

## Fighting the good fight: Protecting the "engineer" title

In one public opinion survey after another, engineers are held in high regard by the public, but distinctions among engineers, scientists and technologists are not well understood. Is it any wonder, then, that practitioners of various occupations seek to enhance their credibility by calling themselves "engineers?"

by Dwight Hamilton

In Ontario, the Professional Engineers Act says people cannot practise professional engineering or hold themselves out as professional engineers unless they are licensed by PEO.<sup>1</sup> It also prohibits use of the title "professional engineer" or an abbreviation or variation as an occupational or business designation by anyone who isn't a PEO-licensed professional engineer or who doesn't hold a PEO-issued temporary licence.<sup>2</sup> Unlicensed people also cannot use "a term, title or description that will lead to the belief that [they] may engage in the practice of professional engineering," or a seal that would give the same impression.<sup>3</sup> Fines for someone found guilty of breaching these sections of the Act can be up to \$10,000 for a first offence and for each subsequent offence, up to \$25,000.

### Provincial enforcement programs

The tactics used by provincial and territorial engineering licensing bodies to enforce the title provisions of their engineering acts vary, according to several factors, including the wording of each act. In Ontario, for example, because only the term "professional engineer" or P.Eng. is expressly protected in the legislation, PEO

has to prove that someone has been misled by use of the title "engineer"—either alone or in combination with any other term besides "professional." In Alberta, Manitoba, Newfoundland, New Brunswick, Quebec and the Northwest Territories, on the other hand, the title "engineer" is expressly protected in provincial engineering acts.

Quebec's Code of Professions is considered to be the strongest provincial legislation protecting professional titles, because proof that someone has been misled is not required. Anyone contravening the title provisions of Quebec's engineering act is subject to the penalties in the Code of Professions.

Nevertheless, the Order of Engineers of Quebec (OIQ) usually prefers persuasion over legal action to enforce its act. Since 1994, Yvon Dupuis, ing., a consultant with the OIQ's enforcement department, has visited about 600 companies in the province, to persuade them to bring their practices in line with the title provisions of Quebec's engineering act. He says his road show has been an overwhelming success: "If you go in with a positive attitude, it works. There is no confrontation."

However, sometimes factors like an offender's financial staying power and global status can affect even the most rigorous title enforcement program. Take

the efforts to persuade Microsoft to change the titles given to those who successfully complete its certification programs. To date, the company has resisted PEO's and every other licensing body's requests that it change the names of its "Microsoft Certified Systems Engineer" (MCSE) and "Microsoft Certified Professional Systems Engineer" programs, despite lengthy correspondence with company officials.

"Microsoft's position is that theirs is a worldwide program and PEO's Act relates to only one province in one country. They say they'd like to help us out—but they can't," says Eric Newton, PEO's manager, legal affairs. He stresses that the company *is* violating the letter of the law, because of the Ontario Act's wording. But for a judge to find against Microsoft, PEO needs to present evidence that the Ontario public has been misled to believe that people with a Microsoft designation are professional engineers, Newton says.

The courts also often take the position that public safety has to have been put at risk, before they will rule against those using engineering titles illegally. Without clear evidence of the public being misled and a risk to public safety, getting a court order over title usage is "pretty chancy," notes Harry McBride, P.Eng., deputy director, professional ethics, Association of Professional Engineers and Geoscientists of British Columbia.

That's why the Association of Professional Engineers, Geologists and Geophysicists of Alberta (APEGGA) is taking a different tack. Recently, APEGGA began meeting with Alberta institutions delivering Microsoft training programs to raise awareness of APEGGA's role in licensing professional engineers, regulating engineering practice, and protecting engineering titles in the province. So far, these presentations have met with some success, with at least one institution committing to use the word "expert" in MCSE training and certification programs, and to clarifying and communicating the appropriate use of the engineer title to engineering students and graduates, and within its own organization.

The Alberta association's most recent success is a confirmation from Sun Microsystems Canada that it will no longer use the word "engineer" in any job titles used in Alberta, unless the employee is a P.Eng. Sun Microsystems agreed to change its policy after APEGGA began questioning use of the MCSE title by one of Sun's employees.

But in the Internet age, initiatives like APEGGA's can only go so far. Notes OIQ's Dupuis: "There are some in Quebec who do the Microsoft certification courses over the Internet with course providers in France. We don't have any jurisdiction there."

### PEO's program

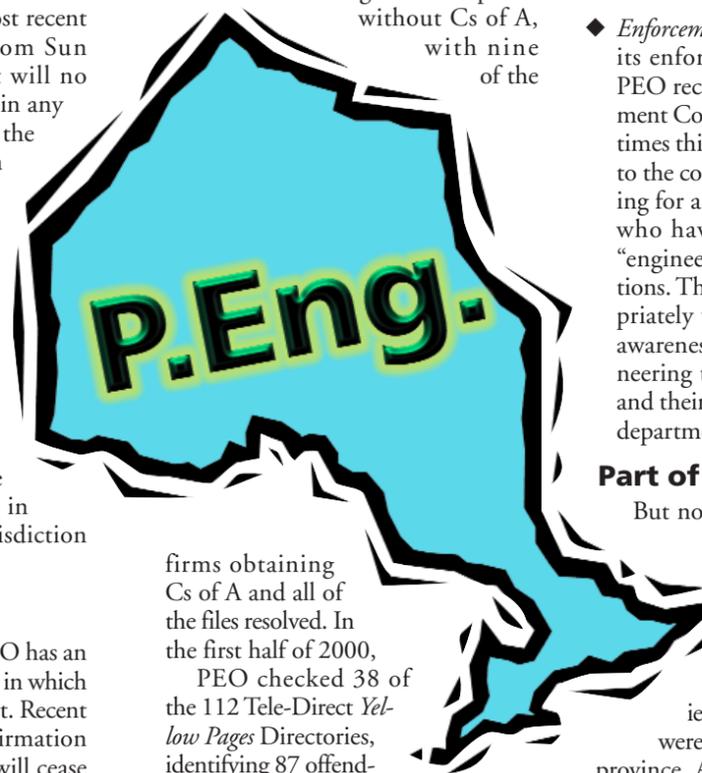
Challenges notwithstanding, PEO has an active title enforcement program, in which legal action is taken as a last resort. Recent major successes include a confirmation by Ford Motor Canada that it will cease titling employees in Canada as engineers unless they are licensed P.Engs. Ford has also reviewed all of its position titles and changed those that contravene the Act. PEO's title enforcement program comprises the following elements:

- ◆ *Response to inquiries.* Last year, PEO received 409 enforcement-related inquiries via letter, email to PEO's website, fax or telephone, 302 of them concerning the use of engineering titles. The rest related to such issues as use of the P.Eng. outside Ontario, consent to use the term "engineering" in company names, and titles under the Operating

Engineers Act. In the first half of 2000, PEO received 126 inquiries from members, the public and such employers as Stelco, JDS Uniphase and Cadbury.

- ◆ *Yellow Pages monitoring.* PEO also checks Tele-Direct *Yellow Pages* Directories against its Certificate of Authorization (C of A) records to find out which companies listed in the engineering category don't hold Cs of A. When offenders are found, PEO provides their names to Tele-Direct, which advises the companies that they cannot be listed under "engineering" in future editions unless they obtain a C of A.

In 1999, PEO found 218 engineering-listed companies without Cs of A, with nine of the



firms obtaining Cs of A and all of the files resolved. In the first half of 2000, PEO checked 38 of the 112 Tele-Direct *Yellow Pages* Directories, identifying 87 offending companies whose names were provided to Tele-Direct. In addition, PEO wrote to four companies with "engineering" in their names, with all four indicating an interest in obtaining a C of A.

- ◆ *Internet advertising.* In an expansion of these efforts, staff also now search the Internet for engineering firms advertising in Ontario. PEO's first search found few firms without Cs of A that have offices in Ontario. However, PEO did write to four to insist that they either drop "engineering" from their names or obtain a C of A.

- ◆ *Classified advertising.* Recruitment advertising in Toronto daily newspapers is searched for instances of misuse of the engineer title. If companies, institutions or governments place an ad for an "engineer," but do not specify a P.Eng. for the job, PEO writes to inform them of the proper use of the engineer title and to ask that they change their hiring practices accordingly. Last year, 205 such letters were sent, with 52 going out in the first six months of this year.

And as positive reinforcement and recognition, PEO writes to classified advertisers who correctly specify the requirement for a P.Eng. to fill an engineer-titled job.

- ◆ *Enforcement Committee.* To help guide its enforcement activities generally, PEO recently established an Enforcement Committee, which has met three times this year. Of immediate concern to the committee is appropriate wording for a letter of advice to applicants who have identified themselves as "engineers" on their licence applications. The committee hopes an appropriately worded letter will help raise awareness of the correct use of engineering titles among both applicants and their employers' human resources departments.

### Part of our jobs

But no matter how challenging the task, promoting appropriate use of engineering titles is simply all in a day's work for PEO and all of Canada's other engineering licensing bodies. After all, it's part of why they were established by statute in each province. As Al Schuld, P.Eng., APEGGA deputy registrar, says: "We can't look back over our shoulders and say 'yes, we might lose this one,' with the general view that it doesn't make much of a difference anyway. We have a responsibility to ensure the public is aware that title enforcement is part of the reason we exist, and that it's in the public interest that only qualified people practise engineering—or lead others to believe that they can." ◆

### References

1. Professional Engineers Act, R.S.O. 1990, Chapter P28, subsection 12(1).
2. Ibid, subsection 40(2)(a).
3. Ibid, subsections 40(2)(b) and 40(2)(c).