



Minutes

LEGISLATION COMMITTEE MEETING

Friday, January 9, 2015 - 11:00 a.m.

PEO Offices - Room 1A

Members:

Bob Dony, P. Eng. (Chair)

George Comrie, P. Eng.

Roydon Fraser, P. Eng.

Sharon Reid

Regrets:

Annette Bergeron, P. Eng.

Dave Adams, P. Eng. (President; Ex-Officio Member)

Thomas Chong, P. Eng. (President-Elect; Ex-Officio Member)

Staff:

Josie D'Aluisio, Administrative Assistant

Bernie Ennis, P. Eng., Director, Policy and Professional Affairs

Jordan Max, Manager, Policy

Gerard McDonald, P. Eng., Registrar *[until approx. 1:30 p.m.]*

Johnny Zuccon, P. Eng., Deputy Registrar, Tribunals and Regulatory Affairs

1. PROCEDURAL

1.1 Opening Remarks

The Chair called the meeting to order at 11:05 a.m., and welcomed and thanked everyone for attending.

1.2 Approval of Agenda

The members were asked if there were any additions or changes to the agenda. No additions or changes were provided.

A motion was made to approve the agenda as written.

Moved by: S. Reid Seconded by: G. Comrie CARRIED

1.3 Approval of Minutes of December 5, 2014 Meeting

The members were asked if there were any additions or changes to the Minutes. No additions or changes were provided.

A motion was made to approve the Minutes of the December 5, 2014 meeting as written.

Moved by: G. Comrie Seconded by: R. Fraser CARRIED

1.4 Action Items Update from December 5, 2014 Meeting

The members were referred to the Actions Items Update document included in the agenda package.

There was some initial discussion on whether the Status column provided enough information to apprise members of the history on each Action Item, but it was decided to leave the log in its current format.

It was acknowledged that Items 1.4 (a), (b) and (c) were still outstanding due to other work priorities (Elliot Lake and TK-17 motions). It was noted that the “legal review” indicated for Item 1.4(a) should not be a legal opinion. Item 2.1 in the Action Log will be addressed later in this meeting as Item 2.1 on the approved agenda.

2. FOR DECISION

2.1 Elections Regulation EC-2

The members were referred to the document included in the agenda package.

J. Max noted that, following Council's clarification at its November 21, 2014 meeting, the Legislation Committee had reviewed and confirmed the policy intent, which was subsequently communicated to the Attorney General by PEO staff, resulting in the EC-2 version. The EC-2 version was reviewed by the Committee and approved as is. Staff are to notify the Attorney General staff, and, hopefully, the sealed Regulation will be ready for Council approval at its February 6, 2015 meeting, after which time it will be considered by Cabinet.

A motion was made to approve the Elections Regulation.

Moved by: G. Comrie

Seconded by: S. Reid

CARRIED

Action: Staff to notify the Attorney General's policy staff that the EC-2 version of the Regulation can be finalized and sealed for Council consideration.

3. FOR DECISION

3.1 Elliot Lake Recommendations - Review of Comments

The members were referred to the document included in the agenda package.

Following the November 21, 2014 Council meeting, at its last meeting, the Legislation Committee was directed to review the Belanger Commission recommendations for PEO action, and their comments were recorded and appended to the Committee draft Minutes. J. Zuccon noted that the Legislation Committee's comments to the Registrar were due by January 15, 2015, with recommendations on what action Council should take on each recommendation. The Committee then reviewed its draft comments and made several revisions, which are reflected in the new version (document appended).

Action: Staff to draft comments and the Council Briefing Note to accompany them.

4. WORK IN PROGRESS

4.2 Regulation 941 Amendments (13-TK Version - Combined LL and C of A Regulation) - Draft Council Briefing Note

The members were referred to the document included in the agenda package.

J. Max noted that the Briefing Note had been drafted under the assumption that the 13-TK version would be ready as a sealed Regulation for Council's approval at its February 6, 2015 meeting. It was also necessary to provide a written fulsome response to the Ontario Fairness Commissioner's previously-received comments on the draft Regulation, most notably on the subject of the Canadian Experience requirements. The Registrar's draft response was prepared by staff and was added to the Committee's agenda package. The Committee reviewed the contents of the draft letter and made some amendments to the comments on sections 40(2)(c), 40(4) and 41(2)(c). The amended letter is appended. The Registrar also requested that this revised letter be sent to the Executive Committee for review at its January 20, 2015 meeting and, if approved, would be sent to the Fairness Commissioner (with a copy to the Attorney General's staff) to support the Regulation and Preliminary Regulatory Impact Assessment in the Council Briefing Note. The draft Council Briefing Note on this Regulation package was also approved by the Committee.

Action: Staff to send the revised letter to the Ontario Fairness Commissioner to PEO's Executive Committee for approval prior to sending to the Fairness Commissioner.

Action: Staff to submit the draft Briefing Note to Council for its February 6, 2015 meeting, including the letter to the Fairness Commissioner, if approved by the Executive Committee.

4.1 Work Plan for Resolving Council Policy Motions - C of A Category, Academic/Examinations Category, Experience Category, Character Category, Registration Category, Governance Category

Due to lack of time, these items were deferred to the next meeting.

5. NEXT MEETING AND ADJOURNMENT

The meeting was adjourned at 2:55 p.m.

The next meeting is scheduled for Friday, February 13, 2015 at 11:00 a.m.

PEO Submissions	Recommendation from Elliot Lake Commission of Inquiry Report	Deliverable / Subject Matter Expert	Feedback
<p>Recommendation #1 PEO’s Practice Bulletin entitled “Structural Engineering Assessments of Existing Buildings” should be enacted as a Performance Standard under the authority of subsection 7(1)(17) of the PEA for the purpose of carrying our structural engineering assessments.</p> <p>Recommendation #5 The Ontario Building Code should be amended to include references to the Structural Adequacy Report and the situations in which the building owner is required to obtain such a report, in the circumstances delineated in the Performance Standard.</p> <p>Recommendation #9 The Performance Standard referred to in Recommendation #2 above should provide that a Structural Adequacy Report prepared in connection with structures referred to in Division A, Part 1, clause 1.1.2.2 of the Building Code should be prepared or checked, and signed and sealed by a Structural Engineering Specialist.</p>	<p>No. 1.4: For buildings to which these Recommendations apply, the Professional Engineers of Ontario (PEO) should enunciate a Performance Standard for the prescribed structural inspection.</p>	<p>Output: Regulation 260/08 amended to include the specified performance standard.</p> <p>Legislation Committee to oversee regulatory development process and liaise with staff at the Ministry of the Attorney General.</p> <p>Input: Professional Standards Committee and subcommittees to develop content by following consultation protocols.</p> <p>Elliot Lake Advisory Committee as resource to assist with interpretation of PEO submission.</p> <p>Related Activities: Communications; Practice and Standards; and Regulatory Policy.</p>	<p><u>Legislation Committee comments:</u></p> <p>Essentially matches the Submitted Recommendation; support the Deliverable.</p> <p>Specialist aspect of PEO Recommendation #9 depends on PEO Recommendation #8.</p>
<p>Recommendation #2 The Performance Standard should require that the report to be prepared by a professional engineer following a structural assessment of an existing building could include the following information:</p>	<p>No. 1.5: The prescribed structural inspection should be conducted in accordance with the Performance Standard by a structural engineering specialist who has met the Professional Engineers of Ontario (PEO) qualifications and</p>	<p>Output: Amendment to <i>Professional Engineers Act</i> and/or Regulation 941.</p> <p>Legislation Committee to oversee regulatory development process and liaise with staff at the Ministry of the Attorney General.</p>	<p><u>Legislation Committee comments:</u></p> <p>PEO did not endorse exclusive practice by only “specialists”; there is no evidence of need to justify exclusive practice. Could this be</p>

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<ul style="list-style-type: none"> • reasons for conducting structural engineering assessments; • names of clients; • addresses of buildings assessed; • descriptions of buildings' main usages; • clear descriptions of the acts performed, including when they were performed, and by whom; • description of areas not covered by visual inspections, why they were not covered, and engineering opinions about whether such areas are critical to the overall structural integrity of the buildings; • records of, and comments on, observations of loading conditions, indicating usages at different parts of buildings, and identifying misuse, abuse or deviations from intended uses; • records of and comments on findings of additions and alteration work to building structures; • records of observations of signs of structural defects, damage, distress, deformation or deterioration; • engineering opinions about whether existing usages and loading conditions are compatible with structures' 	<p>requirements to be so certified.</p>	<p>Input: Professional Standards Committee and subcommittees to develop content by following consultation protocols.</p> <p>Elliot Lake Advisory Committee as resource to assist with interpretation of PEO submission.</p> <p>Licensing and Finance Division to establish and develop operational processes and protocols for the issuance of the specialist title.</p> <p>Related Activities: Communications; IT; Practice and Standards; Regulatory Policy; and Compliance.</p>	<p>accomplished by a “designation” similar to the BDS or “consulting engineer”? Could the same policy objective be accomplished simply by passing the Performance Standard in Regulations?</p> <p>There is a need for a policy review by Council (should we have specialists for this?) and a legal review (does the Act permit this?)</p> <p>Is the specialization a designation or a certification, and is it for exclusive practice?</p> <p>What precedent does this set?</p> <p>We note that PEO Recommendation #8 refers to a “designation”, but PEO Recommendation #9 has exclusive practice implications.</p> <p>The use of designations needs to consider unintended consequences, such as referencing these designations through external legislation that effectively establishes exclusive areas of practice.</p>

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<p>intended uses;</p> <ul style="list-style-type: none"> • engineering opinions on the extent, possible causes and seriousness of identified problems; • engineering opinions about whether identified problems are: <ul style="list-style-type: none"> ○ defects of no structural significance, ○ defects requiring remedial action and/or monitoring, or ○ suspected defects of structural significance requiring full structural investigation and immediate action; • recommendations on remedial actions and/or monitoring to be undertaken by clients to ensure buildings' structural integrity, for example, restricting usage, relocating heavy machineries, removing additions, further investigation on structural adequacy, or phasing buildings out of service. Such recommendations should include timeframes within which repairs are recommended; • relevant sketches, plans and photographs with titles, explanations, and references to written portions of reports; • disclaimers that limit the 			

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<p>liability of C of A holders to the specific intent and content of reports;</p> <ul style="list-style-type: none"> • limitations and restrictions on engineers' work; and • additional recommended tests or investigations <p>Recommendation #8 PEO should develop appropriate criteria, and then enact a regulation under subsection 7(1)(22) of the PEA, prescribing the qualification and requirements for designation as a Structural Engineering Specialist.</p>			
<p>Recommendation #3 The Report should be called a "Structural Adequacy Report", and should be required to be dated, signed and sealed.</p>	<p>No. 1.6: After conducting a structural inspection in accordance with the Professional Engineers of Ontario Performance Standard, the structural engineering specialist should complete a Structural Adequacy Report to determine whether the building meets the Minimum Structural Maintenance Standard and, if it does not, to describe what repairs and maintenance are required in order for the building to meet that standard.</p>	<p>Output: Regulation 260/08 amended to include the specified performance standard.</p> <p>Legislation Committee to oversee regulatory development process and liaise with staff at the Ministry of the Attorney General.</p> <p>Input: Ministry of Municipal Affairs and Housing to provide Minimum Structural Maintenance Standard.</p> <p>Professional Standards Committee and subcommittees to develop content by following consultation protocols.</p> <p>Elliot Lake Advisory Committee as resource to assist with interpretation of PEO submission.</p>	<p><u>Legislation Committee comments:</u></p> <p><u>This is consistent with well-established PEO policy framework for performance standards.</u></p>

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		Related Activities: Communications; Practice and Standards.	
<p>Recommendation #4 The regulation to be passed pursuant to Recommendation #1, above, should include a requirement that a copy of the Structural Adequacy Report be provided to the appropriate CBO, in all cases where a Structural Adequacy Report is prepared in connection with structures referred to in Division A, Part 1, clause 1.1.2.2 of the Building Code.</p>	<p>No. 1.21: Professional engineers and architects should be required, on request, to make available any records in their possession or control related to the structural integrity of a building to:</p> <ul style="list-style-type: none"> (a) any professional engineer or architect conducting an inspection or assessment on behalf of the owner or with the owner’s permission; (b) a prospective purchaser of the building or a professional engineer or architect conducting an inspection or assessment of the building on the prospective purchaser’s behalf; (c) a chief building official or an inspector under the <i>Building Code Act</i>; and (d) an inspector under the <i>Occupational Health and Safety Act</i> in respect of a building that is a place of work to which the Act applies. 	<p>Output: Regulation 260/08 amended to include the specified performance standard.</p> <p>Legislation Committee to oversee regulatory development process and liaise with staff at the Ministry of the Attorney General.</p> <p>Input: Professional Standards Committee and subcommittees to develop content by following consultation protocols.</p> <p>Related Activities: Communications; Practice and Standards; and Regulatory Policy.</p>	<p><u>Legislation Committee comments:</u></p> <p>This recommendation is broader in scope (“any records”, not just the Structural Adequacy Report”) and distribution (beyond the CBO);</p> <p>There are legal issues and concerns about privacy of information, trade secrets, cost, and records retention.</p> <p>Further policy analysis is needed before proceeding.</p>
	<p>No. 1.23: The Professional Engineers of Ontario should issue a clear direction to its members that the contents of an engineering report, or draft report, including a Structural Adequacy Report, should not be altered simply because the client requests that it be changed. Rather, any alteration of an</p>	<p>Output: Regulation 260/08 amended to include the specified performance standard. Regulation 941 amended to revise definition of professional misconduct.</p> <p>Legislation Committee to oversee regulatory development process and liaise with staff at the Ministry of the</p>	<p><u>Legislation Committee comments:</u></p> <p>Issuing a “clear direction” does not necessitate a new Performance Standard – a practice bulletin or guideline could suffice.</p> <p>Arethe current definitions of</p>

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	<p>engineering report, or draft report, should be based on sound engineering principles or changed facts.</p>	<p>Attorney General.</p> <p>Input: Professional Standards Committee and subcommittees to develop content by following consultation protocols.</p> <p>Related Activities: Communications; Practice and Standards; and Regulatory Policy.</p>	<p>“professional misconduct” sufficient to cover this type of infraction, or is a more specific clause needed?</p>
	<p>No. 1.24: The Professional Engineers of Ontario (PEO) should establish a system of mandatory continuing professional education for its members as soon as possible, and in any event no later than 18 months from the release of this Report.</p>	<p>Output: <i>Professional Engineers Act</i> and/or Regulation 941 amended.</p> <p>Legislation Committee to oversee regulatory development process and liaise with staff at the Ministry of the Attorney General.</p> <p>Input: Continuing Professional Development, Competence, Quality Assurance Task Force, with assistance from Professional Standards Committee and subcommittees to develop content by following consultation protocols.</p> <p>Related Activities: Communications; IT; Regulatory Policy; Compliance; and Registration.</p>	<p><u>Legislation Committee comments:</u></p> <p>This item is being worked on by the CPDCQA Task Force and should not be interfered with or accelerated.</p>
	<p>No. 1.25: Members of the Professional Engineers of Ontario (PEO) should directly and promptly advise clients (past and present) of any suspensions or revocations of their licences, and</p>	<p>Output: Regulation 941 amended to revise definition of professional misconduct. If disclosures must be retrospective, an amendment of the <i>Professional Engineers Act</i> is required.</p>	<p><u>Legislation Committee comments:</u></p> <p>The recommendation represents a broad policy change. There are legal issues with respect to statute</p>

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	<p>the reasons therefor, that arise out of disciplinary actions resulting from:</p> <ul style="list-style-type: none"> (a) errors in design; (b) errors in calculations; (c) failure to properly inspect; (d) failure to report an unsafe condition; (e) failure to comply with the requirements of the Structural Adequacy Report; and (f) any and all matters that had a direct or indirect effect on the structural stability of a building or put the health, safety, and welfare of the public at risk. 	<p>Legislation Committee to oversee regulatory development process and liaise with staff at the Ministry of the Attorney General.</p> <p>Input: Professional Standards Committee and subcommittees to develop content by following consultation protocols.</p> <p>Regulatory Compliance Division to implement operational processes and protocols to identify the disciplinary actions that require posting on the Register, and to notify affected licence holders of their disclosure duties.</p> <p>Related Activities: Communications; IT; Practice and Standards; and Regulatory Policy.</p>	<p>of limitations, civil liability, as well as shifting the onus onto the member to notify all current and previous clients.</p> <p>Our current practice is to post this information on the website. Is this not sufficient instead of formally notifying clients?</p> <p>Research should be done on Bill 21 for health colleges' transparency provisions to compare.</p>
<p>Recommendation #6 PEO proposes to continue to make or to add, as the case may be, the following information available on its public website, searchable by name:</p> <ul style="list-style-type: none"> a) the name of every licensee and every holder of a certificate of authorization; b) the terms, conditions and limitations attached to the licence or certificate of authorization; c) a note of every revocation, suspension, cancellation or termination of a licence or certificate of authorization d) information concerning upcoming 	<p>No. 1.26: The Professional Engineers of Ontario (PEO) should provide, for the benefit of the public, the following information on its public website in a format readily and easily searchable by the name of the PEO member:</p> <ul style="list-style-type: none"> (a) the name of every licensee and holder of a certificate of authorization; (b) the terms, conditions, and limitations attached to the licence or certificate of authorization; (c) a note of every revocation, suspension, cancellation, or 	<p>Output: Searchable website database of all specified information.</p> <p>Input: PEO's IT staff to implement this recommendation.</p> <p>Regulatory Compliance; and Licensing and Finance Divisions to implement operational processes and protocols to ensure the specified information is publicly available for the searchable database.</p> <p>Related Activities: Communications.</p>	<p><u>Legislation Committee comments:</u></p> <p>This is consistent with current practice, except item (e), which needs to be rewritten to conform to current practice, which provides broader disclosure.</p>

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<p>Discipline Committee hearings, where a Notice of Hearing has been issued;</p> <p>e) information concerning any findings of professional misconduct or incompetence, for a period of ten (10) years from the date of the finding(s), so long as the Discipline Committee had ordered publication with names; and</p> <p>f) such other information as the Registration Committee or Discipline Committee directs.</p> <p>Recommendation #7</p> <p>Subsection 21(1) of the PEA should be amended to require inclusion in the Register of:</p> <p>a) information concerning upcoming Discipline Committee hearings, where a Notice of hearing has been issued; and</p> <p>b) information concerning any findings of professional misconduct or incompetence, for a period of ten (10) years from the date of the finding(s), so long as the Discipline Committee had ordered publication with names.</p>	<p>termination of a licence or certificate of authorization;</p> <p>(d) information concerning upcoming Discipline Committee hearings, where a Notice of Hearing has been issued;</p> <p>(e) information concerning any findings of professional misconduct or incompetence, for a period of 10 years from the date of the finding(s), so long as the Discipline Committee had ordered publication with names; and</p> <p>(f) such other information as the Registration Committee or Discipline Committee directs.</p>		
	<p>No. 1.27:</p> <p>For the construction of any buildings requiring the services of more than one professional consultant, either a professional engineer or an architect should be designated by the owner or the owner's agent as the prime consultant to perform the roles and</p>	<p>Output: Amendment to <i>Professional Engineers Act</i> and/or Regulation 941, and possibly Regulation 260.</p> <p>Legislation Committee to oversee regulatory development process and liaise with staff at the Ministry of the Attorney General.</p>	<p><u>Legislation Committee comments:</u></p> <p>There is a need identified within the industry for the re-establishment of a prime consultant or a project co-</p>

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	responsibilities of that position, as defined by one or the other or both of the Professional Engineers of Ontario (PEO) and the Ontario Association of Architects (OAA).	<p>Input: Ministry of Municipal Affairs and Housing to change <i>Building Code Act</i>.</p> <p>Professional Standards Committee and subcommittees to develop content by following consultation protocols.</p> <p>Related Activities: Communications; Practice and Standards; and Regulatory Policy.</p>	ordinator. The term “prime consultant” is currently in the Act, but requires a definition. A definition has demand-side legislation advantages over a designation.
<p>Recommendation #10 PEO should develop criteria for a performance standard respecting supervision of the work of persons who are:</p> <ul style="list-style-type: none"> a) not licensed under the PEA; b) whose licences contain terms, conditions or limitations; and c) whose licences are under suspension, or whose licences have been revoked. <p>This performance standard should be enacted as a Regulation under subsection 7(1)(17) of the PEA.</p>	Not accepted by Commission.	<u>n/a</u>	<u>n/a</u>
<p>Recommendation #11 The performance standard referred to above should include the circumstances under which the work product of others must be signed and sealed by the supervising professional engineer. The criteria in connection with the use of the professional engineering seal, more generally, should be converted from a Guideline</p>	Not accepted by Commission	<u>n/a</u>	<u>n/a</u>

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to a Standard, to be passed by Regulation under subsection 7(1)(12) of the PEA.			

Nuzhat Jafri

Executive Director

Office of the Fairness Commissioner

595 Bay Street, Suite 1201

Toronto, ON M7A 2B4

<date>

Re: Comments on the draft Limited Licence/Certificate of Authorization Regulation (Version 13-TK)

Dear Ms Jafri:

Thank you for your review and response to our draft Limited Licence/Certificate of Authorization Regulation, which we received on July 18, 2014. At that time, I acknowledged your response and committed to providing you a fulsome response.

To begin with, we appreciate your support for the overall direction of the draft Regulation, which is to allow limited licence holders to practise independently and supervise other practitioners within their limited scope of practice under a certificate of authorization. PEO's primary mandate is to protect the public interest. To do so, it must ensure that every applicant for a licence meets its established requirements and qualifications, and will engage in the practice of professional engineering with competence and integrity.

To fulfill this mandate, PEO must raise the standards of qualification to obtain a limited licence if limited licensees are to be enabled to hold certificates of authorization that enable them to offer their expertise directly to the public. Accordingly, PEO has proposed two important safeguards – first, that a limited licence holder's knowledge base also matches his or her intended scope of practice and, additionally, that related work experience beyond that required of a licence applicant be required to compensate for the limited licence holder's narrower overall engineering knowledge.

PEO notes your general concern about the continued use of supervised "Canadian Experience" in the draft Regulation and, specifically, the requirement that limited licence applicants acquire four years' of such experience. PEO continues to believe that supervised Canadian experience, which is a requirement for all applicants (both domestically and internationally educated), is necessary for several reasons.

First, we note that the Canadian model of self-regulation of professions is unique in the world, placing greater responsibilities and obligations on practitioners and on the licensing body. This emphasis on rigorous standards for licensure is at the core of the Canadian philosophy of proactively preventing public harm by limiting professional practice to only those individuals the profession believes will engage in it competently and responsibly. This philosophy is based on the premise that it is better for both the public and the profession to screen out incompetent and/or unethical practitioners before they have a chance to harm the public, than it is to attempt to discipline them and redress the harm after it has

occurred. PEO's most important mechanism for protecting the public from unsafe or unscrupulous engineering work is licensure. The requirement for supervised Canadian experience is fundamental to the Canadian system of protection of the public through licensure. It is not simply a matter of ensuring the applicant has knowledge of local codes and standards, but, more importantly, a matter of verification of the applicant's practice skills and suitability for independent practice.

Second, the main focus of this experience is supervision by another licensed professional engineer. PEO and its counterparts across Canada rely on the experience requirement to confirm that licensees possess the necessary practice skills and competencies to practise independently. In assessing applicants' experience, they rely on the reports of P.Eng. referees who have supervised the work of the applicant and are in a position to advise if the applicant has demonstrated the requisite skills and associated professional attributes. Licensees are able to discern the skills and attributes expected in a Canadian professional engineer and are obliged to evaluate and report on them honestly. The report of a P.Eng. referee provides confirmation of an applicant's work from a professional engineer who is accountable to their association and its members and is professionally responsible under the *Professional Engineers Act* and Regulations or its equivalent in another province or territory.

It is intended that at the end of the period of supervised Canadian experience, an applicant will have acquired knowledge of the required personal and Canadian business practices to enable the applicant to comply with applicable legislation, standards, and codes, and be capable of practising professional engineering on their own, with honesty, integrity, professionalism and ethics, and without further supervision.

With respect to the proposed change from one year of supervised Canadian experience to four years to acquire a limited licence, PEO believes this increase in the depth of supervised Canadian experience is necessary to protect the public interest now that a limited licence holder would be able to hold a certificate of authorization, that is, to enable independent practice.

I would now like to respond to each of your specific comments.

Section 40(2)(c) and 41(2)(c) changes - specifying an applicant's academic and/or experience gaps

1. The OFC supports alignment with the notice provision of section 14(6) of the Act.

We appreciate your support of this alignment, which we believe is consistent with the principles of administrative justice.

2. The OFC recommends clarification of what is meant by "specify the academic requirement that the applicant must meet" and "specify the experience requirement that the applicant must meet."

You have recommended that the respective committees "give reasons, identify specific gaps and explain all alternatives for addressing these gaps". This is the intent of the draft Regulation, which would focus on the objective (to meet the requirements) rather than prescribing how that objective is to be achieved by the applicant. Methods to reach that objective could include self-study, credited courses, PEO-administered examinations, or other means. PEO believes applicants should have full

discretion and choice on the most appropriate means to meet the requirements. PEO also does not have the legal jurisdiction to offer the means to meet the objective (other than a PEO-administered examination), but will consider the outcomes of those means (such as successful course completion as determined by passing grade or marks). PEO's authority to set examinations derives from section 14(1)(a) of the Act.

3. The OFC cautions against expanding the power of the ARC and ERC to specify the route by which an applicant must satisfy licensing requirements.

We are not expanding the power of the ARC and ERC to specify how the applicant can meet the academic and experience requirements. All the examples you have given are acceptable methods for pursuing the academic and experience requirements.

Section 40 (4) changes – referring all limited licence applications to the Academic Requirements Committee (ARC) to determine if academic requirements have been met

1. The OFC recommends against referring all applicants for a limited licence to the Academic Requirements Committee.

In allowing limited licence holders to practise professional engineering independently, PEO must be assured that they have in-depth knowledge ("knowledge base") specific to their scopes of practice. Because not all academic knowledge in an acquired degree or diploma may be directly related to the proposed limited scope of practice, determining an applicant's knowledge base goes beyond a degree or diploma review, requiring a case-by-case review of the applicant's specific academic qualifications related to the expected scope of practice. This is best achieved by the Academic Requirements Committee, which has the necessary expertise to conduct such a review.

2. The OFC recommends that PEO consider attaching "possession of the knowledge base corresponding to the scope of services within the practice of professional engineering to be provided under the limited licence" to the experience rather than the academic requirement.

Under section 14(3)(a) of the *Professional Engineers Act*, the Registrar may delegate only to the Academic Requirements Committee the determination of academic requirements prescribed by the Regulations. To do otherwise would be an improper sub-delegation under the Act. ARC will determine the "knowledge base" specific to the proposed scope of practice based on academic and course syllabi, which cannot be substituted by work experience.

Section 44 changes – temporary licence experience requirements alignment with other licence instruments

1. The OFC recommends replacing the text of section 44(1) paragraph 1. with "at least 12 months of experience in the practice of professional engineering that is relevant to the work to be undertaken under the temporary licence that was acquired in a Canadian jurisdiction under the supervision of one or more persons who are legally authorized to engage in the practice of

professional engineering in a Canadian jurisdiction, or a demonstration of equivalent competency acceptable to the PEO Council.”

One of the most important elements of acquiring relevant work experience is the supervision of an applicant’s work by at least one person who is licensed to practise professional engineering in a Canadian jurisdiction. Such supervision provides the opportunity for instruction, quality review, coaching, and other feedback to help determine if the applicant is sufficiently qualified to practise professional engineering independently with integrity, honesty, ethics, and professionalism. PEO continues to believe that the reports of three referees who have directly supervised an applicant’s work is the best means of evaluating that applicant’s work experience.

Our intent in amending this section of the Regulation is to harmonize experience requirements across all licence instruments. While work is underway at the national level to determine competency levels, it has not been completed nor implemented in any province or territory, making it premature to entertain alternatives to supervision at this time. PEO will, of course, review competency models applying to all licence instruments, and will consider future changes to the Regulation for all licences, should these be warranted.

Section 46 changes – limited licence academic and experience qualifications and “LET” class

1. **The OFC recommends that PEO consider attaching “possession of the knowledge base corresponding to the scope of services within the practice of professional engineering to be provided under the limited licence” to the experience rather than the academic requirement.**

See our comments on section 40.

2. **The OFC recommends replacing the text of 46(1)(2) with: “The applicant shall demonstrate at least eight years of experience in the practice of professional engineering that meets the criteria set out in the document titled “Guide to the Required Experience for a Limited Licence in Ontario” and dated March 2014, published by and available from the Association, with at least six years of the experience corresponding to the scope of services within the practice of professional engineering to be provided under the limited licence. The applicant shall provide evidence that at least 12 months of those six years’ experience was acquired in a Canadian jurisdiction under the supervision of one or more persons who are legally authorized to engage in the practice of professional engineering in a Canadian jurisdiction or demonstrate equivalent competency in a manner acceptable to the PEO Council.”**

Your recommendations would reduce the duration (four years of supervised Canadian experience) to 12 months of supervised Canadian experience, or a demonstration of equivalent competency. With respect to reducing the duration, the increase in the duration of supervised Canadian experience relates to the depth of experience required to assure PEO that a limited licence holder will be able to practise professional engineering within their limited scope independently. We appreciate your understanding that “the bar has been set high for limited licence holders to ensure that they have the necessary professional knowledge and skills to practice independently under a

certificate of authorization". In fact, PEO proposes broadening the possible academic backgrounds of limited licence applicants by removing the current requirement to hold "a four-year honours science degree in a discipline and from a university approved by the Council". Because limited licence applicants have not graduated from an accredited or equivalent engineering program, it must be recognized that their engineering knowledge is deep but narrow, meaning that they may not possess sufficiently broad academic knowledge to offer their expertise directly to the public under a certificate of authorization. To assure the public interest, therefore, PEO has proposed two important safeguards – first, that a limited licence holders knowledge base also match his or her intended scope of practice and, second, that they acquire additional, supervised, related work experience, beyond that required of a licence applicant, to compensate for the limited licence holder's narrower knowledge.

With respect to insertion of "or demonstrate equivalent competency in a manner acceptable to the PEO Council", please see our comments on section 44.

- 3. The OFC recommends that PEO exercise flexibility with regards to the choice of references that are familiar with the applicant's work. No applicant should be denied the opportunity to apply for a limited licence on the basis of that applicant's current employment situation. Rather the focus should be on whether the applicant meets the requirements for a limited licence, based on all past experience.**

PEO generally agrees with this comment. There is nothing in the proposed Regulation that would refer to the applicant's current employment situation or specify that the supervised Canadian experience be within the most recent four or six years. We note that the proposed regulation in 46(1) paragraph 2 references the *Guide to the Required Experience for a Limited Licence in Ontario* dated March 2014. The content of this guide, while not yet published (pending the passing of this Regulation), is identical to the current *Guide to the Required Experience for Licensing as a Professional Engineer in Ontario* (February 8, 2013) with respect to the Role of Referees and Supervisors (page 7), as excerpted below:

"Individuals who serve as referees in support of a candidate's application are a vital component of the licensing process. Three references from individuals who are familiar with the details of the applicant's work are required. It is strongly recommended that two of these references come from professional engineers and at least one be from a person in authority at the applicant's place of employment or at a client firm. The applicant's present and past direct supervisors are the most suitable referees. If an applicant is claiming experience from multiple work situations, additional referees may be required.

Referees should provide information regarding the applicant's technical ability in the application of theoretical engineering principles, ability to clearly communicate orally and in writing, ability to work on a team and to exercise professional judgment. Referees should also attest whether the applicant is of good character, as demonstrated through such personal attributes as honesty and integrity."

This section of the guide allows an applicant to select the referees he or she wishes to use, provided these referees have supervised the applicant's work and that two of them are professional engineers. It suggests that present and past direct supervisors are the "most suitable", but not the only referees.

I trust that you will find our responses to your comments sufficient.

Sincerely,

Gerard McDonald

Registrar

cc. John Twohig, Ministry of the Attorney General