

PEO almost ready to roll out revamped C of A

Long a work in progress, a complex project to make PEO's Certificate of Authorization a more effective and meaningful regulatory instrument for the business of offering or providing engineering services is nearing completion. [By Michael Mastromatteo](#)

After nearly a decade of task forces, reviews and course corrections, PEO is getting closer to launching the much-anticipated revamp of its Certificate of Authorization (C of A) regime.

The C of A is a regulatory instrument required of entities offering or providing professional engineering services to the public. Instituted in 1969, it was a regulatory response to a 1952 change in law that allowed engineering practitioners to incorporate as limited liability entities, rather than operate as individual practitioners within partnerships or solely. Requiring incorporated engineering firms to operate under a C of A was seen as a means of lifting the corporate veil to ensure that entities providing engineering services to the public did so through licensed practitioners, and could be held professionally accountable to a regulator.

The requirement for holding a C of A was extended to sole practitioners with 1984 changes to the *Professional Engineers Act* so that PEO could enforce a government requirement that all those providing engineering services to the public hold professional liability insurance. Ultimately, after several years of delay in proclaiming its mandatory insurance provision, due to conditions within the insurance industry at the time, the government modified the requirement to enable C of A holders not to carry insurance, so long as they disclosed their non-insured status to their clients and had their clients sign back the disclosure.

Section 47(1) of Regulation 941 under the act spells out many of the existing conditions for a C of A. Under the current regulation, an applicant for a C of A must designate a professional engineer who is a full- or part-time employee or partner in the firm (or under contract to the firm) to assume professional responsibility for the services provided. This designated engineer requires at least five years of professional engineering experience following the conferral of a degree from

an accredited university or the completion of an equivalent education, a requirement that has long been a source of confusion.

PEO maintains a registry of C of A holders, some 4500 as of early 2012, about 800 of whom are sole practitioners.

LACKING CLARITY

Throughout its existence, however, the C of A has remained controversial, with some claiming it undermines the value of the P.Eng. licence, particularly for sole practitioners, and many questioning a fee structure that has firms of all sizes paying the same amount for their certificates.

Accordingly, in February 2000, PEO established a task group to review the issues around the C of A and to make recommendations for its improvement. The task group reported to council in February 2004. The task group confirmed that the purpose and value of the C of A are not widely understood by members, with some seeing it as a "tax grab" by the association, and sole practitioners and small firms upset at the "inequity" of having a common fee for all C of A applicants and holders.

The task group also identified a lack of clarity and cohesiveness in the C of A requirements and their implementation. For example, while C of A holders declare scopes of practice to PEO, which ensures

that the holder's expertise matches the declared scopes, the declared scopes of practice are not communicated in any way by PEO to the public. Also, sole practitioners must renew their P.Eng. licences and their Cs of A separately, increasing administrative burden for those likely least able to bear it.

NEW FEE STRUCTURE

At present, the initial application and annual fees for a C of A are \$372.90, including HST, regardless of firm size. One of the key changes in PEO's revamped C of A will be a new fee structure that will drastically reduce C of A fees for sole practitioners by largely incorporating their C of A fee into their annual licence renewal fee.

Under the new system, the annual fee for a C of A will be \$220, plus an expected \$45 for each licence holder providing services to the public through the C of A. Certificate holders will need to employ or retain at least one holder of a licence, provisional licence, temporary licence or limited licence to be listed on the C of A application as offering services to the public and taking responsibility for each discipline in which the certificate holder will engage in the practice of professional engineering. The sum of the disciplines listed on the C of A application will make up a C of A holder's declared scope of practice.

Although sole practitioners and small C of A firms will see cost reductions, the fees for large firms could increase substantially, depending on the number of licence holders listed on their C of A application as offering and/or assuming responsibility for offering professional engineering services to the public.

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Building blocks of the new C of A

Three key goals of the new C of A regime are enhanced protection of the public who receive professional engineering services through a certificate holder, increased public visibility for C of A holders—especially regarding their scopes of practice—and a more equitable distribution of fees among small, medium and large employers holding Cs of A. It's expected the new C of A will achieve these goals by:

- a new C of A application and renewal fee structure comprising the same fee for every entity holding a C of A and integrating that fee with the P.Eng. licence fee for sole practitioners, and requiring an additional fee for each licence holder offering services to the public listed on the entity's C of A and requiring at least one responsible licence holder for each of the possible 30 disciplines comprising an entity's scope of practice;
- an online membership directory enabling the public to see a C of A holder's scope of practice as the sum of the various disciplines of the licence holders who are declared on the application as taking responsibility for the holder's engineering decisions, as well as identifying whether a holder carries professional liability insurance;
- discipline-specific seals issued to new licence holders for their primary discipline of practice, with additional seals available to licence holders who have declared competence in additional disciplines;
- PEO validation that services offered on a C of A are supported by licence holders practising in the discipline(s) that support its scope(s) of practice as stated on the application;
- requiring all engineers offering engineering services to the public to be listed on the initial C of A application and annual renewal form;
- requiring a signing officer of each C of A holder to sign a declaration acknowledging awareness of the requirement that PEO be advised of changes to the C of A within 30 days (section 50, Regulation 941/90); and
- automatically filling in a C of A application for sole practitioners who are P.Engs, through a new check box on the P.Eng. licence application and renewal forms, so that P.Eng. sole practitioners can indicate whether they will be providing services to the public and whether they carry professional liability insurance.



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For example, if a firm has declared 100 licence holders providing professional engineering services to the public and/or assuming responsibility for such services, the variable part of the C of A fee would be \$4,500, which would be added to the basic \$220 annual fee and HST, for the total annual C of A fee.

Firms with a high number of engineer employees could control their costs by restricting the number of licence holders in their applications who provide professional engineering services to the public and/or assume responsibility for such services. However, they will be required to list all licence holders in the firm on their C of A application, not just those recorded as taking responsibility for the firm's engineering decisions.

If a firm's scope were to cover the current maximum of 30 engineering disciplines (listed in a schedule as part of the proposed regulation amendment to affect the revamped C of A), it would need to declare at least 30 valid licences (likely 30 individuals) as providing or taking responsibility for the provision of engineering services to the public on behalf of the firm. A firm's scope will comprise only those engineering disciplines it has declared and for which it has listed a responsible licence holder on its application.

PEO believes this new structure will allow for a more equitable distribution of C of A fees among small, medium and large employers holding the certificate, while remaining "revenue neutral" for PEO.

DISCIPLINE-SPECIFIC SEALS

To ensure C of A holders offer services only in those disciplines for which it has listed a responsible licence holder, a proposed change to section 49(1) of Regulation 941 would require that the scope of professional engineering services provided to the public by a C of A holder be limited to the discipline or disciplines that the holder lists on its C of A application and for which it also lists a responsible licence holder.

The change would be supported by the introduction of discipline-specific seals for new licence holders, and the reporting of scopes of practice directly on PEO's C of A registry. The design for the new seals was approved by PEO council in March 2008. Once the regulation change is finalized

and effective, the new seals will be provided initially only to new licence holders, and existing seals will remain valid as general seals. Licence holders will be able to apply for and be issued additional discipline-specific seals for listed disciplines in which they have declared competence.

ASSUMING RESPONSIBILITY

To implement this new C of A regime, a new online C of A application will include a section where C of A holders will list all their licence holders offering services to the public and where they will additionally designate at least one of the listed licence holders to assume responsibility for and supervise the professional engineering services to be provided under the certificate for each discipline in which the C of A holder offers services.

PEO will validate through the online application that the services offered by the C of A holder are the sum of the services of its licence holders who are declared as taking responsibility for the engineering services offered. This is a significant change from the current practice where Section F of the C of A application requires a C of A applicant to list its engineer employees, but does not require that it delineate their special areas of expertise.

The extent to which engineers listed on C of A applications in future should take responsibility for the C of A holder's engineering decisions and the engineering work delegated to engineer employees or retained staff is one of the focuses of an upcoming professional standard, *Delegating and Supervising Professional Engineering Work*, being written by PEO's Professional Standards Committee (see sidebar, p. 28).

The list of engineering disciplines (currently 30) in Schedule 1 to the proposed C of A regulation changes range from agricultural engineering to water resources engineering.

TOTALLY ONLINE

A third key feature of PEO's revamped C of A will be the introduction of a completely online application and registration process through the PEO website to replace the current paper-based application. To facilitate this website-only approach, PEO has developed and is nearing rollout of new C of A-specific software. The software will enable online completion and submission of initial C of A appli-

cations, renewals and updates, electronic submission of all required documentation, and the ability to instantly update or validate all C of A-related information.

An online, publicly accessible C of A directory on PEO's website will allow enhanced public visibility for organizations holding Cs of A and provide more information than previously available about the scopes of practice they provide. The directory will include the business name of C of A holders and a full description of the scope of practice of the engineering services they offer. The aim is to provide public accessibility of all new and updated services offered by an organization within 24 hours of their being approved by PEO.

EXPECTED IMPACT OF NEW C OF A

Sole practitioners are not likely to see any direct impact from the proposed C of A changes, other than a reduction of their C of A fees. For some larger firms, their overall C of A fees could increase to two or three times—or even higher—what they pay currently.

However, the proposed fee structure for the new C of A will better reflect PEO's administrative costs in maintaining the C of A register and be a better balance between large and small firms. Because sole practitioners are already on the register of licence holders, for example, there is no additional administrative work for PEO to include them on the C of A register, so they pay no additional basic fee for their C of A beyond their P.Eng. fee.

For larger entities, the basic C of A application and annual fees will be the same as for maintaining a licence holder on the register, a decrease over their current C of A fees. All C of A holders will then pay an expected \$45 for each responsible licence holder listed on their C of A, with the requirement that they list at least one responsible licence holder for each discipline within their scopes of practice. It is in the anticipated broader scope of most large firms' Cs of A and, hence, greater number of disciplines and responsible licence holders for which they would pay this additional fee, that they could incur increased costs.

It is hoped that the speed and convenience of the online C of A application and renewal system, in particular for larger firms, will counterbalance any increased cost.

Also of benefit to C of A holders should be the transparency, accountability and convenience of an expanded online C of A directory, to include each holder's scope of practice, which will provide an opportunity to showcase the depth and diversity of a firm's expertise. Noting in the directory which firms carry professional liability insurance will also enhance the profession's transparency to the public.

A new automated declaration for use by C of A holders who do not carry insurance, as part of the online application and renewal process, will enable PEO to better track this information and ensure consistency in the use of the declaration by holders, to enhance PEO's regulatory oversight and increase public confidence.

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The revamp's use of discipline-specific seals will increase transparency for the users of engineering services, which should, in turn, also increase confidence in the C of A.

WHERE TO FROM HERE?

At present, the regulation changes to give effect to PEO's revamped C of A are under review by PEO's Legislation Committee, which has studied several iterations of them from

the government's legislative drafters. Approval of the proposed regulation changes by the committee and their subsequent approval by PEO council constitute some of the last major steps before PEO can implement its new C of A regime. The final steps will be approval of the regulation amendments by cabinet and their filing by the registrar of regulations.

Questions and comments about PEO's new C of A can be directed to CofA@peo.on.ca. Σ

Delegation standard to complement new C of A regime

When PEO's new Certificate of Authorization (C of A) regime comes into effect, holders will need to take note of a new professional standard for delegation/supervision now being developed by the regulator's Professional Standards Committee (PSC).

The new professional standard, *Delegating and Supervising Professional Engineering Work*, will provide regulatory direction for C of A holders and other engineers charged with overseeing and delegating certain elements of an engineering project to associates, whether licensed or not.

A draft of the standard will soon be released for public consultation.

The standard will detail the circumstances under which delegation of engineering work can occur, describe the steps to be taken when delegating work, how the work should be supervised, and the delegator's responsibility for assessing the ability of the delegate to complete the task in accordance with good engineering practice.

One of the key questions addressed in the upcoming standard will be the responsibilities of engineers named on a C of A in supervising the services of a business providing professional engineering services to the public, and a number of "supervision responsibilities" for engineers designated on a C of A are listed.

According to the draft standard: "The professional engineer(s) or limited licence holder(s) identified on the Certificate of Authorization as providing supervision may directly supervise individuals doing the work or may assign responsibility for portions of this supervision to other licensed individuals, or delegate to non-licensed individuals, within the business subject to the organization's quality assurance policies and procedures as a minimum. The professional engineer(s) or limited

licence holder(s) identified on the Certificate of Authorization shall be satisfied with these procedures and, if not, shall implement his or her own additional quality assurance requirements."

The standard also calls on engineers (or limited licence holders) identified on a C of A to ensure the assigned or delegated supervisor is at least "actively involved" in the following quality assurance requirements:

- establishment of the required procedures appropriate for completing the work;
- periodic guidance, inspection and examination of the work as it progresses;
- monitoring the progress of the work with sufficient frequency to be satisfied that the work has been performed to an acceptable quality level in accordance with the applicable codes and standards; and
- approval of the final document (design, drawings, analysis, etc.) before issuance.

When a professional engineer or limited licence holder assigns engineering work to another professional engineer or limited licence holder in the same organization, according to the draft standard, the assigned engineer assumes complete responsibility for the professional engineering work he or she is expected to complete. The assigned engineer will confirm his or her acceptance of this transfer of responsibility by signing, dating and affixing his or her seal for the professional engineering work he or she has performed.

Bernard Ennis, P.Eng., PEO director, policy and professional affairs, says the upcoming standard will have significant bearing on C of A holders. However, he notes, it could be a year or more before the standard undergoes final revision and is approved by the Ontario government.