
Minutes

PROFESSIONAL STANDARDS COMMITTEE MEETING

Tuesday, September 10, 2019

PEO Offices

Members:

Fanny Wong, P. Eng. (Chair)
Neil Kennedy, P. Eng. (Vice-Chair) *[via teleconference]*
Dale Kerr, P. Eng.
James Lowe, P. Eng.
Brian Ross, P. Eng.
Donna Serrati, P. Eng.

Council Liaison:

Lisa MacCumber, P. Eng.

Staff:

Sherin Khalil, P. Eng.
José Vera, P. Eng.

Regrets:

Jamie Catania, P. Eng.
Roger Jones, P. Eng.
Nicholas Pfeiffer, P. Eng.
Peter Rüsch, P. Eng.

1. OPENING OF MEETING

The Chair called the meeting to order at 6:00 p.m., with seven members of the Committee in attendance. Consequently, quorum was attained.

1.1 Approval of Agenda

A motion was made to approve the agenda as written.

Moved by: J. Lowe **Seconded by:** D. Kerr **CARRIED**

2. MINUTES OF PREVIOUS MEETING AND ISSUES ARISING FROM MEETING

2.1 Approval of Minutes of June 11, 2019 Meeting

A motion was made to approve the Minutes of the June 11, 2019 meeting as written.

Moved by: L. MacCumber **Seconded by:** B. Ross **CARRIED**

2.2 Action Items of June 11, 2019 Meeting

Staff reported on the status of the action item which relates to obtaining a legal opinion to determine what activities within a Reserve Fund Study constitute the practice of professional engineering.

3. GUIDELINES

3.1 Guideline for Environmental Site Assessment, Remediation and Management

Staff provided the draft guideline to the PSC members for approval to send out for public consultation, which the majority of PSC members approved.

A PSC member questioned if any comments were received from the PSC on this guideline, and staff advised that minor comments were received which would be addressed along with the comments received from the public consultation.

A motion was made to send the draft guideline out for public consultation.

Moved by: B. Ross **Seconded by:** J. Lowe **CARRIED**

Action: Staff to commence the process to send the Environmental Site Assessment, Remediation and Management guideline out for public consultation.

3.2 Guideline for Performance Audits and Reserve Fund Studies for Condominiums

Staff advised that a legal opinion should be obtained to determine which activities within a Reserve Fund Study constitute the practice of professional engineering would require services that fall exclusively within the practice of professional engineering.

The subcommittee acknowledged that the *Condominium Act* allows for a Reserve Fund Study to be “conducted by a person of a prescribed class”. However, the *Condominium Act* is silent as to what aspects within a Reserve Fund Study may involve the practice of professional engineering. Consequently, a legal review on this matter would be beneficial.

Action: Staff, in collaboration with the subcommittee Chair, to prepare a Request for Proposal to outline the scope of the legal review, which will be discussed with the subcommittee members at the next meeting on September 24, 2019.

3.3 Guideline for Design Evaluation of Demountable Event Structures

The subcommittee Chair reported that the subcommittee had addressed all comments received from the public consultation that were specifically regarding manual intervention. The subcommittee members agreed that it was up to the professional judgement of engineers to decide upon how to proceed. There was a recommendation in the guideline for practitioners to assess and discuss with their client(s) whether adjustments could be made to either reduce or eliminate the need for manual intervention, or reduce the acceptable design load criteria by limiting the duration of the risk.

The subcommittee Chair advised that the draft guideline was ready for final Council approval and publication.

A PSC member commented regarding the references to applicable codes and standards that are noted in the guideline. Another PSC member commented that it was not clear in the guideline whether engineers were to follow the Ontario Building Code or the National Building Code. It was commented that, if it was a federal project, engineers should follow the National Building Code and, if it was a regular project, engineers should follow the Ontario Building Code. It was suggested that some wording could be added to the guideline to address this matter.

Action: Staff to add a note in the draft guideline as follows: "In general, for construction under federal jurisdiction, the National Building Code of Canada is the applicable code."

A motion was made to send the draft guideline to Council for approval after making some minor changes.

Moved by: D. Kerr **Seconded by:** J. Lowe **CARRIED**

Action: Staff to send the draft guideline to Council at their November 2019 meeting for final approval.

3.4 Use of Seal Performance Standard

The proposed performance standard is out for public consultation, which closes on September 30, 2019.

It was reported that the public consultation for proposed amendments to the Use of Seal regulation is standing at over 100 participants. Of these, the following are organizational responses:

- Ministry of Labour
- Ministry of Transportation
- Consulting Engineers of Ontario
- Ontario Aerospace Council

A PSC member commented that use of the electronic seal is of concern to engineers. Staff advised that the legal opinion received indicated that the electronic seal should be added to Regulation 941/90.

3.5 Guideline for Professional Engineers Providing Reports on Mineral Projects

The subcommittee will meet on September 12, 2019.

The public consultation ended this past summer, and approximately 28 comments were received. These comments will be addressed at the next subcommittee meeting.

3.6 Guideline for Preparing As-Built and Record Documents

The subcommittee will meet with the lawyers on September 18, 2019 to discuss the comments that were provided in their legal review, as well as any concerns from the subcommittee members regarding the legal opinion.

3.7 MECP - Professional Engineers Providing Engineering Reports under O. Reg. 1/17 (ESDM and AAR Reports)

The subcommittee Chair advised that the draft guideline was ready for PSC review and comments.

The next step is to whether the guideline should be sent out for public consultation or for legal review.

The PSC members agreed that the guideline should be sent for legal review prior to sending out for public consultation.

A motion was made to send the draft guideline for legal review.

Moved by: B. Ross Seconded by: L. MacCumber CARRIED

Action: Staff to prepare a request for a quotation on the scope of the legal review.

3.8 Coordinating Licensed Professional Joint Subcommittee

The subcommittee met on June 19, 2019, and is still working on the draft guideline. A meeting will be scheduled once the subcommittee members have completed their assigned sections in the draft guideline.

3.9 Guideline for Pre-Start Health and Safety Reviews

Staff advised that Council had approved, at their June 2019 meeting, the formation of a subcommittee to review and revise the existing draft guideline.

Staff will coordinate with the Volunteer Management group for the posting of the volunteer position for this subcommittee on the PEO website.

Staff advised that, currently, there is no Chair for this subcommittee; however, J. Lowe has expressed an interest in being the Chair.

Staff provided a copy of the legal opinion that was received in 2005 to provide the legal definition of a guideline vs. a standard of practice vs. an advisory statement vs. a position statement.

Furthermore, the legal opinion states that PEO performance standards or practice guidelines cannot exclude persons, other than licence holders, from performing certain specified activities beyond what the law already states. Consequently, the request received by the PSC from the Chair of the Enforcement Committee to

develop a performance standard on Pre-Start Health and Safety Reviews may not be consistent with the above-noted legal review.

The PSC members agreed that a decision on whether a performance standard is required or not should be made by the subcommittee members.

The PSC Chair and staff will draft a letter to respond to the memo received from the Enforcement Committee.

Action: Staff, in collaboration with the PSC Chair, to draft a memo in response to the memo received from the Chair of the Enforcement Committee.

4. OTHER BUSINESS

4.1 Council Update on PSC Related Issues

The next Council meeting is scheduled for September 20, 2019, at which the report on the PEO External Regulatory Review will be discussed, as well as the corresponding Action Plan.

Action: Staff to send the link to the report on the PEO External Regulatory Review report to the PSC members.

4.2 PSC H.R. and Work Plans

Staff provided metrics indicating the age of existing guidelines as follows:

- 17 guidelines are less than 10 years;
- 9 guidelines are less than 5 years; and
- 15 guidelines more than 10 years.

For example, the Temporary Structures guideline has not been updated since 1992, and may need to be reviewed by the PSC to determine if it requires updating or not. It was recommended that the PSC may want to review one guideline per month to determine if there any which require updating.

Action: Staff to follow up with the Volunteer Management group regarding if there is any training available to committee members on how to chair meetings.

There was a discussion on whether the PSC could provide an orientation session to Council to explain the PSC's mandate. It was advised that, in the past, PSC

Chairs have done a presentation to Council, and that perhaps the current PSC Chair can do a presentation in the New Year.

A motion was made to approve the PSC H.R. and Work Plans.

Moved by: D. Kerr **Seconded by:** J. Lowe **CARRIED**

Action: Staff to add the Strategic Plan to the agenda of the next PSC meeting.

5. ADJOURNMENT AND NEXT MEETING

The next meeting is scheduled for October 8, 2019.

The meeting adjourned at 7:30 p.m.