



City of Richmond

Report to Council

To:	Richmond City Council	Date:	May 12 th , 2004
From:	Councillor Linda Barnes Chair, Community Safety Committee	File:	01-0035-01/Vol 01
Re:	NEW PROVINCIAL GOVERNMENT SAFETY STANDARDS ACT AND REGULATIONS – IMPACT OF CHANGES TO RICHMOND		

The Community Safety Committee, at its meeting held on Tuesday, May 11th, 2004, considered the attached report, and recommends as follows:

Committee Recommendation (Councillor Dang opposed)

- (1) *That the attached report, on the impact to the City of the new provincial government Safety Standards Act and Safety Authority Act and their associated regulations, be received for information.*
- (2) *That staff continue to address unresolved matters and issues as outlined in the report (dated April 29th, 2004, from the Code Engineer)*
- (3) *That a copy of the report (dated April 29th, 2004, from the Code Engineer) be forwarded to the Ministry of Community, Aboriginal & Women's Services for information.*

Linda Barnes, Chair
Community Safety Committee

Attach.

VARIANCE

Please note that staff recommended the following:

- (1) *That the attached report, on the impact to the City of the new provincial government Safety Standards Act and Safety Authority Act and their associated regulations, be received for information.*

Staff Report

Origin

At the March 22, 2004 regular Council meeting, a representative of the BC Federation of Labour spoke to Council about the potential impacts to the City of the new provincial government *Safety Standards Act* and its associated regulations. Council subsequently resolved:

That the correspondence (dated March 3rd, 2004, from the BC Federation of Labour), regarding New Safety Standards Act and Regulations, be referred to staff to investigate and report to Council, through Committee, on the implications of the changes to the City.

Council further directed that staff create a table in the report that compares the current versus new regulations and identifies the impact to the City of the regulatory changes. This report highlights the changes in the regulations that are pertinent to the City and indicates their potential impact, and discusses the concerns identified by the BC Federation of Labour in its March 22, 2004 submission to Council.

Findings of Fact

The provincial government passed the *Safety Standards Act* and the *Safety Authority Act* in March 2003 and both Acts and their associated regulations are scheduled to come into effect on April 1, 2004. The *Safety Standards Act* consolidates five different safety acts into one (i.e., the existing Electrical, Elevating Devices, Gas, and Power Engineers and Boiler and Pressure Vessel Safety Acts). The Act will apply to the regulations, policies and procedures regarding safety in the design, manufacturing, construction, installation, operation, and repair of amusement rides, boilers and boiler systems, electrical equipment, elevating devices and passenger conveyors, gas systems and equipment, pressure vessels, pressure piping, refrigeration systems and equipment, and ski lifts. The *Safety Standards Act* also addresses the provision of permitting and inspection services for these systems. The *Safety Authority Act* establishes an independent safety authority (BC Safety Authority) to oversee the province's safety system.

Currently, the Safety Engineering Services (SES) division of the Ministry of Community, Aboriginal and Women's Services provides all of these services in the province except where a service is administered by a local government. In Richmond, all of the above services are administered by SES with the exception of low pressure gas installation regulatory services.

Analysis

1. Comparison of Existing versus New Legislation

Table 1 (attached) provides a comparison of the current versus new legislation and identifies the potential direct impacts to the City and indirect impacts outside the City. Across all the safety systems, equipment and devices affected by the new legislation, the major areas of change are:

- Creation of BC Safety Authority – the SES is currently responsible for the administration and regulation of the various safety acts. Under the new Act, the Province, through the SES, will remain responsible for safety policy and the new BC Safety Authority will be delegated the administrative and regulatory role. The Authority will be an independent non-governmental

agency with 15 government-appointed Board members and supported by fees charged for services rendered.

- Agreements with Local Governments – the current *Local Government Act* allows municipalities to regulate the installation of certain equipment, including gas systems. Municipal authority for the provision of these services is contained in municipal bylaws. Richmond currently provides gas installation services and fully inspects 100% of all permits issued. The new Act requires municipalities to enter into an agreement with the Province by April 30, 2004 should they wish to continue to provide these services. City bylaws cannot contain or introduce technical standards that are inconsistent with the new Act. In order to continue to provide gas inspection services as part of an integrated building inspection program and to provide a high level of public life safety, the City has entered into an agreement with the Province to continue and maintain a 100% inspections to permit ratio, which is the City's current policy. -
- Qualification of Individuals Performing the Work – under existing legislation, certified trades people are required to work on certain types of equipment. Individuals performing this regulated work must prove they are qualified under a major trade apprenticeship program and passed a relevant examination or are presently in an apprentice program, under the constant supervision of a qualified individual. Trades people must also be registered and employed by a contractor. The new *Safety Standards Act* broadens category of workers who can perform regulated work to also allow unqualified workers to perform the work when under the on-site supervision of someone who is qualified to do that work. The workers can also be employed by an owner/builder rather than only by a contractor. There is concern that the use of less skilled workers who may not be under the continual supervision of a qualified individual may potentially negatively impact public safety.
- Safety Officers & Field Safety Representatives – provincial inspectors with the SES and municipal inspectors currently perform safety inspection services for all work performed in the province, including all final inspections. The new Acts will create Safety Officers, who work for the BC Safety Authority and will not be required to inspect all work. The new Acts also create Field Service Representatives (FSRs) for certain safety systems, who can be hired by construction companies to perform on-site inspections including final inspections. Note that FSRs will not operate within the gas services system. There is concern that public safety may be negatively impacted if not all work is inspected and that the role of FSRs may create conflicts of interest as the FSRs can, at the same time, work for the construction company, hold a contractor's licence, be providing on-site supervision, or performing the work itself.
- Equivalent Standards Agreements – current legislation does not allow for self-inspection by companies. The new Acts permit the creation of Equivalent Standards Agreements (ESAs), which are contracts between the BC Safety Authority and a company to allow aspects of the safety system to be undertaken by the company, including installation and inspection. The terms of the ESA must be monitored by an administrator, who is either the Minister or the local government if it has accepted the delegation of authority to administer the Act. An ESA that applies to an area administered by a local government must have the approval of that local government. There is concern that a program that allows for self-installation and self-inspection may negatively impact public safety if companies compromise on safety to reduce expenses.

The impacts of the new legislation to the City with specific reference to its gas inspection services are detailed in a previous staff report to the Community Safety Committee, dated February 2, 2004. This report is included as Attachment 2.

2. Review of Other Municipalities

There are currently 11 municipalities in the province that provide electrical and/or gas inspection services: the cities of Burnaby, Coquitlam, Kelowna, North Vancouver, Richmond, Surrey, Vancouver, and Victoria; and the Districts of Maple Ridge, North Vancouver and West Vancouver. Based on discussions with these municipalities, all 11 municipalities intend to continue to provide their inspection services.

3. BC Federation of Labour Correspondence

Correspondence dated March 3, 2004 received by the City from the BC Federation of Labour raised a number of concerns with the new legislation and the potential negative impacts to the safety of workers on job sites and overall public safety in the community. Section 1 above and Table 1 summarize the major changes in the new legislation and reflect the concerns cited in the correspondence.

Financial Impact

Under the new legislation, there may be an increase in the potential for liability should the level of gas installation construction deteriorate due to a lower level of knowledge and skills of the individuals performing the work. However, this potential liability is mitigated by the City continuing to provide gas inspection services.

Conclusion

The new *Safety Standards Act* and *Safety Authority Act* implement substantial changes to the administration and regulation of safety systems in the province. Major changes include creating an independent agency, the BC Safety Authority, to undertake the regulatory role, requiring local governments that wish to continue providing inspection services to enter into an agreement with the province to do so, and modifying the qualifications, roles and responsibilities of trades people and inspectors. As a result, there is concern that public safety may be negatively impacted due to the lower level of knowledge and skills required by individuals performing work on safety systems under the new legislation. In turn, the City could potentially face increased liability due to a lower grade of gas installation construction. However, this potential liability is mitigated by the City continuing to provide gas inspection services.



Gavin Woo, P. Eng.
Code Engineer
(4113)

GW:jc

Table 1 New Provincial Government *Safety Standards Act* and Regulations
Comparison of Existing versus New Legislation

Component	Current Legislation	New Legislation	Impact to City	Impact outside of City
Responsibility for administration of the Acts and regulations	<p>Ministry of Community, Aboriginal & Women's Services</p> <ul style="list-style-type: none"> Safety Engineering Services (SES) Division 	<p>BC Safety Authority</p> <ul style="list-style-type: none"> Independent agency with 15 government-appointed Board members Supported by fees charged for services rendered 	<ul style="list-style-type: none"> None; the City continues to conduct its own gas inspection services 	<ul style="list-style-type: none"> Provincial government no longer involved in issuance of permits or inspections Potential staff reduction in provincial government
Local government administration of the Acts and regulations	<ul style="list-style-type: none"> Delegation of authority from SES to local government per the Local Government Act City authority for its gas inspection services is contained in the City's Building Regulation Bylaw City fully inspects 100% of permits issued 	<ul style="list-style-type: none"> Delegation of authority from BC Safety Authority to local government via an agreement for the delivery of inspection services Can implement a risk management inspection level of service as opposed to 100% inspections to permits ratio 	<ul style="list-style-type: none"> The City has entered into an agreement with the Province. City bylaws cannot have technical standards that are inconsistent with the Act City can maintain 100% inspections to permits ratio 	<ul style="list-style-type: none"> None; the City has entered an agreement with the Province.
Qualifications of individuals performing work	<ul style="list-style-type: none"> Individual holds a certificate of qualification Must be employed by a contractor Individual is an apprentice under the constant supervision of a qualified individual Must be employed by a contractor 	<ul style="list-style-type: none"> Individual holds a certificate of qualification Can be employed by a contractor or an owner/builders Unqualified individual is authorized to do the work under the on-site supervision of a qualified individual 	<ul style="list-style-type: none"> None Less skilled individuals performing work may potentially increase staff time to inspect the installed work 	<ul style="list-style-type: none"> Trades people no longer required to be employed by a contractor Potential reduction in the level of public safety Trades people will no longer be required to enter an apprentice program
Safety Officers & Field Service Representatives	<ul style="list-style-type: none"> Provincial Safety Inspectors with the SES and municipal inspectors inspect all work in the province, including all final inspections 	<ul style="list-style-type: none"> Creation of provincial Safety Officers who are not required to inspect all work in the province Creation of Field Safety Representatives who can perform final inspections 	<ul style="list-style-type: none"> None as Field Service Representatives are not applicable under the Gas Safety Regulations 	<ul style="list-style-type: none"> Potential reduction in the level of public safety Potential conflicts of interest due to expanded role of Field Safety Representatives
Self-Inspection Program	<ul style="list-style-type: none"> Not allowed 	<ul style="list-style-type: none"> Creation of Equivalent Standards Agreements Contract between the Province, BC Safety Authority, local government (if applicable) and a company that allows aspects of the safety system to be undertaken by the company, including installation and inspection 	<ul style="list-style-type: none"> None, since the City continues to perform its own gas inspection services with a 100% inspections to permits ratio 	<ul style="list-style-type: none"> Potential reduction in the level of public safety



City of Richmond

COPY

Report to Committee

To: Community Safety Committee **Date:** February 2, 2004
From: A.L. (Rick) Bortolussi **File:**
Manager, Building Approvals Department
Re: Provincial Government's Safety System Transformation Project

Staff Recommendation

That the report on the Provincial Government's Safety System Transformation Project (dated February 2, 2004 from the Manager, Building Approvals Department) be received for information.

A.L. (Rick) Bortolussi
Manager, Building Approvals Department
(4114)

Att. 1

FOR ORIGINATING DIVISION USE ONLY

CONCURRENCE OF GENERAL MANAGER

Staff Report

Origin

During the November 13, 2003, Community Safety Committee meeting, staff were requested to report on the Provincial Government's Safety System Transformation Project (SSTP), and in particular, its impact on:

1. the respective areas of the construction community affected by the Safety Systems Act & Regulations;
2. who would be able to perform work under the Act, in particular with regard to gas installation work;
3. the City's Gas Safety Inspection Service;
4. the level of public safety;
5. governance issues between the new authority, the Provincial Government and the City; and
6. the general impact for the City specifically in areas of bylaws, safety standards and regulations.

Findings Of Fact

The Ministry of Community, Aboriginal and Women's Services (MCAWS), through its Safety Engineering Services Division (SES) is responsible for the all legislation, regulations, policies and procedures regarding safety in the design, manufacturing, construction, installation, operation and repair of boiler and pressure vessels, electrical devices, elevating devices, gas equipment and aerial tramways as well as public and employee safety of railways.

The SES also delivers permitting and inspection services in areas of the province currently not administered by local governments. In Richmond, all of the above noted services are provided by SES with the exception of low pressure gas installation regulatory services. Richmond's experience indicates that the current safety system framework has allowed us to achieve a high level of safety compliance regarding low pressure gas installations.

Two provincial acts have been prepared, the Safety Standards Act, (Bill 19, 2003) and the Safety Authority Act, (Bill 20, 2003) both of which come into effect April 1, 2004. Together they form the Safety System Transformation Project.

Analysis

The SSTP is the provincial response to a number of factors which have the potential to affect the delivery of the safety system, including population growth, cost increases, rapid technology change and the proliferation of new safety-related products, processes and services. Provincial government cutbacks in levels of service have occurred due to financial restraints. These cutbacks have the potential of impacting public safety in those areas where local government has not assumed responsibility for the level of safety service. The intent of the SSTP is to provide an effective framework and strategy to prevent failures in the safety system for those levels of services provided by the Provincial government.

The proposed new Provincial framework is based on the fundamental position of the Province that many of the services traditionally delivered by the Provincial government can be more effectively provided by non-government bodies under appropriate guidelines and supervision. This model was implemented in Alberta and Ontario and also in Britain, Australia and New Zealand. Contrary to what is being conveyed by the Province, the delivery of safety services utilizing the concepts of delegation and self regulation as adopted by those other jurisdictions, has adversely affected their continued ability to deliver a consistent and acceptable level of safety services to the public. Most of those jurisdictions are currently re-examining their programs as a result.

In the new model, the Province will continue to be responsible for developing and maintaining safety policy. Under the Safety Authority Act a new non-government, not-for-profit authority will be created to provide the regulatory and administrative role. The local government will continue to provide the level of service currently in effect.

In response to the staff referral concerning the impact of the Provincial Governments' Safety System Transformation Project, the following is provided:

1. The respective areas of the construction community affected by the Safety Systems Act & Regulations.

This legislation applies to all of the following:

- persons doing the regulated work;
- regulated products, including;
 - i. amusement rides
 - ii. passenger ropeways;
 - iii. boilers and boiler systems;
 - iv. electrical equipment;
 - v. elevating devices and passenger conveyors;
 - vi. gas systems and equipment;
 - vii. pressure vessels;
 - viii. pressure piping;
 - ix. refrigeration systems and equipment;
- all the disciplines related to the regulated products.

2. Who would be able to perform work under the Act, in particular with regard to gas installation work?

The Act indicates that an individual must not perform work in respect of a gas system or gas equipment unless the individual:

- holds a valid certificate of qualification;
- is authorized to perform regulated work, without holding a certificate of qualification;
- has successfully completed a training program recognized by a provincial safety manager;
- has knowledge of the regulated work being performed, is capable of performing the work safely and is supervised by a person who:
 - i. is specifically authorized under the Act to perform this type of work;

- ii. supervises the individual on site and provides guidance and assistance to the individual as the regulated work is performed; and
 - iii. the person who supervises the work of the individual must not allow the individual to perform regulated work outside of the scope of the supervisor's qualifications.
- is exempted from the Regulation, such as a homeowner when:
 - i. no other dwelling or premises is directly attached to the single unit dwelling;
 - ii. no person is being paid to do, or assist the owner in doing the work, and
 - iii. no part of the dwelling is rented to any person.

3. *What is the City's Gas Safety Inspection Service?*

The existing Gas Safety Act requires that where a local government provides a gas safety inspection service on low pressure gas installation systems, that 100% of the permits issued by that local government must be fully inspected. This includes not only new installations but also replacement hot water tanks. Under the Act, low pressure installations under the jurisdiction of the provincial government do not require 100% of the permits being fully inspected. It is not known at this time as to what the full responsibility of local government will be in providing the gas safety inspection service within their jurisdiction.

Under the new Safety Systems Act, a local government will be required to enter into an agreement with the provincial government for the delivery of their gas safety inspection service system. The provincial government is working on drafting such an agreement and when made available to staff, will form the basis of a future report to Council.

4. *What impact could there be on the level of public safety?*

Under the new Safety Systems Act, the provincial government has reduced the requirement that a person must prove that they have been qualified under an apprenticeship program and passed the relevant exam(s). Those who will be able to perform the work are identified under item #2 above. This new process will rely heavily on the gas installation contractor to have only one qualified supervisor in the firm.

The firm's supervisor will be responsible for the quality and safety of the work performed by lesser skilled individuals. There is a concern that:

- because the supervisor is not required to provide on the job site supervision continually;
- there is a high probability that the contractor will have more than one active job site at the same time; and
- individuals performing the work are no longer limited to only those being either trades qualified or registered apprentices;

that the level of public safety will negatively be impacted.

Perceived reduced levels of public safety may require a local government to implement a more cautious approach with their gas safety inspection service in order to address risk management concerns. The public may place additional demands on the local government in response to any reduction in the level of safety. Local governments who may be concerned

about the level of knowledge and skill of the sub-trades, can not introduce additional technical standards through a bylaw as limited under the Community Charter. The Charter requires a concurrent agreement being established between the Province and local government should a local government wish to introduce a technical standard that is potentially inconsistent with the Code.

5. *The governance issues between the new authority, the Provincial Government and the City.*

The Acts clarify the roles as:

- The Ministry's Safety Engineering Services Division, under the new Act will continue to be responsible for safety policy.
- The newly created nongovernmental Safety Authority is a not-for-profit safety Authority created to deliver the safety service components of the Safety Standards Act with the financial and administrative flexibility to respond to customer safety. The Authority is provided the authority to implement a risk management inspection level of service as compared to the current local government's mandated 100% inspections to permit ratio.
- Local government, through agreement with the ministry, will continue to provide the gas safety inspection service (financial and administrative). It has not been confirmed as to the level of inspection service will be prescribed both through the, yet to be released provincial regulations, or the yet to be drafted provincial/local government agreement.

6. *The general impact for the City specifically in areas of bylaws, safety standards and regulations.*

In addition to the information contained in item #5 above, the responsibility for the gas safety inspection service for the City is contained in the Building Regulation Bylaw. There is a requirement for a provincial/local government agreement to be executed. Depending on what is contained in the agreement, will determine whether a bylaw amendment is needed.

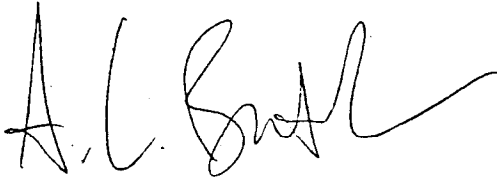
One additional unknown is the provincial development for an incident reporting (computer) system. It was initially mentioned by the Province that such a system would only be implemented with the new Safety Authority, however there is discussion to include those local governments that are providing similar regulatory service. Staff have expressed concern to the Province, that should such a reporting structure be introduced that it be fully cost recoverable to the local government.

Financial Impact

Should the level of gas installation construction deteriorate due to a lack of knowledge and skills of those individuals performing the work there may be an increase in the potential for liability for the City. The provincial program based its security on a ten thousand dollar performance bond held by the gas fitter. This may address minor repairs, however it will not address full liability responsibilities of the individual performing the work should a major incident occurs (fire or an explosion and subsequent property and economic loss).

Conclusion

There is a perceived general concern that the level of public safety may be negatively impacted as a result of the new Safety Systems Act. This is based on the lowering the necessary skills, knowledge and expertise that an individual needs to perform the proposed work. The need for a qualified trades certification along with a recognized apprenticeship program will no longer apply throughout the system. An increase in liability may result with local government having to undertake on a more in-depth regulatory role to address this issue.

A handwritten signature in black ink, appearing to read 'A.L. Bortolussi', with a stylized flourish at the end.

A.L. (Rick) Bortolussi
Manager, Building Approvals Department
(4114)

ALB:alb