

The Texas Board of Professional Engineers proposes new 131.139, relating to the Continuing Education Program (CEP). The proposed new section sets forth the requirements and conditions for the Continuing Education program required by Section 17 of SB277, 78th Regular Session of the Texas Legislature, 2003. The proposed new section is structured after the national CEP model. The proposed new section sets the CEP requirements for license renewal, defines acceptable activities for CEP credit, describes requirements for reporting CEP credits, lists exemptions from the CEP policy, describes the CEP requirements for activating an inactive or retired license, and describes noncompliance.

The proposed new section has been drafted to recognize the legislative intent to allow self determination of CEP activities and content by the license holder and builds on this intent by establishing a method of accounting and reporting CEP credits. The proposed new section has been developed to enhance the professional development of license holders while not imposing inappropriate requirements on their professional activities. The list of acceptable activities, equivalent CEP time values, methods for determination of credit, and exemptions is standard compared to the national CEP model and a review of CEP systems of other states. The inclusion of an audit process enhances the continuing education program by maintaining a strict record retention requirement while reducing the reporting requirement for license holders for every renewal cycle.

Lance Kinney, Technical Specialist for the board, has determined that for the first five-year period the proposed amendment is in effect, there will be minor fiscal implications for the agency as a result of enforcing or administering the section as proposed. The agency is expecting an increase of 1 FTE (\$28,000) to administer the CEP program. Mr. Kinney has also determined that there may be negative fiscal implications for state or local government with a possible reduction in the number of license holders changing from active to inactive status due to increased renewal requirements. A 10% reduction in professional fees paid to the general fund may occur as a result of reduced renewal revenue.

Mr. Kinney has also determined that for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing and administering the proposed new section will be that license holders will be better able to protect the health, safety and welfare of the public through continued professional education. Mr. Kinney has determined that those who participate in formal classes and programs may incur costs; however, the rule allows for flexibility in gaining credits, including self-study, that have no or minimal cost to the license holder; therefore, Mr. Kinney predicts that there will be no adverse fiscal impact to license holders.

Mr. Kinney has also determined that, for each year of the first five years the proposed new section is in effect, there is no anticipated adverse economic effect on small or micro-businesses.

Comments may be submitted, no later than 30 days from date published in the Texas Register, to a Lance Kinney, Technical Specialist, Texas Board of Professional

Engineers, 1917 IH 35 South, Austin, Texas 78741 or faxed to his attention at (512) 442-1414.

The amendment is proposed pursuant to the Texas Occupations Code, Chapter 1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state (formerly Texas Engineering Practice Act, Tex. Rev. Civ. Stat. Ann. art. 3271a, 8); and the Texas Occupations Code, Chapter 1001.210, which authorizes the creation and administration of a continuing education program for engineering license holders.

The following are the statutes, articles, or codes affected by the proposed new section:

131.139 - Texas Occupations Code, Chapters 1001.202 and 1001.210

131.139. Continuing Education Program.

- (a) Each license holder shall meet the Continuing Education Program (CEP) requirements for professional development as a condition for license renewal.
- (b) Terms used in this section are defined as follows:
 - (1) Professional Development Hour (PDH) - A contact hour (clock hour) of CEP activity. PDH is the basic unit for CEP reporting.
 - (2) Continuing Education Unit (CEU) - Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.
 - (3) College/Unit Semester/Quarter Hour - Credit for course in ABET-approved program or other related college course.
 - (4) Course/Activity - Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the license holder's field of practice.
- (c) Every license holder is required to obtain 15 PDH units during the renewal period year.
- (d) A minimum of 1 PDH per renewal period must be in the area of professional ethics, roles and responsibilities of professional engineering, or review of the Texas Engineering Practice Act and Board Rules.
- (e) If a license holder exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. Professional Development Hours must not be anticipated and cannot be used for more than one renewal period.
- (f) PDH units may be earned as follows:
 - (1) Successful completion or auditing of college credit courses.
 - (2) Successful completion of continuing education courses, either offered by a professional or trade organization, university or college, or offered in-house by a corporation or other business entity.

- (3) Successful completion of correspondence, on-line, televised, videotaped, and other short courses/tutorials.
- (4) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences sponsored by a corporation or other business entity.
- (5) Teaching or instructing as listed in paragraphs (1) through (4) of this subsection.
- (6) Authoring published papers, articles, books, or accepted licensing examination items.
- (7) Active participation in professional or technical societies, associations, agencies, or organizations, including:
 - (A) Serving as an elected or appointed official;
 - (B) Serving on a committee of the organization;
 - (C) Making or attending a presentation at such a meeting; and
 - (D) Writing a paper presented at a meeting.
- (8) Patents Issued.
- (9) Engaging in self-directed study.
- (g) All activities described in 131.139(f) of this title shall be relevant to the practice of a technical profession and may include technical, ethical, or managerial content.
- (h) The conversion of other units of credit to PDH units is as follows:
 - (1) 1 College or unit semester hour - 15 PDH
 - (2) 1 College or unit quarter hour - 10 PDH
 - (3) 1 Continuing Education Unit - 10 PDH
 - (4) 1 Hour of professional development - 1 PDH in course work, seminars, or professional or technical presentations made at meetings, conventions, or conferences
 - (5) 1 Hour of professional development - 1 PDH through self-directed study (Not to exceed 5 PDH)
 - (6) Each published paper, article, or book - 10 PDH
 - (7) Active participation in professional or - 1 PDH technical society, association, agency, or organization (Not to exceed 5 PDH per organization)
 - (8) Each patent issued - 10 PDH
 - (9) Other activities shall be credited at 1 PDH for each hour of participation in the activity.
- (i) Determination of Credit
 - (1) The Board shall be the final authority with respect to whether a course or activity meets the requirements of these rules.
 - (2) The Board shall not pre-approve or endorse any CEP activities. It is the responsibility of each license holder to assure that all PDH credits claimed meet CEP requirements.
 - (3) Credit for college or community college approved courses will be based upon course credit established by the college.
 - (4) Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical

- society meetings will earn PDH units for the actual time of each program.
- (5) Credit for self-directed study will be based on one PDH unit for each hour of study and is not to exceed 5 PDH per renewal period. Credit determination for self-directed study is the responsibility of the license holder and subject to review as required by the board.
 - (6) Credit determination for activities described in subsection (h)(4) of this section is the responsibility of the license holder and subject to review as required by the board.
 - (7) Credit for activity described in subsection (h)(7) of this section requires that a license holder serve as an officer of the organization, actively participate in a committee of the organization, or perform other activities such as making or attending a presentation at a meeting or writing a paper presented at a meeting. PDH credits are not earned until the end of each year of service is completed.
 - (8) Teaching credit is valid for teaching a course or seminar for the first time only.
- (j) The license holder is responsible for maintaining records to be used to support credits claimed. Records required include, but are not limited to:
 - (1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; and
 - (2) attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.
 - (k) The license holder must submit CEP certification and a list of each activity, date, and hours claimed that satisfy the CEP requirement for that renewal year with the renewal application and fee.
 - (l) CEP records for each license holder must be maintained for a period of three years by the license holder.
 - (m) CEP records for each license holder are subject to audit by the board or its authorized representative.
 - (1) Copies must be furnished, if requested, to the Board or its authorized representative for audit verification purposes.
 - (2) If upon auditing a license holder, the Board finds that the activities cited do not fall within the bounds of educational, technical, ethical, or professional management activities related to the practice of engineering; the board may require the license holder to acquire additional PDH as needed to fulfill the minimum CEP requirements.
 - (n) A license holder may be exempt from the professional development educational requirements for one of the following reasons listed in paragraphs (1)-(4) of this subsection:
 - (1) New license holders by way of examination shall be exempt for their first renewal period.
 - (2) A license holder serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the professional development hours required during that year.

- (3) License holders experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board.
- (4) License holders who list their status as "Retired" or "Inactive" and who further certify that they are no longer receiving any remuneration from providing professional engineering services shall be exempt from the professional development hours required.
- (o) A license holder may bring an inactive license to active status by obtaining all delinquent PDH units. However, if the total number required to become current exceeds 30, then 30 shall be the maximum number required.
- (p) Noncompliance:
 - (1) If an engineer does not certify that CEP requirements have been met for a renewal period, the license shall be considered expired and subject to late fees and penalties.
 - (2) A determination by audit that CEP requirements have been falsely reported shall be considered to be misconduct and will subject the license holder to disciplinary action.