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**RESPONSE TO THE PROPOSED  
SAFETY STANDARDS REGULATION ACT  
Ministry of Community, Aboriginal and Women-s Services**

**AWhat We Have Heard@  
July 20, 2001**

**Background**

In August 2000, the Minister of Municipal Affairs issued a near-final draft of the *Safety Standards Regulation Act* (SSRA) for consultation. This act consolidates and updates legislation from the current *Electrical Safety Act*, *Elevating Devices Safety Act*, *Gas Safety Act* and *Power Engineers and Boiler and Pressure Vessel Safety Act*, and transfers provisions from the *Railway Act* to the consolidated Act. The proposed Act is intended to sustain public and worker safety, while delivering services efficiently as possible.

To ensure that Ministry clients had an opportunity to review and provide comments on the proposed provisions, a consultation paper was prepared and was distributed widely in both printed and electronic form. A web site ([www.marh.gov.bc.ca/SES/SSR/](http://www.marh.gov.bc.ca/SES/SSR/)) was also established through which comments could be conveyed.

**Acknowledgment**

We would like to thank all those who took time to read the consultation paper and to provide submissions. Your comments will help the Ministry to move forward in the preparation of the SSRA and associated regulations.

**What We Heard**

Responses were sought in [the following](#) forms:

- \$ Yes or No to six general questions, with additional comments an option
- \$ Comments on specific sections of the proposed Act
- \$ Comments of a general nature
- \$ [Comments received in a number of stakeholder consultation meetings which have occurred over the intervening months.](#)

The 51 submissions came in all of the above forms, from a wide variety of sources as outlined in Table 1. A listing of respondents is found in Appendix 1.

Appendix 2 summarizes the responses to the comments on specific sections of the SSRA and Appendix 3 summarizes the comments received of a general nature.

**Our Response**

We have carefully reviewed each submission. A key concern expressed by a number of respondents was that the SSRA can not be understood and evaluated without the proposed

Regulations in place. We concur with this observation. It has therefore been decided that the Act and Regulations will be forwarded together.

The processes to finalize the SSRA and the Regulations will be melded in a manner described later in this report. Accordingly, the commentary received from the respondents during this consultation will be used in the development of the Regulations and subsequent refinement of the SSRA, rather than being the subject of a detailed response at this point in the process.

The Ministry will nevertheless provide some responses and points of clarification where it is deemed important. Accordingly some immediate responses from the Ministry to clarify possible misunderstandings or to add are provided in Appendix 2, with the bulk of the responses awaiting the mentioned further review.

<b>Table 1 Source of Responses</b>	
<i>Source</i>	<i>Number of Responses</i>
Associations	<a href="#">10</a>
Colleges	1
Companies	7
Individuals	1
Labor organizations	4
Local Governments	<a href="#">6</a>
Provincial Ministries / Crown Corporations	<a href="#">6</a>
Safety Advisory and Training Committees	7
<a href="#">Staff of Ministry of Community, Aboriginal and Women-s Services</a>	8
<a href="#">Utilities</a>	<a href="#">1</a>
<b>TOTAL</b>	<b><a href="#">51</a></b>

**Next Steps**

Appendix 4 outlines the next steps in the form of key milestones in the finalization of the SSRA and the development of the Regulations. As mentioned the Ministry has decided to proceed with the finalization of the SSRA and Regulations together largely due to concerns expressed by clients.

The Ministry has determined, however, that it is important to understand that the current version of the SSRA will be the basis of the discussions in the development of the Regulations. The Ministry will identify and make corrections to the Draft where error of fact or design has been identified, but it is important that for the most part all participants that are a part of the development process work from the same base.

In developing the regulations there will be four main challenges:

- ◆ to review the existing regulations for currency, error and improvement;
- ◆ to identify those provisions in the current safety acts that will not be included in the SSRA, and integrate those provisions in the new regulations;
- ◆ to review the SSRA and develop regulations that are needed to implement new provisions in the safety system; and
- ◆ reviewing the SSRA for alteration as these initiatives proceed and as problems or opportunities are identified.

These challenges will be met by employees working closely with the Minister's Safety Advisory Committees and interested key client groups under the guidance of a project plan which is currently being developed in detail.

A penultimate draft of the SSRA and Regulations will be circulated for a final consultation in the fall of 2001.

## Appendix 1

### List of Respondents

Respondent	Name
BC Amusement	Doug Fraser
Business Council of BC	Jerry Lampert
BC Gas	P. Barry Cavens
BC Horticultural Coalition	Bert Miles
<a href="#">BC Hydro</a>	<a href="#">Fred Kaempffer</a>
Boiler and Pressure Vessel Safety Advisory Committee Representative	Wayne Nolan
Camosun College	Baldev Pooni
Centra Gas	Brian Kemble
City of Burnaby	George Humphrey
<a href="#">City of Kelowna</a>	<a href="#">Keith Skinner</a>
City of North Vancouver	Jack Ball
City of Richmond	A. Bortolussi

City of Vancouver	Dave Jackson
<a href="#">City of Victoria</a>	<a href="#">Duncan Stevenson</a>
Cominco	Dion Poirier
Electrical Contractors Association of BC	Robert Alger
Electrical Inspectors Association of BC	Jack Ball
Electrical Safety Advisory Committee	Cliff Pilkey
Elevating Devices Safety Advisory Committee	Cynthia Harnadek
Fire Chiefs Association of BC	Bruce Hall
Forest Industry Solid Wood Training Advisory Committee	Paul Sourisseau
<a href="#">Forest Industry Trade Advisory Coordinating Committee</a>	<a href="#">Scot MacLean</a>
Gas Safety Advisory Representative-s	Bob Bivar John Craig Graham Turnbull
<a href="#">Industry Training and Apprenticeship Commission (ITAC)</a>	<a href="#">Kerry Jothen</a>

CONT...

Continued...	
International Union of Operating Engineers	Lionel N. Anker
<a href="#">Mechanical Contractors Association</a>	<a href="#">Wilf K. Scheuer</a> <a href="#">Dean Houston</a>
Mechanical Engineers	Dana M. Taylor
Ministry - Information, Science and Technology Agency	Stuart Culbertson
Ministry of Labour	Gary Martin
<a href="#">Ministry of Community, Aboriginal and Women-s Services</a>	Linda Conceicao Alan Espenhain Tom Hamilton Martin Howbold Ed Hurd J. Klick Victor Lightfoot Don Ballard

Pacifica Papers	Dennis Black
Plumbers and Pipefitters Local 170	Richard O'Brien
Superior Propane Inc.	Gary Anderson
Telus	Doug Watson
UA Local 516	Gary Nettles
<a href="#">Union of BC Municipalities</a>	<a href="#">Frank Storey</a>
United Assn. of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the US and Canada	Wayne Peppard
Underwriters Laboratories of Canada	Jack Robertson
Workers- Compensation Board	Roberta Ellis <a href="#">Nick Attewel</a> <a href="#">Peter Newman</a>

Appendix 2

Section Specific Comments

SEC.	COMMENTS	RESPONSE
1	<p>Include a definition for gas distribution main in order to separate this act from pipeline act.</p> <p>Definition and section 65 to 73 - Aregulated product@ is not specifically defined; without this definition the scope of the act is unclear.</p> <p>Alcident@ 1(b)-change to read Aresults in a significant...@ (c) add &gt;where any emergency supporting devices are engaged or fail to function@ Aincident@ remove the word Asignificant@</p> <p>Add Aapproved@; Ainspect@ and Athe documentation of those activities@;</p> <p>ARegulated work@</p> <p>Add Aselling@ to the definition as the act does not appear to preclude the selling of unapproved equipment.</p> <p>Terms Asafety manager@ and Alocal safety officer@ may create some confusion</p> <p>Define Apracticable@</p>	<p>This will be clarified in the regulations.</p> <p>Regulated products - Products regulated by the act and regulations will be specified in the Regulations. Under review.</p> <p><u>Will remove word Asignificant@</u></p> <p><u>AApproved@ - not deemed necessary</u>  <u>Ainspect@ - is included</u>  <u>ADocumentation@ - not deemed necessary</u></p> <p><u>Included</u></p> <p>Selling is considered to be an activity within the term Adisposal@. Under review</p> <p>Will be clarified in the Regulations which will be the Aworking documents@</p> <p><u>Not deemed necessary but under review.</u></p>

2	<p>2(ii),(v) - change Aerial tramways<sup>®</sup> to A passenger ropeways<sup>®</sup>; change to read A elevating devices and passenger conveyors<sup>®</sup></p> <p>2(1)(b) - add A gas distribution utility company<sup>®</sup></p> <p>2(2) - What will be the bases of exemptions;</p> <p>Building and plumbing are not within the scope of this act. 2(1)(b) - building, plumbing, mines and pipelines should be covered by this act</p> <p>A mines<sup>®</sup> and A pipelines<sup>®</sup> are not affected</p>	<p><u>Will implement</u></p> <p><u>Gas Distribution Company is not deemed to be a regulated product, but could be deemed as a person doing regulated work. This will be defined and clarified in the regulations.</u></p> <p>Lack of definition opens the door to abuse and political interference. Under review</p> <p>These are not intended to be in the Act. Currently they are under the jurisdiction of another Ministry and the existing regulatory systems are substantially different than those covered by this proposed Act</p> <p><b>Act text is incorrect. This is under review</b></p>
3	<p>The Act should state more fully what it does not apply to as there are many gas systems and equipment that should not be included; it would be simpler to define them here than attempt to do it in regulations</p>	<p>This will be addressed in the Regulations which will be the work documents.</p>
4	<p>Amend to require disclosure of personal information through the proposed registry section 19</p> <p>Exemption from Freedom of Information and Privacy Act is wrong</p>	<p><u>This is under review</u></p> <p><u>Act will not be exempted.</u></p>
6	<p>It should be mandatory that Lieutenant Governor in Council (LGIC) make regulations to allow local government to continue inspection services</p> <p>Stronger language is required concerning the rights of local government</p>	<p><u>This is not deemed necessary</u></p> <p><u>This is not deemed necessary</u></p>
7	<p>Local government should develop their own work regulations</p> <p>Powers of local government should be detailed in any agreement</p> <p>7(2)(c) - remove the word A amended<sup>®</sup>; as written, could be construed as amending qualifications of licensed contractors, licensed individuals, regulated products and regulated work.</p>	<p><u>This depends on the level of detail. It is not intended to be prescriptive in how local government achieves the standards. That will be set through consultation between the Province and Local Governments.</u></p> <p><u>Agree</u></p> <p><u>Not deemed necessary. Amending A qualifications<sup>®</sup> would require an Order-in-Council or amendment of the Act.</u></p>

8	<p>8(1)(a) establishing codes and standards respecting regulated work and regulated products - does this not mean that every standard that pertains to a product would have to be adopted and referred to in regulations?; Would it not be simpler to say, All equipment must meet the applicable Canadian Standard for that equipment and must bear the approval seal of a testing laboratory®</p> <p>8(1)(a), (b) - Section 86 entitles the minister to make regulations; If this means the minister can make changes to safety standards without being required to meet substantive standards within existing legislation, then we would appose this proposal</p>	<p><a href="#">Under review. The use of the word Astandard® is not intended to be limited to a Aproduct® standard, but also includes such standards as worker qualifications.</a></p> <p>This means that the Minister may make regulations for establishing codes or standards and therefore means that they theoretically could be changed. For a number of reasons this would not occur without due process or diligence.</p>
9	<p>It is suggested that section 9 be revised to: Alisting of a product by a certification agency and the presence of a certification mark affixed to....®</p> <p>There is a concern that a certification mark does not reflect approval</p>	<p><a href="#">Under review</a></p> <p><a href="#">Limited to section 9 the comment is valid, but in the context of the Act, it is clear that a regulated product must be certified to be approved.</a></p>
10	<p>Safety officers and managers should be appointed for each discipline as covered by this Act; the qualifications required by these officers and managers should be spelled out by the Act.</p> <p>Some concern over the generic titles of safety managers and safety officers</p> <p>Indicate that current electrical and gas inspectors and supervisors must meet all requirements as may be set by the minister; other than the minimum requirement of qualification in the trade, employment requirements should be left to local government</p> <p>10(3) Should deal with the issue of retroactivity.</p>	<p>These will be spelled out in the regulations because qualifications will be different for each area regulated.</p> <p>These are not titles but functions <a href="#">nor are they intended to imply that they are multi-technical.</a> A safety officer could be a codes and standards engineer, examiner or inspector.</p> <p>Depending on the position, the powers and duties will be selected from the Act and assigned. The regulations will do this and as such will identify the powers and duties of, for example, an Aelectrical inspector®</p> <p>Only technical qualifications for Safety Officers and Safety Managers will be set by consultation in the Regulation</p> <p><a href="#">Agreed</a></p>
11, 13, 15	<p>Could be stronger re: local governments rights</p>	<p>Under review</p>

<p><b>14</b></p>	<p>Add the word "written" to part (e) so that it reads..... "Issue a written directive or discipline order" - this will ensure that both the safety manager and the recipient are clear on the instruction</p> <p>Proposed powers for provincial and local safety managers are too broad and open ended</p>	<p>Under review</p> <p>With a couple of exceptions, such as "Equivalent Standards Agreements" and "monetary penalties" <a href="#">the provisions in the Act</a> are not substantially different than currently</p>
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<p><b>16</b></p>	<p>Local deviations from standards and codes should have approval of provincial safety manager</p> <p>Infers that equivalent standards may be inferred by safety officers in one section, but not necessarily in another section.</p> <p>The power to make equivalent standards agreements can be made by any safety officer, provincial or local; this means that there may be different standards procedures in each municipality administering the Act; the application of the standards could therefore vary from municipality to municipality and be inconsistent across the province; The power to make equivalent standards agreements should be restricted to provincial safety managers.</p> <p>Recommend that classes of Safety Officers be identified 16(2)(c)</p> <p>There should not be any generic safety officers to cover all disciplines 16(2)(c)</p> <p><u>16 (2)(b) and (c) Should a local safety officer be able to impose a monetary penalty? Municipalities do not want to go through the court system.</u></p>	<p>Under review</p> <p>True. Equivalent Standards Agreements (s. 34) are in effect. Regulations that are developed on a case by case basis and can be viewed as an objectives based regulation. It is a decision of the safety manager.</p> <p>Only Safety Managers can enter into equivalent standards agreements. Because they are issued on a case by case basis it is not felt appropriate that the Province dictate to a local authority in these instances. Further, they should not lead to great inconsistency between regulating authorities because of their case by case nature. It is felt that the benefit of flexibility outweighs that minimal fragmentation. Under review</p> <p>This will be done in the regulation but for clarity <a href="#">16(2) provides authority for delegation</a> to an individual employee or to , for example, a group of specific employees such as all Gas Safety Inspectors.</p> <p>! <a href="#">There will be none and this will be clarified in the Regulations.</a></p> <p>! <a href="#">Where safety managers and officers are not identified as either local or provincial, the intent is to include either.</a></p> <p><a href="#">This might depend on what level of penalty is being considered, i.e. it is routine for safety officers to issue smaller penalties, but larger ones should likely be handled by the safety manager. Under review.</a></p>
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<b>16. Cont.</b>	<u>A Safety Manager has the power to impose a monetary penalty (S16), any monetary penalty imposed has to be paid within 30 days after service of the Notice of Penalty (Section 42(11)). If an appeal is filed the 30 day time period does not start to run until after the penalty is confirmed by the Appeal Board (or until after the length of time specified by the Appeal Board). The safety manager can also specify a longer period of time to pay. It is not clear whether the safety manager can establish a longer period of time if the matter is not addressed when the penalty is imposed.</u>	<u>Under review</u>
<b>17</b>	<p>Amend title to Apowers of local and provincial safety officers@;</p> <p>Define powers of local safety officer.</p> <p>17(b) states Aenter any premises at any reasonable time@ - does this include residential homes?</p> <p>17(1)(a) as written could mean exemptions; define Aexemptions@</p> <p>Local deviations from standards and codes should have approval of provincial safety manager</p>	<p>Under review. For brevity the Act is written so that there is no repetition.</p> <p>Powers of ASafety Officers@ apply to both local and provincial. Likewise with Safety Managers. Specifying local or provincial means a distinction between local and provincial.</p> <p>In principle, yes, it does depend on the term Areasonable@ and this would be defined by the situation. In an emergency, it may mean any time without warning.</p> <p>Under review where this is best outlined.</p> <p>Under review.</p>
<b>18</b>	18(1), (2), (3), (4) replace Amust@ with Ashall@	Under review

<p><b>19</b></p>	<p>There is the possibility of confusion around different uses of the term Alicense®, e.g. a contractors= license, a business license, a city operating license. ARegistered® was suggested as an alternate possibility.</p> <p>Reference to the necessity of having a municipal and/or regional district business license or stating that conditions of local bylaws must be complied with should be included in the legislation.</p> <p>The usefulness of a registry was questioned. Will the end result be worth the administrative burden of a registry? Possible benefits were seen in increased ability to temporarily suspend work. Ease of access, currency of information, and terminology were seen as major obstacles to its effectiveness.</p> <p>19(1)(b) should we disclose the names of people referred to in a license?</p> <p>19(4)(a) inactive; requires definition</p> <p><u>S. 19-29. Concerns were raised regarding tracking the requirement to record the names of people who are refused a license.</u></p> <p><u>Concerns were expressed about the licensing proposals resulting in a larger bureaucracy.</u></p>	<p><u>We will standardize. The Act does not apply to business or operating licenses.</u></p> <p><u>We would not impose a local bylaw on a contractor.</u></p> <p><u>The registry is expected to be quite useful as are registries in other programs. We are aware of the challenges of an up-to-date registry implies. At this point, whoever becomes licensed is automatically registered.</u></p> <p>Yes. The license is intended to tie an individual or contractor with the authority to do regulated work. It would otherwise be difficult to acknowledge for a third party that a particular person has a valid/up to date license.</p> <p><u>Will be clarified in the regulations.</u></p> <p><u>Under review. While such tracking may be necessary, this information need not be disclosed to the general public and whether the public should be able to access only the current licensed status of contractors and individuals.</u></p> <p><u>We have most industries licensed under the new Act. This will replace the present system, it is not a new system of licensing.</u></p>
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<p><b>21</b></p>	<p>We object to requirement that a contractor must obtain a license to do regulated work because it interferes with right of management to manage contractors.</p> <p>Local government licensing of contractors should be acknowledged</p> <p>Contractor licensing should be in the regulations</p> <p>21(1)(d) add item stating Asell or install unapproved regulated products@</p> <p>21(2) a business person must be a qualified trades person</p>	<p>The vast majority of contractors regulated by the proposed Act are already licensed. This is seen as a benefit to private sector managers who can be assured that the contractors they hire are qualified to do the work required.</p> <p><a href="#">Under review. Does this mean business license? We are not involved in issuing local government business licenses.</a></p> <p>Under review. <a href="#">Moving the contractor licensing provisions under the Act to the regulations could be considered.</a></p> <p>Under review.</p> <p>Under review. This is neither intended nor the case today. However, a business person must have licensed persons doing the work for them essentially as their agent or employee.</p>
<p><b>22</b></p>	<p>We have a concern that a licensed contractor must have a certificate of qualification in each discipline and / or trade they direct.</p>	<p>No. The employee complement must have the necessary qualifications. See 21(2) above.</p>
<p><b>24</b></p>	<p>Amend to acknowledge the ability of a local safety manager to interfere with automatic license suspension, where a local government is administering</p>	<p><a href="#">No. This is provincial license suspension; we would like to keep the automatic process and maintain a common standard to license suspension.</a></p>
<p><b>25</b></p>	<p>Is in the ITAC jurisdiction and increases red tape</p>	<p>This does not duplicate ITAC requirements. A person holding an ITAC certificate of qualification will be issued a license (see s.25(2)), if that qualification is sufficient to do the regulated work intended. This is not always the case as for example in electrical qualifications and the applicant might be given a restricted license. In other cases, the <a href="#">Ministry of Community, Aboriginal and Women-s Services</a> actually issues the certificate of qualification, as in the case where an applicant passes an examination for a given class of Power Engineer.</p>

<p><b>26</b></p>	<p>The contractor, not ministry, should be responsible for selecting and training employees</p> <p>26(1) seems to require anybody doing any regulated work to be licensed; that will almost certainly be costly and may be unnecessary; a cost benefits study would be appropriate respecting this issue</p> <p>26(2) concern about concept of equivalent qualification</p> <p>We find yearly fees as being a cash grab and forces qualified workers to pay for work; we cannot concur with this demand</p> <p>26(4)(b) provides that a license is limited to work to be done by a regular occasional employee; what is a regular occasional employee in this context?</p>	<p>Under review.</p> <p>Under review. <a href="#">This may not work for all regulated work covered by the Act.</a> A number of individuals now doing regulated work as defined under the Proposed Act are in fact already licensed.</p> <p>This is intended to recognize qualifications of other agencies such as ITAC, where deemed appropriate and this would be spelled out in the Regulations as it is now.</p> <p>Under review. If licensing of individuals is expanded from the existing level, there will be a cost recovery requirement. <a href="#">There is a cost recovery component under our program, and are looking at a 3 to 5 year cycle; however, we are not interested in creating a cash grab.</a></p> <p><a href="#">Full time/Part time.</a></p>
<p><b>27</b></p>	<p>For clarity, add the following to the end of 27(1) and must perform regulated work in compliance with this act and regulations®</p>	<p><a href="#">This is not deemed necessary.</a></p>
<p><b>28</b></p>	<p>A money grab</p>	<p><a href="#">Licensing occurs</a> now in some technical areas. If licensing of individuals is expanded from the existing level, there will be a cost recovery requirement. <a href="#">This is currently the case and has not been a problem. It is possible that these become multi-year licenses.</a></p>

<p><b>30</b></p>	<p>30(1), (2) remove the word Apermission@</p> <p><u>S 30-44 Part 7 should be checked for duplication of effort with respect to the Workers Compensation Act and related policy. Section 38(2) may, in fact, be in conflict with WCB regulations.</u></p> <p><u>Division 4 gives the power to safety officers to investigate Aincidents@. The definition of Aincident@ is important. It is:</u></p> <p><u>Aincident@ means an event occurring as a result of regulated work, or the testing use or operation of a regulated product, that:</u></p> <p><u>! causes death, personal injury or damage to property, or</u>  <u>! creates a significant risk of personal injury or damage to property@.</u></p> <p><u>There seems to be an overlap with respect to these incident investigation provisions and those in the Worker Compensation Act. There may be multiple investigations. The Workers Compensation Board could conduct investigations with respect to an event which causes death or personal injury or creates a significant risk of personal injury. Workers Compensation Board would not investigate incidents solely related to damage to property unless significant risk or personal injury or death occurred or was likely. There is a risk of multiple investigations under these provisions.</u></p>	<p>This is intended as a collective term to refer to any form of approval that may be defined in the Regulations now or in the future.</p> <p><u>The WCB and Ministry are developing operational agreements to avoid duplication and conflict.</u></p> <p><u>We will drop Asignificant@ from this definition.</u></p> <p><u>The WCB and Ministry are developing an operational agreement to avoid duplication and conflict.</u></p>
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<p><b>31</b></p>	<p>A directive should prevail if in conflict with a regulation.</p> <p>There seems to be some confusion as to what are directives and bulletins; the intent of a directive as used in the old Gas Safety Act was to give the chief inspector the power to put in place the equivalent of a regulation; it should however be added and was not in the old Gas Safety Act when a directive is written it must go forward as a new regulation within 6 months of date of issuance or it becomes void</p> <p>31(1) We are extremely uncomfortable with such powers being placed in the hands of a bureaucrat as opposed to interpretation and directives emanating from an appeal board or the courts</p> <p>31(2)(a), (b) generally; does this mean geographically? industry? exemptions of licenses? TQ?</p>	<p><u>No. A safety manager cannot make regulations. If the situation requires, a safety order may be issued.</u></p> <p>Safety Orders (s.32) should cover the concerns mentioned as safety orders are aimed mostly at hazards. <u>Will review the suggested inclusion.</u></p> <p>These powers exist now. This intent is to clarify what authority is tied to what Atool®. Appeals are available.</p> <p>It means that a Directive could have broad application, say in a process or geographic area, but could also be very specific in nature. It would not be the kind of Atool® used to issue exemptions but possibly to interpret them. Appeals are included.</p>
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<p><b>32</b></p>	<p>32(1), (4) remove the word "significant"; this word is used in several places and when used in conjunction with technical issues, could be subject to interpretation and debate</p> <p>Safety officers should be allowed to issue safety orders.</p> <p>32(2)(b) there is a typing error - the word "or" should be removed</p> <p>32(3) doesn't make sense to the reader</p> <p>32(4) change to read "...requirement and the date when the requirement must be completed that..." this will allow for the establishing of time completion dates</p> <p>32(7) provides that a safety order cannot be stayed; as a result there is no provision for relief from a safety order except through an appeal; no discretion whatsoever is given to any entity to overturn a safety order short of a successful appeal and this is a concern</p> <p><u>S.31-32 Not all municipalities may wish to have the authority to issue safety orders in the instances cited.</u></p>	<p><u>Without the word significant there is still considerable interpretation. "Significant" may be defined in policy.</u></p> <p><u>The Act will be altered to allow for delegation of this power.</u></p> <p>Thank you.</p> <p>As the objective of this act is safety, it is intended that it be clear that the provincial safety manager may order something that is regulated by the Act to be corrected, altered or stopped <u>even if it meets regulations</u>, if there is a safety threat. That is, the provincial safety manager is not limited to situations of non-compliance before being able to take action.</p> <p><u>Not deemed necessary as it is implied within the principle of safety order.</u></p> <p>The comment underlines that fact that a safety order must involve significant risk. The first priority must be to remove the risk.</p> <p><u>Safety orders are not a requirement, but are enabled under the Act.</u></p>
<p><b>33</b></p>	<p>What is the rationale for local variances to provincial safety manager</p> <p>Concern about the possible conflict with section 70 if a variance is issued</p>	<p>A (local) Safety Officer may issue variances.</p> <p><u>Corrected in the next version of the Act.</u></p>

<p><b>34</b></p>	<p>Refers to equivalent standards agreements; at present there are no standards available, and without appropriate and consistent procedures such practice will result in inconsistent enforcement</p> <p>Does a directive from a safety manager supercede an equivalent standards agreement?</p> <p><u>Standards Agreements are seen as a positive development because it opens the door for recognizing the quality management plan of an annual or utility permit holder as being an acceptable, effective and less expensive means of regulating safety. Strongly Supported.</u></p>	<p>This Atool® is only enabled by the Act and will not be employed unless the Regulations recognize their use. The process will be established by the Regulation; the standard in the agreement itself. An equivalent standards agreement is by definition a regulation under the Act.</p> <p><u>No, but a safety order could.</u></p> <p><u>This is a very good use of an equivalent standards agreement.</u></p>
<p><b>38</b></p>	<p>38(1) the phrase "as soon as practicable" should be replaced by the phrase "as required by the regulations"</p> <p><u>38(1) B There is a possibility of conflict because of different reporting timelines. These could be avoided by the use of parallel terminology. (see WCA S.172)</u></p> <p>38(2) may conflict with WCB regulations</p> <p>38(2) that the phrase "except for the purpose of assisting a person trapped or injured, interfere with, disturb or remove any wreckage or article in or near the elevating device" be transferred from section 15(2) of the current Elevating Devices Safety Act to the draft SSRA and the updated Elevating Devices Safety Regulation</p> <p><u>38(2)(c) B Another possible area of conflict. Reference should probably be made to seeking the direction of the WCB officer where there is the possibility of overlap.</u></p>	<p>It may be difficult to specify these <b>so we prefer this language.</b></p> <p><u>The WCB and Ministry are developing operational agreements to avoid duplication and conflict.</u></p> <p><u>Under review.</u></p> <p><u>The WCB and Ministry are developing operational agreements to avoid duplication and conflict.</u></p>
<p><b>39</b></p>	<p>Could open the door for contracting out or privatization of inspection services; this section should only be used in exceptional circumstances</p> <p>S 39(2) requires more explicit language to ensure that the collective agreement is adhered to</p>	<p>This is intended to allow for a safety officer or the Minister to hire a <u>technical or administrative specialist on a case by case basis</u> that is not available within the staff complement of the Ministry to assist in investigation or to hold an inquiry. A person in such a position must have the powers intended by s. 39.</p> <p>Under review.</p>

<b>40 - 44</b>	Operational guidelines are required to clarify the implementation of enforcement provisions and to minimize appeals	Agree. <a href="#">Being developed.</a>
<b>40</b>	<p>40(1) add the word Awritten® so that it reads Aa safety officer may issue a written compliance order....®</p> <p>40(2) add A(g) establish the date that the order must be completed®</p> <p>40(4) add Ato the amendment® at the end of the statement, to clarify</p> <p><a href="#">S.40-41 Links to S.698/727 of the Local Government Act cited. There is a need to look at consistency. The issue is the degree of authority a local government wishes to invest in its safety manager or whether it prefers these matters to go through Council. Concern was expressed about potential court costs. The regulations should deal with the issue of whether a safety manager has to go</a></p>	<p>Included in the Draft Act.</p> <p><a href="#">Not deemed necessary. The authority under S.40 is sufficiently broad.</a></p> <p>Under review.</p> <p><a href="#">This can be dealt with administratively by a local government.</a></p>

<p><b>42</b></p>	<p>We have a major concern with safety managers imposing monetary penalties. They should not be used for minor code violations</p> <p>Requires further review to ensure that there is no conflict between the proposed Regulation Act and current municipal bylaws</p> <p>Safety officer should be allowed to enforce monetary penalties.</p> <p>More realistic and practical fines would be easier to administer;</p> <p>How do the fines identified co-exist with the fines outlined in municipal bylaws?; who establishes the scale for fines?</p> <p>Fees and penalties should be administered by provincial safety managers in order to prevent inconsistent and inappropriate use.</p> <p>Opposed to reverse onus of proof.</p> <p>We have a fear of double penalties due to potential overlap of this act and Workers Compensation Act</p> <p>Unnecessary; will only affect high profile companies / not independents</p>	<p><u>The use of monetary penalties will be limited and guided by a Regulation that is near completion in draft and will be sent to clients for comments.</u></p> <p><u>No conflict - working under the Act.</u></p> <p><u>Not sure what is meant here. This will be clarified in the Draft Regs.</u></p> <p><u>This will be clarified in the Draft Regs.</u></p> <p><u>Under review, will be clarified in the Draft Regs.</u></p> <p><u>Under review, will be clarified in the Draft Regs.</u></p> <p><u>This is no different than traffic tickets with regard to proof.</u></p> <p><u>The WCB and Ministry are developing operational agreements to avoid duplication and conflict.</u></p> <p>We are not sure how this conclusion was drawn.</p> <p>They are two different penalty schemes. The</p>
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42	<p>42(8) We suggest that the clause be amended to include the reimbursement of Aall costs incurred in the appeal process®.</p> <p>The appeal process is likely to be lengthy and cost prohibitive, leading some to pay the fine versus embarking upon the appeal process.</p> <p>42(9), (10), (11) go further by reversing the due process of law. The extensions made for corporations that every director, officer etc. is personally liable for the penalty without having been charged or convicted. All have a right to the due process of law and this is not contemplated within the section as written. We suggest that it be changed</p>	<p><u>Appeal Board has authority to award costs.</u></p> <p>Most who have commented on the process feel that it will be more responsive and efficient from the perspective of the appellant. The <u>process</u> cost may increase, <u>but this is balanced by standard - do not do it</u> for assured <u>A due process®</u> and application of natural justice.</p> <p><u>Under review.</u></p>
44	<p><u>Should this provision rest with the provincial authority or be divested to the local government?</u></p>	<p><u>Provincial authority as it issues the technical licenses.</u></p>
45-50	<p><u>The elimination of the interim step is seen as a concern. Some think it helped to discourage appellants from proceeding to the expensive appeals process. Others prefer the proposed quicker, and seemingly fairer, process. More appeals should be expected under the new proposal.</u></p>	<p><u>This process is faster if it goes to appeal. There is still the option to go to the provincial safety manager for an opinion.</u></p>
48	<p>48(1) outlines the possibility for the appeal board to retain outside consultants or expert witnesses. Who is responsible for paying these expenses, the safety standards appeal board or the municipality?</p>	<p>The Appeal Board as a cost of operating the safety system.</p>
49	<p>49(1) should be explicit that panels are technically specialized We object to only the chair being allowed to organize panels.</p> <p>49(1) only states that the Chair of the Appeal Board may organize the board into panels. It should also state that the panels will be organized, in order to have more individual and specialized knowledge of the particular regulated work or regulated product. This intent was mentioned in the opening notes of Part 8.</p>	<p><u>The panels will be technical and the chair specialized in quasi-judicial tribunals.</u></p> <p><u>The panels will be technical and the chair specialized in quasi-judicial tribunals.</u> <u>Under review.</u></p>
51	<p>It is suggested that there be another step for review local inspectors and local safety managers decisions by a provincial safety manager</p>	<p><u>Not deemed necessary.</u></p>

53	<p>53(4) the provincial safety <u>manager</u> should only be intervening in those appeals of a decision of a provincial safety <u>officer</u>.</p> <p>53(5) ...and any other person it considers to be sufficiently interested in the appeal. Who? How is it determined?</p> <p>Appeals to apply to any person; should refer to a person involved in regulated products or regulated work; should specify a range of penalties correlate to Section 80</p>	<p><u>Disagree. The Provincial Safety Manager must have the authority to intervene in an appeal on technical or legal grounds.</u></p> <p><b>This is up to the Appeal Board.</b></p> <p><u>Monetary penalties do apply to regulated products and work. This will be clarified in the Draft Regs.</u></p>
58	58(1)(c), (2)(d), 59(1) ...things?	<u>This is standard terminology.</u>
65	65(a) sets out prohibitions from working on a regulated product contrary to the Act or the regulations; the problem once again is that a regulated product is not defined except through the regulations and it is impossible to ascertain from the Act what activities might be captured by this section.	<b>Agreed. This will be established in the regulations which will be developed through consultation with those affected. <u>The Act is enabling giving authority.</u></b>
67	<p>Potential inconsistency with section 73 regarding who can do regulated work</p> <p>67 to 70 we are unable to ascertain from the Act what the scope of regulated products will be</p>	<p><u>Noted. 67 (b)/(c) missing from list in s. 73.</u></p> <p><b>Agreed. This will be established in the regulations which will be developed through consultation with those affected.</b></p>
68	Limitations on maintenance and repairs; our concern is that without allowance for minor repairs, defined in regulation, to be done by the owner / operator, this section will be cost prohibitive	<b>This will be established in the regulations which will be developed through consultation with those affected.</b>
71	<p>Should include a reference to prohibiting the use of regulated products which do not bear a certification mark, as required by the present Act</p> <p><u>Should state that there should be a certification mark on every product.</u></p>	<p><u>Has been incorporated in the Draft Act.</u></p> <p><u>Has been incorporated in the Draft Act.</u></p>
72	<p>This clause needs to be revised to ensure that a barrier to destruction of materials is not put in place, as the risk to the public would be increased</p> <p><u>72(1) Something is missing regarding it being an offence to use unapproved equipment. It was noted that Ause@ is included in S.65(a).</u></p>	<p>This is a terminology issue. Disposal, by definition also means sale, etc.</p> <p><u>The word Adisposal@ is intended to cover this; however, it may not be clear enough.</u></p>
73	Owner should provide a statutory declaration that work is being done	<b>Presumably it is intended that the work is being done according to the Regs.</b>
74	<p>Add the phrase Awithout reasonable excuse@ to 74(2)(f)</p> <p>74(1)(a) should have the word Ainclusive@ at the end of the sentence.</p>	<p><u>Not deemed necessary.</u></p> <p><u>Not deemed necessary.</u></p>

<p><b>77</b></p>	<p>This section reverses the due process of law as discussed in comments under section 42 above</p> <p>Not even the Workers Compensation Act goes so far as to suggest that where a corporation fails to be convicted that an employee, officer, director, or agent of the corporation will still be deemed to commit the offence</p> <p>77(2), (3) - carry the concept of strict liability offences to a new low; they make it sufficient proof of an offence to establish it is committed by a mere employee of the defendant whether or not that employee is identified or has been prosecuted for the offence; there is a time honored limitation on the concept of strict liability which is not incorporated here; the attempt to save the provision by providing for limits on the presumption does little to render the section more palatable; finally, there are a myriad of provisions which demonstrate simple defective draftsmanship; just a few examples of this are to be found in:</p> <p style="padding-left: 40px;">Sections 17(1)(k), 18(3), 21(4), 22(1), 25(2), 26(4), 31, 32(7), 33, 38(2), 40(6), 44(4) and 77(1)</p> <p style="padding-left: 40px;">Section 22(1) provides Aa contractor is entitled to engage in the regulated work for which the person is licensed@; are the contractor and the person intended to be different entities?</p> <p style="padding-left: 40px;">Section 58(1)(c) which gives the appeal board the authority to compel witnesses to Aproduce records and things@</p> <p style="padding-left: 40px;">Section 65(b), (c) which clearly, should both constitute one provision.</p> <p>77(3)(b) - drop Aall@</p> <p><u>77(3) stipulates that Aall due diligence@ was taken. With respect to offences by corporations, the provisions of Section 77 are similar to those provided in the Workers Compensation Act. That is, if a corporation commits an offence, then an employee, officer, director or agent of the corporation who authorized, committed or acquiesced in the offence also commits the offence. This is the case whether or not the corporation is prosecuted or convicted. Section 77(2) goes quite far in that if it is established that the offence was committed by an employee, officer, director or agent of a corporate defendant, that is sufficient proof of the offence by the corporation. Subsection 77(3) restricts the application of Subsection 77(2) by providing that Subsection 77(2) does not apply if the corporate defendant established that it either exercised Aall due diligence@ to prevent its commission or that the offence was committed without its knowledge or consent. Placing the onus on the defendant to establish due diligence is not unique.</u></p>	<p><u>Under review.</u></p> <p><u>Under review.</u></p> <p><u>Standard.</u></p> <p><u>Will clarify.</u></p> <p><u>A contractor need not be personally qualified but must have a licensed person working for him/ her.</u></p> <p><u>Using or operating a product is different than doing regulated work.</u></p> <p><u>Standard phraseology.</u></p> <p><u>Under review.</u></p>
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77 cont.	<p><u>It remains unclear, however, what is required to be shown when the defendant must show that it exercised all due diligence. The addition of the word "all" may make the defense virtually impossible to establish. The word "all" should be stricken from the section.</u></p> <p><u>The provisions of S.77 of the SSRA regarding offences by corporations were thought, in essence, to have much the same practical impact as the Workers= Compensation Act (WCB), even though the WCB contains nothing explicitly like SSRA S.77(2) and (3). While the specific reverse onus provision is different, there was a sense that it merely specifies the common law position. This may raise some legal and technical arguments.</u></p>	<p><u>Under review.</u></p>
80	Monetary penalties may be extreme	These are not inconsistent with standards in other BC legislation.
82	Want assurance that the liability of safety officers and managers is covered by the legislation	This section is relatively explicit in that regard.
84	Should be mandatory	This is up to the Minister.
85	There is a reference to the Interpretation Act which is not defined in this act and should be	Not deemed necessary.
86	<p><u>86(1)(b) The words "assigning and regulating" were interpreted as micro-managing. This is contrary to the intent that the Act be an enabling authority and provide increased flexibility. The wording should be revised to reflect more clearly the Ministry's intent.</u></p> <p>86(1)(i) currently inspectors must meet a national standard; this clause weakens this requirement considerably</p> <p>86(2)(g)(i) specify a standard for additions for disclosure on the registry which must be necessary and directly related to the issue of safety standard regulation</p> <p><u>Section 86 gives the Minister the power to make regulations.. Either directly or through representation on Safety Advisory Committees comments should be obtained on any additional regulations that are made by the minister, before they are formally adopted.</u></p>	<p><u>This is intended to set broad functional scope and not specific control. Under review.</u></p> <p>We are not sure why this section weakens the national standard. It is unlikely that the use of lower standards would be entertained for a myriad of reasons both technical and legal.</p> <p>Incorporated into the Draft Act.</p> <p><u>This is up to the Minister.</u></p>

**APPENDIX 3  
General Comments**

While many of the responses that we received included comments that were of a specific nature, either reflecting the questions at the end of the consultation document, or focused on specific sections of the SSRA, we also received comments of a more general nature which need to be conveyed. They have been consolidated where possible into themes and summarized as follows.

	<b>Ministry Response</b>
<p><b>Do We Need This Act?</b> A few of the respondents did not see the need for the proposed legislation as they felt the Act would not meet its objectives. Some, particularly the larger enterprises, suggested that it would increase Ared-tape®, adding another layer of bureaucracy, increase costs and hence make industry less competitive in the global market-place.</p> <p>One respondent was of the opinion that if the safety codes were to remain unchanged there is no apparent benefit to public safety with the proposed Act.</p> <p>On the other hand, there were a number of respondents that support the SSRA because of its updating nature and its offering of opportunities for further cooperation within the safety system.</p>	<p><u>This act is needed to</u></p> <ul style="list-style-type: none"> <li>! <u>modernize the safety system</u></li> <li>! <u>enable less intrusion by regulators in the day to day operation of responsible stakeholders</u></li> <li>! <u>focus resources</u></li> <li>! <u>provide flexibility and responsiveness to stakeholders</u></li> <li>! <u>enhance enforcement</u></li> <li>! <u>assist the regulator in being more efficient and effective in program delivery.</u></li> </ul>
<p><b>Format of Act</b> There were few comments on the format of the Act. One respondent suggested that it be named the Safety Act of BC. Another respondent suggested that a substantial purpose statement was needed that included reference to the Provincial leadership role.</p> <p><u>The word Aregulation® should be removed from the title of the Act and that it be called the BC Safety Standards Act.</u></p>	<p><u>This will lead to confusion as ASafety® has many implications, but we are reviewing the name. A purpose statement will likely not be included.</u></p>
<p><b>Philosophy of the Act</b> A few clients felt that regulation of industry should be reduced, allowing industry to self-regulate. By this it is presumed that industry wishes to be allowed managerial discretion in their meeting of the Regulations. In some instances respondents were of the opinion that they should be allowed to deploy their work force (presumably the regulated workforce such as power engineers) and be accountable for their</p>	<p><u>This is understandable, however, it is not possible for the Province to completely remove itself from responsibility. This can not be delegated. The Act however, does enable the Province to minimize its involvement in day to day operations.</u></p>

	<b>Ministry Response</b>
<p>safety.</p> <p>One labor organization interpreted the Act as leading to privatization, although it is not clear as to why this conclusion was drawn.</p> <p>There were also comments in both directions for the clarification in the relationship between the Province as regulator and local government. Some respondents felt that if the Province wished to reduce its regulation activities, it should direct its responsibilities into a single authority. Others, were more explicit in stating that safety regulation should not be delegated to local government for fear of inconsistency and increased red tape.</p> <p>While most local government respondents were silent on the issue or generally supportive of the SSRA, one respondent took umbrage with the fact that the Province was imposing regulations on local government and was regulating the day to day duties and powers of the proposed safety officers and managers that are employed by local government</p> <p>The same respondent, without explanation, suggested that the Act would damage the effective enforcement provided by local government and sought additional regulatory tools for local government to better enforce safety codes in a uniform and effective manner.</p> <p>The observation was made by another respondent that more local government involvement improves the level of safety.</p> <p>There was also a concern stated over the apparent introduction of generic safety officers and safety managers and that these could not be qualified in all specialist areas. As will be indicated later, the specialization of these functions will be identified in the Regulations.</p>	<p><u>The Act does not per se lead to privatization to any greater or lesser extent than the existing legislation.</u></p> <p><u>The Act does not delegate responsibility to local government but allows the bi-directional and voluntary flow of responsibility to and from local government. Moving to a single authority is neither enabled or obviated by the SSRA.</u></p> <p><u>The Province is not interested in regulating the day to day activities of local government. The Act imposes no new regulatory requirements on local governments now inspecting in the gas or electrical areas. What it does do is allow for the responsible delegation of such activity to additional local governments. This must be done with due diligence.</u></p> <p><u>The Act provides for a number of additional tools and flexibilities to apply in monitoring and enforcement activities. Uniformity of enforcement is preferred and an objective of the Province, but this requires some form of standardization at the provincial level.</u></p> <p><u>Agree as long as it does not further fragment the regulatory system. We believe that the more difficult it is to follow regulations, the more non-compliance will occur. The Act enables municipalities to work together to deliver inspection services. Its purpose is to be supportive of local government desires.</u></p> <p><u>There are no generic safety officers being introduced by the SSRA. Each regulation under the Act will spell out the specific kinds of Safety Officers, including gas inspectors, for example.</u></p>

	<b>Ministry Response</b>
<p><b>Philosophy of the Act ...continued</b></p> <p><u>The proposed enabling Act is progressive. Various exemptions and the provision for equivalent standards agreement will allow considerable flexibility in the regulation of safety. This opens the door for improved effectiveness and economy in meeting the needs of both the regulator and industry. In theory, options could run the gamut from 100% inspection to self-policing under a recognized Quality Management Plan.</u></p>	<p><u>Fully agree.</u></p>
<p><b>Scope of the Act</b></p> <p>There were a number of observations regarding the scope of the Act, some of which are found in the APhilosophy® section of this report.</p> <p>One respondent was concerned that neither fire safety, building safety or rail safety was included in the Act. Relating to part of this, another suggested that the licensing scheme should tie-in with that in the construction industry. Also suggested was that each trade should be allowed to deliver the key components of a licensing program.</p> <p>Further some respondents also noted the erroneous exemption of mines and pipelines, which are indeed affected in some cases. One respondent also suggested that the Act should include regulation of heating or furnace oil systems.</p> <p>There was considerable concern expressed by the larger firms that there is a pending overlap between the Act, WCB and ITAC. A more detailed related concern was that a firm could be penalized twice for the same infraction. While, the jurisdictional lines are unclear in some areas the WCB offered that opinion that this has never been a problem.</p>	<p><u>It was not intended that this Act include Building, Fire or Railway Safety, although the relationships are there and may offer future opportunities for effective and efficient safety programming. Some licensing schemes could be delivered by associations or trades, in the appropriate legislative framework.</u></p> <p><u>This is being corrected. The scope of the Act may be expanded in the future.</u></p> <p><u>The Ministry and ITAC will pursue a Memorandum of Agreement to deal, among other things, with:</u></p> <ul style="list-style-type: none"> <li>! <u>the development of the regulations to the SSRA;</u></li> <li>! <u>inconsistency in the area of electrical safety;</u></li> <li>! <u>curriculum development/examination of power engineers, gas fitters, elevating device mechanics, etc.;</u></li> <li>! <u>on-going consultation processes.</u></li> </ul>

	<b>Ministry Response</b>
<p>There is also an expressed concern over the potential overlap between the federal and provincial jurisdiction in the telecommunications area as a result of this Act and that care should be taken to exempt the federally regulated functions of a firm.</p>	<p><a href="#"><u>These matters are being addressed in the regulations.</u></a></p>
<p><b>Additional Provisions Needed</b></p> <p>There were a number of suggestions for additional provisions to be included in the Act. A number of these observations suggested inclusion of considerations in the Regulations, such as bonding requirements and duties and functional names of safety officers, and by implication policy and procedures manuals for such areas as monetary penalties and appeals and record keeping requirements.</p> <p>Some respondents suggested that a provision was needed to exempt operations and maintenance personnel in a major firm because there is no public safety issue in many large operations, presumably just worker safety.</p> <p>There were also more specific singular but no less valuable suggestions such as requiring annual reports from safety programs, differentiating specialty areas within technical disciplines, establishing broad principles under which managerial discretion would be applied to reduce arbitrary decisions, mandatory training and upgrading requirements for regulated persons, making contractors responsible, introducing higher levels of inspections, assigning authority of inspectors to order energy disconnection by utilities, and requiring the RCMP to notify the safety programs and the WCB of fires, accidents and incidents that pertain to regulated safety areas.</p> <p>We also received a number of comments that could lead to new provisions through clarification of proposed provisions . These will be dealt with in the regulations and are not answered in this report because they may vary slightly depending on the technology under discussion. For example, what are the standards guiding the issuance of variances? What is the definition of Asignificant risk@? What is auditing?</p> <p>Other questions were more specific and are answered in the report. One that</p>	<p><a href="#"><u>These matters are being addressed in the Regulations.</u></a></p> <p><a href="#"><u>This is a matter involving expertise of the regulator. The WCB covers workplace safety but does not have qualified persons to manage technically specific safety issues. The Act does set the stage for minimizing regulator involvement in day-to-day operations, leaving much of the responsibility to the operators.</u></a></p> <p><a href="#"><u>These matters are all being considered in the regulations.</u></a></p>

	<b>Ministry Response</b>
needs additional explanation is: What is a Certificate of Qualification?	<p><u>The SSRA is a document that demonstrates to the regulator-s satisfaction that the person in possession is qualified to do the regulated work that they intend to do. So this may mean an electrical TQ (issued by ITAC), or it could mean an electrical TQ with a restriction from doing high voltage work (applied by Ministry of Community, Aboriginal and Women-s Services). It could mean 3<sup>rd</sup> Class Power Engineers Certificate (Issued by the Ministry of Community, Aboriginal and Women-s Services).</u></p>

	<b>Ministry Response</b>
<p><b><u>Administration</u></b>  <u>Concerns were raised that the Act appears to reduce the flexibility of municipalities to implement by-laws.</u></p> <p><u>Concerns were raised that the Act appears to reduce the flexibility of municipalities to implement by-laws. For example, while the Act calls for a 48-hour inspection window, some municipal by-laws stipulate a next-day inspection.</u></p> <p><u>Concerns were raised about the timing of the Act. Due to budget constraints, some municipalities may consider dropping inspections. It was suggested that the fee structure many need revision to address the situation of provincial fees being lower than municipal fees, while demands on municipalities are higher.</u></p> <p><u>There is no requirement for municipalities currently providing inspection services to enter into new agreements with the Province regarding the standard required. Additional municipalities seeking to provide inspection services would be required to do so.</u></p> <p><u>Under the SSRA, the only obligations on municipalities currently providing inspection services would be to re-appoint safety managers and officers and to issue ID tags. As enabling legislation, the SSRA could open the door to other activities, should a municipality wish to pursue them.</u></p> <p><u>It was noted that the term Appoint® in a municipal context may mean by Council. Words such as Hire® or Designate® may be more appropriate</u></p>	<p><u>The Act is intended as enabling legislation.</u></p> <p><u>We are not sure how, although there may be some limitation on such matters as monetary penalty minimums. That is, the Province sets the minimum and maximum under current protocol. It is presumed that the final standards will be set in full consultation. Likewise, it is expected that a tighter operational standard than found in the Act would not be obviated.</u></p> <p><u>There has been no evidence of local government wanting to get out of electrical or gas inspections.</u></p>
<b>Licensing</b>	

	<b>Ministry Response</b>
<p>One respondent expressed the opinion that linking regulated work with licensing was a positive step and another was supportive of the use of licensing with the caveat that more work be done on the provisions.</p> <p>However, a representative of large operation expressed considerable concern over the increased costs in contractor services, and individuals, and viewed the registry as an obstacle to the interprovincial movement of skilled trades personnel leading to an interprovincial turf war.</p> <p><u>Concerns were expressed about licensing proposals resulting in a larger bureaucracy.</u></p> <p><u>Questions and concerns were expressed with the Ministry occasionally raising or lowering the worker qualification bar and ITAC-s qualifying workers. ITAC-s input to the development of the regulations will help to lessen these concerns. Systemic overlap between ITAC and the Ministry could be improved with a Memorandum of Understanding between the two agencies. A proposed regular forum to review issues of common interest to the two agencies was proposed.</u></p> <p><u>ITAC have inspection powers; however, staff emphasize a positive approach, i.e. mentoring and encouraging training. They have no powers of enforcement. Attention was drawn to the Johncox report (available through the BC Business Council website - bcbc.com - under AWhat-s New®) which deals, among other things, with the issue of compulsory certification and suggests that public interest and safety should be the key concern.</u></p> <p><u>Concerns were expressed with the large fines, the extensive authority of inspectors and the issue of personal liability.</u></p>	<p><u>There is considerable work being done on licensing, including the questioning of some of the original intentions.</u></p> <p><u>It is not clear why licensing would be a limitation on the movement of skilled trades or why it would increase costs of contractors as most affected by this legislation are already licensed.</u></p> <p><u>We are reviewing the contribution of licensing of individuals in may situations.</u></p> <p><u>These are good recommendations. The Ministry and ITAC will pursue a Memorandum of Understanding to deal, among other things, with:</u></p> <ul style="list-style-type: none"> <li><u>! the development of the regulations to the SSRA</u></li> <li><u>! inconsistency in the area of electrical safety</u></li> <li><u>! curriculum development/examination of power engineers, gas fitters, elevating devices mechanics, etc.</u></li> <li><u>! on-going consultation processes.</u></li> </ul> <p><u>Agreed that we are in the business of fostering public safety and public interest. This is being reviewed with ITAC.</u></p> <p><u>The intent of the legislation is to allow the government to focus on the high-risk operators, such as unlicensed contractors and repeat offenders and to eliminate the competitive advantage to those who don't follow the rules. The Ministry will attempt to provide balance in the regulations so as not to indirectly penalize good performers.</u></p>

	<b>Ministry Response</b>
<p>Licensing .. continued.</p> <p><u>The ministry was cautioned not to make it so tough that insurance companies and small contractors are scared away.</u></p> <p><u>With respect to personal liability, concerns were raised that small operators will simply choose not to do certain work rather than risk the potential liability.</u></p> <p><u>Strong support was voiced for mandatory training and upgrading of workers and the need for more journeymen. As people retire, there are not enough qualified tradespeople available.</u></p> <p><u>There was a strong recommendation for the elimination of the pointless requirement for piping design for HVAC in the existing regulation; the parts are already engineered to standard, approvals take too long and the regulation is never enforced.</u></p>	<p><u>Fines will not be the first response to an offence and a progressive system will be put in place The Ministry needs some sort of tool because it can't put the same enforcement resources into the field as in the past.</u></p> <p><u>The Ministry is still working on the issue of personal liability.</u></p> <p><u>The need for mandatory training and upgrading could be written into the regulations. Under review.</u></p> <p><u>Under review.</u></p>
<p><b><u>Incident Reporting and Investigations</u></b></p> <p><u>Concerns were raised by respondents to the draft SSRA with respect to possible overlap or duplication between MA and WCB. In general terms, these are in the areas of jurisdiction, inspection, enforcement, and communication with industry. There was general agreement as follows:</u></p> <p><u>There is a clear distinction between the jurisdictions of the Ministry and the WCB. Many of the concerns raised are more perceptual than real and reflect a lack of understanding on the part of some industry members of the different scope and responsibilities of the two agencies.</u></p> <p><u>While it is possible that, on rare occasions, the jurisdictions of the two agencies may overlap and they may both be involved in investigation of the same incident</u></p>	<p><u>and suggestion. The MCAWS and WCB are in the final stages of preparing a Memorandum of Understanding to ensure little or no overlap in activities and that a protocol is in place when the possibility arises.</u></p>

	<b>Ministry Response</b>
<p><u>(albeit from different perspectives), any possible duplication could be minimized by a Memorandum of Understanding (MOU) between them. Such agreement could be reflected in the regulations to the Act. It was suggested that the Ministry consider adding a section to the SSRA similar to Section 114 of the WCB, empowering the Ministry to enter into agreements with other agencies. Even where the possibility of overlap exists, e.g. S.32, it does not mean that both agencies should not have the power to be involved.</u></p> <p><u>The WCB responds to all complaints and accidents; however, in a proactive sense, they take a risk-assessment approach, focusing on high-risk and high-incident industries. It was noted that improved information sharing between the two agencies would assist both in the development of a risk-assessment model.</u></p>	<p><u>This is part of the MOU being developed at present and will be a valuable asset to public and worker safety.</u></p>
<p><b>Enforcement</b></p> <p>The most significant change in enforcement under this act is the introduction of monetary penalties and increased fines. Some respondents were of the opinion that there was no evidence of the need for monetary penalties, that they would be used for revenue generation, while others agreed with the notion, but were concerned over the onerous nature they may be for small firms.</p> <p>One respondent expressed disagreement that the monetary penalty was required to be paid immediately and being contrary to natural justice. Another suggested that better inspection rather than monetary penalties was required.</p> <p>One respondent expressed concern that there were too many powers being assigned by the Act.</p>	<p><u>Monetary penalties will be a valuable enforcement tool discouraging flagrant disregard for regulations. It will not be used as a first offense default unless a significant failure has occurred and if the stakeholder has not already been penalized for the same result under another offense (e.g., WCB).</u></p> <p><u>Monetary penalties will not be received by the provincial regulator.</u></p> <p><u>There is a Asize of firm@ consideration in the proposed penalty size in the current draft regulation that will be shared shortly for comments. ___</u></p> <p><u>We are reviewing the natural justice concern. More</u></p>

	<b>Ministry Response</b>
<p><u>Enforcement should be separated from education in order that organizations can receive advice without fear of being penalized. The WCB model in California was recommended for consideration.</u></p> <p><u>The Ministry was urged to include more balanced provision for registration and enforcement between penalizing non-complying organizations and mentoring, monitoring and encouraging good corporate citizens.</u></p> <p><u>It was suggested that writing the regulations to catch major persistent offenders might be the wrong approach. In an effort to address major offenders, the Ministry would end up catching everyone in a bureaucratic net. The Employment Standards approach, might be a better way of dealing with problem organizations. For example, when a contractor hires a subcontractor, that person is deemed to be an employee of the contractor. If this contractor contravenes the regulations, sanctions can be imposed upon the contractor not the employee.</u></p> <p>-</p>	<p><u>inspection without better enforcement tools is not the most effective use of resources. The issue is that currently enforcement is weak, causing an Uneven playing field@ for responsible stakeholders.</u></p> <p><u>There are some more powers to assist enforcement to be sure. This, to level the playing field to a large extent. There are also many flexibilities that will allow for reduced intervention by the regulator.</u></p> <p><u>We agree and will review the California Model.</u></p> <p><u>This is our intent. These enforcement tools however are needed for those stakeholders that will not play by the rules.</u></p> <p><u>We are looking at this.</u></p>
<p><u>Enforcement...continued</u></p> <p><u>Cost concerns were identified. If current costs will increase, it was suggested that the benefits be identified and that the Ministry reward good performers by reducing their costs. (Potential increased costs were identified as: licensing, registration and penalties.) Potential benefits were identified as: a faster appeal system and protection from frivolous appeals.) Licensing and enforcement entail costs to industry as well as to the Ministry.</u></p> <p><u>The Ministry was encouraged to consider Alberta-s regulations. These apparently provide an exemption for competency certification unless and until a company demonstrates that it is not reliable.</u></p> <p><u>The Ministry was asked to reconsider the clauses in the penalty section dealing with the reverse onus of proof and due process.</u></p>	<p><u>Licensing is largely in place now and registration will be an automatic result of licensing built into our IT system. Penalties will only be used after most other options have failed.</u></p> <p><u>We presume that this applies to individuals and will review those regulations.</u></p> <p><u>We are doing so.</u></p>

	<b>Ministry Response</b>
<p><u>WCB-s experience with administrative penalties were seen as a useful tool; however, it was emphasized that their imposition is a rare occurrence. Penalties are considered in the context of a range of enforcement tools. In particular, they provide an alternative to prosecution for cases involving relative minor offences where a prosecution would be unlikely to proceed. A clear process to determine when a penalty should be imposed is necessary. The WCB uses criteria such as: repeat violation, high-risk, pattern of misbehaviour, willful misbehaviour, etc.</u></p> <p><u>After a penalty is proposed by an officer in the field, it goes to a separate Review and Penalty section which determines whether the proposal should be endorsed. The issue of who should make these decisions, i.e. field officers or people with special adjudication skills, is a matter of debate. The WCB leans toward the latter.</u></p> <p><u>The amount of the penalty imposed is a difficult and, to some extent, arbitrary area. A Royal Commission had recommended a specific dollar amount for each section of the WCB regulations; however, from a practical perspective, this was deemed unworkable. The table currently used by the WCB takes into account issues such as the seriousness of the offence and the company-s ability to pay.</u></p> <p><u>It was strongly recommended that, in order to ensure some degree of consistency, the Ministry have in place a schedule and criteria for assessment, and consider the issue of how collection will be handled.</u></p>	<p><u>We have the same general approach to monetary penalties in the proposed regulation.</u></p> <p><u>We have the same general approach to monetary penalties in the proposed regulation.</u></p>
<p><b>Process</b></p> <p>It was made clear that the large operation or heavy industry sector felt that the process involved in the development of the Act did not include enough industry representation, and that implementation of the Act be deferred.</p> <p>Related to this were suggestions that industry be involved in the development of regulations, that forums, advisory committees and additional industry consultation be employed.</p>	<p><u>We have addressed this concern by making a special effort to consult with those that were missed through our normal consultation mechanisms. A contractor, Lynda Cronin has assisted the Ministry in ensuring that maximum consultation occurs and that this is meaningful.</u></p> <p><u>This will occur in the fall 2001.</u></p>

	<b>Ministry Response</b>
<p><u>Concerns were expressed that members of the various advisory committees do not understand their role with respect to the development of the regulations and that not all Ministry officials may share the same background information and knowledge. Efforts should be made to ensure that committee members and Ministry officials understand the context and philosophy behind the Act and the direction in which the Ministry is moving.</u></p> <p><u>The intent of the legislation should be clearly stated in the Act and regulations.</u></p> <p><u>It was suggested that increased attention be placed on corporate culture change within the Ministry and that the fears of inspectors about possible personal liability should be addressed.</u></p> <p><u>There should be a clear need and a demonstration that the regulation truly promotes public safety.</u></p> <p><u>The long-term vision needs to be more widely conveyed. Support was expressed for a quality management approach.</u></p>	<p><u>Point well made. The project is now coming together in that regard, with frequent meetings of staff and principle based discussions occurring. Once we started working on the regulations, it was clearer as to what was being sought.</u></p> <p><u>We are reviewing this, but a Purpose statement® is currently not viewed as necessary or appropriate.</u></p> <p><u>We are working on this.</u></p> <p><u>There is a clear need to modernize the approaches that regulators take in ensuring public safety for a number of reasons. This is evidenced across Canada.</u></p> <p><u>We are working on this.</u></p>
<p><b>Development of Regulations</b>  It is clear from the responses received that many respondents were concerned with the fact that in the absence of the Regulations it is difficult to assess the strengths and weaknesses of the proposed Act. Without the Full package® it would be difficult to support the Act.</p>	<p><u>We have heard the concerned stakeholders and therefore have delayed the Act while draft regulations are developed. These will be discussed with industry in the Fall, 2001 before moving forward.</u></p>



## Appendix 4

### **The Next Steps- Key Milestones**

*The following steps are proposed as the key milestones in the development of the regulations and the completion of the legislation.*

- ◇ *January, 2001- The *AWhat We Heard* report will be put on the website, distributed to those who responded to the discussion paper and to all advisory committees.*
- ◇ *January - [July 19, 2001](#)- Ministry staff, Advisory Committees and other key client groups will develop text for new regulations in non-legal language.*
- ◇ *March 2001- Distribution of a progress report to staff and clients on the website.*
- ◇ *June - September 2001- Drafts converted into legal text.*
- ◇ *[July 19, 2001](#)- Distribution of a progress report to staff and clients on the website.*
- ◇ *September - November 2001- Distribution of Draft legal text regulations to staff and clients for comments.*
- ◇ *[September - November 2001 - Stakeholder consultation meetings](#)*
- ◇ *November, 2001- January, 2002 - Finalization of Act and Regulations.*
- ◇ *March - April, 2002- Proposed Bill and Regulations introduced.*