
CIPH & MCAC Parliamentary Day of Awareness May 10, 2016

*“Strengthening Industry and
Government Partnerships for a more
Competitive Canada”*

A joint collaboration between the
Canadian Institute of Plumbing & Heating (CIPH)
and Mechanical Contractors Association of Canada (MCAC) on:

1. Prompt Payment
2. Uniform and Harmonized Model Codes and Regulations for Canada



Who we are and what we do:

The [Canadian Institute of Plumbing & Heating](#) (CIPH), founded in Montreal in 1933 is a not-for-profit trade association committed to providing members with the tools for success in today's competitive environment. More than 260 companies are members of this influential Canadian industry association. They are the manufacturers, wholesaler distributors, master distributors, manufacturers' agents, and allied companies who manufacture and distribute plumbing, heating, hydronic, industrial, waterworks, and other mechanical products. CIPH members employ more than 20,000 Canadians, and CIPH wholesalers operate more than 700 warehouses and showrooms across Canada.

The [Mechanical Contractors Association of Canada](#) (MCAC) is a national, non-profit federation of autonomous provincial associations working for the betterment and advancement of the trade and mechanical contracting industry in Canada. Established in 1895, MCAC is a vibrant and diverse national association serving the needs of close to 1,000-member companies. The MCAC membership includes contractors of all sizes engaged in such disciplines as plumbing, heating, ventilation, air conditioning, controls systems, medical gases, welding, and fire suppression primarily within the industrial, commercial and institutional sectors. With offices in each province and 14 regional offices in Ontario, the MCAC is Canada's largest trade contractor Association.

Collectively, CIPH and MCA Canada employ more than 70,000 Canadians with industry sales in excess of \$25 billion.

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Prompt Payment

The Issue:

Late payment from construction work, specifically to the trade contractors, is a very serious and ongoing issue in the construction industry. It has an adverse effect on all aspects of the industry and as a result, the economy. In no other industry is it an accepted business practice to withhold payment without cause. Most jurisdictions in the industrialized world have adopted some form of Prompt Payment legislation.

Our Concerns:

Everyone deserves to be paid on time. The construction industry is distinct from other industries because of its complex system of contracting and sub-contracting. The system maximizes the benefits of specialization. However, to function, the system of contracting and sub-contracting requires that cash flows through many levels of a pyramid structure. An interruption in the payment flow anywhere in the construction pyramid has a cascading effect down the rest of the contracting and sub-contracting chain. Late payment leads to lower employment in construction, less investment in labour, apprentices, machinery and equipment, causes an inevitable rise in construction costs and can result in the foreclosure of trade contractor construction companies.

Current Efforts:

The Mechanical Contractors Association of Canada is spearheading efforts to enact Prompt Payment legislation provincially in partnership with CIPH and the National Trade Contractors Coalition of Canada (NTCCC). As a founding member of NTCCC, MCA Canada and eleven (11) additional national trade associations are actively lobbying for change in the construction environment by enabling Prompt Payment legislation across Canada.

On the federal level, MCA Canada, along with CIPH and representatives from the NTCCC have met with MP's on several occasions over the last few years to bring the serious issue of Prompt Payment to their attention.

Provincially, there are ongoing efforts in most provincial jurisdictions to introduce Prompt Payment legislation.

Going Forward:

MCA Canada and CIPH agree that the federal government should introduce Prompt Payment legislation for federal projects to ensure trade contractors and suppliers get paid in a timely manner.

The heart of the problem is not outright default on payment, as that is rare, rather it is late payment. Currently, there is no effective remedy to address late payment and as a result, late payment practices have increased. This leads to widespread use of contingent payment clauses in contracts which allow a party to delay payment, pay no interest on late payment, and in many cases, oblige the contractor to continue working even when payment is delayed.

According to a report by *Prism Economics* on The Need for Prompt Payment Legislation in the Construction Industry, "In the current system, there are incentives to improperly delay payments. There are no costs borne by the party that delays payment. The costs are borne entirely by the party whose payment is delayed."¹

In Conclusion:

CIPH and MCA Canada support the need for Prompt Payment provisions at the federal level. This will benefit all construction industry stakeholders who conduct work and build buildings with, and for, the Federal Government including General Contractors, Trade Contractors, and Suppliers of Building Materials and Equipment. The *status quo* is not working. This is an opportunity for the Federal Government to assist.

1. *Prism Economics*, Report: [The Need for Prompt Payment legislation in the Construction Industry](#), April, 2013

Uniform and Harmonized Model Codes and Regulations for Canada And Joint Canada/USA Standards

The Issue:

Canada has a well-developed regulatory regime and agencies for technical standards development, product certification, and codes development, implementation and enforcement. We believe in progressive and harmonized modern model codes and we uphold the established regulatory process while opposing fragmentation and haphazard application and interpretation of codes and standards. The scope of the Plumbing & Heating Industry covers components of the built environment that provide Canadians with efficient products that ensure the safety of their water systems and comfort of their indoor air environment.

Our Concerns:

Our National Code development has failed to keep pace with emerging technologies. Not only is our National Code cycle slow but certain provincial jurisdictions further exasperate the issue by their lagging adoption of the National Code which often references outdated standards or does not include new standards. As a result, individual jurisdictions are introducing their own regulations to fill the void and their policy needs. For example, Ministries of Environment and Energy implement regulations without adequate consultation with Building Codes while some requirements and regulations exceed National Building or Plumbing Codes.

To address the development of standards, CIPH and the Standards Council of Canada (SCC) have initiated a program of aligning disjointed US and Canadian referenced standards. The goal is to create a "One Test, One Standard, One Mark" recognition that streamlines system needs.

Negative Effects of Fragmented Regulations:

The misalignment and disharmony of codes and regulations causes the following:

- Uneven application of enforcement rules;
- Potential dumping of non-compliant products;
- Reduced productivity for all stakeholders;
- The undermining of the National "Red Seal" education system;
- Reduced competitiveness and barriers to innovation for Canadian manufacturers and suppliers;
- Confusion and limited choice in the consumer marketplace and construction delays and added costs.

The additional cost to Canadian consumers attributed to the fragmentation in terms of duplicative certification and testing and different regulations can be upwards of 15%.

Recent Industry Challenges:

Various provinces/territories have implemented or not implemented low-leaded plumbing standards and requirements in their codes at various times and this has caused massive supply chain and enforcement issues.

The 2015 National Plumbing Code, when it is published is not adopted automatically. Provinces and territories generally adopt the NPC 2-3 years after publication.

Going Forward:

CIPH and MCA Canada encourage the federal government to help facilitate the true harmonization of technical standards, codes and regulations. CIPH and MCA Canada are strong supporters of the Regulatory Council of Canada (RCC) and have been active participants, as we firmly believe that the RCC will help deliver cost savings, productivity gains and facilitate a greater speed to market while ensuring consumer health and safety. We need the same political will for a cross-Canada solution.

Automatic adoption of the NPC within a set time period is one solution to the fragmentation we observe across the country and acts as a challenge to internal trade between the provinces.

In Conclusion:

CIPH and MCA Canada have the best access to information on best practices, emerging technologies and alternative regulatory solutions. We are prepared to take on a more consultative role to reduce duplication of efforts in order to increase productivity, speed up regulatory development to match provincial/territorial policy needs and help reduce confusion for consumers and the enforcement bodies.

