

CCBFC/PTCBS

**Joint Task Group on the Model Codes
Review and Development Process**

Report of the Fifth Meeting
29, 30 March 1998
Vancouver, B.C.

Members present:

Chair: Bruce Clemmensen
Ann Borooah
Mike Dwyer
Serge Goulet
Tom Makey
Rick McCullough
Dick Miller
Fred Nicholson
Ross Rettie
Jack Robertson
Ted Ross
Chris Tye

IRC Staff:
John Berndt
Richard Desserud

Members absent:

Chris Fillingham

Visitors:

Richard Kadulski- Solplan Review
Nick Jablanczy- District of Saanich
Audrey Quay- Applied Science
Technologist & Technicians of B.C.
Tom Timm- City of Vancouver
Gina Cody- Professional Engineers
Ontario
Laurie McDonald- Professional
Engineers Ontario
Rod McPhee- CWC
Bob Rush- Retired
Gerry Buydens- Buydens Engineering
George Humphrey- Building Officials
Association of B.C.

Robert J. Light- Building Officials
Association of B.C.
Peter Sweeney- Building Officials
Association of B.C.
Don Pamplin- Canadian Automatic
Sprinkler Association
Peter Toneguzzo- City of Vancouver
Rick Dumala- BC Fire Commissioner
Bob Thompson- Ministry of Municipal
Affairs
Guy Gosselin- NRC
Russ Thomas- NRC
Luc Saint-Martin- NRC

REPORT OF THE 4TH MEETING

The report of the fourth meeting was approved. (The final version is now posted on the Task Group Web Site)

PRESENTATIONS BY VISITORS

Two presentations were made to the Task Group

Ms. Gina Cody representing the Professional Engineers of Ontario. (The full text of the presentation is attached as Appendix A). Ms. Cody reported that the PEO Submission had been circulated to all professional engineering associations and that endorsements had been received from six so far. She also directed attention to correspondence from the Canadian Council of Professional Engineers suggesting the PEO's recommendation #4 be modified to account for the need for technical training materials and programs on the core codes.

Robert Rush, retired building official formerly with the City of Vancouver. (The full text of the presentation, including some additional comments submitted subsequent to the meeting, is attached as Appendix B)

Comments and recommendations made in these presentations will be discussed fully at the next meeting of the Task Group.

DISCUSSION OF RECOMMENDATIONS AND COMMENTS MADE AT THE 4TH MEETING

The Task Group reviewed the presentations made at the 4th meeting with the view to identifying recurring themes, new viewpoints and reinforcing ideas.

Ontario Building Officials Association/ Toronto Area Chief Building Officials Committee OBOA/TACBOC

- The need for some mechanism/code to regulate existing buildings
- The need for policy principles to guide code development (e.g. the need to evaluate cost effectiveness of code changes)

Ontario Association of Architects

The need to establish a body (board of directors?) to ensure P/T policy issues are introduced early in the process.

Committee matrices need to ensure better balance of interests , in particular better representation from building owners.

The concepts of "core codes", more frequent public review, cost effectiveness of changes, co-ordinated public review and P/T point of entry were reinforced.

DISCUSSION OF CCBFC MEETING HELD MARCH 8 & 9

The Task Group's Progress Report to the CCBFC is attached as Appendix C

OBJECTIVE-BASED CODES

Dr. Russell Thomas of IRC made a presentation on the Objective-Based Codes Project. (A copy of the presentation materials can be found on the Task Group Internet site).

The key messages were that in the future code development would be focussed on three major areas-

- Changes to the Objective structure (Part A) which should be rare
- Updating Part B (i.e. updating outmoded or incorrect requirements of the 95 Codes), and
- Recognizing new acceptable solutions under Part B

The Task group agreed that the processes being developed should be applicable to all three, although there may be some procedural differences. There also might be differences in the rigor of public consultation for some types of code change.

AUSTRALIAN CODE PROCESS

Dr. Thomas reported on the Australian process. (A copy of the agreement that established the Australian Building Codes Board is attached as Appendix D).

The Task Group agreed that some features of the process should be considered for Canada, particularly the mechanism to consult at the state level, political commitment to buy into the results and the funding formulae. Of particular note was the agreement at a high level that the states would trust the process and work towards not making changes at the state level.

“STRAW” CODE REVIEW AND DEVELOPMENT MODELS

Two additional Straw models for a new code development system were discussed, Mark 7 and 8. (These are attached as Appendix E).

Points raised included:

Point of Entry

- Provinces and Territories should be the normal entry point for all code changes This ensures a critical perception among P/T stakeholders that the processes is driven at the P/T level.
- Proposals would then be forwarded to a Secretariat (possibly the Codes Centre) supporting a “Decision-Making Body” (name and composition to be determined). Whether a P/T performs an initial technical assessment and submits the proposals with recommendations or merely acts as a “mailbox,” remains a point of discussion. P/T resources are an issue. All proposals, except for issues clearly limited to an individual P/T, would be forwarded and could not be unilaterally cut off at the entry point.

- A mechanism should exist whereby proposals could be direct submitted to the Secretariat for obvious national issues or for proposals from national and industry groups and associations.
- The Secretariat would evaluate proposals based on guidelines prepared by the “Decision-Making Body” and refer all significant, controversial, scope and policy issues to the “Decision-Making Body”
- The Secretariat would circulate all proposals to every P/T and provide the opportunity for proposals to be stopped if there is “sufficient” P/T Objection to the proposal.
- An open tracking system should be created to allow proponents to track the progress of the proposal throughout the provinces, possibly via the Internet.
- The Secretariat could be empowered to explain core codes, but not legally interpret them. Interpretation remains the purview of the adopting authority.

Technical Review

- The Review Process could include balanced technical committees appointed by and reporting to the “Decision-Making Body” and could be structured in a manner similar to the CCBFC process. Committee matrices should be set by the “Decision-Making Body” ensuring appropriate representation from affected stakeholder groups.
- It is critical that the membership appointment process is seen to be “Open” by stakeholders to eliminate the impression that it is a closed shop controlled by NRC.
- Technical and administrative support could continue to be provided by NRC.
- The level of participation by P/T adopting authorities on each technical committee needs further examination. The key will be building confidence among P/T stakeholder groups that they are engaged in the process. It is important, however to ensure technical focus. Policy and political issues are best dealt with elsewhere.
- Some P/T will want to set up their own technical advisory committees to feed local concerns into the process.
- Improvement in communication of the process and procedures to stakeholders is seen as critical since many are unaware of even the existing system for membership appointments, matrices and decision-making.

Public Consultation

- “Significant” proposals could be circulated to P/T prior to wide release (no veto), however, there could be an opportunity for proposals to be stopped if there is “sufficient” P/T objection. Guidelines would be needed as to what constitutes a significant change, and “sufficient” objection.
- Individual Provinces and Territories may choose to manage the process and request and receive public comments in their jurisdictions. Comments could be reviewed and forwarded to the secretariat with P/T comment and/or recommendations for resolution.
- In order for this to be a coordinated process, provincial/territorial-specific changes would be included in public review packages
- Public consultation could occur on a more “continuous” basis resulting in smaller packages, which are more likely to be examined than the large collections of proposals circulated in the past. Publishing of changes could be according to an agreed upon cycle, possibly annually.

- Stakeholder comments would be referred back to the Technical Review and Development Process (technical Committees) for resolution.
- Regarding a suggestion that the public consultation process also be applied to rejected proposals, it was agreed that a separate mechanism be used for disseminating this information.

Approval of Code Changes

- Several possible arrangements for a “Decision Making Body” were discussed. This body would be responsible for policy, scope, format, content, process of the code(s). It would decide upon all changes to the core codes as recommended by the technical committees and establish priorities. It would be responsible for the Matrix/Membership of Technical committees. It is uncertain if one body would be enough or whether there should be one for each Code. The Decision-Making Body might be empowered to interpret the core codes.
- One scenario would have the Decision-Making Body made up of members from P/T Regulatory Bodies only. Members could be appointed by individual P/T Deputy Ministers. Decisions would not commit a P/T government to accept a change, however buy-in would become more likely. This option was seen as one that industry might not embrace enthusiastically.
- Another scenario would have the Decision Making Body made up of members from Regulatory Bodies, Industry and General interest according to a balanced matrix similar to the CCBFC. A P/T Board of Directors could oversee the actions of the body and possibly ratify the changes approved by the Decision-Making Body.
- The Australian concept of publishing one code for the country including all provincial amendments and additions, might prove feasible for Canada.

It was agreed that additional “straw” models encompassing as many of these features/principles as possible be prepared, including flow charts, and circulated widely prior to the next meeting.

TIMING AND SCHEDULE

A meeting of the Deputy Ministers responsible for building regulations is proposed for November 18 1998. The recommendations of this Task Group will be one of two main agenda topics (the other is Objective-Based Codes). Since this Task Group has scheduled its last meeting for September, getting CCBFC and PTCBS buy-in for the recommendations prior to the DM meeting is problematic.

Key meetings to work around are;

1. CCBFC Executive Committee - May 7 & 8 1998
2. PTCBS Meeting - May 26 & 27, 1998
3. CCBFC Executive Committee – September ? 1998
4. CCBFC Meeting - October 4 & 5, 1998
5. PTCBS Meeting - Nov 16 & 17, 1998

FUTURE MEETINGS

The next meeting is scheduled for May 24 and 25 in Halifax. Since the PTCBS meets the following 2 days, it was agreed that the second day would end at 5 p.m. instead of the normal 3 p.m.

Appendix A

PEO Presentation

March 23, 1998

Mr. Bruce Clemmensen,
 Chair, CCBFC/PTCBS Joint Task Group
 on the Code Review and Development Process,
 Canadian Codes Centre,
 Institute for Research in Construction,
 National Research Council of Canada,
 Montreal Road,
 Ottawa, ON K1A 0R6

Dear Mr. Clemmensen:

Professional Engineers Ontario (PEO) has reviewed the various models for a code development and review process and other relevant documentation, and has prepared a PEO submission on the same subject for the consideration of the Joint Task Group.

The PEO submission (attached) was drafted and approved by the PEO Working Group on the National Building, Fire and Plumbing Codes, and endorsed by PEO's Professional Practice Committee.

It has also been provided to the other engineering regulatory bodies in Canada for their information and possible independent action in support of the PEO conclusions and recommendations.

If you have any questions about the PEO submission, please contact me through Laurie Macdonald, P.Eng., Director of Professional Affairs, at (416) 224-1100 Ext. 493.

Yours sincerely,

Gina Cody, Ph.D., P.Eng.
 Chair, Professional Practice Committee

GC/hp

Encl.

cc:

- Luc Saint-Martin, Secretary, CCBFC/PTCBS Joint Task Group /2
- Christine Bell, P.Eng., President, Professional Engineers Ontario
- Peter Large, P.Eng., Executive Director, Professional Engineers Ontario
- Neil Windsor, P. Eng., Executive Director, Association of Professional Engineers, Geologists and Geophysicists of Alberta
- John Bremner, P.Eng., Executive Director and Registrar, Association of Professional Engineers and Geoscientists of British Columbia
- David Ennis, P.Eng., Executive Director, Association of Professional Engineers of Manitoba
- Edward Kinley, P.Eng., Executive Director, Association of Professional Engineers of New Brunswick
- Allen Steeves, P.Eng., Executive Director and Registrar, Association of Professional Engineers and Geoscientists of Newfoundland
- Robert Spence, P.Eng., Executive Director, Association of Professional Engineers, Geologists and Geophysicists of the Northwest Territories
- John Woods, P.Eng., Executive Director, Association of Professional Engineers of Nova Scotia
- Graeme Linkletter, P.Eng., Executive Director, Association of Professional Engineers of Prince Edward Island
- Hubert Stephenne, P.Eng., Secrétaire et Directeur Général, Ordre des Ingénieurs du Québec
- Dennis Paddock, P.Eng., Executive Director and Registrar, Association of Professional Engineers of Saskatchewan
- Robert Baxter, P.Eng., Secretary-Treasurer, Association of Professional Engineers of Yukon Territory
- Daniel Levert, P.Eng., LL.B., President, Canadian Council of Professional Engineers

PEO SUBMISSION ON THE NATIONAL BUILDING, FIRE AND PLUMBING CODES DEVELOPMENT AND REVIEW PROCESS

1.0 Professional Engineers Ontario

Professional Engineers Ontario (PEO) is the association that regulates and sets standards for professional engineering in Ontario under the Professional Engineers Act. PEO currently has a membership of about 62,000 licensed professional engineers. The association is committed to fulfilling its legislated mandate, including participating in public debate and policy setting in its prime area of responsibility, protection of the public health, safety and welfare where engineering principles are involved.

PEO provides the engineering perspective on relevant public and technology-related issues, including protection of the natural environment. PEO also publishes professional practice guidelines to provide PEO licence holders with guidance within the subject practice area, and with a better understanding of the engineering profession. PEO guidelines complement the association's definition of professional misconduct and the Code of Ethics, and may be used as a basis against which the conduct of professional engineers is judged in a PEO disciplinary proceeding. PEO currently publishes eight professional practice guidelines related to code issues (see Appendix 1).

Each province and territory within Canada has an engineering regulatory body with regulatory powers similar to PEO's. As a group, these bodies regulate the engineering profession in Canada, and license a total of 160,000 engineers across the country.

2.0 Background

A joint Task Group of the Canadian Commission on Building and Fire Codes (CCBFC) and the Provincial/Territorial Committee on Building Standards (PTCBS) has been formed. Its role is:

- to recommend strategies aimed at ensuring appropriate levels of national/provincial/territorial participation in a uniform building, plumbing and fire code development and review process; and
- to establish a coordinated code public review process that accommodates the needs of the CCBFC and the provinces/territories.

The joint task group is currently conducting a stakeholder consultation. This submission provides PEO's responses to the set of questions the joint task group has posed about how the code development process can be improved.

3.0 Rationale for PEO Involvement

PEO has a mandate to regulate activities that fall within the definition of the practice of professional engineering. The Professional Engineers Act of Ontario defines professional engineering as:

“...any act of designing, composing, evaluating, advising, reporting, directing or supervising wherein the safeguarding of life, health, property or the public welfare is concerned and that requires the application of engineering principles.”

Engineering regulatory bodies in other Canadian jurisdictions operate under similar engineering Acts which include similar definitions of the practice of professional engineering, and are empowered with similar regulatory responsibilities.

Professional engineers undertake many of the acts described in the definition as building design professionals, and are responsible for ensuring that the health and safety of the public is explicitly considered at both the building design and construction stages. In recognition of this fact, the involvement of professional engineers is required under the Ontario Building Code and under similar legislation in other Canadian jurisdictions. In addition, professional engineers ensure that both the building's design and construction comply with other applicable legislation, codes and standards.

4.0 National Building, Fire and Plumbing Codes Working Group

The National Building, Fire and Plumbing Codes Working Group comprises seven professional engineers with knowledge of and experience in the building industry and in building code development. The working group has agreed to prepare this submission from the perspective of protection of the public interest. A terms of reference for the working group is attached as Appendix 2.

The working group's answers to the specific questions posed by the joint CCBFC/PTCBS Task Group are provided in Appendix 3.

5.0 Definitions

The following terms are defined in the interest of clarifying the ideas contained in this paper.

Core code: Refers to the National Building, Fire and Plumbing Codes which should be the same for all provinces and territories.

Ancillary code parts: Refers to the additional requirements developed by individual provinces or territories that are ancillary to the *core code*. *Ancillary code parts* should only address items that are not specifically covered by the *core code* and should not amend or contravene the *core code* or the intent of the *core code*.

National public review: Refers to the formal period during which both stakeholders and the general public across Canada are allowed to review and comment on any proposed changes/additions to the *core code*. The review should be ongoing rather than on a five-year cycle.

6.0 Assumptions

6.1 One Core Code for all of Canada

PEO assumes that the National Building, Fire and Plumbing Codes will be adopted uniformly across Canada. The content of this *core code* should be restricted to fire and life safety, public health, and structural sufficiency issues. Resources used in the past to develop unique codes for individual jurisdictions should be rerouted to the *core code* development process. With a focus on technical aspects, provincial and federal resources could be directed toward the same goal, a state-of-the-art *core building code*.

The *core code* document would be made up of parts, which could then be adopted without amendment by provincial and territorial governments. Where considered necessary, provinces and territories could develop *ancillary code parts* which would not amend or contravene the *core code*.

The use of one *core code* across the country would (a) ensure that minimum health and safety standards are met for all Canadians, (b) encourage consistency and a reduction in errors, (c) reduce costs relating to the development, issuance and enforcement of building regulations, (d) lead to improved efficiency in the building industry, (e) allow the sharing of innovative ideas and solutions across the country, and (f) facilitate harmonization of Canada's *core code* with international codes.

Core code development should remain a national function and should be supported by provincial and territorial governments. All Canadian jurisdictions would thereby be able to take advantage of National Research Council of Canada resources and the pooled resources of provinces and territories.

To obtain support for the adoption of the NBC, stakeholders should have direct access to the *core code* development process.

6.2 Agreement of PTCBS, Provincial and Territorial Governments and CCBFC

PEO assumes that the PTCBS, provincial/territorial governments and the CCBFC will agree on the need for one *core code* for the country, and for one *core code* development process. After the initial agreements are reached in support of one *core code* and *core code* process, there should be no need for additional agreements.

6.3 Structure of CCBFC and PTCBS

PEO assumes that the structure and scope of the CCBFC and PTCBS will be expanded to include issues relating to building, fire and plumbing codes.

7.0 PEO Position on the National Building, Fire and Plumbing Codes Development and Review Process

7.1 Scope of *Core Code*

The preface to the National Building Code (NBC) of Canada states that the NBC is essentially “a code of minimum regulations for public health, fire safety and structural sufficiency with respect to the public interest”¹. The first step to achieving a *core code* technical development and review process is to restrict the *core code* to these issues.

The *core code* should be restricted to a set of minimum core technical requirements dealing with life safety, fire protection, structural sufficiency and health related issues regarding building construction and maintenance.

Even though the *Guide to the Use of the Code*² states that “it is not intended to be a textbook on building design”, both *core code* writers and provincial/territorial enforcement authorities attribute mandatory adherence to its provisions and those of its referenced standards as the minimum acceptable standards for building design in Canada.

¹ National Building Code of Canada 1995, Preface, page ix.

² National Building Code of Canada 1995, A Guide to the Use of the Code, page xiii.

The minimum acceptable level of fire and life safety, structural sufficiency and health standards for buildings should be the same across Canada. The transition to objective-based codes may make this easier to attain.

The goals and objectives for specific code issues should be identical; however, different acceptable solutions that take into account the economic and geographic realities of different regions can be developed. As a result, emergency amendments to code requirements at the provincial/territorial level would not be necessary.

7.1.1 Interpretation of *Core Code*

In order to ensure a uniform interpretation of the *core code*, effective liaison among the CCBFC, PTCBS and the provincial/territorial authorities will be necessary. The Canadian Codes Centre of the National Research Council of Canada (NRCC) should be designated as the official body responsible for interpretation of the *core code*.

7.1.2 *Ancillary Code Parts*

PEO believes that the provinces and territories will need to address provincial/territorial-specific issues in *ancillary code parts* if not addressed in the *core code*.

Development of *ancillary code parts* should be generated through various stakeholders at the provincial/territorial level with the provision for their adoption by other provincial or territorial governments, if deemed to be a priority in the affected region. This will allow provincial and territorial governments to retain the ability to decide unilaterally on requirements which are of a social or regional nature.

7.1.3 Incorporation of *Ancillary Code Parts* into the *Core Code*

The scope of the *core code* should be augmented only when there is clear evidence of strong support among the majority of/all *core code* users and adopting authorities.

7.2 Single Point of Entry at National Level for all *Core Code* Changes

PEO believes that the *core code* development and review process should begin at the national level, and that the point of entry for proposed changes to the *core code* should be through the CCBFC (see Appendix 4 for PEO model). Appropriate resources and operational procedures should be put into place at CCBFC to ensure *core code* issues are dealt with effectively and in a timely manner.

PEO believes that divergence of entry points would lead to confusion. Accordingly, PEO suggests that all proposals regarding the *core code* be filtered through the CCBFC. If the proposal is deemed to be ancillary to the *core code*, it would be channeled to the appropriate province or territory for review and possible action.

A national entry point would make the process consistent for all provinces and territories, given that some jurisdictions have no code development departments.

7.2.1 CCBFC Technical Committees

CCBFC's technical committees should be made up of technical representatives, selected for their current technical knowledge, experience and expertise, and for their ability to assess risk to public health and safety as

well as the economic impact of proposed code changes. CCBFC should develop technical committee criteria to reflect these requirements.

The CCBFC/PTCBS Joint Task Group should review the technical committee matrices to ensure that appropriate technical, balanced and unbiased representation is achievable on each committee. Provincial/territorial authorities and PTCBS should also be involved in the process of nominating and selecting CCBFC technical committee members.

7.2.2 Mandatory Requirements for Written Proposals for *Core Code* Changes

Proposals for changes to the *core code* should be required to include an assessment of (a) the impact on fire and life safety, structural sufficiency and health related issues, as well as (b) the economic impact of the proposed change, including a cost-benefit analysis.

7.2.3 PTCBS Involvement prior to *National Public Review*

All proposed *core code* change recommendations that have been “deemed to have merit” by the relevant CCBFC technical committee should be distributed to the PTCBS for their information and possible feedback prior to the *national public review*.

7.2.4 Role of Provincial/Territorial Code Development Committees/Councils

If a national *core code* is adopted by all provinces and territories and a single *core code* development process implemented, the role of provincial/territorial building code development councils and committees should be redefined.

Provincial/territorial authorities may determine an ongoing need for code development councils and committees to address specific issues or building types that impact on their jurisdiction but are not of national interest.

If provincial/territorial development councils and committees are retained by provincial/territorial jurisdictions, improved liaison would be necessary to ensure that the *core code* is not compromised.

7.3 *National Public Review*

PEO believes that *core code* public review meetings should be held across the country to obtain public/stakeholder comment, and to review any *core code* change proposals that have been deemed to have merit. This review process should be ongoing rather than on a five-year cycle. Past experience has shown that separate provincial/territorial public reviews were redundant and out-of-synch with the national process.

7.3.1 *National Public Review* Package

There should be one official *national public review* package. It should contain:

- a) *core code* change proposals, complete with economic impact documentation,
- b) PTCBS’s comments on the proposed changes to *core code*, if any, and
- c) any provincial/territorial proposals to broaden the scope of the *core code*, i.e. for *ancillary code parts* to be incorporated into the *core code*.

7.3.2 Posting of Proposals on Internet

Once a CCBFC technical committee deems that a proposal has merit, the proposal for change to the *core code* should be distributed to the PTCBS, and soon after posted on the Internet. Internet publication of proposed changes to the *core code* may significantly improve the response from stakeholders and the public. In addition, ease of response via the Internet may result in increased comment from stakeholders and the public. Submission of new proposals over the Internet should also be permitted.

7.4 Final Ratification by PTCBS

PEO believes the PTCBS must ratify any *core code* changes after CCBFC's final approval. PTCBS is the body responsible to provincial/territorial governments which ultimately must legislate any new *core code* changes within their jurisdictions.

7.4.1 Dispute Resolution Mechanism

A dispute resolution mechanism should not be necessary if the *core code* development process is appropriate and has been agreed upon by the PTCBS and CCBFC. However, a mechanism should be in place to deal with disputes arising among members of the PTCBS or CCBFC.

7.5 Benefits

Adoption of a *core code* and a nationally coordinated *core code* development process would have the following benefits:

1. Meet government (both levels) goal for harmonization and elimination of duplication.
2. Meet goals and strategies contained in the CCBFC Strategic Plan.
3. Create an opportunity for a meaningful partnership involving the provinces and territories and the NRCC.
4. Will lead to greater and more meaningful stakeholder participation in the *core code* development and review process.
5. Allow for the "channeling" of issues to the provincial or territorial body if not appropriate for the *core code*.
6. Provide the opportunity for the establishment of a truly national *core code*. The *core code* would be developed and administered by the CCBFC with the provinces and territories agreeing on the scope and content. Provinces and territories would develop and administer their own *ancillary code parts* based on regional, social, industrial or economic needs.
7. Will lead to greater uniformity (less provincial or territorial change) and consistency.
8. Will allow the sharing of innovative ideas and solutions across the country.
9. Will facilitate harmonization of Canada's core code with international codes and thereby support Canada's international trade policies and agreements.

7.6 Requirements for Achieving a *Core Code* Development Process

An initial, formal partnership agreement between each participating province and territory and the CCBFC should be signed. Some requirements include:

1. **Timing:** A coordinated national/provincial/territorial development and review process will require a commitment by each partner to a set timetable.
2. **Process Uniformity:** Partners will need to agree on a common development and review process, one that will accommodate the “channeling” of change proposals to either the CCBFC (*core code*) or the province/territory (*ancillary code parts*).
3. **Adoption:** A commitment by all provincial/territorial governments to adopt the core code without amendments.

7.7 Strategies for Achieving a *Core Code* Development Process

1. Development of formal partnership agreements between the various parties to work cooperatively on code development and review. Eliminate existing parallel processes.
2. Agreement on a *core code* that is not amended by provincial or territorial governments.
3. Use of a single publishing source for the *core code* by all provinces and territories and, ideally, for the provincial/territorial *ancillary code parts*.

8.0 PEO Conclusions

PEO believes that the National Building, Fire and Plumbing Code should be adopted by all Canadian jurisdictions as the *core code* for each province and territory. The *core code*'s content should be restricted to fire and life safety, public health, and structural sufficiency issues. Where considered necessary, provinces and territories could develop *ancillary code parts* to address regional or social issues. The *ancillary code parts* should only address issues that are not specifically covered by the core code and should not amend or contravene the core code or the intent of the core code.

The use of one *core code* across the country would (a) ensure that minimum health and safety standards are met for all Canadians, (b) encourage consistency and a reduction in errors, (c) reduce costs relating to the development, issuance and enforcement of building regulations, (d) lead to improved efficiency in the building industry, (e) allow the sharing of innovative ideas and solutions across the country, and (f) facilitate harmonization of Canada's core code with international codes.

PEO believes that the *core code* development and review process should begin at the national level, and that the point of entry for proposed changes to the *core code* should be through the CCBFC. PEO believes that divergence of entry points would lead to confusion, given that some jurisdictions have no code development departments. A national entry point would make the process consistent for all provinces and territories.

All proposals for *core code* changes should explicitly deal with public health and safety implications, and provide an economic assessment of the proposed change.

Resources used in the past to develop unique codes for individual jurisdictions should be rerouted to the *core code* development process.

Core code change proposals should be delegated through CCBFC to its technical committees for assessment. PEO strongly believes that members of CCBFC technical committees should be selected for their technical knowledge, experience and expertise. It is imperative that committee members be technically competent, unbiased, and focused first and foremost on public health and safety issues. In addition, the matrices of each technical committee should be reviewed to ensure that representation is balanced and unbiased.

The involvement of the PTCBS should come at two distinct points in the *core code* development process. Once a CCBFC technical committee deems that a proposal for a *core code* change has merit, the proposal and any supporting documentation should be provided to the PTCBS for its information and possible comment prior to the *national public review*. Any PTCBS comments received should be included in the *national public review* package. In addition, PEO believes that any *core code* change that has received CCBFC's final approval must be ratified by the PTCBS.

In PEO's opinion, final ratification by the PTCBS is mandatory because it is the body responsible to provincial/territorial governments which ultimately must legislate any new *core code* requirements within their jurisdictions.

Improved communications between CCBFC and provincial and territorial authorities will be required to ensure (a) uniform interpretation of the *core code*, and (b) assurance that any provincial/territorial resources directed at the national *core code* development process are being appropriately utilized. The Canadian Codes Centre should be designated as the official body responsible for interpretation of the core code.

There should be only one *national public review* of core code change proposals with the same deadline for all jurisdictions. Interim reviews through regional meetings and Internet publication of *core code* change proposals that have been deemed to have merit should be scheduled. This would allow stakeholders and the public to have access to proposals as soon after the CCBFC's technical committee assessment as possible.

Initially, a formal partnership agreement between the provincial/territorial and federal authorities (CCBFC) will likely be required to implement a single, national *core code* development process.

9.0 PEO Recommendations

PEO makes the following recommendations for the consideration of the joint CCBFC and PTCBS Task Group.

Recommendation #1

PEO recommends that one national building, fire and plumbing code for all provinces and territories be adopted.

Recommendation #2

PEO recommends that the PEO model for a national core code development process (Appendix 4) be adopted.

Recommendation #3

PEO recommends that all necessary steps be taken to ensure that implementation of any new core code development process coincides with the completion of the objective-based building code which is currently targeted for 2001.

10.0 Submitted by PEO National Building, Fire and Plumbing Codes Working Group

Gina Cody, P.Eng. (Chair)
 Tony Chow, P.Eng.
 Demir Delen, P.Eng.
 Paul Keenan, P.Eng.

Rick Mori, P.Eng.
 Jonathan Rubes, P.Eng.
 Paul Seager, P.Eng.

APPENDIX 1

PROFESSIONAL PRACTICE GUIDELINES DEALING WITH BUILDING CODE ISSUES

- Guideline for Professional Engineers Providing Commissioning work in Buildings (1992)
- Guideline for Professional Engineers Providing General Review of Construction as Required by the Ontario Building Code (1996)
- Guideline for Professional Engineers Providing Geotechnical Engineering Services (1993)
- Guideline for Professional Engineers Providing Land Development/Redevelopment
- Guideline for Professional Engineers Providing Mechanical and Electrical Engineering Services in Buildings
- Guideline for Professional Engineers Providing Structural Adequacy in Arenas (1995)
- Guideline for Professional Engineers Providing Structural Engineering Work in Buildings (1995)
- Guideline for Professional Engineers – Temporary Works (1993)

APPENDIX 2

NATIONAL BUILDING, FIRE AND PLUMBING CODES WORKING GROUP TERMS OF REFERENCE

Authorization

PEO's Professional Practice Committee has authorized the re-activation of the Ontario and National Building Codes Working Group to provide input to the Canadian Commission on Building and Fire Codes (CCBFC) and the Provincial/Territorial Committee on Building Standards (PTCBS) Joint Task Group on the Code Review and Development Process. The working group's name has been changed to the National Building, Fire and Plumbing Codes Working Group.

PEO intends to publish any final submission of this Working Group on the PEO web site subject to approval by the Professional Practice Committee and the Government Affairs Committee.

Scope of Work

The Working Group's objectives are to:

1. discuss and prepare a written rationale, justifying PEO's involvement in the development of building, fire and plumbing codes from the perspective of protecting the public interest;
2. develop commentary on the process models developed by the federal joint task force for development of the National Building, Fire and Plumbing Codes, based on the questions provided by the joint task force;
3. provide input on other subjects related to the joint task force's work (i.e. the role of engineering associations in the development of the National Building, Fire and Plumbing Codes).

Deadlines

The deadline for completion of the Working Group's final draft submission is Friday, March 13, 1998.

Membership

The Working Group will comprise up to eight PEO members. All members must have prior knowledge of and experience with the Ontario and/or National Building Code(s).

Responsibilities

PEO Working Group members represent Professional Engineers Ontario whose mandate is to protect the public health, safety, welfare and the natural environment where engineering principles are involved. All submissions must be in keeping with this mandate.

Consensus

A consensus among the members of the Working Group on the final draft of any written submission must be reached before it passes through the PEO internal approvals process. This process will include review of the final draft by the PPC as well as senior PEO staff.

Meetings

The Working Group may meet at PEO headquarters or conduct meetings via teleconference. Out of province members will participate via teleconference. PEO will provide refreshments at meetings held at PEO offices, and absorb reasonable travel costs incurred by members.

APPENDIX 3**RESPONSES TO JOINT TASK GROUP QUESTIONS**

Responses to Question #1:

1.0 Acknowledging the constitutional prerogative of the provinces and territories to adopt whatever code they wish and considering differing provincial/territorial issues and priorities, how could a uniform code technical development and review process be achieved?

The Preface to the National Building Code of Canada states that the NBC is essentially “a code of minimum regulations for public health, fire safety and structural sufficiency with respect to the public interest”. The first step to achieve a uniform code technical development and review process is to restrict the core of the code to these issues.

Issues related to changing social policy should be excluded from the core of the code and be developed as standards with the provision for their adoption by inclusion in the legislation by the elected officials of the provinces and territories if deemed to be a priority in the affected region.

Recognize that while the “Guide to the Use of the Code” states that “it is not intended to be a textbook on building design”, both code writers and enforcement authorities attribute mandatory adherence to its provisions and those of its referenced standards as the minimum acceptable standards of building design.

1.1 Designation of provincial/territorial authorities as the point of entry to the code development process?

PEO believes the point of entry to the uniform code should be the CCBFC. Appropriate resources and operational procedures should be put into place at CCBFC to ensure code issues are dealt with effectively. Divergence of entry points would lead to confusion, in PEO’s opinion.

1.2 Improved liaisons between the CCBFC and provincial/territorial code development councils and committees?

If the National Building, Fire and Plumbing Codes are to become truly national, the role of provincial/territorial code development councils and committees would have to be redefined as they relate to the *core code*.

If provincial/territorial development councils and committees are required by the various jurisdictions, improved liaison would be necessary to ensure that the *core code* is not compromised.

1.3 Improved liaisons between the CCBFC and provincial/territorial code authorities?

In order to ensure a uniform interpretation of the *core code*, effective liaison between the CCBFC and the provincial/territorial code authorities is necessary. NRCC’s Code Centre should be designated as the official body responsible for interpretation of the *core code*.

1.4 Greater representation of provincial/territorial authorities on the CCBFC committees?

CCBFC technical committees should be made up of technical representatives, selected for their technical expertise. In PEO’s opinion, greater representation of provincial/territorial authorities as per the current matrix is not necessary.

1.5 Earlier involvement of provincial and territorial authorities in the CCBFC code development process?

Assuming that (a) the point of entry continues to be through the CCBFC for proposed changes to the *core code* and that (b) provinces and territories have accepted the process and technical committee matrices, there should be no need for earlier involvement.

However, all “deemed to have merit” code change recommendations, accompanied by an economic impact and life safety assessment of the proposed change, should be distributed to the PTCBS for their information and possible feedback prior to the national public review process.

1.6 Joint review of technical changes by provinces and territories prior to wider public review, or separate provincial public reviews funneled into a National review process?

Retain only the national public review process. Separate provincial/territorial public reviews would be redundant.

1.7 Inclusion of all provincial/territorial amendments in a national review package?

PTCBS comments on the proposed changes to *core code* should be included in a national public review package.

CCBFC should review provincial/territorial proposals for new *ancillary code parts* to determine whether they should be considered as part of the *core code*.

1.8 Greater involvement of provincial and territorial (PTCBS?) in the process of selecting members for the CCBFC and its standing committees?

PTCBS should be involved only in the process of selecting standing committee members.

1.9 CCBFC decisions on code change made subject to a ratification by provincial/territorial authorities such as used by some Canadian Standards Development Organizations?

Have CCBFC code changes subject to ratification by PTCBS as the responsible body because political accountability must be assumed by provincial/territorial governments.

1.10 A more frequent or continuous process instead of scheduled or periodic public reviews?

The proposed changes to *core code* should be made available as soon as possible. With the adoption of objective-based codes, a continuous process will be necessary.

Responses to Question #2:

2.0 Considering geographical and economic realities, how could greater participation in a coordinated national/provincial territorial code development and review process be achieved?

2.1 More code development originating at the provincial/territorial level?

Core code development should remain a national function and should be supported by provincial and territorial governments.

Development of *ancillary code parts* should be generated through various stakeholders at the provincial level, at which point the provinces have an ability to maintain control of those changes which are of a social nature, rather than a technical one which affects the *core code* requirements.

2.2 More meetings across Canada?

To reduce the formation of a stigma associated with a National Building, Fire and Plumbing Codes created by Ottawa, regional public meetings could be held across the country to obtain public/stakeholder comment. Representatives from each province could attend regional meetings.

2.3 Enhancement of the present decision-making process used by the CCBFC (broad consensus, public review, balanced matrix, individuals as members)?

No comment.

2.4 National conferences to discuss/decide code development as occurs in the USA?

No. Regional meetings are more manageable and effective. In addition, the national public review process is superior to the process used in the USA.

2.5 Greater use of the Internet?

Public broadcast of proposed changes to the code onto the Internet will significantly improve response from the public. Ease of response via the Internet would further encourage public comment. It is assumed that the above process is for proposed changes which have already passed through the technical standing committee(s).

Submitting new proposals should be permitted over the Internet.

Responses to Question #3:

3.0 How should the process deal with the possibility of contradictory policy and technical advice from stakeholder groups?

3.1 Require stakeholder groups to refer issues to the Provincial/Territorial Committee on Building Standards (PTCBS) first?

It is understood that a general goal is to have a single core document with ancillary documents prepared by individual provinces as appropriate to that province. Recognizing this goal, proposed changes to the core document should go directly to CCBFC and not through a provincial committee first.

3.2 Create partnership agreements with provincial/territorial decision-making authorities specifying to whom the process will refer policy issues?

Once the initial formal partnership agreements between the provincial/territorial and federal authorities (CCBFC) have been signed, additional partnership agreements/commitments should not be necessary for *core code* change proposals.

3.3 Create liaison agreements between the process and stakeholder groups, such as the Canadian Council of Fire Marshals and Fire Commissioners (CCFM/FC), the Canadian Advisory Council on Plumbing (CACP) and the Federal /Provincial/Territorial Subcommittee on Building Codes and Housing?

The structure of the CCBFC and PTCBS should be expanded to include all *core code* issues relating to building, fire and plumbing.

3.4 Establishing a dispute resolution mechanism?

A dispute resolution mechanism should not be necessary if the *core code* development process is appropriate and has been agreed upon by the PTCBS and CCBFC.

A mechanism should be in place, however, to deal with internal disputes arising among members of the PTCBS or CCBFC.

Responses to Question #4:

4.0 Are there characteristics of model building, plumbing and fire codes that need to be accounted for in a code development process?

4.1 Restrict the model building, plumbing and fire codes to a set of core minimum requirements and rely on provinces and territories to develop provisions for issues that do not have widespread application?

Yes. The model building, plumbing and fire codes should be restricted to a set of minimum core technical requirements dealing with life safety, fire protection, structural sufficiency and health related issues regarding building construction and maintenance.

The minimum acceptable level of fire and life safety, structural sufficiency and health standards for buildings should be the same across Canada. The transition to objective-based codes may make this easier to attain. The goals and objectives for specific issues should be identical, however, different acceptable solutions, taking into account the economic and geographic realities of different regions, can be developed.

4.2 Base the model codes, to the greatest extent possible, on technical correctness only?

The *core codes* should be based on technical and economic considerations as they relate to life safety, fire protection, structural sufficiency and health related issues.

4.3 Give due consideration to cost impact?

A cost-benefit analysis of all *core code* proposed changes should be made and the economic impact should be considered.

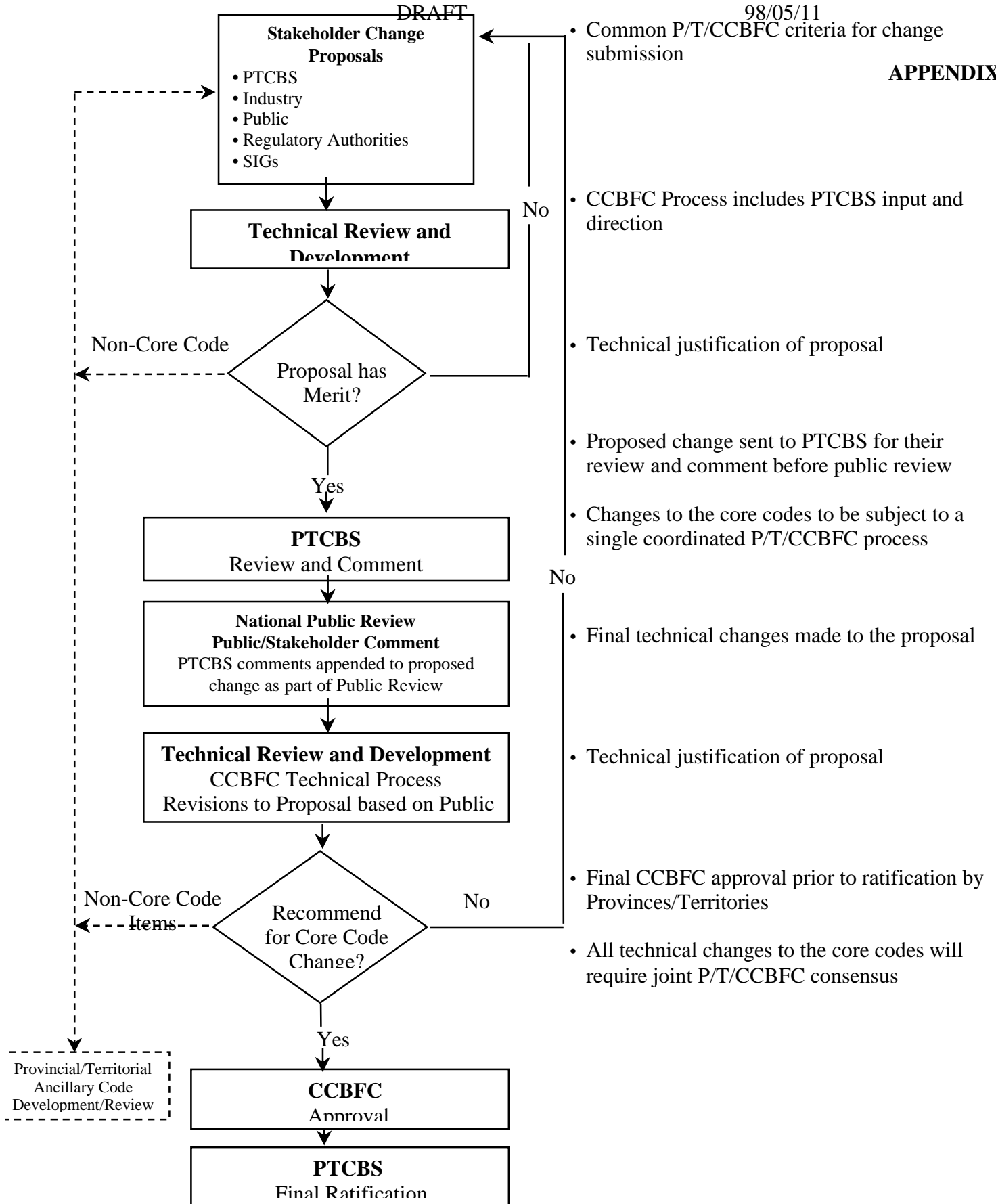
4.4 Increase the scopes of the model codes only when there is strong evidence of wide support in the code-affected community and among adopting authorities?

The scope of the *core codes* should only be increased when there is clear evidence of strong support among all *core code* users and adopting authorities.

In addition, the provinces/territories are able to develop *ancillary code parts* on issues that are relevant in their regions.

98/05/11

APPENDIX 4



- Common P/T/CCBFC criteria for change submission
- CCBFC Process includes PTCBS input and direction
- Technical justification of proposal
- Proposed change sent to PTCBS for their review and comment before public review
- Changes to the core codes to be subject to a single coordinated P/T/CCBFC process
- Final technical changes made to the proposal
- Technical justification of proposal
- Final CCBFC approval prior to ratification by Provinces/Territories
- All technical changes to the core codes will require joint P/T/CCBFC consensus

Appendix B

Presentation by Robert W. Rush, P.Eng.

March 27, 1998

To: The Joint CCBFC/PTCBS Task Group
on the Code Development and
Review Process

Re: Code Development and Review Process

Thank you for the opportunity of submitting some of my thoughts on the Code development and review process. Hopefully they will help towards the accomplishment of your objectives.

TASK FORCE OBJECTIVES:

As I understand them, they are "to recommend strategies aimed at ensuring appropriate levels of national/provincial/territorial participation in a uniform building, plumbing and fire code development and review process; and to establish a coordinated code public review process that accommodates the needs of the CCBFC and the provinces/ territories".

OVERRIDING CONSIDERATION :

Provinces and territories (not the federal government) have the ultimate authority, and responsibility, for life safety related to building construction and operation.

Comment: Hence each must formulate, adopt, and administer their own regulations (or do nothing, with all the risks that would entail).

APPROACH:

Similar to "zero-based" budgeting, start off with a blank page. Pretend there are no existing regulations. What would each jurisdiction do then?

Comment: I think it would quickly become obvious that it is in the interests of each province and territory to work together, rather than singly.

PRESENT SITUATION:

Building, plumbing, electrical, gas and fire codes ("Codes") are developed at the national level, in various forums. They are used by each province and territory, albeit in modified forms, but nevertheless as base documents.

COMMENTS:

1. The NRC continues to fund, and to play the lead role, in the code development process for building, fire and plumbing codes (fortunately). It cannot be assumed that this will continue. Hence the provinces and territories are thereby leaving themselves open to the risk of losing this strong base of support. It would be in their own self-interests (even without any consideration of the interests of other stakeholders) to take a stronger role in the code development process.

2. The financial participation of the provinces and territories in the Codes development process does not appear to be commensurate with the costs they would incur if they were faced with developing them on their own, either singly or collectively.

IDEALS

1. Uniform codes Canada-wide (allowing for climatic differences).
2. Each stakeholder group to have full acceptance of their positions, without conflicts or compromises.
3. The code development process to be self-supporting, financially and intellectually.

COMMENT:

These ideals may be unattainable, but we nevertheless need to work in their direction.

PRESUMPTION / CONCLUSION:

The PTCBS (or other group of coordinated provincial representatives of equal stature) must take a stronger role in the Codes development process. They must be involved at an earlier stage of development than at present.

REASONS AND BENEFITS:

There are many reasons and benefits for the foregoing presumption/conclusion. Some have already been mentioned. Others would include:

- * Provincial and territorial ministries responsible for administering the Codes quickly become keenly aware of "problem areas", as they arise, through applying and interpreting the Codes.
- * Through their administration of the Codes they should be able to bring a practical understanding to bear on how to modify them (including deletions and additions).
- * They have more "expertise" and technical resources available at their disposal than the current Standing Committees.
- * By working closely together in developing the Codes, they would undoubtedly also work closely together in administering them. Thus there would likely be more uniformity of interpretation across the country between Code changes, than now.
- * They should be able to respond to the needs of users more-quickly than the current 5-year code cycle process (even if it is by "administrative decree").
- * By having more control over the process, they would also have a stronger sense of "ownership".

CONCEPTUAL REORGANIZATION:

- * Provinces and territories to appoint representatives to a Codes development "Board".
- * The "Board" to be responsible for the Codes development process.
- * The "Board" to receive, consider, and finalize their recommendations on all proposed Codes changes.
- * Proposed changes to be accepted from all "stakeholders" (including themselves).
- * The NRC to be their "Secretariat" (for so long as they are prepared to continue in this role). Responsibilities delegated by the "Board" could include acknowledgement of the receipt of proposed Code changes, and referring them to the "Board" members. Perhaps also the fielding of questions of a technical nature, and questions as to "intent" (keeping in mind that development of intent statements is well underway now). Perhaps also the giving of "opinions" (as long as these are not used as "ammunition" against Board members in their administration of the Codes).
- * The "Secretariat" (NRC) to keep abreast of Code developments in other countries. This to work in two directions, by sifting pertinent information for "input" to the "Board", and "output" by representing the "Board" internationally. Perhaps also to play a coordinating role with other codes and standards writing organizations, both nationally and internationally.
- * Disband the CCBFC (The designated provincial and territorial deputy ministers would have the authority to finalize agreement on Code changes).
- * Publish "Model" Codes. ("National" Codes are somewhat of a misnomer, as most provinces have their own Codes). Publish provincial Codes, if contracted to do so.

"QUICK FIX":

Appoint a representative from each province to each existing Standing Committee, and to the CCBFC. Give them majority voting control. Appoint other "resource" persons to these groups, based on their ability to contribute meaningfully to the Codes development process. Invite input and participation in committee meetings by specialists in various areas, "on call" (i.e. if significant matters in their areas of specialization are up for consideration).

One advantage of this "quick fix" is that it would not unduly upset the existing "system". It will also postpone the day when provinces and territories each contribute financially to the Codes development process, on an equitable basis.

Another advantage is that the provinces that wish to continue their public review process could still do so. (I will share an anecdote. When sitting on a B.C. Building Code "voting" committee there were several desirable changes I voted against, for the sake of not straying too frequently from the base National Code, but that I would have readily "endorsed" for acceptance by the appropriate national committee).

MISCELLANEOUS:

- * Main theme:

Until this point I have concentrated on one theme...that the provinces and territories should have the lead role in the Codes development process.

- * Codes change frequency:

I feel the Codes should be revised more-frequently than every five years...but not too frequently. Perhaps annually, but not any oftener than that (except for "emergency" revisions). On a practical basis, buildings are designed, and permits are issued, based on a specific edition of the Code. If Codes are changed too frequently it is difficult for designers and building officials to keep track of which particular Code a particular building is being designed and inspected under.

- * Communications:

Code administrators are constantly "checking signals" with each other as to interpretations and policies. The Internet, e-mail, and fax machines make this increasingly easy, even in relatively remote areas. Provincial and territorial representatives on the proposed "Board" (or the "quick fix" Standing Committees, and the CCBFC) could have a constant

flow of communication between them...consulting with each other and sharing experiences and resources. This would give quicker and "better" answers to "clients", as well as maintain a degree of uniformity Canada-wide.

Respectfully submitted,
(Robert W. Rush, P.Eng.)

PS., March 30

(1) The foregoing were initial "concepts", without "fine-tuning" or going into detail. They are my own thoughts, developed independently, focussed strictly on the Task Group's terms of reference, without benefit of (or "contamination" from !) any information the Task Group may have considered previously.

(2) By coincidence, based on information I subsequently received at the Task Group's meeting on March 29, I guess I may have "reinvented the wheel", to a large degree. My conceptual reorganization fits remarkably closely within the Task Group's flow chart identified as "Mark 8".

(3) I do not believe the entry point should be restricted to only one or the other of the "Secretariat" or the Provinces and Territories. I would expect that P/Ts would be the normal entry point, and that they would perhaps "massage" any proposals they receive before forwarding them to other P/Ts for comment, for the Secretariat to then collate and obtain consensus before forwarding to appropriate technical committees. That way the proponent would in effect get a degree of "endorsement" by "their" P or T before it is sent onward. If rejected, however, they should be allowed to in effect "appeal" by submitting their proposal directly to the wider audience of all P/Ts via the Secretariat.

Similarly, anyone should be permitted to "enter the system" via the proposed "Secretariat", if they wish, particularly for items of a non-technical nature.

With the ease of communication nowadays between individuals, as well as all members of a group simultaneously, via e-mail, faxes, and postings on Internet websites, it doesn't really matter where the "entry" point is for dissemination of information, as long as procedures and responsibilities are spelled out.

(4) If financial constraints should deter the Provinces and Territories from accepting a stronger role in a new codes development process, I think they should (a) remind themselves what they would be faced with if the NRC removed themselves entirely from the Codes development process (after all, building regulations are a provincial, not federal, responsibility), and (b) consider financing through a "surcharge" on (or a built-in portion of) each building permit issued by their "constituents". Alternatively, from general revenues in proportion with other provinces and territories on the value of building permits issued on , say, a 3-5 year trailing average.

(5) By way of background, the foregoing submission is from the perspective of one who has participated actively on both provincial and national building code review committees (latterly on the Part 3 Standing Committee on Fire Protection for 5 years during preparation of the 1995 NBC). Being retired, I do not have any "turf to protect" either, so like to think my comments are unbiased.

Sincerely,
R.W. Rush, P.Eng.

****END OF P.S.****

Appendix C

Report of the CCBFC/PTCBS Joint Task Group on the Model Codes Review and Development Process

May 11, 1998

Task

To recommend strategies aimed at ensuring appropriate levels of national/provincial/territorial participation in a uniform building, plumbing and fire code development and review process; and to establish a coordinated code public review process that accommodates the needs of the CCBFC and the provinces/territories.

Status

Members have been drawn from provincial and municipal building and fire regulatory authorities, the design community and the construction industry. The Chair is Bruce Clemmensen.

The Task Group has held four meetings (Montreal, Winnipeg and 2 in Toronto). Future meetings will occur in Vancouver, Halifax and Edmonton. Meetings are open and approximately 27 persons have attended as observers and presenters.

Method of Operation

The Task Group is examining existing code development and review process at national, provincial and municipal levels, and identifying strengths and weaknesses of each. Models in the US and Australia, and those used by Canadian SDOs are also being considered.

The Task Group's philosophy is to have an open mind and not be fettered by having to justify maintaining the status quo.

It is intended to develop principles of an effective building code development and review process that would be presented to the PTCBS, NRC and the CCBFC for approval in time for ratification by Provincial/Territorial Deputy Ministers and by NRC at a meeting proposed for November, 1998. Ratification will be necessary for plumbing and fire codes as well.

Information on the work of this Task Group has been widely circulated and briefs from groups and individuals have been invited.

Identified Issues

As a result of discussion and presentation by individuals and groups, numerous issues have been identified. Several models have been considered. No conclusions are possible at this stage and none have been reached. The following points, therefore, represent ideas and concepts that may warrant further elaboration. They are not recommendations, and none are endorsed in any way.

- There is probably a need for formal commitment by all partners to establish and implement a direction and process for code development.
- There appears to be four principal stages in the process; Point of Entry, Technical Review, Stakeholder Consultation and Final Approval. Involvement by adopting authorities at each of these stages was cited as vital for success.
- An issue is how proposals come into the system and how decisions are made to proceed with them or not.
- The system needs to account for provincial/territorial political accountability earlier in the development process.
- Regulatory authorities must be confident that the system meets their needs with respect to technical soundness, accountability, economic impact analysis, stakeholder buy-in and decision-making.
- A complete and user friendly tracking and information system, using the world-wide web for example, would enhance openness and comfort by provinces and territories that stakeholders are involved and aware of status of code development.
- The national process could deal only with agreed-upon “core codes,” which should rarely require change by adopting authorities. However, there would be provision for adopting authorities to make changes and additions.
- There could be value in a more continuous and coordinated public review and updating process as opposed to one or two large and intimidating public consultation packages.
- Cost sharing needs further exploration.
- There is a need for all adopting provinces, territories and municipalities with the legislated mandate, to be able to participate and accept the results of the code review and development process.
- The system needs to ensure opportunity for full participation in both official languages.
- It is important to coordinate the work of this Task Group with the one studying implementation of Objective-Based Codes.
- There is a need to expand awareness of all code users including the public with respect to the code process.

Appendix D

Australian Code Development Process

AN AGREEMENT

between

THE COMMONWEALTH OF AUSTRALIA

THE STATES

and

THE TERRITORIES

to establish

THE AUSTRALIAN BUILDING CODES BOARD

March 1994

AN AGREEMENT made this first day of March, one thousand nine hundred and ninety-four between - THE COMMONWEALTH OF AUSTRALIA (in this Agreement called "the Commonwealth").

THE STATES OF NEW SOUTH WALES, VICTORIA, QUEENSLAND, SOUTH AUSTRALIA, WESTERN AUSTRALIA and TASMANIA (in this agreement called individually a "State" and collectively "the States") and

THE NORTHERN TERRITORY and THE AUSTRALIAN CAPITAL TERRITORY (in this agreement called individually a "Territory" and collectively "the Territories").

(A) The respective Ministers of the Commonwealth, the States and the Territories, meeting in a national council known as the Planning, Housing and Local Government Ministerial Council ("the Council"), have determined that a nationally consistent regulatory framework should be developed, and in particular that:-

- (1) building regulation be as uniform as possible between the States and Territories and that the technical source of such regulation be the Building- Code of Australia ("BCA") as varied from time to time, or its replacement;
- (11) additions or variations of technical provisions of the BCA by **the States and Territories be limited, so far** as is possible;
- (111) more efficient and simplified building regulatory systems be developed; and
- (IV) national acceptance and adoption of technology be encouraged and supported;

and have further agreed to establish a representative Board to be known as the Australian Building Codes Board ("the Board"), or such other name as determined by the Council, with a mission to provide for efficiency and cost effectiveness in meeting community expectations for health, safety and amenity in the design, construction and use of buildings through the creation of nationally consistent building codes, standards, regulatory requirements and regulatory systems,

(B) The objectives to which the proceedings and operations of the Board are to be directed ("the Objectives") are:-

to establish codes, standards and regulatory systems that are, as far as practicable

- o consistent between States and Territories;
- a cost-effective,*
- o performance-based; and
- a incorporate modern and efficient building practices;
- (11) to ensure that building requirements are based on minimum, least-cost solutions commensurate with regulatory objectives of health, safety and amenity;

- (iii) to examine and promote opportunities for deregulation wherever possible-,
 - (iv) to undertake research to ensure that solutions are soundly based with particular emphasis on innovations and lowering costs;
 - (v) to undertake effective consultation and liaison with industry to achieve transparency *in the reform process;
 - (vi) to simplify the wording of building requirements to achieve user friendliness and plain language style;
 - (vii) to co-ordinate and integrate reform activities with those of other agencies to ensure consistency of approach and to encourage consolidation into the BCA of all mandatory requirements affecting buildings;
 - (viii) to create an efficient regulatory environment to encourage an internationally competitive building and construction industry; and
 - (ix) to perform such other matters ancillary or incidental to such objects as the Board shall from time to time deem fit.
- (C) The provisions of this Agreement are not intended to create legally binding or enforceable arrangements between the parties or to derogate from the rights and powers of the Commonwealth, States or Territories or any of their respective agencies or authorities.
- (D) The Council has established Standing Orders providing for the administration of the Board and implementation of the Objectives;
- (E) The Commonwealth, the States and the Territories are prepared to contribute towards the cost of maintaining and operating the Board in accordance with the provisions of this Agreement and of the Standing Orders from time to time so established
- (F) Subject to Recital (C) the Commonwealth, the States and the Territories wish to make a formal agreement in order to give effect to agreements and arrangements relating to the formation of the Board and its operations.

NOW IT IS HEREBY AGREED as follows -

PART I - PRELIMINARY

- 1.1 This Agreement shall come into force when it has been executed by all of the parties ("the commencement date").
- 1.2 The proceedings, decisions or **actions taken by any interim Board**

established by all the parties in advance of this Agreement are adopted and confirmed as proceedings, decisions or actions taken by the Board established by this Agreement.

PART 11 - INTERPRETATION

- 2.1 A reference in this Agreement to a Minister includes:-
- (a) a Minister or other member of the Federal Executive Council,
 - (b) a Minister of the relevant State or Territory; or
 - (c) a person nominated by a Minister as his or her representative from time to time.
- 2.2 A reference in this Agreement to "Administration" shall mean the Department of State or other Statutory Body responsible for building regulatory matters for the Commonwealth and each of the States and Territories

PART III - ESTABLISHMENT OF BOARD

- 3.1 The proceedings and operations of the Board established by this Agreement shall be directed to the achievement of the Objectives set out in Recital (B) of this Agreement.
- 3.2 Subject to the availability of funds, the Board may deal with such matters or arrange for the performance of such tasks related to the Objectives as the Board may, from time to time, deem necessary.
- 3.3 The Board shall consist of the following members:-
- (a) the principal officer of each Administration,
 - (b) a representative of the Australian Local Government Association; and
 - (c) three representatives of the building and construction "industry" as appointed by the Council.
- 3.4 A member of the **Board may appoint a deputy.**
- 3.5 The responsibilities, proceedings and conduct of the Board shall be as laid down by Standing Orders.

PAR IV - FINANCIAL ARRANGMENTS

- 4.1 The financial arrangements set out in this Part shall be based upon annual budgets approved by the Council.
- 4.2 The monies of the Board ("funds") shall consist of contributions by all of the parties in accordance with this Part and other monies arising

from the operations of the Board.

- 4.3 Available funds may be applied only under the authority of the Board and **for the purposes** of the achievement of the Objectives of the Board as set out in this Agreement.
- 4.4 The amount of funds agreed in this Part to be contributed shall be allocated among the parties as follows:-
- (a) the Commonwealth contribution shall be one half of the amount: and
- (b) the States and the Territories shall contribute one half of the amount in proportions according to the values of their respective total building approvals for the financial year two years preceding the determination. The values of building approvals shall be as determined by the Australian Bureau of Statistics.
- 4.5 Contributions of funds by members shall be payable as soon as practicable after the commencement of the relevant financial year.
- 4.6 The financial arrangements set out in this Part shall not prevent the Board developing forward programs for regulatory reform.

PART V - ADMINISTRATIVE ARRANGEMENTS

- 5.1 An Executive Director ("the ED") shall be appointed by the Board to co-ordinate the activities of the Board, carry out and manage the implementation of Board directives and decisions, and to manage and implement the reform program in accordance with the functions in Standing Orders.
- 5.2 The parties shall, through their respective administrations, facilitate the work of the Board as set out in Standing Orders.
- 5.3 There shall be a Building Codes Committee ("the Committee") the composition of which shall be as determined by Standing Orders.
- 5.4 The Board may delegate such of its functions and authorities in such a manner as it considers appropriate. The provisions of this Clause shall not extend to its power of delegation.
- 5.5 Administrations on behalf of and in accordance with the determinations of the Board, may engage consultants or staff, or second staff, to carry out tasks associated with the functions of the board

PART VI - GENERAL

- 6.1 The operations of the Board and the administration of this Agreement

shall be reviewed within five years from the commencement date of this Agreement.

PART VII - STANDING ORDERS

- 7.1 The Standing Orders provided in this Agreement shall be determined by the Council and shall be applicable, as at the commencement date, for the purposes of the operation and implementation of the provisions of this Agreement.
- 7.2 The Standing Orders may be varied from time to time by the Council and references *in this Agreement to Standing Orders are to be read as references to those Standing Orders as for the time being so varied.

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AUSTRALIAN BUILDING CODES BOARD

STANDING ORDERS

A. THE AUSTRALIAN BUILDING CODES BOARD

(a) Meetings

- (1) The Board shall meet at least once in each calendar year.
- (11) The times and dates of meetings shall be determined by the board

- (111) Decisions of the Board may be made by communication between its members without the need for a formal meeting to be called, upon the agreement of a majority of those entitled to attend and vote at any meeting of the Board and subject to all members being consulted on each matter for decision and informed of the decisions.

(b) Responsibilities

The Board shall be responsible for implementation of the program and to:-

- (1) develop, advise and make recommendations to the Council on policy and other matters consistent with the Objectives of the Agreement;
- (11) prepare and furnish annually to the respective Ministers, a program which shall give details of progress, projects, priorities, funds expenditure and overall performance in the achievement of Objectives;
- (111) provide overall direction, approval of work programs, monitor and determine financial expenditure, and determine priorities;
- (IV) provide for a program of consultation with industry, consumer groups and other organizations and
- (V) provide direction to the ED in the fulfillment of duties.

(c) Chair

- (i) The Board shall appoint one of its members to the Chair for a period as specified by the Board.
- (ii) If at any meeting of the Board the Chair is not present, the members present shall appoint one of their number to preside at that meeting and exercise the normal powers of the Chair.

- (111) A person shall cease to hold office of the Chair if that person resigns or ceases to be a member of the Board.

(IV) A retiring Chair shall be eligible for reappointment.

(d) Membership

(1) Membership of the Board shall be as provided in the Agreement.

(11) A person ceases to be a member of the Board if he or she ceases to retain the qualification by which membership was attained or if the member resigns the office by instrument in writing or is removed from office by the Council.

(e) Voting Rights

(i) Each member of the Board or duly appointed deputy, shall be entitled to exercise one deliberative vote on any matter for decision

(11) Decisions of the Board shall be by a simple voting majority of those members entitled to vote

(111) In the event of an equality of votes the status quo shall prevail.

(f) Quorum

(1) The quorum for a meeting of the Board shall be eight members.

B. THE BUILDING CODES COMMITTEE

(a) Meetings

(1) Meetings of the Committee shall be convened by the ED or the Board as required for the efficient management of the program.

(11) The venue for meetings shall be determined by the ED or as directed by the Board.

(111) Decisions of the Committee may be made by communication between its members without the need for a formal meeting to be called, upon the agreement of a majority of those entitled to attend and vote at any meeting of the Committee and subject to all members being consulted on each matter for decision and *informed of the decisions.

(b) Responsibilities

(1) The Committee shall be the peak technical advisory body to the Board. Technical matters associated with the Building Code of Australia (" the BCA") shall be presented to the

Committee for advice prior to going to the Board.

- (11) The Committee shall have such decision making powers *in respect of technical matters as delegated by the Board from time to time.

(c) Membership

- (1) The Committee shall consist of the ED, ten members comprising one person nominated by each Commonwealth, State, Territory and ALGA member of the Board, and three industry members appointed by the Board,
- (11) A person ceases to be a member of the Committee if he or she ceases to retain the qualification by which membership was attained or if the member resigns the office by instrument in writing or is removed from office by the Council or the Board
- (111) A member of the Committee may appoint a deputy.

(d) Chair

The Chair of the Committee shall be the ED appointed by the board

(e) Voting Rights

- (1) Each member of the Committee, or duly appointed deputy, shall be entitled to exercise one deliberative vote on any matter for decision.
- (11) Decisions of the Committee shall be by a simple voting majority of those members entitled to vote. Decisions cannot be taken that lead to a State or Territory variation to the BCA and such matters, once considered by the Committee must then be referred to the Board for decision.
- (iii) In the event of an equality of votes the status quo shall prevail.

(f) Quorum

- (1) The quorum for a meeting of the Committee shall be eight members

C. THE EXECUTIVE DIRECTOR AND STAFF

(a) Functions

- (1) The ED shall, at the direction of the Board, coordinate,

manage and implement the reform program including responsibility for:-

financial management; technical support services; administrative and operational support; management of research projects; consultation and liaison; information dissemination; advice on policy development-, management and coordination of committee activities; and other matters as determined by the Board.

- (11) The ED shall, on request and at least once in each year, report to the Board on the achievement of the Objectives of the Agreement.

The ED shall manage the funds of the Board in accordance with policy of the Council, directions of the Board and any statutory requirements.

- (IV) The ED shall discharge duties and functions in the administration of the national building regulatory program in an expeditious, efficient, fair and honest manner.

(b) Responsibility

The ED shall be responsible to the Board.

D. STATE AND TERRITORY ADMINISTRATIONS

(a) Responsibilities

- (1) Each of the Administrations shall have the general responsibility of providing support appropriate to facilitate, within that State or Territory, the work of the Board, including liaison and co-operation with the ED, timely advice on the implications of proposals of the Board which are affected by legislation of the State or Territory, and timely advice on other matters as requested by the Board.

E FUNDS

(a) Australian Building Codes Board Fund

- (1) The annual contributions of the Administrations determined in accordance with Part IV of the Agreement and any other payments made to the Board, in respect of the affairs of the Board, will form a fund to be known as the Australian Building Codes Board Fund ("the Fund") and will be paid into the Australian Building Codes Board Fund Trust Account ("the Account") established under Section 62A of the Audit Act 190 1.

- ii Monies forming part of the Fund may be paid out of the Account for the purposes of the Board upon the authority of the Chair of the Board or ED, in accordance with decisions of

the board

- (iii) Monies standing in the Account at the date upon which the Agreement enters into force shall be deemed to have been paid into the Account in accordance with the Agreement and will form part of the Fund.
- (iv) Monies expended by the ED upon the authorization of the Board shall be deemed to have been expended by the parties to the Agreement and any contract to be entered into for the purposes of and with the authority of the Board may be entered into by the ED on behalf of the parties to the Agreement.

F. CONSULTANTS

(a) Functions

- (1) Subject to the availability of funds, consultants may be engaged to carry out tasks associated with the functions of the Board where determined by the Board.

(b) Terms of Engagement

- (1) The terms and conditions on which consultants are engaged under Clause F (a) (1) shall be as from time to time adopted or approved by decision of the Board.

G. TRAVEL AND MEETING COSTS

(a) Members and Deputies

- (1) Travel and other costs incurred by members or deputies in pursuit of the business of the Board or the Committee may be met from the Fund as determined by the Board from time to time and upon the approval of the Board or the ED.

(b) Special Appointments

- (1) The Board may, where it wishes to appoint a particular person whose services are required in a research or consultative capacity, agree to pay the travel and other costs associated with the services of that person.

H. REPRESENTATION ON OTHER BODIES

(a) Representation

- (1) The Board may be represented on another body or bodies in accordance with resolutions of the Board.

1. DELEGATIONS AND AUTHORISATIONS

(a) Financial Delegations

- (1) The Chair of the Board shall have the power, subject to

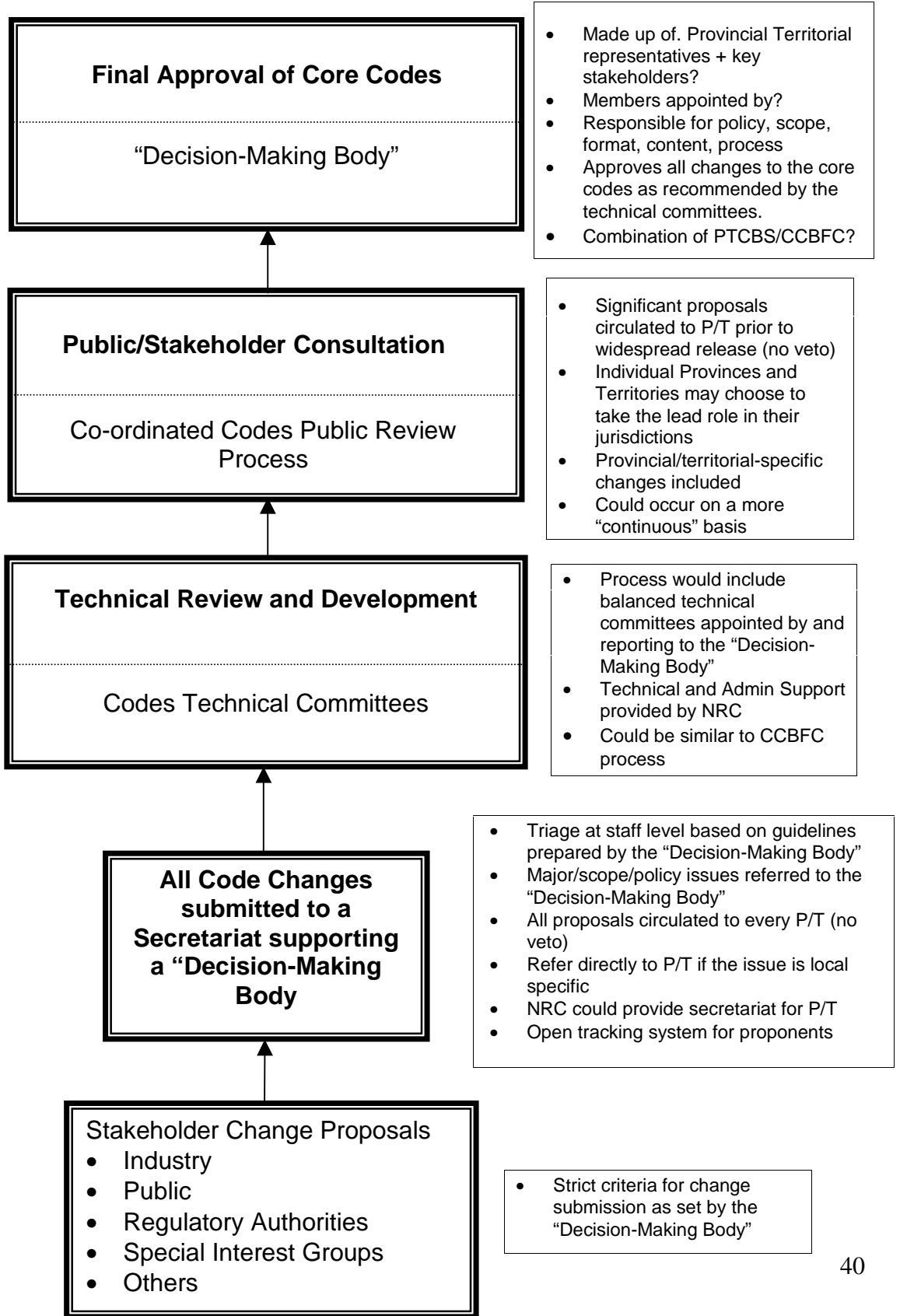
Clause 4.3 of the Agreement and without prior approval of the Board, to expend up to one hundred thousand dollars (\$100,000) or such higher amount as determined by the Board, in any one instance upon commissioning reports, initiating research investigations or such other actions as deemed necessary for the execution of the Objectives of the Board.

- (11) The ED shall have the power, subject to Clause 4.3 of the Agreement and without prior approval of the Board, to expend up to one hundred thousand dollars (\$100,000) or such higher amount as determined by the Board, *in any one instance upon commissioning reports, initiating research investigations or such other actions as deemed necessary for the execution of the Objectives of the Board.
- (111) Any action taken pursuant to paragraph (1) or (11) shall be reported to the Board.
- (IV) The provisions of this section shall not derogate from the power of the Board to delegate its powers.

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Possible Code Development and Review Process

Mark 7 – Modified Provincial/Territorial Directed Model



Possible Code Development and Review Process

Mark 8 – Further Modified Provincial/Territorial Directed Model

