



Electrical Safety Authority
Regulatory Affairs Division

Product Safety Funding Business Case

Regulatory Affairs Division
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August 8, 2008
v.3 Revised

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1. Executive Summary

The passage of Bill 152 and Regulation 438/07 addressed the gap in public safety by creating new and expanded authorities for ESA. The result of these changes will affect ESA's current operations and will necessitate the creation of a sustainable funding model. To fulfill its expanded regulatory obligations, ESA will need to add new activities and increase the level of activities in other areas. In order to offset these new costs, ESA will have to establish fees, administrative penalties, costs or other charges related to the administration of its new legislative and regulatory authority.

ESA's objective in the short term is to operationalize the new regulations by creating the necessary infrastructure and organizational structure to respond to incidents. In the longer-term, the objective is to create a robust electrical product safety regime in Ontario that addresses the identified gaps in ESA's prior authority, increases public safety and reflects international best practices.

The current budgeted amount of \$500,000 annually will not cover the increased costs of administering the new product safety program. The new program requires dedicated additional resources to administer not only the new reporting requirements, but also to investigate and respond to alleged breaches of the Act and regulations and to respond to anticipated increase in complaints and consumer inquiries.

The new fee structure must cover the cost of implementing the new regulation and should create a sustainable funding model to offset the increased costs incurred because of the new and expanded activities undertaken by ESA.

Through an intensive consultation process, ESA and stakeholders explored several options for sustainable funding of the electrical product safety strategy and the new regulations. Options that were considered include:

Option 1: Continue cross-subsidization by increasing inspection fees charged by ESA to electrical contractors and other persons undertaking electrical wiring.

Option 2: Apply administrative penalties to those that do not comply with the regulations.

Option 3: Continue cross-subsidization by increasing fees charged to Electrical Distribution companies (LDCs) as a proxy for collecting a fee from consumers through the utility bill.

Option 4 (a): Collect a fee from product manufacturers & 1st importers (manufacturers brand owners, distributors, retailers) who are responsible for bringing the product into Ontario.

Option 4 (b): Collect a fee from product manufacturers & 1st importers from CBs/IBs as a pass through cost.

Option 5: Create an unsafe product fund to be financed by like-minded stakeholders, who could also pledge in-kind services.

Option 6: Collect a recognition fee from CBs/IBs.

Option 7: Recover costs per incident from supply chain on a transactional basis.

Option 8: Collect a fee from electrical product retailers and/or distributors operating in Ontario.

Option 9: Direct government funding.

Option 10: Collect a safety surcharge from consumers at the point of sale.

Based on stakeholder consultations to date, ESA staff recommends to the ESA Board of Directors that ESA implement a mixture of funding options to support the implementation of the product safety regulation including:

- administrative penalties (it is projected that once fully implemented this would generate approximately \$150,000 annually),
- certification body and inspection body recognition fee of \$2,500 per year (it is projected this will generate approximately \$ 65,000 annually), and
- a registration fee for manufacturers (those who submit products for certification or evaluation)/first importers (it is assumed that 10,000 registrants exist and each would pay an initial \$350 fee and a \$300 renewal fee per year. Each manufacturer or first importer would be required to pay the yearly registration fee. The fee would be a flat fee per registrant irrespective of the number of products intended for the Ontario marketplace. It is projected that once fully implemented, this fee would generate approximately \$3 million annually).

The total cost of implementing the product safety program is estimated to be between \$2.6 million and \$3.2 million annually, as outlined in the attached three-year budget. These costs will vary depending on the range of activities undertaken.

Although initially, allocated costs totaled approximately \$ 2.6 million in the first year, ESA has decided to stage implementation of the program over two-years. As a result, fiscal year 2008/09 will represent a transition period for the program. In the transition year, the projected program costs total \$785,000, which reflect the ramping up of staff and associated activities.

Implementation will begin in FY 2008/2009 with mandatory activities while prevention and detection activities will be phased in as a revenue stream is created to support those activities.

ESA's ability to fully implement all aspects of the product safety program (i.e., proactive marketplace surveillance and prevention activities) will depend on ESA's ability to achieve the projected \$3.2 million in revenue annually.

Expected revenue for FY2008/09 totals \$ 240,000. This total is expected to be derived from a CB/IB recognition fee of \$2,500 and a manufacturer's registration fee of \$350. Since the manufacturer's registration fee would not be implemented until late in the fiscal year, it is projected that approximately 500 registrants would pay the fee in the transition year with the number of registrants

growing in the following first full year of the program. During this period, ESA will continue to cross-subsidize the program from other ESA revenues to account for the shortfall, however, it is expected that these funds would be recovered in subsequent years.

In order to ensure ESA has the ability to recover these costs, ESA will request that the Ministry of Small Business and Consumer Services amend the approval requirements in the regulation to include the requirement for manufacturers to register with ESA prior to their products being approved for sale in Ontario.

The administrative penalties referenced above will reflect those discussed in the working group six discussions. The penalties would be progressive in nature and would reflect the following progressive scale:

- 1) 1st offence = \$250 - \$2,500
- 2) 2nd offence = \$1,000 - \$10,000 + mandatory re-inspection fee
- 3) 3rd offence = greater than \$10,000

Administrative penalties could be levied for the following offences:

- Selling unapproved products;
- Failure to report incident, accident or defect;
- Installing or using unapproved products; or
- Failure to assist in investigations.

By year three, it is expected that the projected 10,000 registrants will have been registered. Based on these figures, it is expected that the program will achieve annual revenue of approximately \$ 3.2 million once fully implemented thereby achieving full cost recovery and eliminating the need for cross-subsidization.

ESA's ability to fully implement all aspects of the program will depend on full cost recovery. If full cost recovery is not achieved by year three, ESA will reevaluate the funding model and may implement an incident cost recovery alternative as a mitigating technique. Other mitigation strategies may also be implemented if a high number of frivolous incident investigations are undertaken unnecessarily.

The transition year will focus primarily on supporting affected stakeholders (e.g., CBs/IBs and the supply chain) understand their new regulatory obligations and increasing capacity within ESA to manage the program. During this year, ESA will focus on mandatory activities required by the regulation. Implementation tasks will include:

1. assisting industry transition to the new system by answering questions and making presentations;
2. communicating the new obligations to affected stakeholders;
3. creating communications material to inform affected stakeholders of their obligations;
4. responding to incidents;
5. developing a reporting database to assist in case management;
6. creating the infrastructure to register manufacturers and recognize CBs/IBs; and

7. completing the requisite internal policies and procedures.

It is expected that many affected stakeholders will need at least one year to transition and implement the requisite frameworks within their organizations to collect and analyze data to meet their reporting obligations. During this same time, coordination with other provincial jurisdictions, Health Canada and other safety organizations will also be required.

In the transition year, seven full-time employees or equivalents will be hired. These employees will include a manager for the program area, one support staff, three product safety engineers/technologists, and a prevention analyst.

2. Project Background

2.1. Description of Problem/Opportunity

In Ontario, electrical product safety is regulated under Part VIII of the *Electricity Act, 1998* and the requirements set out in the Ontario Electrical Safety Code (OESC). The Ministry of Small Business and Consumer Services (MSBCS), the ministry responsible for Part VIII of the *Electricity Act, 1998*, delegated the authority to administer and enforce the Act and regulations to the Electrical Safety Authority (ESA), a private, not-for-profit corporation, through the *Safety and Consumer Statutes Administration Act, 1996*.

On December 20, 2006, Bill 152, the *Ministry of Government Services Consumer Protection and Service Modernization Act, 2006* received Royal Assent. Bill 152 included several amendments to Part VIII of the *Electricity Act, 1998*, which in addition to other legislative amendments, strengthened the ESA's regulatory and enforcement powers with respect to electrical product safety. In addition, Bill 152 included amendments that provided regulation-making authority to establish a product safety regulation to be administered by ESA.

To improve electrical product safety further, MSBCS filed Ontario Regulation 438/07 on August 1, 2008. The regulations sought to improve ESA's ability to deal with safety hazards associated with electrical products by requiring that:

- All electrical products and devices governed by the OESC that are sold or offered for sale in Ontario are approved based on the process outlined in the OESC and Regulation 438/07; whether manufactured in Ontario or abroad;
- All serious electrical incidents or accidents or defects that affect or are likely to affect the safety of any person or cause damage to property are reported to ESA by the entities identified in the regulation;
- A process is created to ensure that the entities identified in the regulation:
 - o notify the public or any person or class of persons of the risk or defect in an electrical product or device or occurrence of a serious electrical incident if required to do so by ESA;
 - o take appropriate corrective action to adequately address the risk or defect in an electrical product or device if required to do so by ESA; and
- A process is created to retain, preserve or remove electrical products or devices from the marketplace if ordered by ESA.

Several motivating factors necessitated the legislative amendments and the passage of the new product safety regulations; these included:

- the affect of globalization on the marketplace;
- decreasing domestic control over the electrical product supply chain;
- the proliferation of electrical products being imported into Ontario;
- the lack of reporting of electrical product incidents to any regulatory body; and

- the lack of clear statutory authority for the regulator, the ESA, to compel those responsible for manufacturing, certifying (or evaluating), importing, or otherwise offering for sale electrical products and devices in Ontario to take appropriate corrective action (including public notification) where a clear public safety risk was identified.

The concerns regarding product safety came to a head in 2006 when a reputable appliance manufacturer failed to appropriately alert consumers after confirmation that a certified product it manufactured was the source of six fires in Canada. This incident uncovered a gap in the electrical product safety regime in Ontario.

Although the passage of Bill 152 and Reg. 438/07 addressed the gap in public safety by creating new and expanded authorities for ESA, the result of these changes will affect ESA's current operations and will necessitate the creation of a sustainable funding model. In order to offset these new costs, ESA will have to establish fees, administrative penalties, costs or other charges related to the administration of its new legislative and regulatory authority.

2.2. Current Situation

Despite ESA's lack of clear statutory authority regarding electrical product safety, ESA received and responded to reports of potentially unsafe products due to the product approval requirements mandated by the OESC.

In 2004, ESA developed an unsafe product strategy in an attempt to manage the growing problem. By 2005, in response to the rising number of complaints, ESA began tracking unsafe product incidents separately from other complaints and investigations received. In addition, ESA assigned dedicated staff, on a part-time basis, to respond to the increase in electrical product incidents reported.

In the fiscal year 2006, ESA responded to 106 product safety complaints, issued 49 product incident reports to certification bodies and field evaluation agencies regarding unsafe products, issued five safety alerts, initiated four media awareness campaigns, and conducted four investigations.

In the fiscal year 2007, ESA responded to 149 product safety complaints, issued 35 product incident reports to certification agencies, manufacturers and field evaluation agencies regarding unsafe products, issued 9 safety alerts, and conducted 7 investigations. Over a one-year period, the number of complaints grew approximately 41%.

By 2007, ESA spent approximately \$500,000 annually to support its activities associated with responding to unsafe product reports. These funds subsidized engineering, inspection, enforcement, communications and administration costs associated with administering the complaints related to the product approval requirements contained in the OESC.

The current budgeted amount of \$500,000 annually will not cover the increased costs of administering the new product safety regime. The new regime requires dedicated additional resources to administer not only the new reporting requirements, but also to investigate and respond to alleged breaches of the Act and regulations and to respond to anticipated increase in complaints and consumer inquiries.

To make a significant impact on electrical product safety, ESA will also be required to undertake additional inspection, market surveillance activities and prevention activities (i.e., retail buyer training), as outlined in the product safety strategy ESA issued in 2004 and listed in the proposed budget below.

The proposed activities would significantly increase the operational resources required to fund the electrical product safety strategy, thereby creating the need for operational funding of at least \$ 2.6 million per year (\$1.7 million in year 1). This figure would increase to \$ 3.2 million if ESA were to initiate activities in all three levels of the strategy (i.e., proactive identification and prevention). At a minimum, the anticipated increased demands on ESA resources further the case for a sustainable funding model independent of the current cross-subsidization funding model.

The result is that ESA requires a new fee structure to cover the cost of implementing the new regulation. This fee structure should create a sustainable funding model to offset the increased costs incurred because of the new and expanded activities undertaken by ESA to increase electrical product safety.

3. Project Description

ESA has a responsibility to monitor and enforce compliance with the requirements set out in Part VIII of the *Electricity Act, 1998*, the regulations made under that Part, and the OESC. In addition, it is ESA's responsibility to deal with broader safety issues associated with electrical public safety throughout Ontario. Given the passage of Bill 152 and Regulation 438/07, this responsibility has expanded to include electrical product safety.

3.1. Objectives

As an organization, ESA's overall mission is to improve electrical safety for the well-being of the people of Ontario. Its long-term vision is an Ontario free of electrical fatalities and serious injury, damage and loss. Given finite resources, ESA works in conjunction with its other electrical safety partners that make up the integrated electrical safety system to fulfill its mandate.

The method of achieving this mission and vision is reflected in ESA's 2009-2013 Strategic Plan, which establishes the strategic initiatives and 5-year goals for the organization. ESA's 5-year vision is to achieve a 30% reduction in electrical contact and fire fatalities within Ontario.

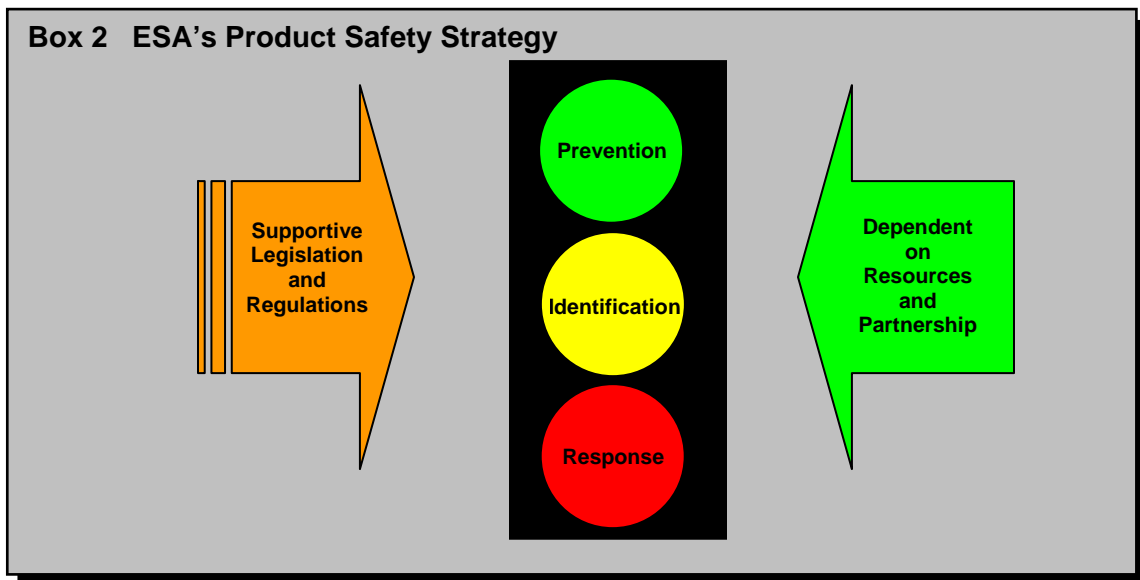
In order to achieve this long-term vision, ESA has identified the implementation of the product safety regulations as an action plan within its FY2009 Business Plan. It is expected that the successful implementation of these regulations will assist ESA in achieving its 5-year vision.

With respect to electrical product safety specifically, ESA's objective in the short term is to operationalize the new regulations by creating the necessary infrastructure and organizational structure to respond to incidents. In the longer-term, the objective is to create a robust electrical product safety regime in Ontario that addresses the identified gaps in ESA's prior authority, increases public safety and reflects international best practices.

As a means of achieving this objective, ESA will endeavor to create stronger working relationships with the federal government, other provincial electrical safety regulators, certification bodies and field evaluation agencies, and the electrical product supply chain (e.g., manufacturers, importers, distributors, and retailers) and will strive towards the full implementation of the electrical product safety strategy. Box 2 below illustrates ESA's proposed electrical product safety strategy.

3.2. ESA's Product Safety Strategy

ESA's proposed approach to dealing with product safety issues includes three critical elements: prevention (standards development, education, training and awareness), identification (of unsafe products) through marketplace surveillance and response (to unsafe product incidents). This approach is also dependent on the development of strategic alliances and the development of partnerships with other organizations within the integrated electrical safety system. Given the lack of dedicated funding previously available for the electrical product safety strategy, ESA's focus has been on responding to complaints about electrical product safety incidents, responding to reports of unsafe electrical products or devices received, conducting investigations, issuing safety alerts.



The statutory amendments included in Bill 152 and the passage of Regulation 438/07 created the requisite legislative authority to enhance ESA's electrical product safety strategy by providing greater enforcement powers and augmenting ESA's available response strategies. Long-term sustainability of initiatives targeting prevention and more proactive identification efforts, however, will rely on sustainable support and resources.

3.3. Anticipated Outcomes

The full implementation of the product safety strategy would provide ESA with a means of adequately addressing product safety issues. The passage of the product safety regulations will:

- ensure that ESA receives timely information regarding unsafe product incidents, accidents and defects;

- assist ESA in removing unsafe, counterfeit and unapproved products from the marketplace sooner than was previously possible;
- allow ESA to react to public safety concerns more quickly and with more accurate information;
- ensure public notification is issued if required , thereby increasing public safety;
- develop and implement strategies, in conjunction with other stakeholders, to address unsafe counterfeit electrical products;
- permit implementation of prevention based activities that will, over time, reduce the number of unsafe and unapproved products making their way to the marketplace;
- facilitate proactive detection activities that will help level the playing field by supporting those who manufacturers, retailers, etc., who have put systems and procedures in place to ensure the products they place into the market do not present undue risk.

Short-term objectives will focus on implementation of the regulations and creation of the separate department. Specific performance measures will be developed once implementation has been completed. In the first year of operation, the program will record base-line data from which future performance can be benchmarked.

3.4. Stakeholder Analysis

Major stakeholder groups that may be affected by the new program have been identified, their position analyzed and their potential impact reviewed. In addition, strategies have been implemented to mitigate their concerns.

3.4.1. Identified Participants

Identified participants were categorized into three main groups: the supply chain, other jurisdictions/regulators, and others. A list of major participant groups and their interests is outlined in the table below.

Participant	Stake (interest)
Supply Chain	
Domestic Manufacturers	<ul style="list-style-type: none"> – Resource implications (reporting requirements) – Affect on market share – Cost implications – Confidentiality concerns – Competitive advantage internationally – Reporting requirements – Increased liability concerns – Concerned about corrective action procedures

Participant	Stake (interest)
International Manufacturers	<ul style="list-style-type: none"> - Global market access - Funding options - Resource implications (reporting requirements) - Competitive advantage internationally - Cost implications - Ensure that rules are not disguised trade barrier - Reporting requirements - Increased liability concerns - Concerned about corrective action procedures
Importers / Distributors	<ul style="list-style-type: none"> - Global market access / competitiveness issues - Funding options - Resource implications (reporting requirements) - Cost implications - Reporting requirements - Increased liability concerns - Concerned about corrective action procedures
Retailers	<ul style="list-style-type: none"> - Public image - Global market access / competitiveness issues - Funding options - Resource implications (costs) - Reporting requirements - Increased liability concerns - Concerned about corrective action procedures
Federal / Provincial Jurisdictions	
ESA	<ul style="list-style-type: none"> - Ability to fulfill mandate - Improve public safety related to electrical products - Increase consumer protection - Ability to recover costs of implementing product safety regulations - Avoiding overlapping jurisdictions - Mitigate liability - Support level playing field for supply chain and CBs/IBs - Ensuring no gaps in product safety regime - Creating an effective national system to deal with electrical product safety issues
Ministry of Small Business and Consumer Services	<ul style="list-style-type: none"> - Consumer protection - Public safety - Affect on regulatory environment - Ontario's competitive position for manufacturers - Level playing field - Fair and transparent system - Cost effective regime for stakeholders - Ensure sufficient transparency to eliminate stakeholder concerns regarding potential conflict of interests between IBSG and ESA as the regulator - Avoid overlapping jurisdictions with federal government

Participant	Stake (interest)
	<ul style="list-style-type: none"> - Increased cooperation with other provinces and other regulators - Support the third party conformity assessment regime in Canada
Other Provinces	<ul style="list-style-type: none"> - Public image - Affect on regulatory environment - Increased domestic pressure for similar legislation - Resource implications to deal with increased reports - Liability concerns
Department of Foreign Affairs & International Trade	<ul style="list-style-type: none"> - Affect on regulatory environment. - Affect on international trade obligations. - Affect on trade negotiations. - Transparency - Cost recovery funding model
Industry Canada	<ul style="list-style-type: none"> - Affect on regulatory environment - Affect on international trade obligations - Affect on trade negotiations - Transparency - Public image - Interaction with their regulatory authority - Overlap of jurisdiction
Standards Council of Canada	<ul style="list-style-type: none"> - Public image - Interaction with their regulatory authority - Potential overlap of jurisdiction - Consumer protection - Consistent with international standards - Affect on CBs
Office of Fire Marshal	<ul style="list-style-type: none"> - Consumer protection - Overlap of jurisdiction
Health Canada	<ul style="list-style-type: none"> - Public image - Interaction with their regulatory authority - Overlap of jurisdiction - Consumer protection - Consistent with international standards - Affect on CBs
Other External Stakeholders	
Certification Bodies & Inspection Bodies	<ul style="list-style-type: none"> - increased costs to meet additional requirements of new ESA mandate - Fearful of legislative reactions in other markets (i.e., other provinces) - Perceived increased liability - Resource implications (costs) - Affect on competitive advantage internationally - Concerned about funding options - Confidentiality concerns - Supportive of transparency - Reporting requirements - Concerned about corrective action procedures

Participant	Stake (interest)
Consumer Groups	<ul style="list-style-type: none"> - Consumer protection - Impact on ESA's ability to deliver on broad safety mandate - Transparency - Cost recovery funding model - Affect on cost of goods - Recall and notice requirements
Other Safety Organizations	<ul style="list-style-type: none"> - Consumer protection - Overlap of jurisdiction - Public image - Impact on ESA's ability to deliver on broad safety mandate - Concerns about ESA's growing mandate -
Electrical Contractors	<ul style="list-style-type: none"> - Overlap of jurisdiction - Impact on ESA's ability to deliver on broad safety mandate - Funding options - Resource implications (costs) - Reporting requirements - Increased liability concerns - Concerned about affect on the code requirements - Concerns about ESA's growing mandate
Local Distribution Companies	<ul style="list-style-type: none"> - Impact on them-will want to ensure does not apply to them - Affect on their legislation (Reg 22/04) - Cost recovery funding model - Affect on ESA's ability to administer Reg 22/04
Media	<ul style="list-style-type: none"> - Impact on consumer protection - Impact on public - Impact on government's ability to meet priorities - Media worthiness - Cost to consumers - Overall impact and cost

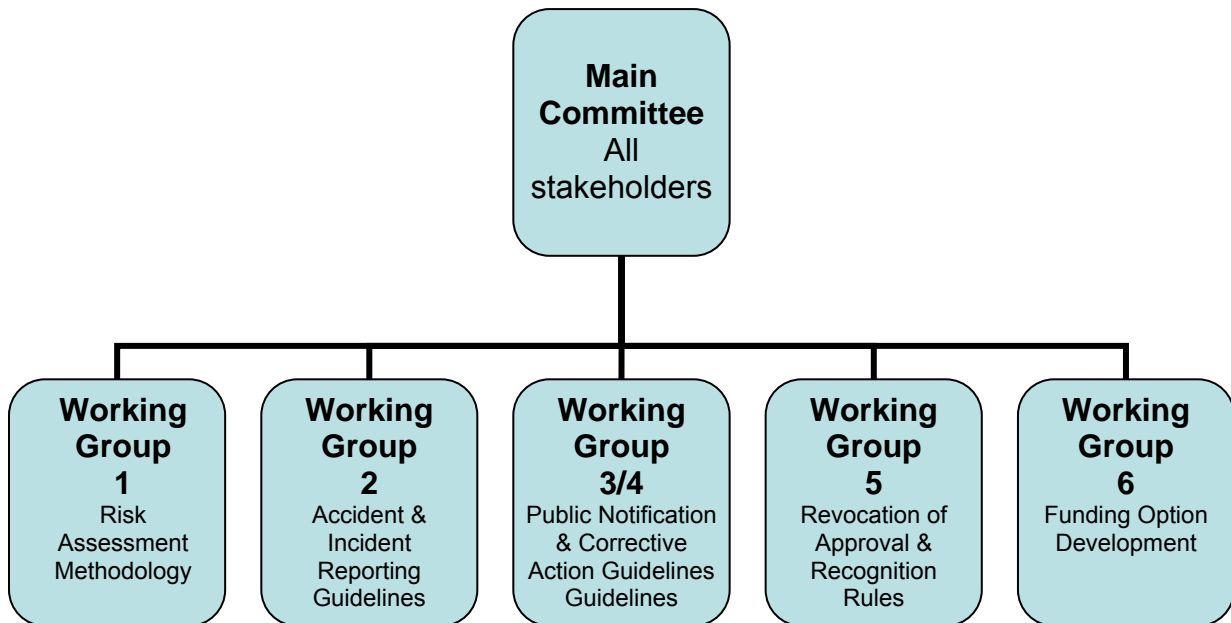
The main methods of mitigating stakeholder concerns were high levels of communication, transparency and consultation through participation in a guideline development process.

3.4.2. Guideline Development Process

All affected stakeholders were invited to become active participants in a guideline development process and a funding model consultation. The guidelines were intended to provide guidance to stakeholders in meeting their new regulatory obligations. The extensive consultation process was undertaken to create a shared vision of outcomes, a shared understanding of expectations, increased consensus among conflicting interests and agreement on a funding model. Where consensus could not be reached, the process actively attempted to document issues that could not be resolved so that positions were clear to all stakeholders.

Six Working Groups were formed from the members of the larger Committee. The Working Groups were tasked with providing advice, reviewing and commenting on draft documents and ensuring that the guidelines could be operationalized by industry. The working groups were structured as follows:

- Working Group 1 (Risk assessment methodology);
- Working Group 2 (Guidelines for reporting);
- Working Group 3 (Guidelines for public notification);
- Working Group 4 (Guidelines for corrective action);
- Working Group 5 (Rules for revocation of approval and recognition); and
- Working Group 6 (Funding Options)



At a main stakeholder meeting in October 2007, 5 seed documents (one per working group) were presented and circulated to stakeholders. Three external consultants produced the seed documents based on international best practices. The documents included proposed wording and identified issues to be considered by each group. The seed documents were to be further developed by each working group. Stakeholders volunteered to participate on one or more working group to validate the documents and provide input.

To date, the consultation process spanned a period of 6 months and consisted of 2 main committee meetings with over 50 participants; 5 working groups with over 55 working group members; and 20 working group meetings with each working group meeting a minimum of 4 times. Each working group included balanced representation of all major stakeholder groups.

The 55 working group members represented 29 separate organizations including:

- The Government of Ontario;
- Regulators (Technical Standards and Safety Authority, Health Canada, Standards Council of Canada);
- Retailers (Wal-Mart, Home Hardware, Sears, Retail Council of Canada);
- National Brand owners (Wal-Mart, Home Hardware, Canadian Tire, HBC);
- Manufacturers (Electro-Fed, LG, Eaton);
- Distributors;
- Certification Bodies (UL, ULC, CSA, Intertek);
- Field Evaluation Agencies (QPS, Intertek); and
- Consumers.

The results of the guideline development process were presented to the main stakeholder committee at a second stakeholder meeting on December 18, 2007. The individual documents have now been consolidated into one document and circulated to stakeholders for final comment.

The results of the process to date included:

- overwhelming stakeholder participation and engagement;
- balanced participation and representation throughout the process;
- greater understanding of the process and requirements by all stakeholders involved;
- completion of practical guidelines and rules;
- agreement on guidelines/rules by all working group members;
- agreement on thresholds, definitions and processes;
- increased communication and dialogue between affected stakeholders and ESA;
- a commitment to review the process in a year;
- a clear set of recommendations put forward by the working groups (51 recommendations);
- understanding of outstanding issues that could not be resolved through this process; and
- a commitment for continued dialogue and continues improvement.

Despite the success of the guideline development process, at the time of writing this document, consensus could not be reached regarding a funding model.

4. Environmental Analysis

Although the Ontario product safety regulations are being implemented for the first time in Canada, similar requirements exist in other jurisdictions. The United States, Australia and the European Union already have product safety legislation in place. Outlined below is a brief synopsis of how other jurisdictions (i.e., the United States, Europe and Australia) implement electrical product safety and the associated costs.

4.1. Regulatory Schemes

4.1.1. Canadian System – Health Canada

In Canada, Health Canada through the administration and enforcement of the *Hazardous Products Act* (HPA), the *Radiation Emitting Devices Act* and the *Food and Drugs Act* regulates consumer product safety of a wide range of products at the federal level.

The HPA covers any product designed for household, garden or personal use, including sports or recreational equipment, lifesaving equipment or toys or equipment used by children. Currently, the HPA does not include any mandatory provisions obligating suppliers to report any incidents or defects concerning these products; instead, Health Canada encourages voluntary reporting.

Consumer electrical products, however, are an anomaly. It is unclear whether these products fall within the scope of the federal HPA or whether they are regulated at the provincial level through the adoption of the various provincial Electrical Codes. Although the HPA does not explicitly exclude consumer electrical products, Health Canada has traditionally chosen to defer electrical product safety issues to the provinces and territories given that the provinces and territories, through the adoption of their respective electrical codes, explicitly mandate electrical safety standards at the provincial level. Currently Health Canada forwards electrical product safety issues they receive from Ontario residents to ESA.

The federal HPA lacks many of the statutory authorities contained in US, Australian or European regulatory regimes. On April 8, 2008, the Canadian federal government introduced Bill C-52, *An Act respecting the safety of consumer products*. Bill C-52, if passed, would:

- modernize the regulatory regime for consumer products in Canada;
- create prohibitions regarding consumer products, including those that are a danger to human health or safety;

- establish mandatory reporting requirements by suppliers of serious product-related incidents, near misses and defects;
- create dramatically increased fines for violations; and
- provide new power for the federal government to order recalls of unsafe consumer products.

In Ontario, the OESC previously included product approval requirements making third party certification or inspection mandatory. With the passage of Ontario Regulation 438/07, electrical product safety became more explicitly provincial jurisdiction—making consumer product safety increasingly more complicated in the Canadian context.

ESA is currently working with Health Canada to ensure that we integrate our approaches to product safety issues.

4.1.2. United States of America (USA) – Consumer Product Safety Commission (CPSC)

In the United States, consumer product safety is regulated at the federal level through the Consumer Product Safety Commission (CPSC). The CPSC is a federal agency responsible for the administration of product safety acts and protection of the public from unreasonable risks of serious injury or death from consumer products for the entire country. The CPSC's mandate and related budget is much broader than just electrical products, and includes all consumer goods, including things such as toys, fireworks, gas appliance, and children's clothing.

In 2005, the CPSC obtained 397 voluntary product recalls, negotiated 975 corrective actions of potentially hazardous products (including recalls), issued 383 hazardous product press releases and recall alerts; and obtained a record \$8.8 million in civil penalties for failure to report possible hazards. In 2005, the CPSC's operating budget totaled \$62 million (USD).

In 2006, the CPSC obtained 471 voluntary product recalls (the most in 10 years), issued 353 hazardous product press releases and recall alerts, 97 television appearances, 4.7 million electronically-distributed publications; and obtained \$2.3 million in civil penalties for failure to report possible hazards.

It is important to note that in response to intense media attention regarding product safety issues in the United States, the US Congress approved an \$80 million CPSC budget for the 2008 fiscal year. The budget is \$17 million more than the agency received for fiscal year 2007 and is the CPSC's largest funding increase in more than 30 years. The money will go toward additional staff and improvements to its antiquated testing facilities. The final US Bill (and related budget) on re-authorization is still in Committee, and has not yet been approved.

While the agency's size had been reduced in prior years, the challenges facing the CPSC continue to grow in both size and complexity. Of the many issues facing the agency, the shift away from a concentration on U.S. manufacturers and products to a greater emphasis on imports (most notably from China) has been cited as the major concern.

In 2007, products originating from China comprised over two-thirds of recalled products in the United States¹. This trend alone has required significant new CPSC initiatives in the areas of compliance surveillance of products at U.S. ports-of entry, as well as the establishment of the Office of International Programs to help ensure foreign manufacturers' conformance to U.S. consumer product safety standards.

The market for electrical products in Ontario is no different. As indicated earlier, it is estimated that over 90% of all electrical products sold in Ontario originate from offshore manufacturers, most notably China.

4.1.3. European Union (EU) – Community Rapid Information System (RAPEX)

In Europe, consumer product safety is regulated at the Community level for all states that comprise the European Union. The safety of consumer electrical products in the EU falls under two Directives, the "Low Voltage" Directive (LVD)² and the General Product Safety Directive (GPSD)³. The GPSD 2001/95/EC complements the LVD by covering certain provisions contained in the LVD and creating the RAPEX system.

RAPEX is a community system for the rapid exchange of information on consumer product dangers. Its purpose is to enable efficient and consistent enforcement of consumer protection rules in the EU. RAPEX is operated and funded by government regulators.

Following a revised GPSD in 2004, RAPEX serious risk notifications increased dramatically, doubling from 388 in 2004 to 701 in 2005. Among other notifications involving electric products, these include: 238 (34%) electrical appliance; 38 (6%) household appliance; and 249 (32%) from electric shock.

¹ U.S. Consumer Product Safety Commission, *2008 Performance Budget Request, Submitted to Congress, February 2007*.

² Directive 73/23/EEC, (*Electrical Equipment Designed for Use Within Certain Voltage Limits*), February 1973.

³ Directive 2001/95/EC of the European Parliament and of the Council, on general product safety, Article 5(3), 3 December 2001.

In 2005, RAPEX's operating budget totaled \$31 million EUR (\$41 million USD).

4.1.4. Australia – Australian Competition and Consumer Commission (ACCC)

Since 2005, the Product Safety Policy section of the Australian Competition and Consumer Commission (ACCC) has been responsible for product safety and recall. Their activities include product safety standards and voluntary/compulsory product recalls.

ACCC's operating budget totaled \$92.2 million (AUD) with \$60.5 million (AUD) going toward compliance with competition, fair-trading and consumer protection laws.

In all four jurisdictions identified, operational funding for product safety is provided by the respective federal or community government with provisions for cost recovery included within the administered legislation. In the case of Ontario, however, this type of sustained funding option is not a viable option because it is inconsistent with the delegated administrative authority model used in Ontario. For this reason, there is a need to follow a separate approach to funding.

4.2. Examples of Funding Models

4.2.1. Manufacturer's Registration Fee

Many federal and sub-federal (i.e., state and provincial) and private programs have implemented various types of manufacturer registration programs. Examples of these programs exist throughout North America, Europe and Ontario for different product types and different regulatory schemes, including:

a) Technical Standards and Safety Authority (TSSA) Upholstered & Stuffed Articles Program

TSSA administers a registration program that applies to all types of upholstered and stuffed article manufacturers, renovators and hobbyists. All domestic and foreign manufacturers, renovators and home hobbyists who manufacture upholstered and stuffed articles for sale in Ontario must be registered with the program, are required to pay the registration fee (from \$ 400 for manufacturers to \$20 for hobbyists) per year, and must affix appropriate disclosure labels to their products. Agents, importers and distributors are not eligible for registration; however, may register on behalf of a domestic and/or foreign manufacturer. Ontario, Manitoba and Quebec require similar registration. A reciprocal registration system has been implemented across Ontario, Manitoba and Quebec.

Currently, the TSSA operates without any direct financial contribution from certification bodies and field evaluation agencies. Certification bodies and TSSA however, do work closely together to investigate reports of noncompliant products. Certification bodies assist TSSA by testing products and providing insight into potential root-causes for suspected defects reported.

b) New York City Department of Materials and Equipment Acceptance (MEA)

The MEA Division of the New York City Department of Buildings administers a product registration program applicable to certain materials and equipment that affect public safety and health. Within this regime, each manufacturer of affected products has the responsibility of ensuring that they obtain MEA acceptance for their products, which includes paying an annual \$600 registration fee per product accepted. MEA does not perform testing, but bases their acceptance upon the requirements of the code and test data submitted. Each manufacturer is responsible for properly labeling all equipment designated for use in New York City with the MEA number assigned. A project owner is responsible to ensure that all equipment installed in a building is accepted and properly labeled, if required to do so.

c) Washington Department of Ecology (Ecology)

Manufacturers of consumer electronics sold in or into Washington State must submit a registration form and pay an administrative fee to Ecology to cover their costs associated with implementing a statewide Electronic Product Recycling Program. A manufacturer includes the owner of the brand or the first importer into the state. Retailers may also register, in lieu of the importer, as the manufacturer when the manufacturer does not have a physical presence in the USA. Currently, this program covers computers, monitors, laptops and televisions. The registration fee varies from \$7 - \$34,961 per year based on a manufacturer's yearly sales of covered electronic products to covered entities. Ecology calculates the fee schedule based on data from market research and data submitted from manufacturers and retailers, adjusted for Washington state, and the number of manufacturers registered in the program. To date approximately 450 brand owners are registered with the program.

4.2.2. Private Sector Certification Registration Fees

Several US States (e.g. North Carolina) require that certification bodies pay recognition fees. The state fees are approximately \$2500 per year. In addition, several private sector programs have implemented various certification fees as a means of offsetting the costs of administering safety regimes in Europe.

Although these industry led programs are different from the Electrical Product Safety Scheme in Ontario (in that the industries establish the requirements,

qualify the CB's auditors and control the use of their program logos); much could be gleaned from their experiences. In these regimes, the CBs apply to participate and act as auditors on behalf of the industry group. A key component of the system is the establishment of a distinct mark of conformity or some other compliance assurance mechanism. Examples of these types of regimes include:

a) British Retail Consortium (BRC)

In 1998, the BRC developed and introduced BRC Technical Standards for Food, Packaging, Consumer Products and Storage and Distribution Standards that are used to evaluate manufacturers of retailers own brand food products (i.e., private labels). The BRC Global Standards are designed to allow an assessment of a company's premises, operational systems and procedures by a competent third party – the certification body (CB) – against the requirements of the Standards.

The Standards apply to manufacturers of processed foods and the preparation of primary products. BRC certification is for products, and is site specific, so all supplier sites need separate BRC certification. Although initially developed in the UK due to food safety issues, the standards are recognized by international retailers such as Carrefour, Ahold, Migros, Metro, Delhaize, Wal-Mart, Tesco and Coles and by the Global Food Safety Initiative (GFSI). Currently, 8,500 food suppliers are certified to this standard.

Under this system, the BRC only recognizes manufacturers certified by recognized or provisionally recognized CBs. Recognized CBs are required to pay a transactional administration fee payable for each 'certification process' they administer associated with certification to the Standards. This fee is payable to BRC from the CB for each evaluation or audit they conduct irrespective of whether a company is granted certification or not. This transactional fee is payable in addition to any accreditation body fee paid to national governments. Currently over 100 CBs in over 80 countries are recognized by the BRC for the purposes of the Standard.

The BRC requires that the CB collect an administration fee from the supplier for every BRC evaluation (or audit) undertaken. To ensure collection and control of the administration fee, the CB is not permitted to issue a certificate or report until the administration fee has been collected from each supplier irrespective of the outcome of the certification process.

The payment of the fee does not affect the frequency of audits or subsequent evaluations, as this is dependent on the CB and their evaluation or audit policies. The fee is charged as part of the CB invoice and is listed as a separate item on the invoice. The manufacturer's fee is currently £ 75 per audit or evaluation. Currently, BRC recognized CBs include, among others, TÜV Rheinland Cert GmbH, Intertek Labtest UK Limited, Nemko Certification As, and QMI (SAI Global) located in Toronto.

b) EurepGAP

EurepGAP is a private sector body that sets voluntary standards for the certification of agricultural products around the world. EurepGAP started in 1997 as an initiative by retailers who decided to take more responsibility over their supply chain in reaction to growing consumer concerns with product safety, environmental and labour standards. Producers joined EurepGAP because they felt common certification standards would minimize yearly costs of multiple audits against differing criteria.

EurepGAP is comprised of an equal partnership of agricultural producers and retailers that establish certification standards and procedures for Good Agricultural Practices (GAP) that includes certification of the process certified products adhere to from before the seed is planted until it leaves the farm. EurepGAP is a business-to-business label and is not directly visible to the consumer. The goal of the EurepGAP certification is primarily designed to maintain confidence in food quality and food safety and ensure a responsible approach to worker health and safety. Governance is by a Board, which is chaired by an independent Chairperson.

EurepGAP is financially independent from the public sector and relies on third party certification by authorized Certification Bodies. Currently EurepGAP has recognized over 100 CBs in more than 70 countries. The EurepGAP funding comes from farmer licence fees, certification CB licence fees, manufacturer registration fees, and member fees. CBs are charged a one-time evaluation fee of 300 EUR in addition to their 3000 EUR annual Certification Licence fee. These fees are in addition to any Accreditation Body fees payable to recognized accreditation organizations.

c) Stewardship Ontario – Blue Box Program Plan

Stewardship Ontario is the designated Industry Funding Organization (IFO) for Blue Box wastes by Waste Diversion Ontario (WDO). The WDO was created as a corporation without share capital through the passage of the *Waste Diversion Act, 2002*. The purpose of the Act is to promote the reduction, reuse and recycling of waste in Ontario and to provide for the development, implementation and operation of waste diversion programs.

The Board of Directors for the WDO consists of representatives of industry, NGOs, Ministry appointees and municipalities with an interest in the goals of the corporation. One of the primary responsibilities of the WDO is to develop, implement and operate waste diversion programs for designated wastes in accordance with the Act.

Under this system, companies that are designated as 'Stewards' for Blue Box wastes can discharge their legal obligations under the Act through membership in Stewardship Ontario. In 2003, Stewardship Ontario submitted a Blue Box

Program Plan that was approved by the WDO and the Minister of Environment who implemented a regulation that empowered Stewardship Ontario to implement the program as outlined in the plan. Stewards that are members in good standing of Stewardship Ontario are deemed to be in compliance with the Act and regulations.

The plan mandated that beginning in 2004 Ontario companies or organizations that are Brand Owners or First Importers, and whose products' packaging and/or printed material end up in Ontario residential Blue Boxes or in the municipal residential waste system be required to register with Stewardship Ontario. Under this system, 'stewards' are required to share in paying 50% of the funding of Ontario's municipal Blue Box waste diversion programs. Many of these companies are further obligated to file annual Stewards' Reports and pay fees to discharge their legal obligations.

Stewards are required to calculate the actual tonnage (in number of kilograms) of each material type of Designated Blue Box Waste (DBBW) for which they are obligated. Each DBBW material is associated with a fee that has been calculated, reviewed and updated for each obligation year by Stewardship Ontario and Waste Diversion Ontario. These fees are programmed into the online Steward Reporting System. The Steward Reporting System automatically calculates how much each obligated steward is required to pay, based on the amount of each DBBW material that they used in packaging or printed material during each "data" year. Payments are required to Stewardship Ontario at four set intervals throughout the calendar year. Fees are calculated according to product type and weight. They range from 0.148 ¢/kg for newsprint to 18.449 ¢/kg for plastic laminents. Membership is based on gross annual sales volumes and annual waste volumes.

In 2007, Stewardship Ontario provided cash payments of \$48.32 million to Ontario municipalities to support the operation of municipal Blue Box recycling programs and identified and notified 2,600 returning and previously identified stewards and 700 new stewards of their obligations under the Act. It also notified another 2,600 companies that originally had been notified in 2006 but had not yet complied with their obligations under the program.

4.2.3. Incident Cost Recovery Fees

Several private and public sector programs also implement cost-recovery fees as a means of recovering the costs of responding to incidents; examples include:

a) Technical Standards and Safety Authority (TSSA)

TSSA, similar to ESA, collects fees, administrative penalties, costs or other charges (referred to as "fees") that they establish under the *Technical Standards and Safety Act, 2000* in order to recover the costs of administering their

delegated mandate under the *Safety and Consumer Statutes Administration Act, 1996*.

TSSA has a number of programs based on regulated safety services such as fuels, elevating devices, boilers and pressure vessels, upholstered & stuffed articles, and ski lifts and operating engineers. TSSA's fee structures differ across program areas depending on what services are offered. Originally, TSSA instituted mainly licensing and registration fees, however, over time, stakeholders requested that TSSA set up more transactional based fees (i.e., inspection fees, chargeback fees for time spent) on a per item basis rather than increase licensing and registration fees.

TSSA charges the product manufacturer for its time spent investigating and responding to incidents related to their regulated products. TSSA's fees range from \$135/hr to \$270/hr plus expenses. Currently, the TSSA operates without any direct financial contribution from certification bodies and field evaluation agencies. Certification bodies and TSSA however, do work closely together to investigate reports of noncompliant products. Certification bodies assist TSSA in testing defective products and provide insight into potential root-causes for defects reported.

Currently, TSSA is in the midst of a fee review with stakeholders. During the most recent discussions, stakeholders have requested that TSSA increase their licensing and/or registration fees and move away from the more transactional type fees. According to TSSA, stakeholders would rather pay the one time cost as opposed to process and plan for each transactional fee throughout the year.

b) British Columbia Environmental Emergency Management Program

In 1998, the BC Ministry of Environment changed its policy regarding the Spill Cost-Recovery Process under the *Environmental Management Act*. Under this legislation, the Ministry recovers the itemized costs incurred from the responsible party (spiller/polluter) pursuant to an emergency response by the BC Ministry of Environment.

Under this regime, a spill of a toxic material is required to be reported by the Responsible Party pursuant to the *Environmental Management Act's* Spill Reporting Regulation. As such, the provincial government must be prepared to receive the notification, assess the situation, and undertake field response as necessary. The BC Ministry of Environment is the lead provincial agency responsible for preparing for and responding to oil and hazardous material incidents.

The BC Ministry of Environment receives about 3,800 spill notifications a year. Cost recovery for spill response is justified by the BC government as a service that provides an identifiable recipient – the Responsible Party – with benefits

beyond those received by the general public, the charges promote the widely held and accepted concept of the 'polluter-pay-principle' and they are commensurate with the mandate of the Ministry. Finally, the cost recovery for spill response by government provides an incentive to users of oil and hazardous materials to adopt effective spill prevention measures. It also ensures that industry and the public understand the full social, environmental, and economic costs of spills.

The determination of whether a Response Officer undertakes a field response is guided by the Ministry's Environmental Emergency Program's policies and procedures. Generally, only about a third of spill notifications result in a field response. The determination is based on a risk assessment. The Ministry also issues policy and response plans that outline response expectations from a Responsible Party and the response role of the provincial government. Primarily, the Ministry provides a monitoring (auditing) role to ensure that the company's response performance is adequate to elicit an acceptable outcome. As a last resort, the Ministry may take over the management of an incident.

Cost recovery is undertaken through the issuance of a certificate showing the amount owed to the Provincial Government. Spill cost recovery can begin as soon as a Response Officer leaves the office and may include the time taken to complete post-incident and cost recovery documentation. Generally, chargeable costs are closely linked to supporting the Responsible Party's response strategy. If the cost recovery exceeds the \$175 minimum charge, all costs are listed to ensure they are transparent and reasonable expenditures; examples of the types of costs recoverable include:

- Hours of field response and office activities undertaken by one or more responding employees;
- hourly charges of responding employees;
- kilometers traveled by government vehicles;
- food and accommodation charges;
- consulting and other professional charges; and
- research and analysis service related to post-incident evaluation, contingency plan reviews, cleanup certification and other incident follow-up activities.

Monies collected from cost recovery are re-allocated back to the ministry. To defray overhead costs, a 25 per cent overhead on the total direct expenditures is applied to the government cost of responding to a spill. This program does not currently charge certification bodies.

Although many feared the regulation would create a tendency for Responsible Parties not to report spills, the implementation of the Spill Cost Recovery regulation was smooth with little to no complaints by industry and almost full regulatory compliance.

5. Cost/Benefit Analysis

5.1. Estimated Costs

The total cost of implementing the product safety regime is estimated to be between \$2.6 million and \$3.2 million annually, as outlined in the attached three-year budget. These costs will vary depending on the range of activities that will be undertaken.

5.1.1. Transitional Year (FY2008/09) Budget

In the transition year, Fiscal year 2008/09, the projected costs total approximately \$ 785,000. A staged implementation strategy is being pursued. Implementation will begin in FY 2008/2009 with mandatory activities while prevention and detection activities will be phased in as a revenue stream is created to support those activities. Anticipated costs for the transition year are itemized in the attached preliminary budget below and are categorized according to direct expenses/costs.

Budget FY2008/09

REVENUE		Total
CB/IB Recognition Fee (\$2,500 each)		65,000
Manufacturer Registration Fee (\$350 initial registration - \$300 renewal)		175,000
Net Revenue		240,000
Total Operating Revenue		240,000
COSTS / EXPENSES		
Labour		371,785
Purchased Services (Contracts & Investigators)		59,000
Travel		80,400
Office Administration		48,500
Facilities		31,960
Computer Support		29,000
Other Costs		165,000
Insurance Expense		25,000
Communication and Public Awareness		70,000
Legal and Audit Services		25,000
Interdepartmental Transfer Costs		45,000
Operating Expense		785,645
Operating Margin	\$	(545,645)
Net Deficiency*	\$	(545,645)*

* Represents ESA's current level of cross-subsidization of product safety activities; will be recovered through product safety fees in subsequent years.

Expected revenues total \$ 240,000 for the transition year. This total is expected to come from a \$2,500 CB/IB recognition fee and a \$350 initial manufacturer's registration fee. Since the fee would not be implemented until late in the fiscal year, it is projected that approximately 500 registrants will pay the fee in the transition year with the number of registrants growing in the following first full year of the program.

During this period, ESA will continue to cross-subsidize the program from other ESA revenues to account for the short-fall, however, it is expected that these funds would be recovered in subsequent years. In order to ensure ESA has the ability to recover these costs, ESA will request that the Ministry of Small Business and Consumer Services amend the approval requirements in the regulation to include the requirement for manufacturers to register with ESA prior to their products being approved for sale in Ontario.

By year three, it is expected that the projected 10,000 registrants will have been registered. Based on these figures, it is expected that the program will achieve an annual revenue of approximately \$ 3.2 million once fully implemented thereby achieving full cost recovery and eliminating the need for cross-subsidization.

If full cost recovery is not achieved by year three, ESA will reevaluate the funding model and may implement an incident cost recovery alternative as a mitigating technique to at least cover the costs of responding to incidents. Other mitigation strategies may also be implemented to reduce the number of unnecessary reporting or frivolous incident investigations, if it is felt that investigations are being undertaken unnecessarily.

5.1.2. Three Year Projected Cost Summary

The table below outlines high-level projected costs summarized over the first three full years of the program. A detailed list of individual activities and associated costs and assumptions are outlined in the table below.

	Year 1 FY09/10	Year 2 FY10/11	Year 3 FY11/12
Development and Implementation Cost Recovery	720,520	229,490	129,490
Prevention Activities	299,800	416,440	373,340
Partnerships & Strategic Alliances	48,300	99,700	96,250
Detection Activities	233,600	632,800	632,800
Enforcement Activities	111,533	353,833	457,667
Response Activities	721,000	1,001,000	1,001,000
Governance Costs	85,835	129,310	129,310
Contingency	113,279	72,439	0
Legal, Insurance & Admin Support	271,559	324,757	320,486
Total	2,605,427	3,259,770	3,140,342

5.1.3. Allocation of Activities/Costs Over 3 Years

Based on the budget above, costs will be allocated primarily toward response and enforcement efforts, each representing 25% and 19% of total costs respectively. Detection and prevention activities will make up approximately 15% of the total budgeted costs with another 18 % being spread amongst recovery of development and implementation costs and governance. The remaining 12% of costs will go towards paying legal, administrative, insurance and overhead expenses. The chart below details the percentage of costs per major activity category.

Activity Category	%
Development & Implementation	12
Prevention , Partnerships, Alliances	15
Detection	17
Enforcement	10
Response	30
Governance	4
Legal, Admin, Insurance & Contingency	12

a) Development & Implementation Tasks

Development and implementation costs are costs and tasks associated with the start up of program. They include costs associated with the guideline development process, the creation of a database to track incident reports, the creation of a method to collect register manufacturers, the development of policies and procedures associated with the new regulations, training costs, and interpretation services provided by ESA staff to industry throughout the transition period. The intent of this group of activities is to create the infrastructure to support the implementation of the regulations.

b) Prevention, Partnerships, Alliances

This group of activities includes prevention activities and the development of partnerships and strategic alliances, which will support the product safety program in the long run. Types of activities captured in this sub-group include, the development of yearly prevention strategies, public awareness activities, the development of a website for public notices, recalls and linking this website to other product safety portals (i.e., Health Canada’s website), buyer training programs, communications materials for industry. In addition, proactive activities to build strategic alliances and to create MOUs with like minded organizations (i.e., the RCMP, Canada Customs, CPSC) and the participation in product safety forums (i.e., standards development, anti-counterfeiting alliance). In addition, this group of activities includes the active

pursuit of creating a national system to respond to electrical product issues. The intent of these activities is to create synergy amongst the community to ensure proactive prevention strategies are pursued.

c) Detection

This group of activities includes tasks associated with the development and implementation of targeted proactive market surveillance campaigns, the wiring inspector detection activities, liaison with other law enforcement agencies (e.g., other provinces, RCMP, Health Canada) and product impounding and seizures of unapproved and counterfeit products. The intent of these activities is to develop proactive approaches to finding unsafe, unapproved or counterfeit products that have entered the marketplace.

d) Enforcement

This group of activities includes tasks associated with the enforcement of the new regulations and the investigation of alleged breaches of the Act and approval requirements. This includes product impounding and seizures of unapproved and counterfeit products. The intent of these activities is to remove unsafe and unapproved products from the marketplace and ensuring a level playing field.

e) Response

This group of activities includes tasks associated with the new reporting requirements. It includes receiving reports, logging them, undertaking a risk assessment, preliminary engineering analysis, liaising with certification bodies and field evaluation agencies, and the supply chain to understand the potential hazard, developing and implementing corrective action plans and monitoring those plans. The intent of these activities is to respond appropriately to the identified hazards reported to ESA.

f) Governance

These activities include costs associated with the overall governance of the program. They involve work associated with a proposed product safety advisory committee, ESA's Regulatory Affairs Committee and ESA's Board of Directors's meetings. It also includes the costs of an appeals process for stakeholders. The intent of these activities is to ensure stakeholders a fair and transparent oversight process and they have access to due process.

g) Legal, Admin, Insurance & Contingency

This group of costs includes liability insurance, legal support for the program area, administration costs associated with accounting and human resources, and contingency costs allocated for the first two years of the program.

5.2. Detailed Cost Analysis

A complete cost analysis and proposed budget is outlined below. The budget is broken into seven activity categories, which are then further subdivided into individual activities. Three year projected costs per activity are also included. In addition, cost drivers or beneficiaries have been identified for each activity in order to assist in determining how each activity should be funded. Cost assumptions per activity have also been included.

Through the consultation process with members of Working Group 6, these individual cost items were reviewed and discussed to:

1. verify the need for the activity;
2. confirm the activity level assumptions; and
3. identify any similar benchmarks against which to assess costs.

	Cost Assumptions	Year 1	Year 2	Year 3	Cost Driver of Beneficiary	Assumptions
Implementation Tasks						
IT1	Guideline development (initial cost)	249,750	0	0	Cost Driver /Beneficiary: # guidelines to be developed, CBs/IBs supply chain	Recovery of cost:\$150 K consultants 26 WG meetings @ \$500
IT2	Database system to Facilitate Reporting (initial cost + some maintenance)	63,800	18,450	18,450	Cost Driver /Beneficiary: Scope and functionality required by stakeholders/retailers, manufacturers, CBs, IBs	50K initial cost + 20 days Ongoing maintenance and licences at 15k / year + 5 days
IT3	Development of policies and procedures related to orders, retention and seizure of unsafe products (initial cost + some continuous costs)	17,250	2,070	2,070	Cost Driver /responsible party/beneficiary Req'd to implement legislation retailers, manufactures/distributors/CB/IB	25 days Y1 3 days /year 2 & 3
IT4	Inspector training	81,600	0	0	Cost Driver /Beneficiary: Required to implement regulation	3 hours / inspector group @ \$136 / hour
IT5	Develop training for ESA staff related to the administration of this new regulation and guidelines (Regulatory staff)	19,320	2,070	2,070	Cost Driver /Beneficiary: req'd to implement regulation/ numerous	25 days development Y1, 3 days delivery Y1, Y2, Y3
IT6	Provide interpretation of the regulation & code requirements and a modest level of technical advice and support to retailers, manufacturers on the Reg and Code requirements, national standards, issue interpretations, develop bulletins etc.	13,800	6,900	6,900	Cost Driver/Beneficiary: number of questions requests, clarity of guidelines/Supply chain	20 days Y1 5 days Y2, 3
IT7	Administration of fee (includes cost of setting up database, sending invoices, assisting registrants, receiving applications, issuing registration numbers, collecting/ processing funds)	275,000	200,000	100,000	Cost Driver /Beneficiary: Required to implement regulation	Administration costs: yr 1 = 7,500 @ \$30 + \$50,000 database yr 2 = 5000 @ \$20 + 5,000 @ \$20 yr 3 =10,000 @ \$10
Prevention Strategies & Communications Activities						
PSC1	Develop Prevention Strategies	10,350	2,070	2,070	Cost Driver /Beneficiary: Desired level of prevention activity/ CBs,IBs, mfg, retailers	15 days Y1 3 days year 2, 3

	Cost Assumptions	Year 1	Year 2	Year 3	Cost Driver of Beneficiary	Assumptions
PSC2	Public Education initiatives (*initiative costs covered under consumer awareness campaign)	0	13,800	20,700	Cost Driver /Beneficiary: desired level of prevention activity/ CBs,IBs, mfg, retailers, support level playing field	Development and project management time 10 days – year 2 15 days – year 3
PSC3	Website, Customer Service Centre Scripting (regulations, consumers, industry, public notices, recalls (tssa, cbs/IBs, others))	63,800	16,900	16,900	Cost Driver /Beneficiary: required to implement regulation /general public benefit shared among stakeholders	20 days, \$50,000 year 1 development 10 days /year 2 & 3 updates & \$10,000
PSC4	Public Inquiries	29,700	59,400	59,400	Cost Driver /Beneficiary: Number of public inquires/general public benefit shared among stakeholders	600 calls /month = 12,000 calls /yr @ 8 min/call = 1600 hrs or 200 days Assume 500 calls /month Y1 ↑yr 2 & 3 b/c consumer awareness campaign.
PSC5	Consumer Awareness Campaign (awareness of marks & buying approved product)	0	106,900	106,900	Cost Driver /Beneficiary: Desired level of prevention activity/CBs,IBs, mfg, retailers, support level playing field	10 days/yr 2 & 3 updates \$100k yr 2 & 3 creative, media
PSC6	Buyer Training	13,800	13,800	13,800	Cost Driver /Beneficiary: Desired level of prevention activity/ retailers, & CBs,IBs, mfg, re support level playing field	10 days development + 10 days – year 1 delivery 20 days – year 2 & 3 delivery & update
PSC7	Collateral Material For Supply Chain, CBs/IBs	11,450	5,270	5,270	Cost Driver /Beneficiary: Desired level of collateral & support material/ Retailers, mfg, CBs, lbs	5 days development + \$0.16 @ 50,000 yr 1 3 days / yr 2 & 3 updates \$0.16 @ 20,000 yr 2 & 3
PSC8	Supply Chain Communications (Communications plan to supply chain associated with new regulations & guidelines)	56,900	106,900	56,900	Cost Driver /Beneficiary: Req'd to support implementation in Y1/supply chain	10 days development + \$100k yr 1 creative + media costs \$50k yr 2 & \$25k yr 3 Costs ↓ as awareness ↑
PSC9	Industry Communications (Communications plan to industrial & commercial owners & operators about requirements to use approved equipment)	106,900	56,900	56,900	Cost Driver /Beneficiary: Desired level of prevention activity to this sector/Facility owners, helps level playing field for contractors, mfg, retailers, IBs)	10 days development + \$100k yr 1 creative + media costs \$50k yr 2, \$25k yr 3 Costs ↓ as awareness ↑

	Cost Assumptions	Year 1	Year 2	Year 3	Cost Driver of Beneficiary	Assumptions
PSC10	Proactive Participation in Product Standards Development Process	6,900	34,500	34,500	Cost Driver /Beneficiary: Desired level of ESA participation desired among stakeholders/general public benefit shared among all stakeholders	50 days per year ongoing Minimal participation in yr 1 Full proactive participation begin yr 2.
Partnerships & Strategic Alliances						
PSA1	Development of Partnerships Strategy (i.e., RCC, EFC, CBs and supply chain)	13,800	13,800	13,800	Cost Driver/Beneficiary: Stakeholder support for this activity/supply chain, CBs, IBs	20 days year 1 (consult & develop strategy) 20 days year 2 & 3 for implementation, new initiatives and adjustments
PSA2	Development of MOU & ongoing relationships (*i.e., Health Canada, SCC, Industry Canada & provinces, WSIB, MOL)	20,700	20,700	20,700	Cost Driver/Beneficiary: Stakeholder support for this activity/supply chain, CBs, IBs	30 days / year to develop & maintain MOUs
PSA3	Anti-Counterfeiting Alliance Initiatives	13,800	13,800	13,800	Cost Driver/Beneficiary: Stakeholder support for this activity/supply chain, CBs, IBs	20 days / year active participation
PSA4	“China” Strategy (to assist CBs and retailers address the concerns with offshore manufacturers)	0	13,800	13,800	Cost Driver/Beneficiary: Stakeholder support for this activity/supply chain, CBs, IBs	20 days / year active participation Assume activity begins in year 2
PSA5	Promotion of National Response to Unsafe Products Issues	0	16,900	16,900	Cost Driver /Beneficiary: Stakeholder support for this type of activity/supply chain, CBs, IBs	10 days /year beginning in year 2
PSA6	International Activities & Best Practices & Benchmarking (*i.e., establish relationship with US CPSC, ISO/IEC forums)	0	6,900	3,450	Cost Driver /Beneficiary: Stakeholder support for this type of activity/supply chain, CBs, IBs who operate internationally	10 days Y2 5 days Y3
PSA7	Development of Product Safety Fund Identification and development of funding sources for ongoing communications activities	0	13,800	13,800	Cost Driver /Beneficiary: Stakeholder support for this type of activity/supply chain, CBs, IBs	20 days / year to develop and manage project and liaise with potential participants. Assume activity begins in year 2

	Cost Assumptions	Year 1	Year 2	Year 3	Cost Driver of Beneficiary	Assumptions
Detection Activities						
DE1	General Inquiry Calls, Customer contacts TIPS & Hotline Follow-up	0	0	0	beneficiary = CBs/IBs, manufacturers, retailers	see Prevention activities – above
DE2	Annual Marketplace Surveillance Program & Strategy (i.e., dollar store & flea market, online blitz program)	13,800	41,400	41,400	Cost Driver /Beneficiary/ responsible parties: Stakeholder support for this activity beyond minimum acceptable amount/Mfgs, CBs, IBs retailers helps level playing field, public/consumers	20 days in Y1 60 days per year (development, adjustment, staff supervision and support)
DE3	Develop/implement targeted marketplace surveillance (i.e., Christmas & holiday light campaign, Halloween campaign)	0	13,800	13,800	Cost Driver /Beneficiary: As above	20 days / year targeted campaigns Starts Y2
DE4	Liaison with other enforcement agencies (i.e., RCMP, customs, provincial authorities)	13,800	13,800	13,800	Cost Driver /Beneficiary: Stakeholder support for this activity beyond minimum amount/helps level playing field, leverage resources	10 days Yr 1 20 days FTE / Yr 2 & 3
DE5	Proactive Marketplace Surveillance Activities (support for surveillance plan & targeted campaigns)	138,000	414,000	414,000	Cost Driver /Beneficiary: As above	1 FTE Y1 3 FTEs Y2 & Y3 Dedicated product safety inspectors (5000 inspections /year with 3 FTEs)
DE6	Market analysis/trend analysis, reporting (including compiling statistical analysis)	0	13,800	13,800	Cost Driver /Beneficiary: Required to implement regulation, supports strategy development	10 days / Yr 2 & 3
DE7	Wiring Inspector detection activities	68,000	136,000	136,000	Cost Driver /Beneficiary: As above, plus electrical contractors as beneficiaries	1,000 unapproved products & defects and follow-up (500 in Y1) (1 hr / issue) Ramps up yr 2 & 3
Enforcement Strategies						
ES1	Investigators (Assume 10% inspections require investigations)	50,000	200,000	200,000	Cost Driver /Beneficiary: Required to fulfill mandate/CBs, IBs, mfg, retailers helps level playing field	10 % inspections = follow-up investigators (500 Y2, Y3) 10 hours / case @ \$40/ hr no proactive inspection
ES2	ESA Staff Time to Support Prosecutions (FTE support for prosecutions)	1,533	3,833	7,667	Cost Driver /Beneficiary: As above	10 hrs / prosecution Yr 1=2 Yr 2=5 Yr 3=10

	Cost Assumptions	Year 1	Year 2	Year 3	Cost Driver of Beneficiary	Assumptions
ES3	Legal Costs re prosecutions (violations including those who sell or offer for sell & those who refuse to comply with Orders)	40,000	100,000	200,000	Cost Driver /Beneficiary: As above	\$20,000 per prosecution Yr 1=2 Yr 2=5 Yr 3=10
ES4	Product Impounding & Seizures	20,000	50,000	50,000	Cost Driver /Beneficiary: As above	seizures/orders to retain Yr 1=2 Yr 2 = 5 Yr 2 3 =5 \$10K / seizure (appeal & inspector/ investigator cost)
Response Activities						
R1	Response Activities receiving mandatory & voluntary reports logging into database complaint and report investigations, risk assessment preliminary engineering analysis as required, issuing PIR as required, liaison with CB, IB, mfg retailer etc, developing response plan as require; monitoring corrective action, issuance of orders as required, attendance at appeals as required and developing final reports.	690,000	920,000	920,000	Cost Driver /Beneficiary: Number of reported incidents, quality and conformance of products to regulation and safety standards stakeholders reporting as per risk guidelines/general public benefit	6 FTEs 1,000 reports / year, 750 cases in Y1 1 FTE = 150 cases/year
R2	Research & testing further investigation of product to determine if a product is unsafe.	0	50,000	50,000	Cost Driver /Beneficiary: Non-compliance by members of supply chain/general public benefit	Testing costs of products
R3	Issuance of Public Notices (ESA led)	25,000	25,000	25,000	Cost Driver /Beneficiary: Non-compliance by members of supply chain/general public benefit	5 notices issued per year @ \$ 5000
R4	Corrective Action Orders	0	50,000	50,000	Cost Driver /Beneficiary: Non-compliance by members of supply chain/general public benefit	5 orders / year legal support @ 3 hours / order @ \$400/ hour
Governance Costs						
GC1	Product Safety Advisory Committee	29,700	19,800	19,800	Cost Driver /Beneficiary: stakeholder desire for formal input forum/participating stakeholders	5 days FTE/per meeting support 4 meetings/ year @ \$1500 meeting and per diem, travel costs / meeting (6 yr 1)
GC2	Board- Regulatory Affairs Committee	2,760	2,760	2,760	Cost Driver /Beneficiary: required by ESA policies	0.01 FTE prep time & support 4 meetings / year @ 1 day FTE

	Cost Assumptions	Year 1	Year 2	Year 3	Cost Driver of Beneficiary	Assumptions
GC3	Appeals	27,250	54,500	54,500	Cost Driver /Beneficiary: required by legislation, number of appeals received	5 appeals / year = 0.25 FTE prep time & support or 10 FTE days / appeal Legal Support @ 10 hours / appeal @ \$400/ hour
GC4	Appeal Panel	26,125	52,250	52,250	Cost Driver /Beneficiary: required by legislation, number of appeals received	5 appeals / year = 0.25 FTE prep time 5 Appeal Tribunals @ 3 people Panel @ \$1000 / person costs + Legal Support @ 10 hours / appeal @ \$400/ hour
Miscellaneous						
M1	Liability Insurance	25,000	25,000	25,000	Cost Driver /Beneficiary: required by legislation, number of appeals received	Additional liability insurance assumed at \$25k yr.
M2	General Legal Support	20,000	10,000	10,000	Cost Driver /Beneficiary: ESA administrative agreement/	Year 1 = 50 hours legal services @ \$400/ hr Year 2 & 3 cost ↓ ½ (25 hrs)
M3	Administration	226,559	289,757	285,486	Cost Driver /Beneficiary: Required to implement	Costs associated with ESA administration (finance, HR, payroll, comm., mgmt, MGS fees) 10% of fully cost
M4	Contingency	113,279	72,439	0		
Total Costs		2,605,427	3,259,770	3,140,342		

Notes:

Engineering & MP employee fully burdened cost assumes an FTE @ \$138,000 p.a. 138,000

customer service clerk fully burdened cost assumes an FTE @ \$99,000 p.a. 99,000

inspector fully burdened cost assumes an FTE is @ \$138,000 p.a. 138,000

5.3. Benefits to Stakeholders (value proposition)

Although the new regulations include additional requirements for those involved in the process of certifying, evaluating or selling electrical products, many benefits will also be accrued. Benefits include the following:

- For Consumers: Consumers will benefit through increased consumer protection and increased public safety. The new regime will result in more timely information being circulated to consumers regarding potentially hazardous products. It will also result in corrective actions being undertaken by the appropriate member of the supply chain when a clear public safety risk is demonstrated. The adoption of a preventative approach will also decrease the number of potentially unsafe products available for purchase by unsuspecting consumers in the long run. The net result will be an increase in public safety for all.

- For certification organizations: Certification bodies and Field Evaluation organizations will benefit from greater transparency with respect to the risk assessment process, a system that ensures confidentiality will be respected, and one that includes clearly defined reporting requirements and timelines. Several funding options include costs being imposed at the certification level. CBs expressed concern about their ability to pass these costs onto manufacturers. In addition, the new regulatory scheme will provide further assistance to certification bodies and field evaluation agencies in their fight against the rising tide of counterfeit products being imported into Ontario and illegally sold. ESA's new search and seizure authorities provide a new tool to seal suspected counterfeit products until such time as their authenticity is verified. This, combined with ESA's inspection staff throughout the province, will provide ESA's safety partners with much needed support. In addition, ESA will be in a unique position to provide timely data to certification bodies and field evaluation agencies regarding potential problems with products these entities certified or evaluated. In addition, the regulation creates the need for a national system, which could preempt a replication of similar systems in other jurisdictions in Canada. The regulation also expressly enshrines third party certification for the first time in Ontario government regulation. Finally, the successful implementation of the product safety regime could increase consumer and supply chain confidence in the certification system creating increased value in each certifier's mark. Effective third party certification is important if regulators are to continue to justify the cost of certification rather than endorsing a manufacturer declaration of conformity system, which is prevalent in Europe. Buyer training programs and other prevention activities will also increase brand awareness for individual recognized marks and decrease the need to increase marketing costs for certification bodies.

- For the Supply Chain (Manufacturers, retailers, distributors): The supply chain will also benefit from greater transparency and the adoption of a preventative approach to electrical product safety. Proactive measures will level the playing field for compliant manufacturers, distributors and retailers by ensuring that all products entering the marketplace include the cost of certification. Increased market surveillance will enhance these benefits. It will also ensure that both domestic and imported products meet Canadian standards and manufacturers all pay their fair share of supporting electrical product safety. In addition, the new regime will provide the supply chain with much needed support when a problem product is discovered. ESA will be able to assist retailers if the manufacturer, importer or distributor shirks their responsibility. In addition, ESA can provide the much needed link between the certification body or field evaluation agency and the retailer or distributor. Implementation of the system will assist the supply chain in mitigating their potential liability for product failures by ensuring that all those in the supply chain bear their fair share of the responsibility when things go wrong. Ultimately, a well functioning and safe market increases market value and brand awareness amongst consumers. Consumer awareness campaigns will also help form consumer preferences by advocating the purchasing of approved and recognized brands and eliminating the counterfeit and substandard imports from the marketplace. Similar to other affected stakeholders, the successful implementation of the product safety regime will increase consumer confidence in certified products creating increased value to brand owners. Buyer training programs and other prevention activities will also increase brand awareness for individual manufacturers.

6. Alternatives

Given the passage of the product safety regulation, ESA must now create a funding model. ESA is currently exploring several options for sustainable funding of the electrical product safety strategy and the new regulations. The options under consideration are outlined in the table below and include the pros and cons associated with each and the risk to ESA. Bear in mind, that regardless of which option is implemented, the new regulations include costs that must be recovered on an ongoing basis.

6.1. The Case for a Sustainable Funding Model

A compelling case exists for the establishment of a sustained funding model for electrical product safety; including the following:

- Current product safety funding is cross-subsidized by other ESA fees;
- Product safety concerns increase as the economy weakens;
- Operational impact of rising product complaints;
- Operational effect of the new product safety regulations;
- Increase in the level of electrical product imports;
- Rising consumer expectations;
- Recovery of costs in many cases may not be appropriate or possible; and
- Compliance and Beyond – Proactive and Preventative Measures require sustained funding.

6.1.1. Cross-subsidization of electrical product safety strategy by other fees

ESA is a financially self-sustaining corporation that derives its operating budget from costs recovered through fees it levies according to the fee setting process approved by the Minister. ESA establishes fees that are paid by contractors, consumers, local distribution companies and others for inspection services, approval services, and regulatory oversight. These fees include the costs associated with ESA's regulatory oversight of electrical safety in the province as well as costs associated with public education, awareness, and prevention based activities in various sectors.

Services include wiring inspections, continuous safety service contracts, the administration of the Act and regulations, plan approvals, training and most recently licensing of electrical contractors and master electricians. Effective April 1, 2003, ESA was granted the authority to establish its own fees for services that in the past required the approval of MGS. The fee setting process for these

activities has been approved by the ministry and is based on the concept of full cost-recovery.

Currently, the electrical product safety activities undertaken by ESA are funded exclusively through revenues generated by other fees collected. The result has been the cross-subsidization of this regulatory function. Given this ad hoc funding approach, ESA's activities in this area have focused on responding and reacting to complaints or reports about unsafe products.

Given the passage of the new regulation and the creation of this expanded regulatory responsibility, product safety resource requirements will escalate, rendering this funding approach unsustainable in the longer term. Moreover, as product safety resource needs increase, the ability to recover these funds through cross-subsidization decreases given that fees are assessed based on a cost-recovery method.

Strategically, this funding approach also limits ESA's ability to address this issue proactively given that this type of funding approach precludes any proactive or preventative measures being implemented due to the lack of funding available to support these types of initiatives in the long term.

6.1.2. Electrical product safety concerns increase as the economy weakens

Funds currently used to fund electrical product safety are derived from the fees ESA collects. These fees originate mostly from wiring inspections that are dependent on new construction starts. These are dependent on the vitality of Ontario's economy. If the economy slows down, the construction sector softens and ESA's revenue decreases.

It has been ESA's experience that: as the economy weakens, the market for unapproved and counterfeit electrical products increases. In addition, consumers and industry tend to seek cheaper import substitutions during times of economic decline; therefore exacerbating product safety concerns; resulting in increased demands from the electrical product safety strategy as the revenue from ESA fees decreases.

The effect of this conflicting circumstance is that ESA is left searching for increased funding at a time when funds are decreasing. Again, a situation that is untenable in the long run.

6.1.3. Operational impact of rising product complaints

In recent years, the number of electrical product complaints has grown steadily. In 2007, the number of complaints increased 41% from 2006. It is expected that this number will increase as product safety issues continue to garner a great deal

of media attention, the level of consumer awareness increases and as educational programs are initiated by ESA.

As the number of electrical product complaints increases, there is a corresponding impact on ESA's operations given the time required to retrieve a report, verify its contents, assess the risk, gather further information, determine the extent of the problem, respond to the consumer and initiate a response.

Upon receiving a complaint or information about an unapproved or potentially unsafe product, ESA undertakes a risk assessment and initiates a response strategy. If the risk is identified to be low, ESA's response may be the issuance of a warning letter outlining the approval requirements that must be met. If the risk is determined to be high, ESA undertakes an aggressive response including, a warning letter, inspector verification, and immediate corrective action, which may include informing the public, the issuance of a Safety Alert or recall notice, or coordinating a retrofit program.

Irrespective of the type of complaint received, a risk assessment is required to determine the appropriate response strategy. As the number of complaints increase, the result will be further pressure on operational resources, further illustrating the need for a sustainable source of funding.

6.1.4. Operational effect of electrical product safety regulations

In addition to the further resources required to sustain current activities undertaken by ESA, the new regulations require ESA to undertake new and expanded activities. As described in the ministry consultation document, the regulations include mandatory reporting requirements of accidents, incidents and defects, the issuance of public notices and possible ordering of corrective action. In order to respond to increase in the number of reports that will be forthcoming, additional dedicated resources will be required to support the increase in engineering, inspection, communications, investigation and administrative activities associated with the new reporting requirements. Further funding will also be required to investigate alleged breaches of the Act and the new regulations.

Moreover, ESA, as the proponent of the electrical product safety strategy, understands that without a proactive approach, preventative improvements will be difficult to achieve. This type of proactive strategy is dependent on increased inspection and market surveillance activities, i.e., activities that have a significant operational impact on the organization. At a minimum, the anticipated increased demands on ESA resources further the case for a sustainable funding model independent of cross-subsidization.

6.1.5. Increase in the level of electrical product imports

In addition to the additional resources required to implement the new regulations, the number of product complaints is expected to rise due to the increase in the level of imported electrical products or devices. Despite a steady increase in export growth since 1989, Canada has been a net importer of electrical and electronic products as of 1990.⁴ Demand for such goods continues to exceed the manufacturers' abilities to meet the supply, resulting in an increasing penetration of imports.

In 2006, \$16.6 billion worth of electrical and electronic goods were shipped into the country, totaling well over 90% of the Canadian market share. Since 1990, gains in import market share were entirely at the expense of the domestic market, reflecting the evolving structure and integration of Canadian manufacturers into the global economy.⁵ In 2006, Ontario imports of these products accounted for approximately \$11.6 billion or 70% of Canadian imports.

Currently, it is estimated that approximately 90% of all electrical products sold in Ontario are imported. Although this fact alone does not create an increase in the number of potentially hazardous or unapproved products, it does increase the likelihood of these products not being certified to Canadian standards or not bearing a recognized certification mark proving that the product has been certified in accordance with Ontario law.

As globalization increases and imports increase, the demands of ensuring that products meet Canadian standards becomes more costly putting added pressure for increased market place surveillance and more proactive approaches which necessitate additional resources. This pressure is expected to rise given the reporting requirements set out in the new regulations and the associated media attention.

6.1.6. Recovery of costs in many cases may not be appropriate or possible

ESA intends to recover its costs for the activities undertaken as a result of the new regulations, including, but not limited to any corrective actions taken to address unsafe products where the responsible party did not or was unable to undertake the action themselves.

Although it is proposed that ESA may recover its costs associated with the new regulations, the recovery of those costs may be impractical. ESA's authority is limited to the jurisdiction of Ontario. In many instances, those responsible for

⁴ Strong Growth Propels the Electrical and Electronic Products Industry into the 21st Century, Statistics Canada, 1999.

⁵ Electrical products here include products grouped in HS code 85 (Electrical or Electronic Machinery and Equipment, Statistics Canada, Trade Data online, 2007.

getting an electrical product or device into Ontario's marketplace (the manufacturer, distributor or importer) may be located outside Ontario, therefore making it more difficult, more costly and in some cases, impractical for ESA to recover administrative penalties ordered. The recovery of costs in these cases would be borne by the retailer, who in many cases would be the least responsible for the hazardous product in the supply chain but may be the only entity within the jurisdiction.

It is estimated that well over 90 % of electrical products sold in Ontario are imported, therefore making it impractical for ESA to recover all or most of its costs from the manufacturer.

6.1.7. Compliance and Beyond – Proactive and Preventative Measures Require Sustained Funding

In order to proactively pursue all three elements of the electrical product safety strategy, ESA will require a sustained funding model. The model should ensure that all parts of the supply chain bear a portion of not only the responsibility for electrical product safety, but also a share of the cost. This type of approach would provide the adequate resources required, but would also create the incentive to address electrical product safety throughout the product lifecycle (that is, during the design and manufacturing process, during the certification process, during the distribution and sale of the product, and after the product has been sold to consumers) thereby increasing the level of safety in Ontario.

This approach, however, is more costly to implement and requires the financial commitment and the active participation of all safety partners and stakeholders in the supply chain. Moreover, it would require resources that cannot be derived from cross-subsidization (i.e., inspection fees) alone. This approach would include a balanced allocation of costs and benefits. It would also provide some value to consumers, certification bodies, field evaluation agencies and the supply chain. Options for funding electrical product safety are outlined below.

6.2. Funding Options

In October 2007, ESA engaged affected stakeholders in a consultation process to develop guidelines to assist industry in complying with the new product safety requirements. Through that process, stakeholders were invited to take part in a working group to discuss potential funding models. Working group members included:

Abigail Avila *Ministry of Small Business and Consumer Services (observer)*
Andrew Horsman *Wal-mart Canada Corp.*
Ann Weeks *Underwriters Laboratories Inc.*
David Bois *Home Hardware Stores Limited*

Derwyn Reuber *Intertek Testing Services NA Inc*
Doug Geralde *Canadian Standards Association*
Doug Smith *Sears Canada Inc*
Gary Rygus *Retail Council of Canada*
Jennifer Barbazza *Wal-mart Canada Corp.*
Joseph Neu *Electro Federation Canada*
Kevin Mackenzie *Electricity Distributors Association*
Liz Gilthorpe *Sears Canada Inc*
Lynn Girty *Consumer Representative*
Maria Iafano *Electrical Safety Authority*
Mel Fruitman *Consumers' Association of Canada*
Nick Maalouf *QPS Evaluation Services*
Peter Marcucci *Electrical Safety Authority (Chair)*
Paul Moliski *Intertek Testing Services NA Inc.*
Rae Dulmage *Underwriters' Laboratories of Canada*
Richard Hustwick *Ministry of Small Business and Consumer Services (observer)*
Robert Pollock *Underwriters Laboratories Inc.*
Ron Bergeron *Bergeron Electric*
Ted Clark *Canadian Standards Association*
Terry Irwin *Ministry of Small Business and Consumer Services (observer)*
Wayne Edwards *Electro Federation Canada*

To assist in that process, ESA issued a consultation document for stakeholders in January 2008 entitled "Funding Options for the Management of Electrical Product Safety in Ontario". The paper identified seven potential funding options ESA could implement as a means of recovering the costs associated with the implementation of Regulation 438/07.

Throughout the working group's deliberations, potential funding alternatives were compared and evaluated to determine which models presented the best viable option(s). Because of this process, several alternatives were dismissed as short-term solutions while others were added based on stakeholder feedback.

The discussion among the working group was challenging, constructive and thought provoking. Despite the dedication and commitment from stakeholders participating in that process, consensus could not be reached. The working group has at this time not endorsed any specific proposal or alternatives. However, the working group has committed to reviewing this business case and providing their perspectives.

A summary of the alternatives discussed are listed in the table below.

OPTIONS	PROS (Arguments for)	CONS (Arguments against)	RISKS
<p><u>Option 1:</u> Continue cross-subsidization by increasing inspection fees charged by ESA to electrical contractors and other persons undertaking electrical wiring.</p>	<ul style="list-style-type: none"> • It could generate revenue to subsidize electrical product safety. • It would not adversely affect electrical product prices. • It is easily administered by ESA. • Affected stakeholders would support this option. • This approach could result in only 3%-4% increase in fees. • This approach is within ESA's current legislative authority to implement. 	<ul style="list-style-type: none"> • This approach does not address the issue of cross-subsidization, which is unsustainable in the long run. • There is a point at which inspection fees cannot be increased further. • This approach is not supported by the electrical contracting industry. • It is inconsistent with the polluter pays principle. • Prevention activities may not be adequately funded. • This approach would affect individual electrical contractors who pay approximately \$50 million in inspection fees to ESA annually. • This approach does not affect the behaviour of affected stakeholders. 	<ul style="list-style-type: none"> • This approach could lead to a fee challenge by electrical contractors if the fee increase were too high. • This approach sets a precedent of cross subsidization as a long-term funding strategy. • Although small fee increases could be tolerated by stakeholders, this funding approach is unsustainable in the long-term. • Lack of dedicated resources and stakeholder engagement could hamper prevention activities and dilute ESA's long-term effective management of the issue.
<p><u>Option 2:</u> Apply administrative penalties to those that do not comply with the regulations.</p>	<ul style="list-style-type: none"> • This approach would provide some funds to support the product safety strategy. • It could be easily administered if the penalties are reasonable. • All stakeholders support this approach because it is consistent with the polluter pays principle. • This approach would not adversely affect the price of electrical products. • This approach would have a positive affect on supplier behaviour. 	<ul style="list-style-type: none"> • This approach may be difficult to enforce if the offending company is outside ESA's jurisdiction. • It will not yield sufficient funds to offset the operating costs of the program and prevention activities. • It could result in inequitable funding of the system if the retailer is the only member of the supply chain that operates in Ontario. • This approach could result in domestic companies subsidizing imports. 	<ul style="list-style-type: none"> • This option is not a viable source of program funding. It is mainly intended to shape and change behaviour. • This option must be combined with other funding sources to be viable. • This option may require additional resources to collect the administrative penalties once issued. • Stakeholders may view the imposition of administrative penalties as a 'cash grab'. • ESA policy re penalties is required.

OPTIONS	PROS (Arguments for)	CONS (Arguments against)	RISKS
<p>Option 3: Continue cross-subsidization by increasing fees charged to Electrical Distribution companies (LDCs).</p>	<ul style="list-style-type: none"> • It could generate enough revenue to subsidize the cost of the program. • It would not adversely affect the price of electrical products. • It is easily administered. • All affected stakeholders support it. • It could provide sustainable funding in the long term. • It would ensure that the cost of the compliance regime is shared by all consumers; making the cost lower for everyone. 	<ul style="list-style-type: none"> • Approach would be opposed by consumers, but would be mitigated by the inconsequential cost (\$1.00 per customer). • It would have no effect on supplier behaviour. • It could require a legislative change to implement. • It does not address the issue of cross-subsidization, which is unsustainable in the long run. • In addition to the reasons listed above, LDCs do not support this approach as the proposed costs would increase the fees payable to ESA by over 100% in the first year and by over 180% in the third year. • It is inconsistent with the polluter pays principle – LDCs have no involvement in the design, manufacture or use of these products. • It is inconsistent with the principles of fee for service and cost recovery. • It would set a precedent for other jurisdictions; thus negatively affecting the electricity system in other provinces. • This approach would place the entire burden of funding this activity on an 	<ul style="list-style-type: none"> • ESA would require Ontario Energy Board approval of fee on a yearly basis. • It would require a minimum 3-year transition period to implement. • It would require ESA to continue to cross-subsidize full cost of program in the mid-term. • It could lead to challenge in the OEB review hearing of proposed LDC rate requests by interveners. • This approach sets a precedent of cross subsidization as a long-term funding strategy.

OPTIONS	PROS (Arguments for)	CONS (Arguments against)	RISKS
		<p>industry that would derive no benefit from its success.</p> <ul style="list-style-type: none"> • It would have no impact on supply chain behaviour. • LDCs are not governed by this regulation and would gain no benefit from its success. 	
<p>Option 4 (a): Collect a fee from product manufacturers & 1st importers (manufacturers brand owners, distributors, retailers) who are responsible for bringing the product into Ontario.</p>	<ul style="list-style-type: none"> • It could provide sustainable funding to support the program. • It is consistent with the polluter pays principle. • It allows for sustainable funding in the long term. • It is consistent with the principles of fee for service and cost recovery. • A majority of affected stakeholders supports it. • This approach would have a positive affect on manufacturer behaviour. • It would ensure the price of products reflects the full cost of safety. 	<ul style="list-style-type: none"> • It is challenging to administer. • It would require significant resources to implement. • Manufacturers would not support this option if the number of registrants were low. • It could increase the price of electrical products sold in Ontario. • It may require a regulatory change to implement. • Enforcement may be challenging. 	<ul style="list-style-type: none"> • The number of potential registrations must be greater than 10,000 to make the option viable; otherwise, the cost would be too high. • ESA may have trouble collecting the fee from offshore manufacturers. • This option is difficult for ESA to administer. • It would be difficult for ESA to ensure compliance without specific 'approved for Ontario' labels affixed to the product.
<p>Option 4 (b): Collect a fee from product manufacturers & 1st importers from CBs/IBs as a pass through</p>	<ul style="list-style-type: none"> • Similar to option 4 (a) plus: • It ensures that all manufacturers pay their share of supporting program. • It would decrease the cost of administration. • Many stakeholders, including manufacturers who would rather pay 	<ul style="list-style-type: none"> • Similar to option 4 (a) plus: • It is opposed by CBs/IBs because they feel it transfers the cost of administration to CBs/IBs. • It could set a precedent for other jurisdictions; thereby negatively affecting the national certification 	<ul style="list-style-type: none"> • Similar to option 4 (a) plus: • Although administration costs would decrease, CB/IB opposition may create additional implementation issues. • Would require support from CB/IBs to implement effectively.

OPTIONS	PROS (Arguments for)	CONS (Arguments against)	RISKS
cost.	at the time of certification, support this approach.	system and the CB/IB industry. <ul style="list-style-type: none"> • CBs/IBs may charge an additional administration fee. 	
<p>Option 5: Create an unsafe product fund to be financed by like minded stakeholders, who could also pledge in-kind services.</p>	<ul style="list-style-type: none"> • This approach would have a positive impact on stakeholder behaviour. • The pledging of in-kind services may be a method of deferring some optional costs. • This approach creates common goals amongst stakeholders and ESA; increasing a common vision. • It could provide an alternative source of funding that is more cost effective for similar programs. 	<ul style="list-style-type: none"> • This approach would be difficult to administer; it would require a great deal of operational resources to sustain the funding source. • It may not yield sufficient funds to cover operating costs of the program. • It may be unsustainable due to lack of stakeholder support. • Most stakeholders do not currently support this option. • Program management would be more complicated. 	<ul style="list-style-type: none"> • This option could leave ESA exposed in the long term if stakeholder support diminishes. • It requires overwhelming stakeholder support, which is currently lacking. • It would make business planning more difficult for ESA. • It could be insufficient to cover the cost of running the program. • In-kind services would have to be on a multi-year basis and would have to be measurable.
<p>Option 6: Collect a recognition fee from CBs/IBs</p>	<ul style="list-style-type: none"> • It is consistent with the polluter pays principle. • It is consistent with the principles of fee for service and cost recovery. • It is consistent with the charges imposed by other jurisdictions. • It could have an impact on behaviour in the long term. 	<ul style="list-style-type: none"> • It is opposed by CBs/IBs. • It would not yield sufficient money to fund the operating costs of the program. • It could set a precedent for other jurisdictions in Canada; thereby negatively affecting the certification system and the CB/IB industry. 	<ul style="list-style-type: none"> • CB/IB opposition may create additional implementation issues. • Sharing the cost across several stakeholders would decrease costs for all making the imposition of the fee more palatable.
<p>Option 7: Recover costs per incident from supply chain on a transactional basis.</p>	<ul style="list-style-type: none"> • It is consistent with the polluter pays principle. • It is consistent with the principles of fee for service and cost recovery. • It is consistent with the charges imposed by other jurisdictions. • It would create an incentive for 	<ul style="list-style-type: none"> • It is opposed by most stakeholders. • It would not yield sufficient money to fund proactive activities. • It could be viewed as a punishment by stakeholders and could discourage reporting. • It may be difficult to recover the 	<ul style="list-style-type: none"> • ESA may have trouble collecting the fee from offshore manufacturers. • This option may require additional resources to collect the fees once issued. • Although stakeholders do not support this option, it should be considered

OPTIONS	PROS (Arguments for)	CONS (Arguments against)	RISKS
	<p>suppliers to implement corrective action more quickly.</p> <ul style="list-style-type: none"> • It would recover the direct costs associated with responding to incidents. • It would adjust simultaneously as direct costs increase. • It would decrease unnecessary reporting and convince stakeholders to undertake a preliminary risk assessment to decrease frivolous reporting. 	<p>money after the fact.</p> <ul style="list-style-type: none"> • As a single funding model, it makes business planning difficult for ESA. 	<p>as an alternative strategy because it would cover ESA's direct costs associated with administering the regulation.</p> <ul style="list-style-type: none"> • Without additional funding sources it would hamper prevention activities and dilute ESA's long-term effective management of the issue. • Would need to be implemented in addition to other funding models to sufficiently fund the program.
<p>Option 8: Collect a fee from electrical product retailers and/or distributors operating in Ontario.</p>	<ul style="list-style-type: none"> • It could provide sustainable funding to support the program. • It is consistent with the principles of fee for service and cost recovery. • It could have an impact on behaviour in the long term. 	<ul style="list-style-type: none"> • It is inconsistent with the polluter pays principle - retailers have no control over product design. • It is difficult to administer; it would require significant resources to find and licence registrants. • Most stakeholders oppose this approach. • It would subsidize imports. • This approach would place the entire burden of enforcement on retailers, who are only one component of the supply chain. • This approach would have a marginal impact on manufacturer behaviour. • It would require a legislative change to implement. 	<ul style="list-style-type: none"> • The number of potential registrations would be enormous. • This option may require additional resources to collect the fees once issued. • ESA may have trouble collecting the fee from small retailers. • This option is difficult for ESA to administer. • It would be difficult for ESA to ensure compliance without knowing every business that sold electrical products. • It would require additional resources to monitor compliance.

OPTIONS	PROS (Arguments for)	CONS (Arguments against)	RISKS
<p><u>Option 9:</u> Direct government funding provided to offset costs of program.</p>	<ul style="list-style-type: none"> • It could provide sustainable funding to support the program. • It is consistent with the model used by other jurisdictions. • It is supported by all stakeholders. 	<ul style="list-style-type: none"> • This approach is inconsistent with the delegated administrative authority model. • It requires a statutory amendment to implement. • It is inconsistent with the polluter pays principle. • It is inconsistent with the principles of fee for service and cost recovery. • It would have a minimal impact on supply chain behaviour in the long term. 	<ul style="list-style-type: none"> • ESA would require government approval and a statutory amendment. • It would require a significant transition period to implement. • It would require ESA to continue to cross-subsidize full cost of program in the mid-term. • It could lead to a fee challenge by other ESA stakeholders. • This approach sets a precedent of government funding as a long-term funding strategy.
<p><u>Option 10:</u> Collect a fee from consumers as a safety surcharge at point of sale through retailers.</p>	<ul style="list-style-type: none"> • It could provide sustainable funding to support the program. • It is consistent with the model used to collect environmental fees. • It is supported by most stakeholders. 	<ul style="list-style-type: none"> • It requires a statutory amendment to implement. • It would have a minimal impact on supply chain behaviour in the long term. • It would subsidize imports. • It is inconsistent with the polluter pays principle – consumers have no control over product design. • Consumers oppose this option. 	<ul style="list-style-type: none"> • It would require a long transition period to implement-given the consultation that would be required. • Government support for this option is questionable. • It would require ESA to continue to cross-subsidize full cost of program in the mid-term.

Of the 10 funding options proposed and discussed extensively with affected stakeholders, options 5, 8, 9, and 10 were eliminated as short-term alternatives due to the cost of implementing the option, the overwhelming lack of stakeholder support, or lack of statutory authority. A list of options considered but eliminated and the rationale for excluding them includes:

- **Option 5: Product Safety Fund:** The creation of an unsafe product fund to be financed by like minded stakeholders, who could also provide include in-kind services was an alternative model proposed. Within this option, stakeholders would commit financial and/or in-kind support for the regime on a voluntary basis. It was felt that there was insufficient stakeholder support for this option, thereby rendering it too great a risk for ESA to implement. Lack of stakeholder support would render this option insufficient to cover the cost of implementing the regulations. In the short-term, the pledging of in-kind services may be a method of deferring some of the cost of undertaking optional activities.
- **Option 8: Retailer/Distributor Registration Fee:** Collecting a fee from electrical product retailers and/or distributors operating in Ontario who are not brand owners or first importers was eliminated as a viable alternative due to the overwhelming administrative costs of implementing this option. It was determined that the cost of determining who should pay this fee and registering these entities would far outweigh the benefits of implementing this option given that these entities had little control over the safety of the products in question.
- **Option 9: Direct Government Funding:** Given that ESA is a delegated administrative authority, government funding for this initiative was excluded as a viable option. ESA is a private company that has been provided with the authority to collect fees to cover its costs of implementing delegated responsibilities such as the product safety regulation. Although it was acknowledged that stakeholders could pursue this option politically, it was not a viable option within the current statutory framework.
- **Option 10: Safety Surcharge at Point of Sale:** Stakeholders suggested the option of collecting a “safety charge’ or fee from consumers at the point of sale. Although this option has some appeal with several stakeholders, it is clearly outside ESA’s current regulatory authority to implement such a charge. Although the cost per product would be negligible, the time required to pass the requisite legislation providing ESA the authority to collect such a fee would be too great a risk for ESA financially. It is unclear whether ESA would obtain the necessary political support for such a scheme given the recent political backlash associated with a similar environmental product disposal fee introduced in Ontario. Although this option could be viable in the longer-term, would be imprudent for ESA to pursue this option as a means of recovering the cost of implementing the regulations in the immediate term.

7. Business/ Operational Impacts & Risk Assessment

7.1. Operational Risk Assessment

The product safety regulation, which comes fully into force on July 1, 2008, poses several risks to ESA as a business. A general risk to ESA is associated with the current pace of the full implementation of the regulation. Although the risks are minimal and every effort is being made to mitigate any adverse affect to ESA operations, the full implementation of the regulation could pose a financial and operational burden on ESA in the immediate short term.

Given the accelerated timeframe, ESA may experience short term resource constraints in attempting to operationalize the regulation given the reporting requirements. Although resource needs have been identified and expected demands have been projected, the accelerated implementation schedule may have an impact on ESA resources depending on the number of mandatory and voluntary reports submitted to ESA in the immediate short term. This impact may vary depending on external demands on the business.

A separate risk associated with stakeholder management has also been identified. Given the limited level of consultation during the regulation development phase, ESA may face increased criticism by affected stakeholders who may blame ESA for the new reporting requirements and greater accountability by affected stakeholders. In order to mitigate this risk, ESA has developed a solid communications strategy to address concerns by affected stakeholders. Stakeholder consultation and engagement will be required in any area possible, especially with respect to the required funding model to mitigate the expected stakeholder reaction.

Certain activity assumptions have a significant impact on the projected costs and the associated revenue requirements; most notable, is the projected number of incidents to be reported each year. The regulation requires the reporting of serious electrical product incidents, accidents and defects. Some supply chain members, to limit their risk, may be tempted to report all incidents, no matter how trivial. To mitigate this risk, ESA has developed risk assessment criteria and a simplified reporting tool for industry. ESA will work with individual members of the supply chain and their industry associations to explain the reporting requirements and assist them in understanding the types of incidents that are reportable.

7.2. Risks Associated with Funding Alternatives

In addition to the risks to ESA outlined above, several real or perceived risks are associated with the various viable funding alternatives proposed. A brief overview of the risks associated with each alternative is outlined in the table below.

Option	Potential Stakeholders Opposed	Perceived risks	PROS	How Much could it cost?
<p>Option 1: Continue cross-subsidization by increasing inspection fees charged by ESA to electrical contractors and other persons undertaking electrical wiring.</p>	<ul style="list-style-type: none"> • contractors • LDCs • ESA Board 	<ul style="list-style-type: none"> • Sets a precedent for ESA • Potential eurig concerns • Potential risk to ESA b/c unsustainable in the long run • Could increases costs to contractors • Inspection fees can only be increased so much there is a point where contractors will go underground • Less incentive for supply chain to change behaviour • Would subsidize imports 	<ul style="list-style-type: none"> • Easy to administer • Process is already in place • It is our interim solution • ESA is already funding unsafe product activity (\$500,000) through this mechanism 	<ul style="list-style-type: none"> • currently \$500,000
<p>Option 2: Apply administrative penalties to those that do not comply with the regulations.</p>	<ul style="list-style-type: none"> • everyone supports it 	<ul style="list-style-type: none"> • would not recover enough funds to support the system, however is required to shape behaviour • ESA's ability to collect penalties imposed 	<ul style="list-style-type: none"> • could create funds to be used for prevention activities 	<ul style="list-style-type: none"> • approximately \$150,000
<p>Option 3: Continue cross-subsidization by increasing fees charged to Electrical Distribution companies (LDCs) as a proxy for collecting a fee from consumers through the utility bill. (would require OEB review of utilities' application for fee increase)</p>	<ul style="list-style-type: none"> • Local Distribution Companies (LDCs) • Electricity Distributors Association (EDA) • Ontario Energy Board (OEB) • Some Consumer Groups • Non-electrical Manufacturers 	<ul style="list-style-type: none"> • Timing- it will take up to 3 years for utilities to recover the costs • Potentially challenged by EDA/LDC • Recovery of full program costs would more than double fees paid to ESA • Overall political concern of increasing utility costs. • Leads ESA to require OEB review of ESA fees. • Slippery slope with respect to public funding DAAs. • No signal to supply chain to require them to change their behaviour • Leads to subsidization of imports. 	<ul style="list-style-type: none"> • Easy to administer • Supported by most stakeholders • Reflects usage of electrical products. • Is the closest proxy to consumer funding. • Can be replicated at the national level. • The lowest per capita basis 	<ul style="list-style-type: none"> • \$1.00 per utility customer per year roughly • maximum \$500,000

Option	Potential Stakeholders Opposed	Perceived risks	PROS	How Much could it cost?
Option 4 (a) & (b): Manufacturer registration fee	<ul style="list-style-type: none"> Manufacturers CBs/IBs if they are required to collect the fee 	<ul style="list-style-type: none"> Collection of funds from non-canadian entities Eurig issue if fee is too high ESA implementation risk (potential 10,000 registrants) May require a reg change to implement Domestic manufacturers/ importers may be disadvantaged since many offshore manufacturers may not pay If number is < 10,000 no manufacturer support 	<ul style="list-style-type: none"> Provides ESA with information about manufacturers for potential corrective action There is a precedent (TSSA stuffed article reg & British Retail Consortium) Puts the costs on the entity in the supply chain who produces or imports the product 	\$350 initial registration fee \$300 renewal fee per manufacturer for a total of \$3 million (this cost should include the administration costs of collecting the fee)
Option 5: Create an unsafe product fund to be financed by like minded stakeholder, which could also include in-kind services.	<ul style="list-style-type: none"> Retailers Manufacturers 	<ul style="list-style-type: none"> Not a viable option in the short term Lacks stakeholder support Difficult to verify and measure Requires contractual, multi-year commitment Potentially unsustainable CBs have indicated that they spend approximately \$3 million per year in this area already. 	<ul style="list-style-type: none"> Provides ESA with funds for preventative and proactive activities Creates greater engagement among contributing stakeholders 	<ul style="list-style-type: none"> 0
Option 6: Collect a recognition fee from CBs/IBs.	<ul style="list-style-type: none"> CB/IBs (their biggest concern is it sets a precedent for other AHJ imposing similar fees) SCC 	<ul style="list-style-type: none"> Could increase perception that national system is being harmed Strong lobby opposed to any fee that captures the CBs/IBs Potential legal challenge Potential inability to collect from offshore CB/IBs May require a reg change to enforce Unintended disadvantage to small CBs. Potential collection issues from non-domestic CBs/IBs 	<ul style="list-style-type: none"> Simple to administer for ESA, however it may prove costly for CBs and other stakeholders to implement and administer. Reflects the perceived benefits that CB/IBs receive from mandatory certification and enforcement of 	\$2,500 @ 26 CB/IB per year

Option	Potential Stakeholders Opposed	Perceived risks	PROS	How Much could it cost?
			unapproved product <ul style="list-style-type: none"> Costs could be passed on to all manufacturers Precedent already exist in many US jurisdictions for a recognition fee (up to \$2,500) Leverages already existing billing mechanisms between CBs and manufactures/first importers 	
Option 7: Recover costs per incident from supply chain on a transactional basis.	<ul style="list-style-type: none"> Manufacturers retailers if they are required to pay one consumer group 	<ul style="list-style-type: none"> viewed as a disincentive to report by some ESA could have billing disputes if no fault found with incident Highly transactional and leads to many billing disputes Could have an unintended result of vexatious reports from competitors 	<ul style="list-style-type: none"> it would directly offset ESAs incident response costs there is a precedent for doing this (TSSA/ BC Environmental Spill cost-recovery fee) 	\$1000 per report assuming 1000 reports per year

8. Implementation Strategy

As indicated above, the product safety program will be implemented over a two-year period. The transition year will focus primarily on supporting affected stakeholders (e.g., CBs/IBs and the supply chain) understand their new regulatory obligations and increasing capacity within ESA to manage the program. During this year, ESA will focus on mandatory activities required by the regulation. Implementation tasks will include:

1. assisting industry transition to the new system by answering questions and making presentations;
2. communicating the new obligations to affected stakeholders;
3. creating communications material to inform affected stakeholders of their obligations;
4. responding to incidents;
5. developing a reporting database to assist in case management;
6. creating the infrastructure to register/licence manufacturers and CBs/IBs; and
7. completing the requisite internal policies and procedures.

It is expected that many affected stakeholders will need at least one year to transition and implement the requisite frameworks within their organizations to collect and analyze data to meet their reporting obligations. During this same time, coordination with other provincial jurisdictions, Health Canada and other safety organizations will also be required. These activities, however, will be undertaken depending on resources.

In the transition year, seven full-time employees or equivalents will be hired. These employees will include a manager for the program area, one support staff, three product safety engineers/technologists, and a prevention analyst.

9. Recommended Funding Proposal

Based on stakeholder consultations undertaken, ESA staff recommends that ESA implement a mixture of funding options to support the implementation of the product safety regulation including:

- administrative penalties (it is projected that once fully implemented this will generate approximately \$150,000 annually),
- certification body and inspection body recognition fee of \$2,500 per year (it is projected that this will generate approximately \$ 65,000 annually), and
- a registration fee for manufacturers/first importers (it is projected that this will generate approximately \$3 million annually).

It is anticipated that these revenue sources will recover approximately \$3.2 million annually after full implementation.

Fully Implemented Revenue Projections	
	Total
Administrative Penalties	\$150,000
CB/IB Recognition Fee (\$2,500 per CB/IB)	\$65,000
Manufacturer's Registration Fee (\$350 initial registration fee & \$300 renewal fee)	\$3,000,000
Total Revenue Collected	\$ 3,215,000
Total Operating Revenue	\$ 3,215,000

If these alternatives fail to recover the costs associated with implementing the program, ESA should reevaluate the options considered and revisit a cost recovery approach that would at a minimum recover direct costs related to resolving product safety issues.