

January 13, 2009

Distribution: Wholesalers, Distributors and Retailers of Electrical Products in Ontario

Subject: Ontario, Canada - New Obligations for Wholesalers, Distributors and Retailers of Electrical Products Sold In Ontario

Pursuant to Ontario Regulation 438/07, as of July 1, 2008 new mandatory requirements regarding electrical products sold or offered for sale in Ontario came into effect.

Ontario's Product Safety Regulation was introduced in August 2007 to ensure the safety of electrical products and equipments sold and used in Ontario thereby creating a system to ensure the Electrical Safety Authority (ESA), the Authority Having Jurisdiction in Ontario, is made aware of electrical products posing a danger.

ESA operates as a delegated administrative authority accountable to the Ministry of Small Business and Consumer Services for administering and enforcing Part VIII of the *Electricity Act, 1998 and regulations, including Regulation 438/07.*

Specifically, Regulation 438/07 requires that wholesalers, product importers, distributors or retailers:

- 1. Report to ESA** any serious electrical incident or accident or defect with electrical products or devices that affect or are likely to affect the safety of any person or cause damage to property.
- 2. Assist in the investigation** of serious electrical product incidents, accidents, or defects in design, construction or functioning of the electrical device.

Assistance may include:

Providing information on product distribution, customers, and suppliers;

Providing information about complaints, returns, repairs or service orders;

Providing samples for testing purposes;

Providing access to the products in question if applicable;

Undertaking public notification if the manufacturer or importer fails to do so; and/or

Taking further action to correct the problem ,if the manufacturer or importer fails to do so.(refer to Appendix 9 of Final Guidelines for the Management of Electrical Product Safety located on the ESA website.) www.esasafe.com

3. **Undertake notification** of the public or any person or class of persons of a risk or defect in an electrical product or device or occurrence of a serious electrical incident.
4. **Undertake further appropriate corrective action** if requested to do so by ESA.

Retailers also include those who sell in Ontario via the internet, through mail order arrangements, auctions, flea markets and those who sell second hand goods including rebuilt, refurbished and, remanufactured electrical goods.

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

Wholesalers, distributors or retailers who become aware of a serious electrical incident or defect in an electrical product that has actually affected the safety of a person or caused actual property damage **must** inform the manufacturer or importer of the incident or defect and **must also** 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, **wholesalers, distributors and retailers, must** inform the manufacturer or importer of their concern and **must** be able to demonstrate to ESA that they have done so.

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

This includes the following electrical products and devices: consumer electrical products, commercial electrical products, electrical medical devices, industrial electrical products, and wiring products.

ESA has introduced on-line forms to accommodate mandatory and voluntary reports regarding electrical products. The “Electrical Product Reporting” forms can be accessed on-line at www.esasafe.com under the “Electrical Product Safety” section.

A **wholesaler, distributor or retailer** who imports electrical products into Ontario is considered to have the same obligations as the primary producer (i.e., manufacturer, importer or brand owner) of the product for the purposes of the regulation.

To prevent multiple corrective actions and notifications to the public, the primary producer shall be primarily responsible for any corrective action; however if the primary producer fails to take the appropriate corrective action, **the distributor, wholesaler or retailer shall** assume the responsibilities of the primary producer and shall **be responsible** for any corrective action.

ESA has consulted with all affected stakeholders throughout the development of these guidelines to ensure the safety obligations defined in the *Product Safety Regulation* are achieved in an expeditious manner, and with minimal impact to our stakeholders.

Stakeholders support the guidelines that have been established to implement the *Product Safety Regulation*.

Wholesalers, product importers, distributors or retailers of electrical product should be aware of the obligation of manufactures of certified or field evaluated products. In Ontario beginning April 01, 2009 it will be mandatory for each manufacturer who is selling or intends on selling electrical product in Ontario to be registered with ESA. **Registration is required in addition to a recognized certification mark or field evaluation label for electrical products to be approved for sale in Ontario.** Products failing to meet these requirements will be considered “unapproved” and subject to investigation, public notification and fines. In the case of field evaluation additional information on registration can be found on the ESA web site. (Registration fees support the administration, and operation of the Product Safety Regulation.)

For more information about Ontario’s Electrical Safety Authority, *Product Safety Regulation 438/07*, and the stakeholder consultation process and guidelines visit www.esasafe.com (“Government & Regulations” and “Electrical Product Safety” sections).

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