the table to the reporting thresholds set out in Sections 6.2 to 6.5 of this guidance document, ESA interprets that *any incident, accident or defect that caused or could cause a moderate or major impact on property would pass the threshold as substantial property damage and therefore reporting to ESA is mandatory.*

7.7. How will ESA assess the likelihood of the potential impact?

ESA will consider the guidance set out in Section 6.2 to 6.5 to determine:

- whether an incident or defect meets the threshold for reporting;
- user behaviour and foreseeable product use; and
- what would be considered to be reasonable user behaviour for a given product.

ESA will consider these matters to make prompt and consistent judgments about a relatively large number of reports about individual product incidents, accidents and defects.

The likelihood of injury or damage will be estimated as the combination of

1. the likelihood of the product being or becoming defective, and
2. the likelihood of the negative effect materializing.

Where the likelihood of the product being or becoming defective is known (for example, because it is possible to identify every defective item through serial numbers relative to a faulty batch), it need not be estimated.

Similarly, where statistical data is available, it will be used in estimating either or both of these likelihoods.

In other cases, which are expected to be the vast majority, these likelihoods will be estimated using judgments about qualitative factors that are relevant to the particular hazard or possible hazard.

The weight accorded to a factor may vary from case to case, depending on its significance. For example, exposure to humidity may carry significant weight where the root cause of product failure is known to be rust, but very little weight where the root cause of product failure is known to be a lack of user ability/competence to use the product properly.

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The following tables list some qualitative factors together with default weightings. The tables are laid out to accommodate the following steps:

- i review the list of factors and add any that are relevant to the particular case under consideration;
- ii check off all factors that are known to apply;
- iii enter the 'score' for each checked-off factor in the 'score' column, using the suggested weighting or another judged more suited to its significance in the case under consideration;
- iv total the score column and rate the likelihood accordingly.

Table 1: Estimating the likelihood of the product being or becoming defective

<u>Factor</u>		<u>Relevant</u> ? ✓	<u>Suggested weight</u>	<u>Score</u>
Product Certification	Not certified to any Canadian standard		30	
	Not certified to a Canadian standard but certified to another jurisdiction's standard (e.g. certified to U.S. standard but no Canadian identifier is included with certification mark)		10	
Use Environment	Exposed to extremes of weather, humidity, air quality or temperature. Exposed to rough usage or commercial usage. Used in close proximity to water.		10	
History of Compliance or Previous Product Issues	Manufacturer, distributor or retailer has a history of non-compliance with approval requirements or previous track record with manufacture, distribution or sale of defective products		10	
Ability to detect defect prior to use	Product used or installed by non-skilled persons		10	

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Pattern of Incidents	Pattern of individually small incidents that may be warning signs of more serious problems		30	
	Total score			
	Rated likelihood			

The rated likelihood of the product being or becoming defective is based on the total score.

- 50 or higher merits a high rating
- Between 25 and 50 merits a medium rating
- Less than 25 merits a low rating

Table 2: Estimating the likelihood of the serious negative effect materializing

<u>Factor</u>		<u>Relevant</u> ? ✓	<u>Suggested weight</u>	<u>Score</u>
Exposure Characteristics (select one from this group)	People who may be at risk are especially vulnerable		30	
	Adults and the hazard is not obvious		20	
	Qualified persons and the hazard is not obvious		10	
	Adults and the hazard is obvious		0	
	Qualified persons and hazard is obvious (deduct)		(10)	
Impact of Warnings	Evidence or pattern of user behaviour that the normal product usage warnings are not followed or ignored		10	
Human Device Interaction (select one from this group)	Medical Device		40	
	Human contact when in use (e.g. curling iron, electric blanket, electric drill)		20	

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	Usage in a public place by multiple people (e.g. arcade game)		20	
	Intermittent contact when used (e.g. operating a switch to turn the device on)		10	
	No contact with human body (e.g. ceiling light fixture)		0	
Undetected Overheating	Heat producing product with possibility of failure while unattended or unobserved (e.g. energized device overheats and causes a fire while occupants are sleeping)		30	
Safety Device	Product is used as a protective device or safety device		25	
	Total score			
	Rated likelihood			

The rated likelihood of the serious negative effect materializing is based on the total score.

- 60 or higher merits a high rating
- Between 35 and 60 merits a medium rating
- Less than 35 merits a low rating

Combining the ratings from Tables 1 and 2 covering the likelihood of the product being or becoming defective with the rated likelihood of the serious negative effect materializing to arrive at the likelihood of injury or damage

The two ratings of likelihood are combined to provide an overall estimate of the likelihood of injury or damage as shown in the following table. The combined rating is shown *in italics*.

Table 3: Likelihood of injury or damage

	Likelihood of product being or becoming defective		
	Low	Medium	High

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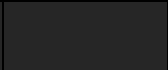


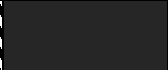


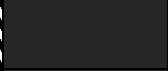


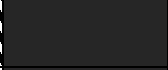



Likelihood of the serious negative effect materializing	High	<i>medium</i>	<i>High</i>	<i>very high</i>
	Medium	<i>low</i>	<i>Medium</i>	<i>high</i>
	Low	<i>very low</i>	<i>Low</i>	<i>medium</i>

Society perceives some risks to be more acceptable than others based not on quantifiable attributes of impact and likelihood but on qualitative attributes such as fairness and controllability. Table 2 estimating the likelihood of the negative effect materializing recognizes this in suggesting an increase of the score if the product creates exposure for people who may be at greater risk.

7.8. How is the rating of Priority 1, 2 or 3 arrived at?

The risk rating is arrived at by plotting where the risk falls on the following table. The likelihood of injury or damage is plotted against the vertical axis, and the severity of impact on the horizontal axis.

Table 4: Determining a priority level based on risk assessment results

Likelihood of Injury or Damage				
Very High				
High				
Medium				
Low				
Very low				
Severity of impact	Insignificant	Minor	Moderate	Major



7.9. How will the precautionary principle be applied?

ESA has used the precautionary principle in devising this case prioritization approach. In applying these guidelines, ESA will make use of all available information including objective, statistical information where such is available.

Where it proves impossible to determine with certainty the existence or extent of the alleged risk because of the insufficiency, inconclusiveness or imprecision of the results of the scientific study into the risk, but the likelihood of real harm to public safety persists should the risk materialize, ESA will take action under the Regulation. ESA suggests that others do likewise.

8. Corrective Action and Public Notification

8.1. What is corrective action and public notification?

Corrective action, which includes public notification, is an action or a range of actions taken in order that:

- no further serious electrical incidents or accidents occur; and/or
- any defect that affects or is likely to affect the safety of any person or cause damage to property is corrected.

Note: *Throughout these guidelines, when reference is made to corrective action, it refers to both public notification and other forms of corrective action.*

The products of concern may be those in the product supply chain or those that have already been purchased.

The choice of corrective action to follow depends on the seriousness of the risk to the public or workers and/or to property. In determining the seriousness of the risk, reference should be made to the section 7 of this guidance document which outlines ESA's risk prioritization methodology.

ESA expects responsible parties to take full responsibility for corrective action in an appropriate and timely manner.

IN THE SITUATION WHERE RESPONSIBLE PARTIES DO NOT TAKE EFFECTIVE CORRECTIVE ACTION, ESA HAS THE AUTHORITY TO ORDER CORRECTIVE ACTION(S).

A person named in such an order issued by ESA has the right to appeal the notice first to the Director and to a Review Panel if not satisfied with the decision made by the Director. This action can be taken under Ontario Regulation 3/05, Reviews and Appeals of Orders Issued by the ESA.

Corrective actions could include one or more of the following:

- Changing the product design, the materials/components or the production process;

- Withdrawing the products from the product supply chain;
- Repairing, modifying, or adjusting the product in the product supply chain, on the customer's premises (e.g. in the case of large domestic appliances) or elsewhere;
- Changing warning labels on the product in the product supply;
- Recalling the product from consumers, other users or the product supply chain for replacement refund or disposal;
- Asking the consumer to dispose of the product;
- Sending information and warnings about the hazard, additional information about correct use or maintenance of the product to users; Recommending that the product standard be revised or a new standard developed;
- Public notification in order to alert the public or persons to potential risks to their health or safety resulting from defective, counterfeit, or non-approved products in question.

8.2. What are the Legal Requirements?

8.2.1. Corrective Action

For the purposes of augmenting ESA's ability to deal with product safety concerns, *Part VIII of the Electricity Act, 1998* was amended in December of 2006 and proclaimed August 15, 2007 to provide ESA with the authority to order actions to correct noncompliant or harmful electrical products in order to protect the safety of persons and property. Section 113 (11) of that Act states:

*"(11) The Authority may issue such orders relating to work to be done, or the removal of things used, in the installation, removal, alteration, repair, protection, connection or disconnection of any of the works, matters and things mentioned in subsection (1) as the Authority considers necessary or advisable for the safety of persons or the protection of property and, in any such order or after having made it, the Authority may order any person to cease and desist from doing anything intended or likely to interfere with the terms of the order."*⁴

With respect to product safety, these orders obligate manufacturers, wholesalers, distributors, importers, and retailers to establish and implement documented corrective actions for products in order to address safety problems with a product.

⁴ Government of Ontario, Bill 152, *An Act to modernize various Acts administered by or affecting the Ministry of Government Services, Section 12*, December 20, 2006.

All electrical products sold within Ontario shall be approved, certified or evaluated to the safety standards under the Ontario Electrical Safety Code.

Canadian Procedural Document, Can-P-1527, published by the Standards Council of Canada, identifies, for those who certify products, the conditions under which they must take corrective action. These conditions include:

- When the mark of conformity is affixed to a product that is hazardous;
- When the product is not authorized to bear the mark;
- When the product bears an unauthorized form of the mark (e.g. counterfeit product); or
- When the product is in violation of the certification agreement.

The document also presents the corrective actions that it can ask the party responsible for the product to take when *“there is a misuse of its registered mark of authority or a situation in which a certified product is found to be hazardous”*⁵ as outlined in section 3 and the procedures to follow in initiating and completing corrective action.

The accreditation of field evaluators is governed by CAN P-8 Accreditation of Inspection Bodies⁶.

8.2.2. Public Notification

The new *Product Safety Regulations* (Section 9) includes requirements for the notification of the public (sections 9(1) and 9(2)) by manufacturers, wholesalers, importers, distributors, retailers, certification bodies, and field approval agencies.

The regulations also establish in sections 9(3) to 9(7) the responsibilities of ESA regarding public notification.

Section 9 of the regulations addressing public notification is reproduced below:

⁵ Standards Council of Canada, *Can-P-1527, Guidelines for Corrective Action*, October 2000.

⁶ Standards Council of Canada, *Can-P-8, General Criteria for the Operations of Various Types of Bodies Performing Inspection*, August 2003.

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“9. (1) The Authority may, by order issued under subsection 113 (11) of the Act, require that notice be given to the public or any person or class of persons by,

- (a) the manufacturer, wholesaler, importer, product distributor or retailer of the electrical product or device;*
- (b) the certification body that certified the electrical product or device;*
- (c) the field evaluation agency that examined the electrical product or device; or*
- (d) any other person specified by the Authority,*

of a risk or defect in an electrical product or device or occurrence of a serious electrical incident.

(2) The order may require that the notice be,

- (a) in writing, sent by ordinary mail or registered mail, by fax or by other form of electronic transmission to known persons or classes of persons;*
- (b) by publication in a newspaper with general distribution in Ontario;*
- (c) by such other means as may be required by the Authority to bring the notice to the attention of the public or to any person or class of persons; or*
- (d) by any combination of the means set out in clauses (a), (b) and (c).*

(3) The Authority may issue the notice, if the manufacturer, wholesaler, importer, product distributor or retailer of the electrical product or device, the certification body that certified the electrical product or device or the field evaluation agency that examined the electrical product or device refuses or fails to comply with subsection (1).

(4) The Authority may, in its discretion, issue a notice to the public or to any person or class of person of a risk or defect in an electrical product or device or occurrence of a serious electrical incident.

(5) If the Authority issues the notice, in addition to the methods set out in subsection (2), the Authority may post the notice on its website.

(6) Before issuing a notice under subsection (3) or (4), the Authority shall give notice to the manufacturer, wholesaler, importer, product distributor or retailer of the electrical product or device, to the certification body that certified the electrical product or device or to the field agency that examined the electrical product or device and shall give them the opportunity to comment on the notice.

(7) Any costs associated with the Authority issuing a notice under subsection (3) shall be paid by the manufacturer, wholesaler, importer, product distributor or retailer of the electrical product or device, by the certification body that certified the electrical product or device or by the field evaluation agency that examined the electrical product or device.”

In addition to the requirements for public notification under the new regulations, the Standards Council of Canada in its Canadian Procedural Document, Can-P-1527, *Guidelines for Corrective Action*⁷, identifies the corrective actions that can be taken by a certification body where there is a misuse of its registered mark.

⁷ Standards Council of Canada, *Can-P-1527, Guidelines for Corrective Action*, October 2000.

This document, states that *“where a hazardous condition exists and it is not practical to implement”* other types of corrective action *“a notice to the general public about the hazard should be issued”*.

SCC’s procedural document also states that in the event that a producer of hazardous products refuses to take corrective action, the certification body must notify the public of the hazard via the most appropriate news media.

The application of this document is important since it is mandatory for all electrical products in Ontario to be certified or approved.

8.3. What Products are Covered?

ESA has the authority to order corrective action for all electrical products and devices governed by the Ontario Electrical Safety Code (OESC) which includes:

- consumer electrical products;
- commercial electrical products;
- electrical medical devices;
- industrial electrical products; and
- wiring devices and products.

For further information regarding the products covered or excluded from the regulation, see section 6.8.1 of this guidance document.

Any defects or hazards associated with an electrical product governed by the OESC that results in a serious electrical incident or accident shall necessitate corrective action, which may include notification of the public, if so required by the ESA and shall be covered by the legal requirements outlined in section 8.2.1 and 8.2.2 in this guidance document.

For more information regarding the types of hazards and defects covered by the regulation, refer to section 6.8.2 of this guidance document.

8.4. Who is Responsible for Corrective Action?

8.4.1. Primary Producers- Manufacturer, Importer or National Brand Owner

Typically, the manufacturer, importer or national brand owner of a product would be more knowledgeable about the product, the associated hazards and any potential risks. Thus, they are responsible for:

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- matters affecting the safety of the product that are either directly or indirectly under their control;
- monitoring serious electrical injuries or damage to property;
- if a manufacturer, working with the certifier or evaluator to approve any changes to the product to fix an identified problem or hazard;
- if an importer or national brand owner, working with the manufacturer to identify appropriate corrective action;
- determining the corrective action to follow and acceptability of any corrective action with ESA;
- taking appropriate corrective action;
- evaluating the corrective action chosen; and
- reporting the results of the corrective action to ESA.

A retailer or distributor who imports electrical products into Ontario is considered to be an importer and has the same responsibilities as listed above.

The respective responsibilities will vary depending on circumstances and their ability to:

- identify the hazard;
- assess the risk;
- determine the best course of action to take; and
- implement the action.

There may be situations where the supply chain of a product is complex. For example, a product or components may be sold under different brand names yet the product is identical except for branding and/or cosmetic differences.

To prevent multiple corrective actions and notifications to the public, the primary producer shall be primarily responsible for any corrective action.

8.4.2. Distributors or Retailers

A distributor or retailer not involved with importation would not have the same level of expertise and, thus, is responsible for:

- exercising reasonable care within the limits of their capacity to influence the safety of the product;
- cooperating and assisting in the implementation of any corrective measures;
- collecting information on suspected unsafe products; and
- working with ESA, takes corrective action, where a primary producer has failed to do so.

If the primary producer fails to take appropriate corrective action, the distributor, wholesaler or retailer shall assume the responsibilities of the primary producer and shall be responsible for any corrective action.

Refer to Appendix 8 and Appendix 9 of this guidance document for flowcharts which outline the steps that each group must follow when undertaking corrective action.

Appendix 1 of this guidance document outlines the relationship among the various sectors in the product supply chain.

8.4.3. Certification Bodies and Field Evaluation Agencies

Certifiers and evaluators are responsible for ensuring they meet their SCC accreditation requirements.

Certifiers and evaluators, in order to be accredited, are required to undertake certain types of corrective action if their mark is misused or the product they certified or evaluated is later deemed hazardous.

In addition to their SCC requirements, certifiers and evaluators shall meet their obligations under section 113 of Part VIII of the Electricity Act and the *Product Safety Regulations* and work with responsible parties and ESA to resolve identified safety concerns with products they certified or evaluated.

The contribution of these organizations can be critical to the effectiveness of corrective action due to their expertise in assessing products, their associated risks, and the assistance they can provide in implementing a corrective action and their responsibility to inform the public of hazardous products.

According to SCC's CAN-P-1527, corrective action taken by those who certify products could take the form of:

- notification of parties responsible for initiating a recall when it is deemed necessary to protect the public;
- removing the mark of conformity from the product;
- requiring the product to be rebuilt so that it complies with certification requirements, or to be replaced;
- scrapping or replacing a returned product where it is not practical to remove the mark or rebuild it; or

- notifying the public of the hazard.⁸

Refer to Appendix 10 of this guidance document for a flowchart which outlines the steps that certifiers and evaluators must follow when undertaking corrective action.

8.5. Criteria for Corrective Action

ESA will consider various factors in order to make prompt and consistent judgments about a relatively large number of reports regarding individual product incidents, accidents and defects.

The likelihood of injury or damage will be estimated as the combination of

1. the likelihood of the product being or becoming defective, and
2. the likelihood of the negative effect materializing.

Where the likelihood of the product being or becoming defective is known (for example, because it is possible to identify every defective item through serial numbers relative to a faulty batch), it need not be estimated.

Similarly, where statistical data is available, it will be used in estimating either or both of these likelihoods.

In other cases, which are expected to be the vast majority, these likelihoods will be estimated using judgments about qualitative factors that are relevant to the particular hazard or possible hazard.

For details on the factors to be used in assessing and prioritizing the risk associated with a reported accident, incident or defect refer to section 7 of this guidance document.

Section 7 also explains how ESA will prioritize cases into first, second and third priority and how ESA would expect those responsible to deal with each.

8.6. Steps to Follow

Although manufacturers, importers and national brand owners have the primary responsibility for carrying out corrective action, distributors and retailers have a significant role to play also. Each case will be different. A flow chart depicting the steps that must be followed by those who may be

⁸ Standards Council of Canada, *Can-P-1527, Guidelines for Corrective Action*, October 2000.

required to undertake corrective action is included in Appendix 8 and Appendix 9 of this guidance document.

In addition, certifiers and evaluators are obligated to take certain corrective actions and public notification if their mark is misused or a product is later deemed hazardous. A flow chart depicting the steps these organizations must follow when they are required to undertake corrective action is included in Appendix 10 of this guidance document.

In addition, a checklist has also been prepared for those to follow when carrying out corrective action. This checklist was originally prepared by a number of organizations in Europe and has been updated for Canada. A copy of this checklist can be found in Appendix 11 of this guidance document and can be used as guidance in determining best practices for companies taking corrective action.

8.6.1. Identify Products Involved

Ensure that all products that need to be included in the corrective action are identified.

This may involve not only the products directly affected by the reported accident, incident or defect but also other brands or sizes of the same product.

Information to identify each product affected may include the description, style, colour, brand, UPC code, lot number, item number, date of manufacture or date of import.

8.6.2. Determine the Type of Corrective Action to Follow

After identifying the nature of the hazard associated with the product, determine the need for corrective action and what form the corrective action should take in order to protect the public.

In addition to the actual hazard or risk posed, other factors to be considered include;

- the total number of products;
- type of consumer or user affected;
- are the means available to carry out the corrective action (e.g. distribution network, recovery procedures, resources or corrective action);

- will the proposed corrective action meet the requirements of the OESC,
- its potential success;
- the advice of those responsible for the legislation; and
- the perception of the public about the risk.

8.6.3. Determine if Public Notification is Needed

Some defects in an electrical product may be minor and may not pose a serious risk to the health or safety of users or cause a serious electrical accident or incident (e.g. the incorrect placement of a symbol or safety information).

Notification of all risks or defects in electrical products may be considered counter-productive in terms of the safety of the public as accidents or incidents involving electrical products presenting serious risks may be lost among a multitude of notifications which present only minor risks.

Notification of the public should not take place whenever an accident, incident or defect with an electrical product has occurred.

Public notification shall be required when:

- the product has been available for sale to the public; or
- the public is exposed to a hazard; or
- the consumer is being asked to return, disconnect, destroy or modify the product; and
- the product presents a risk of serious injury or substantial property damage as defined in this guidance document.

In determining the seriousness of the risk, refer to section 7 for ESA's prioritization methodology. In addition, the criteria outlined below shall be followed.

- The electrical product is covered by the *Product Safety Regulations, which governs all electrical products governed by the OESC (see section 6.8.1 of the guidance document for a list of products governed by the regulation)*.
- The product is in the hands of the public. For example, if the defect is found prior to distribution to the retail level, notification of the public is not required since members of the public would not be exposed to the product.
- If the evidence from monitoring activities, risk assessment, testing or quality control data, indicates that the use or exposure to the product will cause serious injury or substantial property damage as defined in

section 7 of this guidance document, public notification shall be carried out whether or not full information is available.

- Notification of the public and care givers is necessary if the public is part of a vulnerable group such as children or seniors who do not have the ability to protect themselves.
- Notification shall be carried out when the seriousness of the risk requires preventative or corrective action to be taken by the public such as returning or disposing of the product, disconnecting the product, correcting the product, or following safety warnings.
- The public perceives the defect or incident to be an emergency or critical situation requiring action by responsible parties.

8.6.4. Discuss Proposed Course of Action with ESA and Concerned Parties

A company that is planning to undertake corrective action shall inform and discuss with the staff of ESA its proposed corrective action plan.

ESA staff will conduct a risk assessment, ensure concerned parties are informed, and determine the appropriateness of the corrective action or public notification planned.

If ESA is not satisfied that the action proposed will adequately address the risks identified, ESA has the authority to order a corrective action(s) or notification of the public.

In addition, if the manufacturer, importer, distributor, wholesaler, retailer, certifier or evaluator fails to carry out their responsibilities, ESA has the authority to issue a public notification. In this later case, ESA shall inform the supplier and/or the certifier or evaluator and shall give them an opportunity to comment.

Any costs associated with ESA issuing a notice when the supplier, certifier or evaluator refuses to carry out a notification shall be paid for by the supplier, the certifier or evaluator.

8.6.5. Implementation of Corrective Action

To implement a corrective action the following steps shall be followed by a primary producer (manufacturer, importer or national brand owner) of the product(s) in question:

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- Carry out the corrective action across the province with the assistance of distributors, retailers and possibly certification bodies or field evaluation agencies;
- Notify retailers and distributors immediately to stop selling or distributing the products;
- Carry out as quickly as possible any repairs, refunds or replacements to limit the harm and exposure to consumers;
- Make arrangements to collect or rework the products from distributors, retailers and consumers and send out replacement parts if appropriate;
- Identify recalled products clearly so that they do not return to the supply chain;
- Identify reworked products by a marking or label;
- Make decisions on what will be done with recalled products – disposal or reworked;
- Provide disposal information to consumers that complies with the Regulation for Waste Electronic and Electrical Equipment made under the *Waste Diversion Act, 2002* and does not cause environmental damage.

If a primary producer fails to take appropriate corrective action, the distributor, wholesaler or retailer shall assume the responsibilities of the primary producer and shall be responsible for any corrective action.

8.6.6. Monitoring and Evaluation

Any responsible party undertaking a corrective action is required to measure the overall success of the corrective action and report the results to ESA.

The responsible party in the product supply chain shall provide reports to ESA as agreed upon regarding the effectiveness of the corrective action that was undertaken.

The reports shall contain the following information (however, responsible parties are not required to repeat information in the final report that has already been given, unless there is a change to that information):

- the circumstances leading to the corrective action;
- the action taken;
- the result of the corrective action - quantity or percentage of stock returned, corrected, outstanding, etc;
- confirmation, where practicable, that customers or consumers have received the corrective action notification;

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- the method of destruction or disposal of recalled goods; and
- the action proposed to be implemented in future to prevent a recurrence of the problem.

These reports establish the effectiveness of the corrective action. If satisfactory results are not received, further corrective action may have to be considered.

8.6.7. Wrap-up

After any corrective action has taken place, the supplier or certification body has an opportunity to learn from the experience and improve their corrective action processes. This may mean:

- Assessing the success of the corrective action procedure
- Reviewing product design and modify as needed;
- Improving quality systems to try to avoid future problems; and
- Sending comments and thanks to key participants.

8.7. Options for Public Notification

The regulations state that notification of the public can be made:

- (a) *in writing, sent by ordinary mail or registered mail, by fax or by other form of electronic transmission to known persons or classes of persons;*
- (b) *by publication in a newspaper with general distribution in Ontario;*
- (c) *by such other means as may be required by the Authority to bring the notice to the attention of the public or to any person or class of persons;*
or
- (d) *by any combination of the means set out in clauses (a), (b) and (c).*

The notification of action being taken to correct a product needs to reach anyone who is at risk from the hazard identified.

This could mean contacting consumers, retailers and distributors of the product. In determining the method or methods to be used, consideration must be given to the level of risk that the product presents, where the product was sold and to whom.

No one method is the most appropriate for all situations. Factors such as where the product was distributed and to whom, shall be considered.

There are three main ways to go about contacting the owners and users of the product(s) in question.

- The most effective means is **direct contact with the purchaser** by letter, telephone or internet.
- Another means is **through the retailers** who can play an important role. Many retailers collect information on those who purchase products, particularly large appliances.
- Where there is no knowledge of the owners or users of the products, **mass public notification** is the only means of notifying potential consumers. The following ways of notifying the public can be considered:
 - A press release which could be a joint press release with ESA;
 - A news conference;
 - Notification of distributors, retailers, installers, or other persons who may be involved with the product;
 - Purchase of mailing lists of individuals or companies likely to use the product;
 - Notification of repair stores;
 - In store advertising;
 - Advertisements in newspapers or magazines; and
 - Company and/or government internet sites.

There are also a variety of other options available for notifying the public. Appendix 12 of this guidance document outlines other methods of public notification.

8.8. Information to Provide

A media or information release shall contain sufficient details to uniquely identify the product, together with a clear outline of the problem (without causing unnecessary alarm) and must state what the user should do.

Information to be included may involve hiring an electrician where it is not possible for a consumer to identify defective products and correct them.

The information released shall also include instructions about how to contact the company or access further information such as a toll free telephone number or e-mail address.

Where it is necessary to quickly notify consumers of unsafe electrical products in the Ontario market, a public notice and/or advertisement shall be issued that includes the following information:

- Name and location of the recalling company;
- A detailed description of the product, including name, make, model, lot number, if possible;
- Distinguishing features, batch or serial number, retail cost, etc and a picture, if possible;
- A statement of the hazard and associated risk;
- Dates when the product was available for sale;
- Retail locations where the product was sold;
- The immediate action that the consumer should take;
- Who consumers should contact for further information, including a telephone number, preferably toll-free, and hours of operation;
- The number of products involved;
- A picture of the product; and
- What is being done to correct the problem or defect identified.

ESA may also post a notice on its website. In Appendix 13 of this guidance document, the template currently used by ESA and examples of recall notices are provided for information.

8.9. Timing of Public Notification

It is necessary, to strike a balance between the urgency required by the risk (such as the occurrence of deaths, serious injury or fires) and the completeness of the information.

Releasing information that has not been double-checked, and which turns out to be inaccurate, runs the risk of misleading the public and undermining a company's credibility.

Where a risk or defect exists and information is not complete, the responsible party may choose to provide initial information to the public.

Under such a situation, the fact that the information is incomplete shall be clearly stated in any notification along with what action the company is taking.

Once more complete information is obtained, a second notification may be issued, confirming or clarifying the first notification.

Carrying out such an approach gives the consumer an opportunity to take action to protect themselves until more information is available.

If the responsible parties refuse to issue a public notice, ESA may issue the notice. ESA may, in its discretion issue a notice of a risk or defect in a product or occurrence of a serious incident.

Before issuing a public notice, ESA shall give notice to primary producers of the product, affected retailers, distributors, wholesalers and the certifier or evaluator of the product in question.

9. Revocation of Recognition of a Certifier or Evaluator

The SCC is the responsible body for the accreditation of testing laboratories, product certification bodies, field evaluation agencies and standards development organizations in Canada.

Through the accreditation process, the SCC verifies that an accredited organization has the people, expertise and equipment to undertake acceptable conformity assessment procedures for Canada.

As an accreditation body, SCC provides the national oversight upon which regulatory authorities rely to recognize that organizations providing these services have the necessary capability and level of expertise required.

The requirements in the regulation (Regulation 438/07) and this guidance document are intended to be **adjunct to the SCC accreditation requirements** for certification bodies and field evaluation agencies.

9.1. Obligations of certifiers and evaluators

The following are obligations recognized certification bodies and field evaluation agencies shall meet for products that bear their mark of conformity:

- their accreditation requirements as outlined in the latest applicable SCC policies and procedures. A complete list of SCC requirements is available at www.scc.ca;
- their obligations as outlined in Regulation 438/07, this guidance document and any order issued by ESA under section 113(11) of the *Electricity Act, 1998*; and
- any additional requirements contained in the terms and conditions that form part of the ESA formal recognition process.

9.2. The process for Revoking Recognition of Certifiers or Evaluators

The following is the process by which the ESA would revoke the recognition of a recognized certification body or a recognized field evaluation agency.

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The revocation of a recognized certification body or a recognized field evaluation agency could result from non-compliance(s) with the obligations outlined in section 9.1 above.

Prior to beginning any revocation process, ESA will conduct an investigation regarding any alleged non-compliance by a certifier or evaluator.

Any investigation shall include communication with the affected certifier or evaluator in writing detailing the alleged non-compliance(s).

The Authority will work with all certifiers or evaluators to address any identified non-compliance(s).

Upon completion of an investigation of an alleged non-compliance(s), ESA will notify the identified certifier or evaluator of the results of the investigation in writing and request that the non-compliance(s) be resolved typically within 15 business days; however this may change in certain circumstances.

If after 15 business days the non-compliance(s) is (are) not adequately addressed by the identified certifier or evaluator, the Authority may order the certifier or evaluator to take appropriate action to address the non-compliance.

If the non-compliance is not resolved to the satisfaction of ESA, the Authority may issue a formal complaint to the SCC if a certifier or evaluator fails to meet all of their obligations under SCC accreditation requirements.

The Authority will allow the SCC a 90 day period to take appropriate action with respect to the certifier's or evaluator's non-compliance and/or performance.

Following this 90 day period, if the Authority determines that additional action is still required, the Authority may issue an order to the certifier or evaluator to comply.

A certifier or evaluator may request an appeal of the ESA's orders as per the appeals process outlined in Ontario Regulation 3/05.

If the certification body or field evaluation agency fails or refuses to comply with the order, within the specified time frame, ESA may issue a notice revoking the recognition of the certification body or field evaluation agency in question.

The certification body or field evaluation agency shall immediately cease to make any claims related to their recognition and ability to certify or evaluate electrical products for the purposes of the regulation in the province of Ontario.

The Authority's action to revoke the recognition of a certification body or field evaluation agency in the province of Ontario shall apply to all new product certifications or field evaluations.

A certification body or field evaluation agency that has had their recognition revoked may apply for re-instatement if ESA has determined that the non-compliance(s) that warranted the revocation action have been adequately addressed.

If SCC has also withdrawn the accreditation of the certification body or field evaluation agency, then ESA will co-ordinate any re-instatement action with SCC.

The Authority may take action to publicize the revocation of recognition and notify the SCC.

10. Suspending or Revoking the Approval of a Product

The following is the process by which the ESA would revoke the approval of a previously approved electrical product governed by the OESC.

If an electrical product is:

- is known or suspected to pose a serious hazard; or
- is known or suspected to violate the approval requirements in the regulation (i.e., counterfeit; unapproved)

ESA may issue an order to retain, an order to turn over, or a warrant seizing the product.

Upon the issuance of an order to retain or turn over issued by the Authority, the person to whom the order was issued shall immediately cease to offer for sale or use the product(s) in accordance with the terms of the order issued.

A supplier(s) or any other person who claims an interest in the electrical product or device may apply to the director for the release of the electrical product or device subject to the order to retain or turn over as per s. 113.13.3 (2) – (7) of the *Electricity Act, 1998*.

Upon becoming aware of a suspected unsafe or unapproved product, ESA will undertake an assessment of the product in question as per the process outlined in section 7 of this guidance document.

Based on the results of the risk prioritization, ESA may issue an order suspending the approval of the electrical product or device, pending a further investigation and shall direct the supplier to immediately cease to offer for sale or use the product(s) in accordance with the terms of the order issued.

A person subject to the order may request an appeal of the Authority's order related to the suspension of the approval of a product. The Authority will adhere to the appeals process as outlined in Ontario Reg. 3/05.

Upon suspension, if the Authority has not done so, the Authority may issue an order to retain, order to turn over, or obtain a warrant to seize the product until an investigation has been concluded (as per the *Electricity Act*, 113.13.1; 113.13.2).

A supplier(s) or any other person who claims an interest in the electrical product or device may apply to the director for the release of the electrical product or device that was subject to the order to retain or turn over as per s. 113.13.3 (2) – (7) of the *Electricity Act*, 1998.

In addition, the Authority may formally notify the supplier(s) and/or the certifier or evaluator of the product of the non-compliance with the product safety regulation and request action to be taken by the responsible parties as per the corrective action process outlined in section 8 of this guidance document.

If a supplier(s) fails to take the requested action, the Authority may order the responsible party to take the requested action.

A supplier may request an appeal of the Authority's orders. The Authority will adhere to the appeals process as outlined in Ontario Reg. 3/05.

If a supplier(s) fails to take the ordered action, the Authority may issue an order revoking approval of the product and shall order the supplier(s) to immediately cease to offer for sale or use the product(s) in accordance with the terms of the order issued.

A supplier(s) may request an appeal of the Authority's orders. The Authority will adhere to the appeals process as outlined in Ontario Reg. 3/05.

Upon revocation, the Authority may issue a public notification regarding the revocation as per Reg. 438/07, Section 9 (2) and (5).

An order to suspend or revoke the approval of a product shall clearly state the scope of product(s) covered. Any public notification shall be undertaken in accordance with the process outlined in section 8 of this guidance document.

Upon revocation or suspension, the Authority shall advise interested parties of the suspension or revocation, including, but not limited to the SCC, other provincial regulatory authorities and other suppliers.

10.1. Public Notification

All instances of revocation of product approval and revocation of the recognition of certification body or field evaluation agency may be publicized by the Authority; including but not limited to notices being posted to the ESA's website.

11. Can I appeal an ESA Order (Appeals Process)?

Any decision by the Authority issued by means of an order to comply, suspend or revoke may be appealed by the person or organization for which the order has been issued. The appeals process as outlined in Ontario Regulation 3/05 shall apply.

The decision of the Authority on whether or not the product approval and/or the recognition of the certification or field evaluation body shall be suspended or revoked shall be based on the evidence provided for the appeal review.

11.1. Hearings related to orders to retain, turn over or seize products

An order to retain or an order to turn over issued pursuant to section 113.13.1 (1) of the *Electricity Act, 1998* can be appealed to the Director. For details regarding the appeals process, refer to section 113.13.1 of the *Electricity Act*.

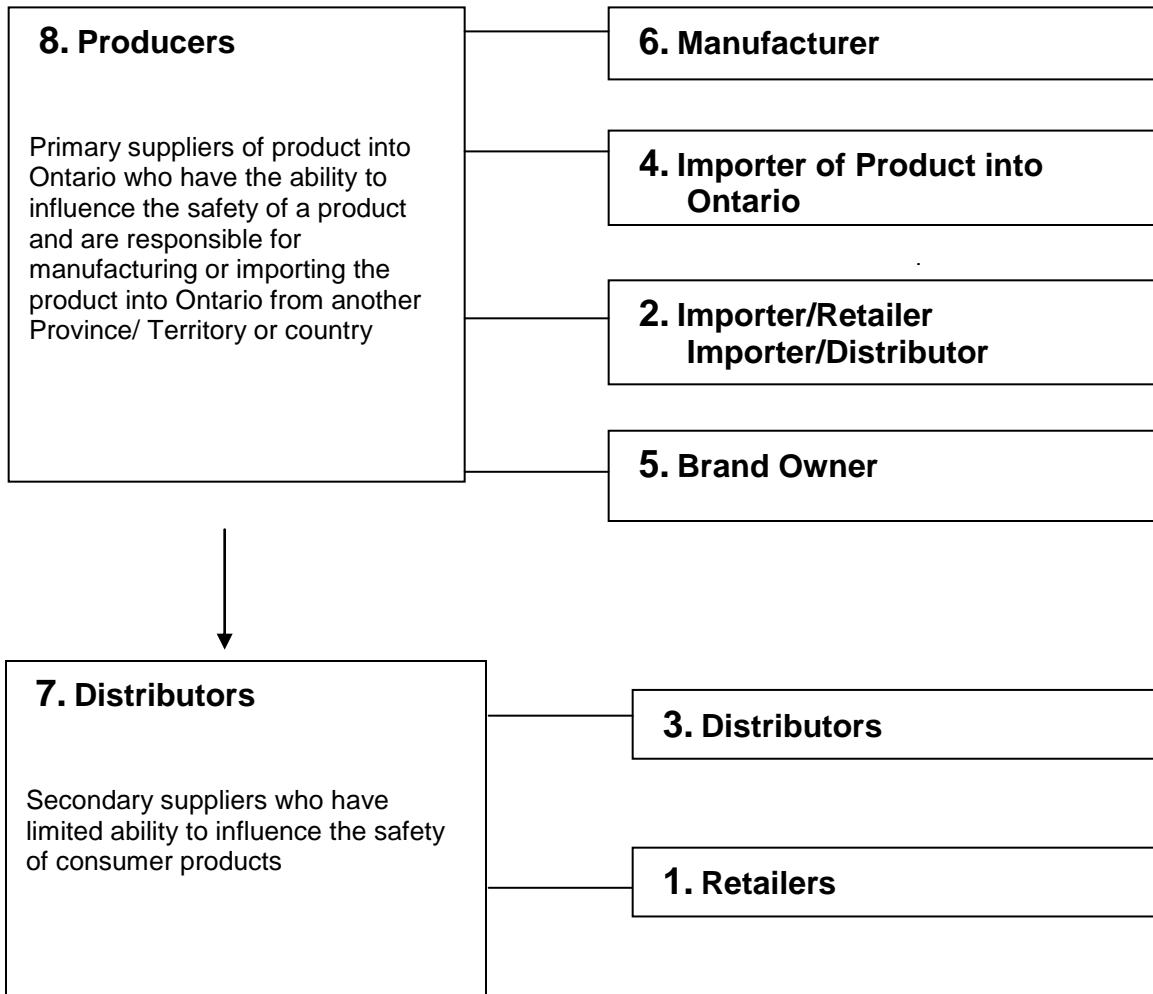
12. What are the Offences?

Refusing or neglecting to comply with an Order issued by the ESA pursuant to subsection 113 (11) of Part VIII of the *Electricity Act, 1998*, is an offence and upon conviction:

- ▶ a person is liable to a fine of up to \$50,000 or to imprisonment for a term of not more than one year, or to both, and a further fine of up to \$5,000 for each day upon which such refusal or neglect is repeated or continued;
- ▶ every director or officer is liable to a fine of up to \$50,000 or to imprisonment for a term of not more than one year, or to both; and
- ▶ a corporation is liable, on conviction, to a fine up to \$1,000,000.

A business must consider the legal consequences of not taking corrective action, or of delaying the corrective action for a product which has been determined is defective and/or related to the cause of a serious accident or incident.

Appendix 1: Product Supply Chain



For practical purposes, 'producer' is defined in two ways - either as the first placer of the product on the Ontario market or as someone whose activities may affect the safety of the product.

'Distributor', in contrast, is any professional in the supply chain whose activities do *not* affect the safety of a product. This can include distributors, wholesalers, and retailers.

It is noted, however, that a distributor or retailer who is involved in the assembly of a product or is responsible for importing it into Ontario may affect the safety of a product and would be considered a producer.

Appendix 2: Screening Tool for Retailers and Distributors

Am I Required to Submit a Report?

A retailer may be obliged to report a serious electrical incident or accident or defect to ESA.

If you answered **YES** to **ANY** of the questions below you **MUST** submit an initial report to ESA within **48 hours** of obtaining information that a product may be potentially dangerous, even if you are still conducting an investigation concerning the product.

ESA considers a company to have obtained knowledge of a serious incident, accident or defective product when information regarding a reportable incident is received by an employee or official of the company "**who may reasonably be expected to be capable of appreciating the significance of that information.**"

The first question to consider is:

- | | | |
|---|--------------------------|--------------------------|
| 1. Is the electrical product covered by the Ontario Electrical Safety Code? Electrical products subject to the regulation include consumer and commercial electrical products, electrical medical devices, industrial electrical products, and wiring products. | Yes | No |
| | <input type="checkbox"/> | <input type="checkbox"/> |

(see a list below of products that are excluded from the regulation)

If you answer **NO** to the question above, you are **NOT REQUIRED** to report. However, ESA encourages voluntary reporting of any unsafe products. If **YES**, you need to consider the following questions.

- | | | |
|---|--------------------------|--------------------------|
| 2. Was the electrical product involved in any of the following: | Yes | No |
| a. A death? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Injury requiring hospitalization or professional medical treatment? | <input type="checkbox"/> | <input type="checkbox"/> |
| c. An actual electrical shock or personal injury (e.g. exposed live wires)? | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Causing flame or fire outside the product? | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Release of a highly flammable substance? | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Overheating causing actual property damage. | <input type="checkbox"/> | <input type="checkbox"/> |
| g. Failure of the product or component in the product to | <input type="checkbox"/> | <input type="checkbox"/> |

Final Guidelines for the Management of Electrical Product Safety

perform its primary safety and/or protection function e.g.,
smoke detector, CO detector).

3. Are you aware of other similar incidents involving the product that may be a warning sign of more serious problems?

If you are unsure as to whether a report is required or you are in doubt as to the safety of the product in question, you are still encouraged to file a report.

One of the principle objectives of reporting is to allow ESA to work with companies to address potential safety concerns of electrical products offered for sale in Ontario.

ESA does not have jurisdiction over the following products (use the links below to file a complaint with the proper agency):

- **Gas Products** (including gas fireplaces, boilers and stoves), in Ontario contact [Technical Standards and Safety Authority \(TSSA\)](#)
- **Battery operated products**, contact [Health Canada](#)
- **Medical devices**, contact [Health Canada](#)
- Electrical equipment used in the operation of an electric railway or electric street railway; railway vehicles, contact [Ministry of Transportation](#)
- Equipment used to operate a railway; mines; or transportation, contact [Ministry of Labour](#)
- **Dissatisfaction with business practices**, contact [The Consumer Protection Branch - Government of Ontario](#)

Appendix 3: Screening Tool for Manufacturers, Importers, Certification Body and Field Evaluators

Am I Required to Submit a Report?

A manufacturer, 1st Importer, Certification Body or Field Evaluation Agency may be obliged to report a serious electrical incident or accident or defect to ESA.

If you answered **YES** to **ANY** of the questions below you **MUST** submit an initial report to ESA within **48 hours** of obtaining information that a product may be potentially dangerous, even if you are still conducting an investigation concerning the product.

ESA considers a company to have obtained knowledge of a serious incident, accident or defective product when information regarding a reportable incident is received by an employee or official of the company "**who may reasonably be expected to be capable of appreciating the significance of that information.**"

The first question to consider is:

1. Is the electrical product covered by the Ontario Electrical Safety Code? Electrical products subject to the regulation include consumer and commercial electrical products, electrical medical devices, industrial electrical products, and wiring products. (see a list below of products that are excluded from the regulation)
- | | Yes | No |
|--|--------------------------|--------------------------|
| | <input type="checkbox"/> | <input type="checkbox"/> |

If you answer **NO** to the question above, you are **NOT REQUIRED** to report. However, ESA encourages voluntary reporting of any unsafe products. If **YES**, you need to consider the following questions.

2. Was the electrical product involved in any of the following:
- | | Yes | No |
|--|--------------------------|--------------------------|
| a. A death? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Injury requiring hospitalization or professional medical treatment? | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Caused or could cause an electrical shock or personal injury (e.g. exposed live wires)? | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Caused flame or fire outside the product? | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Release of a highly flammable substance? | <input type="checkbox"/> | <input type="checkbox"/> |

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- f. Overheating causing actual or potential property damage.
- g. Failure of the product or component in the product to perform its primary safety and/or protection function e.g., smoke detector, CO detector).
3. Are you aware of other similar incidents involving the product that may be a warning sign of more serious problems?

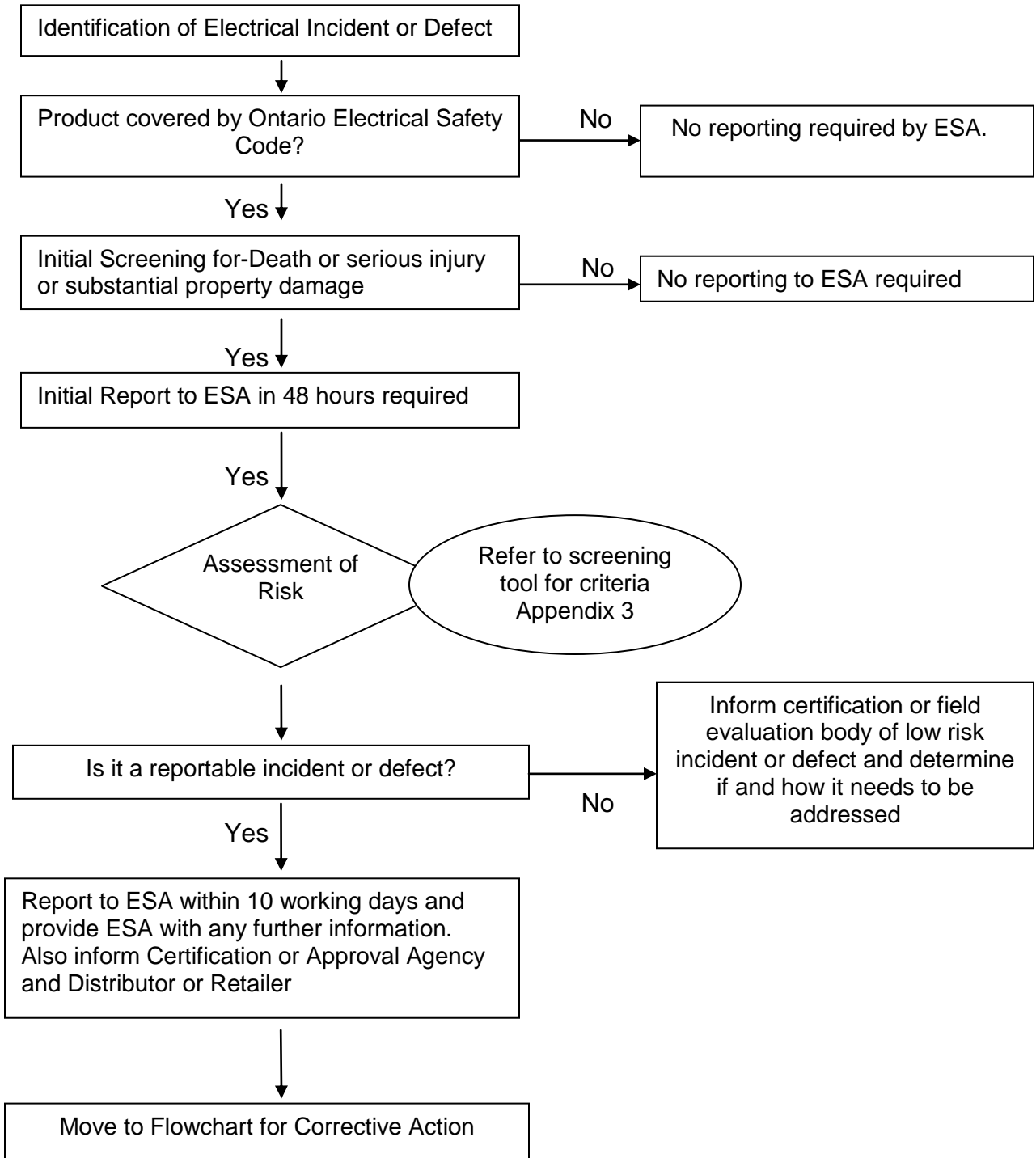
If you are unsure as to whether a report is required or you are in doubt as to the safety of the product in question, you are still encouraged to file a report.

One of the principle objectives of reporting is to allow ESA to work with companies to address potential safety concerns of electrical products offered for sale in Ontario.

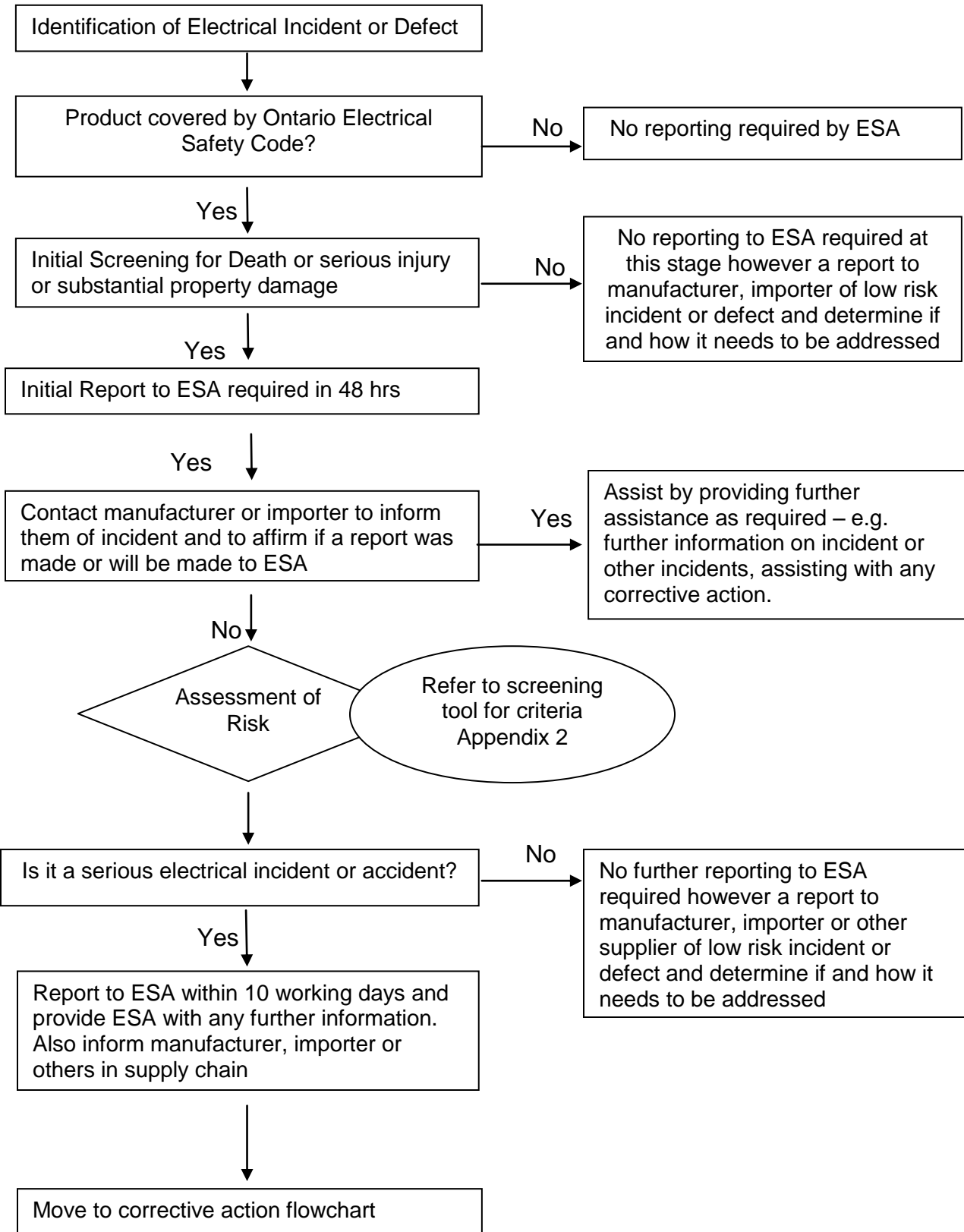
ESA does not have jurisdiction over the following products (use the links below to file a complaint with the proper agency):

- **Gas Products** (including gas fireplaces, boilers and stoves), in Ontario contact [Technical Standards and Safety Authority \(TSSA\)](#)
- **Battery operated products**, contact [Health Canada](#)
- **Medical devices**, contact [Health Canada](#)
- Electrical equipment used in the operation of an electric railway or electric street railway; railway vehicles, contact [Ministry of Transportation](#)
- Equipment used to operate a railway; mines; or transportation, contact [Ministry of Labour](#)
- **Dissatisfaction with business practices**, contact [The Consumer Protection Branch - Government of Ontario](#)

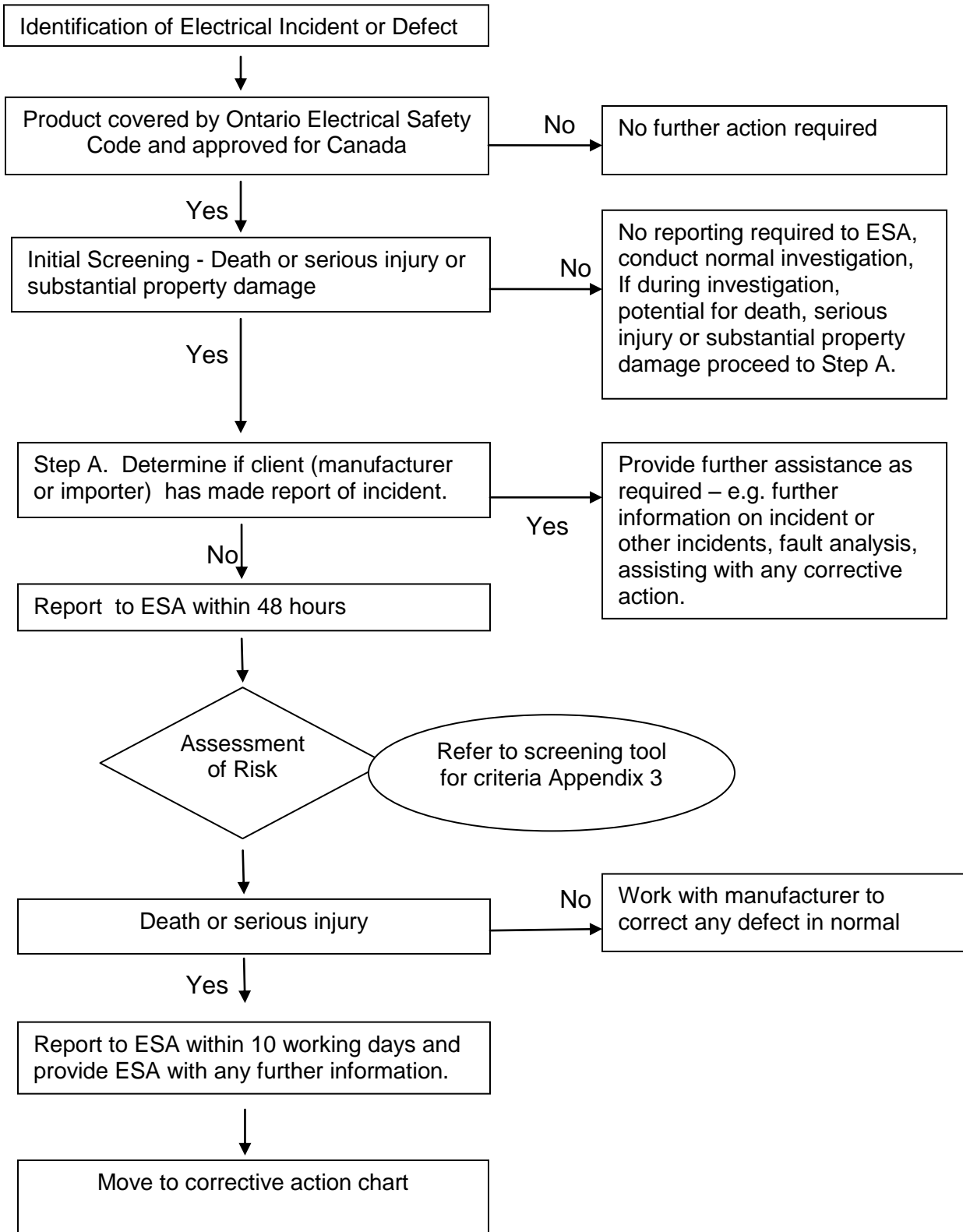
Appendix 4: Reporting Process for Manufacturers and Importers



Appendix 5: Reporting Process for Distributors and Retailers



Appendix 6: Reporting Process for Certifiers and Evaluators



Appendix 7: ESA's Mandatory Reporting Form

Ontario Regulation 438/07, made under the Electricity Act, 1998, Section 8(1) proclaimed August 15, 2007 includes the following requirements for mandatory reporting of serious electrical incidents or accidents or defects that affect the safety of individuals or cause damage to property or defects.

“8. (1) A manufacturer, wholesaler, importer, product distributor or retailer that becomes aware of a serious electrical incident or accident or a defect in the design, construction or functioning of an electrical product or device that affects or is likely to affect the safety of any person or cause damage to property, shall report to the Authority as soon as practicable after becoming aware of the serious electrical incident or accident or defect.

(2) A certification body or field evaluation agency that becomes aware of a serious electrical incident or accident or a defect in the design, construction or functioning of an electrical product or device that was the subject of a report given by the certification body or field evaluation agency that affects or is likely to affect the safety of any person or cause damage to property shall report to the Authority as soon as practicable after becoming aware of the serious electrical incident or accident or defect.

A report is required to be made “as soon as practicable after those responsible for reporting become aware of the serious electrical incident or defect.” ESA interprets this to mean that an initial report with the information that is available should be made within 48 hours followed by a report within 10 working days.

A report will be kept confidential as per ESA's privacy policy, which is available on the ESA website. Any information collected will be shared only for purposes directly connected with the administration of the Product Safety regulation (Reg 438/07).

ESA may share reported information with the manufacturer, wholesaler, importer or distributor of the product which is the subject of the report. In addition, ESA may share reported information with the certification body that certified the product or field evaluation agency that evaluated the product.

Mandatory Reporting of Unsafe Products

You **MUST** submit an initial report to ESA within **48 hours** of obtaining information that a product may be potentially dangerous, even if you are still conducting an investigation concerning the product. A follow-up report is required within 10 working days.

ESA considers a company to have obtained knowledge of a serious incident, accident or defective product when information regarding a potentially hazardous product is received by an employee or official of the company **"who may reasonably be expected to be capable of appreciating the significance of that information."**

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CONFIDENTIALITY

A report will be kept confidential as per ESA's privacy policy, which states that ESA shall refuse to disclose records that constitute records containing commercial, proprietary, technical or financial information of any person or business that has supplied records to ESA in confidence, if disclosure would result in undue loss or gain, prejudice a competitive position or interfere with contractual or other negotiations.

This report is: an initial Mandatory Report
 an update to and existing Mandatory Report

FILING FIRM INFORMATION:

Reporting Firm Name: *

Reporting firm is: * Manufacturer Importer Distributor
 Retailer Certification Body Other

Contact Person: *

Address: *

City: *

Province/State: Postal/Zip Code:

Country:

Email Address: *

Telephone: * Fax:

Problem also reported to (check as many as required): Manufacturer Importer Distributor
 Retailer Certification Body Other

PRODUCT INFORMATION:

Product Type: * Electrical Rating:

Product Desc:

Brand: Model:

Date Code: Serial Numbers:

UPC: Retail Price:

Final Guidelines for the Management of Electrical Product Safety

Product Is: * Unapproved With Suspected Counterfeit Label Certified

MANUFACTURER INFORMATION: (IF DIFFERENT THAN THE REPORTING FIRM)

If the following information is not available, please check the box

Manufacturer Name: *	<input type="text"/>	
Address:	<input type="text"/> <input type="text"/>	
City:	<input type="text"/>	
Province/State:	<input type="text" value="Ontario"/>	Postal/Zip Code: <input type="text"/>
Country:	<input type="text" value="Canada"/>	
Web Site:	<input type="text"/>	
Contact Name: *	<input type="text"/>	
Contact Address:	<input type="text"/> <input <="" td="" type="button" value="Copy From Above?"/> <td></td>	
	<input type="text"/>	
City:	<input type="text"/>	
Province/State:	<input type="text" value="Ontario"/>	Postal/Zip Code: <input type="text"/>
Country:	<input type="text" value="Canada"/>	
Email Address: *	<input type="text"/>	
Telephone: *	<input type="text"/>	Fax: <input type="text"/>

IMPORTER INFORMATION: (IF DIFFERENT THAN THE REPORTING FIRM AND MANUFACTURER IS OUTSIDE OF ONTARIO)

If the following information is not available, please check the box

Importer Name: *	<input type="text"/>	
Address:	<input type="text"/> <input type="text"/>	
City:	<input type="text"/>	
Province/State:	<input type="text" value="Ontario"/>	Postal/Zip Code: <input type="text"/>
Country:	<input type="text" value="Canada"/>	
Web Site:	<input type="text"/>	
Contact Name: *	<input type="text"/>	
Contact Address:	<input type="text"/> <input <="" td="" type="button" value="Copy From Above?"/> <td></td>	
	<input type="text"/>	

Final Guidelines for the Management of Electrical Product Safety

City:

Province/State: Postal/Zip Code:

Country:

Email Address: *

Telephone: * Fax:

INCIDENT INFORMATION:

Defect/Problem: *

Type of Hazard: * Chemical Electrocutation Fire
 Mechanical Other

Photos:

When Discovered:

How Discovered:

Injuries and/or Property Damage: *

PRODUCT DISTRIBUTION INFORMATION:

Companies in the Distribution Chain:

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Number of Products Involved:

With Manufacturer	<input type="text" value="0"/>
With Distributor	<input type="text" value="0"/>
With Retailers	<input type="text" value="0"/>
With Consumers	<input type="text" value="0"/>
TOTAL	<input type="text" value="0"/>

Production/Importation Began: ... Ended: ...

Distribution Began: ... Ended: ...

CORRECTIVE ACTION & PUBLIC NOTIFICATION INFORMATION:

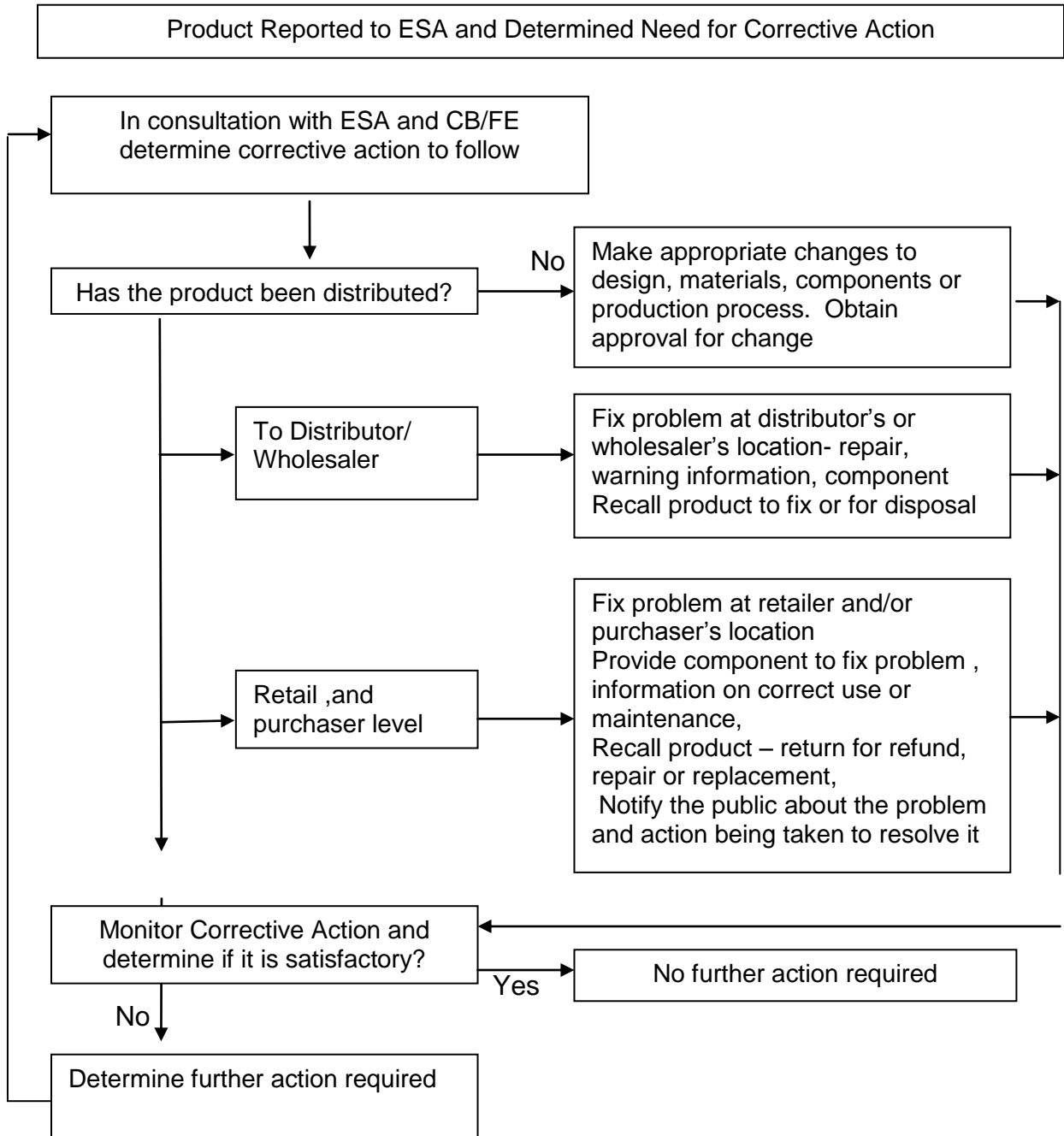
Corrective Action Taken: Production Stopped Distribution Stopped Retail Sales Stopped

Notification Measures Taken: Owners of Product Distribution Chain Others

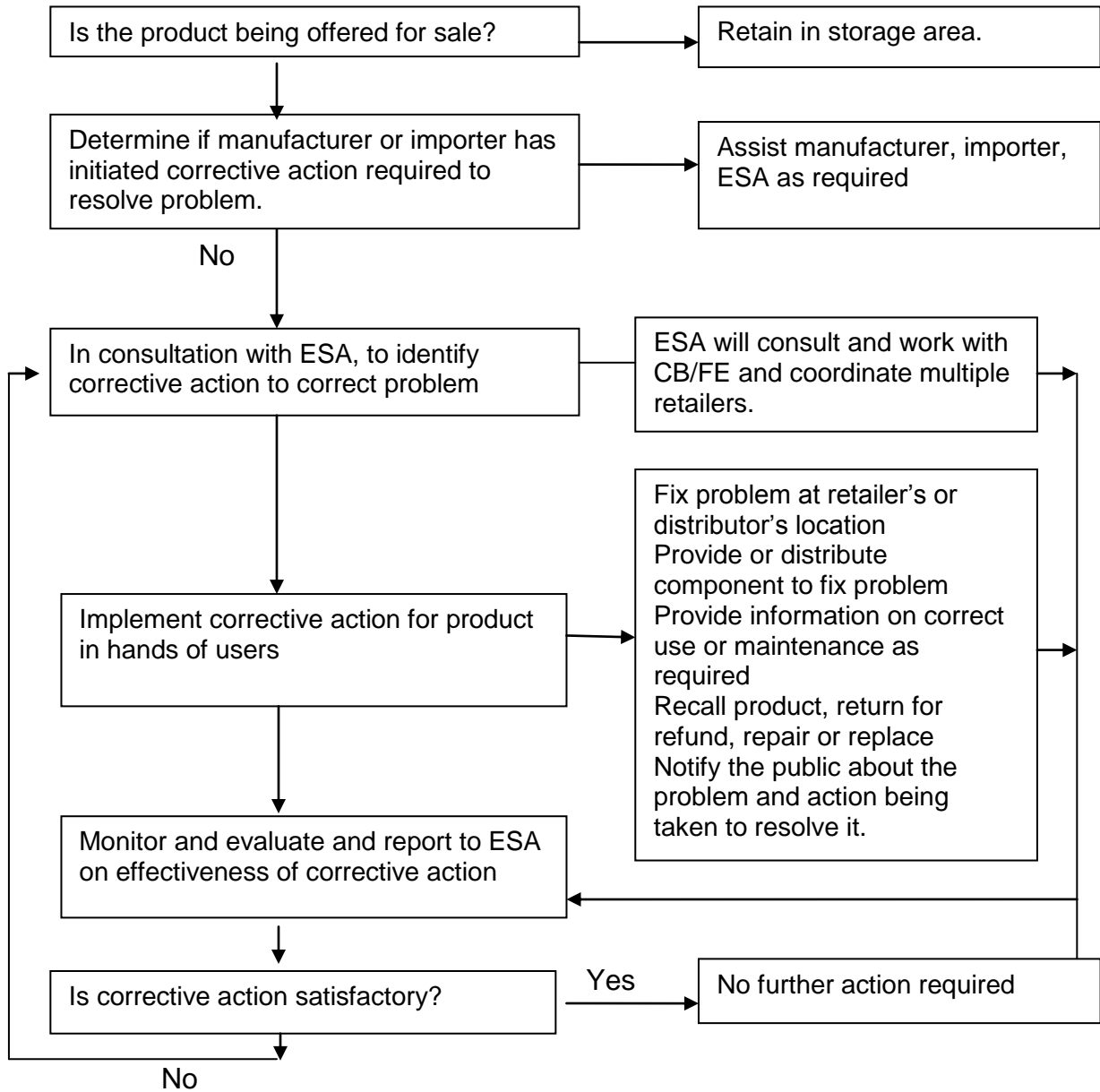
Mandatory fields marked * If information is not available, please enter N/A.

[Click here to view ESA's Privacy Policy](#)

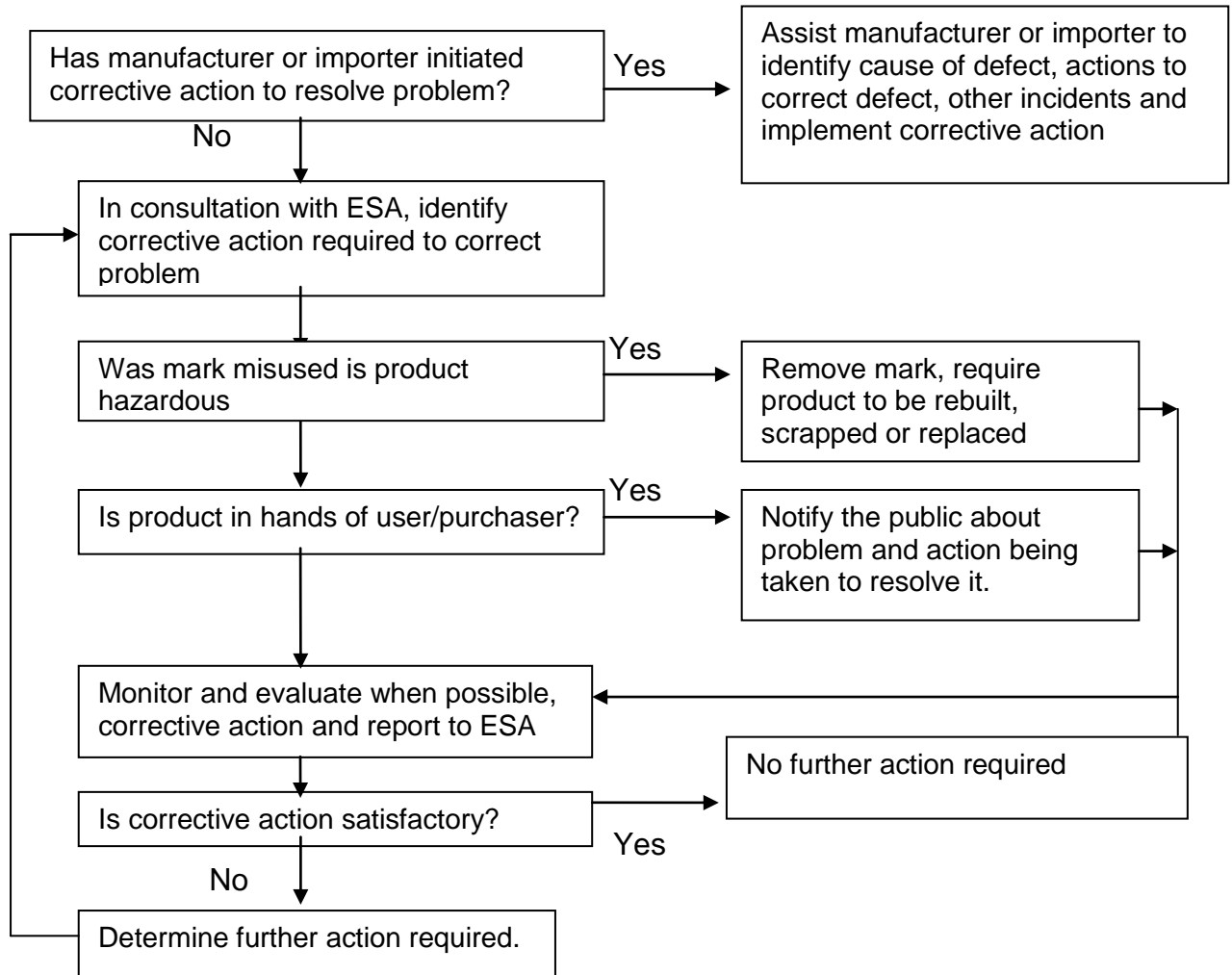
Appendix 8: Corrective Action - Process for Manufacturers and Importers



Appendix 9: Corrective Action Process for Distributors and Retailers



Appendix 10: Corrective Action Process for Certifiers and Evaluators



Appendix 11: Corrective Action Procedure Checklist

Key considerations for a successful corrective action are planning ahead, acting quickly and communicating effectively. Consumer safety and your company's reputation may depend on these proactive activities.

1. Preventing the need for Corrective Action:

- Focus all stages of production and distribution (design, manufacture, presentation and marketing) the production of safe products are produced;
- Make sure that all electrical products comply with the relevant legislation, regulations and safety standards;
- Obtain all required product certifications or approvals.
- Ensure that Instructions and/or warnings are easy to read and understand; and
- Consider and design for end of life failure issues

2. Plan ahead – before you have a problem

- Establish a policy and procedure for corrective action stating the company's goals and commitment, and discuss your policy with your trade partners;
- Set up a corrective action team with expertise in all aspects of the design, production, quality assurance, purchasing, distribution and marketing of a company's products to collect and analyse incident reports, customer complaints, warranty claims, results of product tests or quality checks, returned products, or evidence of tampering;
- Monitor information about the safety of your products from returns, warranty claims and complaints from users, distributors and retailers so that potential safety problems are identified at an early stage.
- Establish procedures to trace and check all materials and components before production and introduce quality management systems for production process.
- Keep good records on product design, production, distribution, repairs and sales to help identify faults, trace products and identify customers and end users
- Clearly mark products with lot numbers in locations that are accessible so that user can identify the products easily;
- Update contact information for key people within and outside the company
- Procedures to assess any risks and carry out corrective action; and
- A protocol to measure the effectiveness of any corrective action and to determine what if any other measures need to be taken.

To reduce financial liability, obtain advice on product liability insurance

3. Decide whether to take action - assess the risk

- Identify the hazard and its cause
- Estimate how many products are affected
- Evaluate the severity of the problem and the likelihood of an injury or damage occurring

If corrective action is needed – what to do?

- Inform ESA and organization who approved product
- Inform other suppliers in the product supply chain
- Decide whether the corrective action needs to involve:
 - products in the supply chain and possibly
 - products in the hands of consumers
- Decide what corrective actions need to be carried out

4. Agree responsibilities and actions with ESA and other responsible parties If the action involves products in the hands of consumers you need to:

- Trace the products and their owners if possible
- Set up communications mechanisms e.g. toll free line, email
- Draft with ESA corrective action message that is clear and simple
- Decide how to communicate the message
- Deal with your consumers
- Communicate with others who need to know
- Carry out corrective action on the products
- Deal with products that have been returned
- Monitor the response to the corrective action and report results to ESA
- Decide if further action is needed.

5. After corrective action – learn from experience

- Review design standards and improve quality systems to try to avoid future problems
- Assess the success of the corrective action procedure and make any improvements
- Send comments and thanks to key participants.

Appendix 12: Methods of Public Notification

Techniques	Considerations	What can go right?	What can go wrong?
<p>Printed Public Information Materials</p> <ul style="list-style-type: none"> • Fact Sheets • Newsletters • Brochures • Issue Papers 	<ul style="list-style-type: none"> • Keep it short and simple • Write in clear and accessible language • Make it visually interesting • Be sure to explain public role • Q&A format works well 	<ul style="list-style-type: none"> • Can reach large target audience • Allows for technical and legal review • Facilitates documentation of public notification 	<ul style="list-style-type: none"> • Only as good as the mailing list/distribution network • Limited capability to communicate complicated concepts • No guarantee materials will be read • Run the risk that not everyone who needs the information will see or hear it
<p>Paid advertisements in newspapers and magazines</p>	<ul style="list-style-type: none"> • Figure out the best days and best sections of the paper to reach intended audience • Avoid rarely read notice sections 	<ul style="list-style-type: none"> • Potentially reaches broad public • May satisfy legal Notification Requirements • Bring broader public attention to an important issue. 	<ul style="list-style-type: none"> • Expensive, especially in urban areas • Allows for relatively limited amount of information • Limited capability to communicate complicated concepts • No guarantee materials will be read
<p>Press Releases</p>	<ul style="list-style-type: none"> • Try to hand deliver press releases to get a chance to discuss issue • Foster a relationship with editorial boards and reporters • Informs the media • Other news 	<ul style="list-style-type: none"> • Press release language is often used directly in articles • Opportunity for technical and legal reviews 	<ul style="list-style-type: none"> • Generally low media response rate • Frequent poor placement of press release within newspapers

Final Guidelines for the Management of Electrical Product Safety

Techniques	Considerations	What can go right?	What can go wrong?
	stories that are taking place		
Press Conference	<ul style="list-style-type: none"> • Make sure all speakers are trained in media relations • Materials - photos, videos that media can use 	<ul style="list-style-type: none"> • Opportunity to reach all media in one setting 	<ul style="list-style-type: none"> • Limited to very news-worthy events
Television advertisements	<ul style="list-style-type: none"> • Cable options are expanding and can be inexpensive • Check out expanding video options on the internet 	<ul style="list-style-type: none"> • Can be used in multiple geographic areas • Many people will take the time to watch rather than read 	<ul style="list-style-type: none"> • High expense • Difficult to gauge impact on audience
Toll free hot line - A separate line for public access to pre-recorded information or to reach person who can answer questions	<ul style="list-style-type: none"> • Make sure contact has sufficient knowledge to answer most questions • People don't get "the run around" when they call 	<ul style="list-style-type: none"> • Controls information flow and promotes information consistency • Conveys image of "accessibility" • Easy to provide updates incident 	<ul style="list-style-type: none"> • Contact is not committed to and prepared for prompt and accurate responses
Direct Mail		<ul style="list-style-type: none"> • Nothing beats personal mail (or contact) for getting people's attention 	<ul style="list-style-type: none"> • Mailing list is incomplete and some consumers are missed

Appendix 13: Recall Template and Examples

RECALL

RCLYY-No.

Month Day, Year

Subject of the recall

Toronto, ON – The Electrical Safety Authority in cooperation with **Company Name**. is notifying the public that **Company Name** has announced a voluntary recall of the following consumer product. Consumers should stop using recalled products immediately.

Name of Product:

Units:

Manufacturer/Importer:

Hazard: Provide description of the potential hazard and associated risk.

Incidents/Injuries: Provide the number and type of injuries or damage reported.

Description/Models: Provide distinguishing features, batch or serial number, retail cost, colour etc.

Sold by:

When was distributed:

Manufactured in:

Remedy: The suggested steps and remedial action that the consumer should take to protect themselves and what is being done to correct the problem or defect.

Consumer Contact: Provide Contact name, number preferably toll-free, and address for further information.

Remarks:

Provide Picture for the Recalled Product

RECALL

RCL07-58

December 5, 2007

Black & Decker® Brand Toasters Recalled By Applica Canada Corporation Due to Fire Hazard

TORONTO, ON. - The Ontario Electrical Safety Authority, in cooperation with Applica Canada Corporation, is notifying the public that Applica has announced a voluntary recall of the following consumer product. Consumers should stop using the affected products and unplug the unit immediately.

Name of Product: Black & Decker® brand Infrawave™ Toasters.

Units in Canada: Approximately 23,000, of which approximately 4,000 have been sold to consumers.

Canadian Distributor: Applica Canada Corporation.

Manufacturer: Elec-Tech International Co., Ltd., Hong Kong, China.

Hazard: An electrical component in the toaster can overheat and ignite the circuit board, posing a fire hazard.

Incidents/Injuries in Canada: Applica has received four reports of the toasters overheating, including two reports of fire that caused damage to the kitchen in which the

appliance was installed. There have been no reported injuries.

Description and Model: The recalled two-slice toaster is black with stainless steel trim and has a digital display below the toaster lever. The Black & Decker® brand name is on the top of the toaster. Model number ST2000 is printed on the rating plate on the bottom of the toaster.

Sold at: Home improvement and discount department retailers nationwide, including Canadian Tire and London Drugs, from March 2007 through November 2007 for between about \$69.99 and \$79.00.

Manufactured In: China

Remedy: Consumers should stop using the recalled toaster. Unplug it immediately, and contact Applica to receive a refund.

Consumer Contact: For additional information, contact Applica at (800) 556-9439 between 8:30 a.m. and 5 p.m. ET Monday through Friday, or log on to the firm's Web site at <http://www.acprecall.com>.



Applica Canada Corporation
Black & Decker® Brand Toaster
Model ST2000

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RECALL

RCL07-59

December 07 2007

CSA International in cooperation with International Comfort Products, announces a voluntary recall of Hydra Electric Boilers

CSA International, in cooperation with, International Comfort Products (ICP) of Sherbrooke, Quebec announces the voluntary recall in Canada of approximately 1,722 Hydra electric boilers sold under the brands Dettson, Lincoln, Heil, Keeprite, Tempstar and Arcoaire. There are certain circumstances that can cause affected units to malfunction and overheat, creating a potential fire hazard in units mounted on combustible materials.

ICP has received two reports of discoloured wood due to this condition. No injuries have been reported.

This recall involves "Revision A" Hydra boilers. The affected model numbers and date codes are:

HYDRA09-E2401M-A
HYDRA15-E2401M-A

HYDRA18-E2401M-A
HYDRA20-E2401M-A
HYDRA24-E2401M-A

The serial number begins with "SD". The affected units were manufactured between May 2004 and June 2005 inclusive, thus the serial number date code range is:

SD050425721 – SD060580677 (Revision "A")

No other models or date codes are included in this recall.

Consumers who have affected boilers should immediately contact their local dealer to arrange for a free inspection and installation of a retrofit kit and proximity spacers to eliminate the hazard. For additional information, call toll-free at (800) 567-2733 anytime during business hours or email michael.truppner@icpcanada.com.



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