

## COUNCIL APPROVES INDUSTRIAL EXCEPTION ENFORCEMENT PLAN

483rd MEETING,  
FEBRUARY 7 AND 8, 2013

*By Jennifer Coombes*

THE REPEAL OF section 12(3)(a) of the *Professional Engineers Act* (known as the industrial exception to licence) received royal assent on October 25, 2010, and in January 2013 the Ontario government approved a proclamation date of March 1, 2013 for the change to become effective. On February 27, however, the Ontario government extended the effective date for the repeal to September 1. Once the repeal is effective, those responsible for professional engineering work in Ontario relating to production equipment or machinery will have to be PEO licence holders.

Companies will have three options available to comply with the repeal:

1. structure the company such that a PEO licence holder is directly supervising and taking responsibility for an employee doing the engineering components of the equipment or machinery work;
2. structure the company such that an employee doing the engineering components of the equipment or machinery work holds a P.Eng., limited licence, or temporary licence; or
3. hire a third-party certificate of authorization (C of A) holder to oversee and take responsibility for the engineering components of the equipment or machinery work.

At its February meeting, PEO council considered a plan, based on the originally announced March 1 effective

date, for how to deal with companies that are not in compliance with the new requirements. An updated plan, expected to be revised only for the new September 1 proclamation date, will go to council at its March meeting to be approved.

After a long debate, council approved PEO taking the following approach to helping companies comply with the repeal of the industrial exception.

Ontario manufacturers will be emailed information from the CEO/registar about the proclamation date, the new section 88 of Regulation 941 (see p. 23) enabling a one-year transition period for companies who file acceptable compliance plans with PEO, and available compliance options, which will request a reply by the proclamation date, stating either:

- (a) the company has determined that the repeal has no impact on their organization or they are in full compliance, or
- (b) a date when the company plans to be compliant, which may include a request to use the provision for a one-year extension. The company will also agree in writing to manage any safety risks during the transition.

Companies that do not respond to PEO by the proclamation date will be prioritized into three groups for action:

- (a) Group A, the highest priority, will comprise companies with at least one P.Eng. PEO will attempt to work with the engineer(s) in these companies to determine if the organization is compliant;
- (b) Group B will comprise medium to large companies with over \$10 million in sales and no P.Eng. on record; and
- (c) Group C will comprise small companies with under \$10 million in sales and no P.Eng. on record.

For groups B and C, PEO will enquire to determine if the organization is compliant.

Companies in any of the groups that contact PEO after the proclamation date indicating they need to take steps to be compliant will be required to present a satisfactory settlement plan to PEO or risk enforcement action. If companies agree to protect the public interest and manage safety risks during the transition period, PEO will provide up to one year from the proclamation date for their employees to obtain a P.Eng., limited or temporary licence.

Companies that do not respond to PEO regarding their compliance may be subject to enforcement action after the proclamation date and PEO may open an enforcement file and seek to collect evidence of act violations. Where there are clear violations of the act and sufficient evidence, PEO may commence legal proceedings. Where there is insufficient evidence, PEO may keep a company's enforcement file open for up to three years after the proclamation date.

PEO will enforce against company directors or partners and unlicensed employees who direct or supervise engineering work.

PEO is aiding companies in the transition period with its Financial Credit Program, which waives licence application or reinstatement fees for licence applications attached to an employer's request for exemption form filed with PEO by the proclamation date.

### NEW LICENCE HOLDER DATABASE

Council has authorized the purchase of the APTIFY licence holder database, software currently in use by the Association of Professional Engineers and Geoscientists of Alberta (APEGA), to replace PEO's current LicenseEase licence holder management system. PEO's information technology department has identified that PEO's continued use of LicenseEase presents problems, including an aging user interface, compatibility issues with Windows 7 and 8, and discontinued vendor support after 2013. As well, certain functionalities, such as built-in online member services, which are envisioned as becoming increasingly important to PEO, are not available with PEO's LicenseEase version. Upgrading to the current version would

have cost approximately \$1 million and take about one year to migrate data.

Following an environmental scan of what other regulators and associations are using and a gap analysis, it was concluded that the APTIFY product, including enhancements that APEGA incorporated into its customized solution and has offered to share with PEO, is the best fit to replace LicenseEase.

The software purchase and data migration will cost \$1,165,000 and take approximately 20 months to complete, spanning most of 2013 and 2014.

## DATA TRANSFER TO OSPE

A request by the Ontario Society of Professional Engineers (OSPE) to reinstate the former bulk transfers of PEO membership data, which included business email and home contact information, is pending an external legal review of PEO's privacy policy and privacy legislation.

In the meantime, to help the organization operate and fulfill its partner obligations, council approved a bulk transfer of the membership data publicly viewable from PEO's website to OSPE. This information will enable OSPE to validate the status of licensees currently in its system and identify P.Engs and EITs added to PEO's database since the last transfer of data, which occurred in December 2011.

This bulk transfer will not include business email addresses, or home addresses, telephone numbers or email addresses and other data not currently viewable in PEO's online member directory.

Information that is publicly available on PEO's website includes:

- first and last name, licence number, gender and chapter affiliation;
- licence status and description, year of first licensure, academic and self-reported disciplines, designations;
- employer, job title, business address and phone number;
- education verified by PEO, including program, degree, institution, country, city, graduation date; and
- self-reported education, including program, degree, institution, country, city, graduation date.

Data of members who have requested their information not be shared with OSPE or displayed publicly on the website will not be included in the transfer.

## HONORARIUM FOR COUNCILLORS

Council has been asked to consider that PEO pay an honorarium to elected and professional engineer government appointed councillors to encourage more P.Engs to participate in PEO's affairs and run for elected office. The assumption is that an honorarium might help to reduce the personal expenses of working councillors, who sometimes have to use personal vacation time to participate in PEO activities, potentially leading to a greater number of young engineers running for council positions.

Council has requested PEO's Human Resources Committee study the idea and report its findings at council's June meeting.

## COMPETENCIES AND REQUIREMENTS FOR P.ENG., LIMITED LICENCE AND EIT STATUS

Council accepted the recommendation of PEO's National Framework Task Force and has endorsed the continued development of the policy direction and key considerations of the Canadian Framework for Licensure (CFL) elements defining the competencies and requirements to obtain a P.Eng. licence, a limited licence and engineering intern (EIT) status in Canada.

The CFL is a model for Canadian engineering regulators to help them better regulate the profession to ensure the public interest is served and protected.

The CFL documents outlining the competencies and requirements state: "Canadian engineering regulators must define a common set of competencies and requirements that all applicants for the professional engineering licence must meet. National adoption of the competencies and requirements will facilitate mobility for all professional engineers, enhancing the safety of the public and the availability of engineering services across the country."

## EXPERIENCE GUIDE REVISED TO ENABLE MONITORS FOR CANADIAN EXPERIENCE

Council approved a change to the *Guide to the Required Experience for Licensing as a Professional Engineer in Ontario* that reflects the conditions council previously approved to enable monitors to be acceptable referees for the 12 months of Canadian experience required for licensure.

This change reflects a motion approved at council's April 13, 2012 meeting, at which it approved conditions for allowing monitors in lieu of direct supervisors, to help EITs gain the required 12 months of Canadian experience for licensure.

The following was carried at the April meeting:

"That the Monitor Program require:

- (a) The EIT sign a declaration that includes that he/she will not practise professional engineering unless a professional engineer has assumed responsibility in accordance with the *Professional Engineers Act*, s. 12.3(b)
- (b) The Monitor be required to sign a declaration:
  - (i) That he/she is [a] professional engineer who assumes responsibility for the services within the practice of professional engineering that the EIT is undertaking in accordance with the *Professional Engineers Act*, s. 12.3(b);
  - (ii) That he/she will comply with PEO's Professional Standard related to assuming responsibility for the services within the practice of professional engineering once set out in regulations; and
  - (iii) That the Monitor commit to being in the work location of the EIT at least 30 hours per month." Σ