



# **A Day on the Hill: “*Strengthening Industry and Government Partnerships*”**

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

1. Prompt Payment
2. Bi-National Regulatory Cooperation Council (RCC)  
and Streamlined Standards

**TUESDAY, APRIL 8, 2014**

## 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 Prompt Payment legislation/regulation.

### **The Concern:**

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. Ontario, for example, has made significant progress through the proposed Prompt Payment Act of Ontario, Bill 69. It has passed second reading in the provincial legislature and is now in the committee stage before its third reading.

### **Going Forward:**

MCA Canada and CIPH agree that the federal government should include Prompt Payment provisions in federal contract 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*<sup>1</sup>, "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."

### **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

## **Bi-National Regulatory Cooperation Council (RCC) and Streamlined Standards System Proposal**

### **The Issue:**

Canada and the United States each have well-developed, independent regulatory regimes and agencies for technical standards development, product certification, and codes implementation and enforcement. While the respective regulatory systems are very similar, unnecessary duplicative actions such as duplicative testing impact consumers, businesses and both economies with higher costs and less-efficient supply chains.

The scope of the plumbing and heating sector covers components of the built environment that provide Canadians with products that ensure the safety of their water systems and the comfort of their indoor air environment.

### **The Concern:**

The estimated value for 2011 of the industry in the Canadian residential sector is approximately \$24 Billion, while estimates in the U.S. were \$67 Billion for a total of over \$90 Billion in economic activity for the sector.

Bi-lateral trade exceeds \$17 Billion with more than 70% of the goods sold in Canada being produced in the U.S. These figures are indicative of the continued strength of the Canadian housing market and the low number of housing starts in the U.S. in 2011.

### **Current Efforts:**

The total cost of product testing and certification compliance for the North American plumbing and heating industry is between \$3.2 and \$4.5 Billion per year.

It is estimated that only about 10% of referenced standards are currently bi-laterally harmonized which results in many instances of duplicate testing and certification to meet the different federal and provincial standards that govern many of these products.

The additional cost to Canadian consumers attributed to duplicate certification and testing is between \$120 to \$150 Million per year.

### **Going Forward:**

CIPH and MCA Canada support the efforts of the Regulatory Cooperation Council (RCC) and agree that establishing a joint Canada-U.S. standards secretariat will help facilitate the true harmonization of standards and testing and certification requirements through the creation of North American consensus standards.

Consensus standards will deliver cost savings, productivity gains, and facilitate a greater speed to market.

Specifically, CIPH and MCA Canada support the recommendation made in February 2013 by the Standing Senate Committee on National Finance: *“The Committee recommends that the Government of Canada, through the Canada-United States Regulatory Cooperation Council, continue to integrate the safety standards between Canada and the United States with the intent to reduce the price discrepancies without compromising the safety needs of the two countries.”*<sup>1</sup>

### **In Conclusion:**

CIPH and MCA Canada believe there is political momentum underway at the moment to make progress on this issue. In Canada, the Regulatory Cooperation Council (RCC) Secretariat is looking at options to support the harmonization of standards and certification requirements for products regulated by federal authorities. We understand the U.S. Department of Commerce has been supportive of the development of harmonized standards in new areas. Our long-term objective is to include plans to further Canada-U.S. standards-harmonization in future RCC action plans, which includes acceptance by provincial/territorial/state authorities having jurisdiction.

1. [Report of the Standing Senate Committee on National Finance, February 2013](#)



## 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, hydronic heating, 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. Total industry sales exceed \$6 billion annually.

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 mechanical 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 15 regional offices in Ontario, the MCAC is Canada's largest trade contractor Association.

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