

## Regulators' appeal processes go under microscope

By MICHAEL MASTROMATTEO

Advocates for internationally trained professionals are applauding the recent appointment of Judge George M. Thompson to conduct a review of Ontario regulators' appeal processes.

The appointment of Thompson, executive director of the National Judicial Institute, was announced by Ontario Minister of Training, Colleges and Universities Mary Anne Chambers at a September 29 media conference organized by the Policy Roundtable Mobilizing Professions and Trades (PROMPT).

Thompson's appointment coincided with the release of PROMPT's *In the Public Interest* report, which outlines recommendations designed to remove barriers to licensing in Ontario for internationally trained professionals. Among the key recommendations in the PROMPT report are creation of "arm's-length appeal processes" for each profession dealing with immigrants unable to obtain licences, provincial legislation requiring regulators to complete audits of "equity action plans," and efforts by all regulators to improve accountability to the public.

"I believe that a transparent and fair merit-based registration or licensure process should be supported by access to an independent appeal process," Chambers said in announcing Thompson's appointment. She said that, in addition to reviewing the existing appeal processes of Ontario's 38 occupational regulatory bodies, Thompson will recommend an appeal process model that could become the standard across the province. "The recommendations will focus on models that provide individuals with due process in reviewing registration or licensure decisions by regulatory bodies, while maintaining the professional standards that Ontarians expect," Chambers said.

Thompson is expected to work with the provincial ministries with legislative responsibility for regulated professions, regulatory bodies such as PEO, and immigrant advocacy groups in completing his review.

"This review is not about decreasing standards, but it is all about increasing access



Ontario Minister of Training, Colleges and Universities, Mary Anne Chambers (left), announces the appointment of Judge George Thompson to lead a review of major regulators' appeal processes. The announcement came at the September 29 meeting of the Policy Roundtable Mobilizing Professions and Trades (PROMPT).

and transparency," Chambers said, adding that the underutilization of immigrants' skills and experience is a brake on Ontario's progress and economic competitiveness.

Thompson is expected to evaluate each regulator's appeal process against a common standard of fairness and independence. As well, Thompson will recommend changes in legislation and regulation that will incorporate fairness, transparency and due process in the appeals system.

Even before Thompson's appointment, PEO began revising some of its licensing process documentation to emphasize the process' "due process" components.

The government's licensing appeal process review is of particular interest to PEO, which has been at the forefront among major regulators working to promote access to the profession. A large number of new Canadians choose Ontario as their final destination and many of them identify engineering as their chosen occupation. About one-third of Ontario's 66,000 professional engineers were trained and educated outside Canada.

PEO has been especially active in providing advance information on licensing requirements to immigrants, and has been working with the groups Regulators for

Access and the Toronto Region Immigrant Employment Council (TRIEC) to help remove barriers to employment and eventual licensing for internationally educated engineers (see news and features sections, *Engineering Dimensions*, March/April 2004 and news, July/August 2004 and September/October 2004).

In addition to announcing the appeal process review, Chambers revealed that an Ontario government report card on regulator progress in removing barriers to employment and licensing is due for release in January 2005. The report card is expected to show that while regulators have made progress in reducing barriers to employment and licensing for new Canadians, there is significant room for improvement overall.

In addition to his current position, Thompson has been special advisor to the federal justice minister and attorney general, federal deputy justice minister and attorney general and Ontario deputy attorney general and deputy minister of labour. He also served on the Ontario provincial court and held positions with the Law Society of Upper Canada, and the Ontario ministries of Citizenship and Community and Social Services.

## Ministry still silent on limited licence exclusion

BY MICHAEL MASTROMATTEO

PEO continues to call on Ontario's environment minister to justify a decision to exclude limited licence holders from the list of qualified persons (QPs) permitted to undertake environmental site assessments under Ontario Regulation 153/04 *Brownfields Statute Law Amendment Act*, 2002.

In a September 27 letter to Minister of the Environment Leona Dombrowsky, PEO President George Comrie, P.Eng., says the ministry to date has provided no written justification for the omission of limited licence holders from the qualified persons list.

Comrie said that by denying limited licence holders the ability to conduct phase two site assessments, the regulation appears to be at odds with the accountability provisions established under the *Professional Engineers Act* (PEA).

"As written, Regulation 153/04 deprives the public of the use of this accountability vehicle in regard to those of our limited licence holders who can

legally take responsibility for the signing of Records of Site Conditions (RSCs), because such practice is not recognized as professional engineering," Comrie writes. "By establishing in law a regime permitting unlicensed practitioners to take responsibility for the signing of RSCs, Regulation 153/04 creates unprecedented regulatory conflict for those individuals who hold PEO limited licences and who practise in this area."

### Comrie suggests the regulation appears to shift public accountability in areas of site remediation away from established regulatory vehicles to MOE.

In addition to professional engineers and professional geoscientists, the regulation lists chartered chemists and professional agrologists as persons qualified to complete and sign phase two site assessments and records of site conditions. Certified engineering technolo-

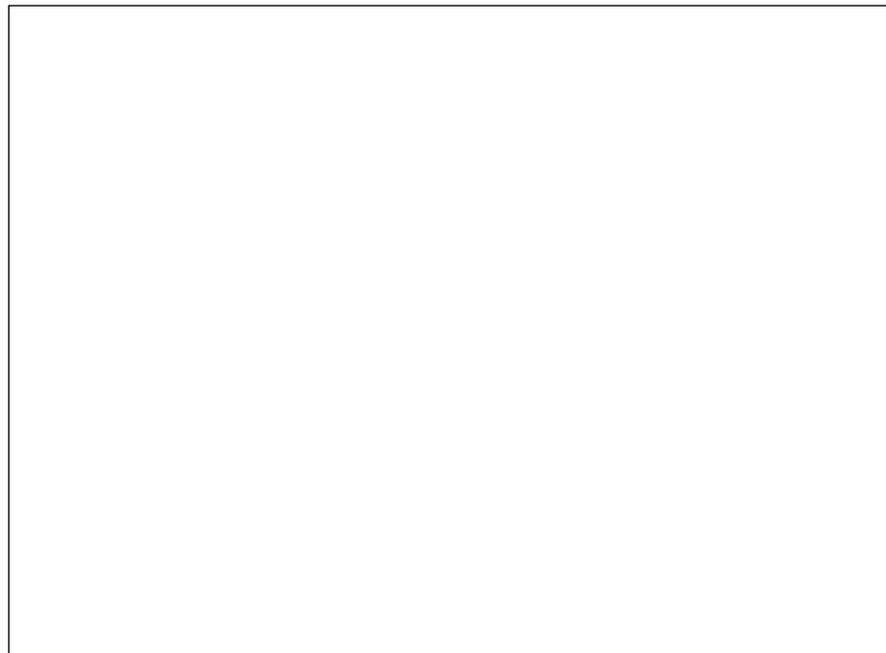
gists now qualify only to carry out and sign phase one site assessments/records of site condition.

Comrie suggests the regulation appears to shift public accountability in areas of site remediation away from established regulatory vehicles, such as the PEA and the *Professional Geoscientists Act*, directly to the environment ministry. He nonetheless pledged the ongoing commitment of PEO to work with the ministry to rectify the "identified

legislative inconsistencies" in Regulation 153/04.

Meanwhile, training in the details of Regulation 153/04 appears to be a growth industry. The final regulation, including requirements for filing a record of site condition, became effective October 1, 2004. A number of conference developers, legal firms with expertise in environmental law, and advocacy groups have been busy over the last several months organizing conferences, seminars and information sessions to inform engineers and others with a stake in site remediation of the full implications of the regulation.

The original Brownfields statute was introduced to replace the province's *Guideline for Use at Contaminated Sites in Ontario*. The legislation facilitates the cleanup and potential redevelopment of lands formerly used for industrial activity. In addition to establishing credentials for qualified persons, Regulation 153/04 is also designed to provide property owners with general protection from environmental cleanup orders for historic contamination after they have appropriately cleaned up a site.



## Housing ministry urges end to Bill 124 opposition

By MICHAEL MASTROMATTEO

PEO is considering its next move in response to an announcement by the Ontario Ministry of Municipal Affairs and Housing (MMAH) that professional engineers will not be exempt from *Ontario Building Code* (OBC) examinations and registry qualifications under Regulation 305/03 (Bill 124/*Building Code Statute Law Amendment Act, 2002*).

Despite vigorous opposition from engineers and architects over the OBC compliance examinations, Municipal Affairs and Housing Minister John Gerretsen announced on September 16 that the ministry “has decided to retain the qualification requirements in their current form.” This means that all building design professionals, including engineers and architects, will be required to write and pass the building code examinations.

PEO initially agreed to help administer the exams to professional engineers and to maintain the registry of members who qualify as design professionals. However, at its June 2004 meeting, PEO Council voted to withdraw from the OBC certification plan.

In a coincidental September 16 letter to the housing minister, PEO President George Comrie, P.Eng., said the requirement for engineers to pass code-knowledge exams sets a policy precedent that ignores existing public statutes that regulate and govern the practice of licensed professionals.

“Testing licensed practitioners for [building] code knowledge implies that the *Professional Engineers Act* (PEA) is insufficient to achieve the objectives of the *Building Code Statute Law Amendment Act, 2002*,” Comrie said. “This policy initiative suggests that the regulatory frame-

work governing professional engineers, who act as designers, is inadequate.”

The housing ministry claims that the *Building Code Statute Law Amendment Act*, which was proclaimed in July 2003, is designed to streamline the building approvals process, increase the safety of building con-

“Failure to address this concern is tantamount to a public denigration of the professional engineer licence.”

George Comrie, P.Eng.

struction in Ontario, and create a more transparent and accountable regulatory environment for the construction industry. It also says the recent building regulatory changes were the subject of extensive consultations and stakeholder discussions, which included professional engineers, that resulted in a broad general consensus.

Comrie, however, maintains that Regulation 941 of the *Professional Engineers Act* requires engineers to be fully cognizant of applicable codes, standards, regulations and bylaws, making the imposition of a secondary certification regime in the building design area unnecessary.

In his letter to the housing minister, Comrie says PEO may turn to the Attorney General of Ontario (the minister responsible for the PEA) for clarification of the housing ministry’s view that the existing regulatory framework for engineers acting as designers is somehow inadequate. “Failure to address this concern,” Comrie added, “is tantamount to a public denigration of the professional engineer licence.”

Meanwhile, Chris Roney, P.Eng., a member of a PEO task force on Bill 124, told *Engineering Dimensions* that the association is now working to inform members

## Medal Worthy



Officer Cadet A.P. Robb, an electrical engineering student at Royal Military College of Canada, is the 2004 recipient of the Professional Engineers Foundation for Education Gold Medal. Robb received the medal in May for achieving the highest standing in the final examination of his final year. The foundation is an independent, non-profit, charitable organization established by Professional Engineers Ontario to provide scholarships to encourage engineering students to pursue careers in the profession. It makes funds available to each engineering school to award scholarships according to criteria established by the foundation. The scholarships are financed through donations from Ontario professional engineers. Donations, which are deductible for income tax purposes, can be made by downloading a donation form from the foundation website ([www.penged.on.ca](http://www.penged.on.ca)) and mailing it with a payment (cheque or VISA card) to Ontario Professional Engineers Foundation for Education, 1000-25 Sheppard Avenue West, Toronto ON M2N 6S9, or by using the check-off box on the annual PEO fee renewal form.

and other stakeholders of the implementation status of the legislation's requirements for professional engineers, as well as PEO's next move. At present, P.Engs wishing to submit designs for building permits must pass the code-knowledge exams, and carry a minimum of \$250,000 professional liability insurance (depending on a firm's annual billings).

"We remain concerned that the approach taken by the Ministry of Municipal Affairs and Housing, wherein they set up their own system of qualification of professionals, is

contrary to the established system of self-governing professions," Roney said. "If this trend continues, the relevance of the *Professional Engineers Act* will be eroded, as will the value of the P.Eng. licence. All engineers should be very troubled by this trend."

David Brezer, P.Eng., acting director of the building and development branch of the Ontario Ministry of Municipal Affairs and Housing and a former member of PEO Council, noted that the housing minister wrote to PEO on September 16 to confirm that the designer qualification and registration

requirements will continue to apply to engineers. "The regulatory changes, including qualification and registration requirements, are scheduled to come into force on July 1, 2005," Brezer told *Engineering Dimensions*. "Many engineers have begun to prepare for the change, including taking voluntary training and completing required examinations." Brezer advised those who have not yet taken steps to prepare to "begin to do so soon." He added that the minister remains committed to working with PEO to develop a "parallel regulatory environment" that recognizes PEO's status as a self-regulating profession and relieves engineers in the building design field from having to register with both the regulator and the housing ministry to show fluency with the building code. (See also the President's Message, p. 3.)



David Brezer, P.Eng., acting director of the building and development branch of the Ontario Ministry of Municipal Affairs and Housing.

# IEGs seen as an answer to teaching deficit

By MICHAEL MASTROMATTEO

International engineering graduates (IEGs) are being touted as part of the solution to a potential teaching shortage at accredited Canadian university engineering programs.

Data from the Canadian Council of Professional Engineers' (CCPE) 2003 enrolment report suggests that while international students are becoming a greater presence in engineering programs across the country, there are ongoing concerns about aging engineering faculty members, and the lack of new sources of qualified engineering educators.

The report said that in 2002, nearly nine out of 10 Canadian engineering faculties reported vacancies in teaching positions. As well, within the next 10 years, more than half of the full-time and associate professors now teaching engineering at Canadian universities will be looking to retire.

The CCPE suggests that recent efforts to facilitate professional licensing on the part of internationally trained engineers could ease what it describes as the "engineering professor deficit."

Initiatives such as the From Consideration to Integration (FC2I) project (*Engineering Dimensions*, March/April 2004, pp. 34-37) are aimed at easing internationally educated engineers into the Canadian workforce, and can also play a role in relieving the imminent engineering teacher shortage.

"We certainly hope that From Consideration to Integration will answer a lot of the questions and problems related to access that are out there," said Deborah Wolfe, P.Eng., director of education outreach and research for CCPE, "not just on licensing, but on some of the employment and communication issues as well."

Wolfe said making the best possible use of the skills and experience of IEGs is one of the overriding reasons for accommodation and access efforts. "We have to accept the reality that the federal government is bringing many immigrants to Canada and many of them are engineers," she said. "We have to fulfil

our responsibility to deal with them and make sure that they aren't marginalized."

CCPE believes international students and IEGs often tend to pursue graduate level studies and obtain the necessary education level required to become university professors.

Teaching staff at accredited engineering schools across Canada aren't necessarily required to be licensed P.Engs. Hiring practices are left up to each institution. However, the majority of engineering faculty members must have obtained, or be in the process of obtain-

ing, their professional licence for an engineering program to be accredited by the Canadian Engineering Accreditation Board.

CCPE suggests that with a smoother process of integration for IEGs in place, international students and IEGs could become "one of Canada's greatest sources of future engineering faculty." Making use of internationally trained engineers as faculty members would also promote greater diversity within university programs and the overall engineering profession, CCPE says.

## CEO seeking better understanding of "consulting engineer"

By MICHAEL MASTROMATTEO

Ontario's business association for consulting engineers plans to approach PEO with a proposal to revise the "consulting engineer" designation to be more meaningful to consumers.

At its most recent AGM, members of Consulting Engineers of Ontario (CEO) voted to establish a task force to explore the possibility of changing the title "consulting engineer" to "designated consulting

engineer." CEO members believe the current title is not well understood by consumers, and by some members of the profession.

PEO awards the title of consulting engineer to applicants who have at least five years of experience satisfactory to Council, in addition to the initial four years experience necessary for licensure. To be eligible for designation, applicants must also have been "primarily engaged" in the inde-

pendent practice of professional engineering in Ontario for the last two years and hold a PEO Certificate of Authorization (C of A), or be a partner or an employee of a firm holding a C of A.

PEO's Consulting Engineer Designation Committee (CEDC) evaluates each application and presents its recommendations to Council for approval. The CEDC also grants permission to engineering firms to use "consulting engineers" or variations thereof in their company names.

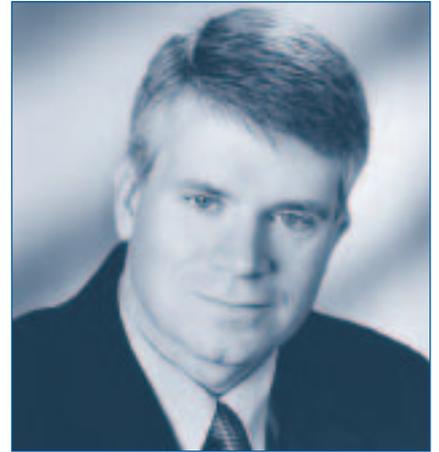
Besides changing the title itself, the CEO task force is considering whether the title should be linked to a declared area of practice.

Doug Barker, P.Eng., a member of the CEDC represents PEO on the CEO task force. "Consulting Engineers of Ontario wants to enhance recognition of the consulting engineer title. They aren't necessarily considering or recommending chang-

ing its meaning," Barker told *Engineering Dimensions*. "In general, we don't feel that the consulting engineer designation is understood, or that it has much recognition as an additional level of designation beyond the P.Eng. licence. It needs more recognition and to be recognized by society. That's the intent of this exercise."

CEO President John Gamble, P.Eng., suggests that the name change is of secondary importance to the overall understanding of the consulting engineer designation. "The real issue is that few clients know of or care about the designation, largely because it doesn't indicate anything other than five years of experience," Gamble says. "The value of the designation to holders is directly proportional to the value that clients or the public associates with it. Currently, they associate very little with it."

Gamble cites a CEO discussion paper that suggests that a change to the consult-



John Gamble, P.Eng., president of Consulting Engineers of Ontario (CEO), believes a change to the consulting engineer designation could promote a better understanding of its significance.

ing engineer title would help the public—and consumers—better understand the nature of consulting engineers' services. "The [CEO] task group believes that in order to offer more value to holders of the title, and to users of engineering services, the definition of consulting engineer needs to be more explicit," the CEO discussion paper says. "It is recommended that the designation be linked to a declared area of practice and to a commitment to ongoing professional development."

Barker expects the CEO task force will be ready to make its recommendations to the CEO board of directors within the next 18 months. Once recommendations have been approved, CEO will approach PEO, which controls the title under the *Professional Engineers Act* and Regulation 941, to propose its changes.

Confusion surrounding the consulting engineer title stems at least partly from its association with the C of A, under which PEO authorizes engineering firms or individuals to offer or provide engineering services directly to the public. A consulting engineer designation, in contrast, is merely a protected title that has no bearing on the holder's legally engaging in the business of providing engineering services to the public. In addition, the current requirements for designation as a consulting engineer indicate only that the holder has practised engineering for five years since being licensed, the two most recent of which in the consulting engineering field, and consequently cannot be assumed necessarily to indicate a higher level of technical competence or specialization.

