



January 2014

GLP Notes 10.0 – Electrical Safety Authority (ESA) – Issue 2

Delegation of certification function

PEO concerned about sub-delegation of an ESA function to professional engineers.

Background: PEO is concerned that under section 9 of Regulation 22/04 under the [Electricity Act](#), the Electrical Safety Authority may be abrogating its responsibility as a regulator, and placing licensed engineering practitioners in a situation in which they would be acting contrary to the provisions of the *Professional Engineers Act* (PEA).

Reference:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_98e1_5_e.htm

Deviations from Required Standards

Section 9 requires that when any part of an electrical distribution system does not comply with required standards for clearances and separations, a professional engineer shall certify that there was a space limitation reason for not meeting the codes. The professional engineer is also asked to certify that this deviation from applicable codes will not materially affect the safety of any person or property. PEO objects to this for the following four reasons:

- 1. Compliance.** Under the PEA, a licensed engineering practitioner **MUST** comply with all applicable statutes, regulations, codes, standards, rules and by-laws. Asking a licensed engineering practitioner to justify non-compliance with an applicable standard is asking them to fail to comply.
- 2. Administration.** It is the Electrical Safety Authority's duty to administer the *Electricity Act* and, where discretion is allowed, to make adjustments. There is

no allowance in the legislation to permit the ESA to delegate this duty to a licensed engineering practitioner.

- 3. Practitioners.** The regulation refers only to professional engineers, defined in the regulations as holders of a licence or temporary licence. It should refer to licensed engineering practitioners, to encompass all holders of licences granted by PEO.
- 4. Certification.** PEO objects to legislation that asks a licence holder to provide a certification, especially of something that cannot be verified. A certification is generally considered to be a warranty and a licensed engineering practitioner cannot provide a warranty for something that was installed by someone else.

Each of these concerns has been expressed to the Electrical Safety Authority and the Ministry of Consumer Services.

PEO is currently working with the Electrical Safety Authority as a regulatory partner at a staff level.

For info only. No GLP action required.