The Model Law of the National Council of Examiners for Engineering and Surveying (section 150.10) recommends that licensing boards have the power to suspend, revoke, place on probation, fine, or to refuse to issue, restore, or renew a license or intern certification if the individual is found guilty of several offenses. These offenses can include, but aren't limited to, fraud, dishonorable, unethical, and unprofessional conduct, and conviction or guilty pleas relating to any felony.

Washington Continuing Education Bill Fails to Move – Legislation that would require PEs to earn 15 hours of continuing education annually in order to renew their licenses failed to move out of the Washington Legislature prior to the end of its session in April.

The Washington Society of Professional Engineers supports continuing education for PEs, but opposed the bill (H.B. 1900) because of its mandatory reporting requirement. The legislation, supported by the local chapter of the American Society of Civil Engineers, would have also required the state's Department of Licensing to write rules governing what professional development hours are acceptable to meet the requirements.

Under the state's current law, continuing education for PEs is considered a matter of professional conduct and practice that is left to the discretion of the individual. The law states that "registrants shall maintain their competency by continuing their professional development throughout their careers." The state does not conduct audits or require a minimum number of professional development hours. Licensed land surveyors are required to earn 15 hours of continuing professional development for license renewal.

Washington A/Es Get 'Duty to Defend' Relief – Washington Governor Christine Gregoire signed legislation in March that will reduce the liability risks for design professionals by eliminating unfair indemnity clauses in contracts with public agencies.

The legislation (H.B. 1559) places limits on the enforcement of indemnification agreements between state and local public agencies and licensed design professionals. A contract that requires a design professional to indemnify an agency for claims made against the agency, including the duty to defend, will only be enforceable in regards to the negligence, recklessness, or willful misconduct of the design professional. The design professional will not be responsible for paying for damages of a third party's actions that are not connected to the professional.

FEDERAL LEGISLATIVE/REGULATORY MATTERS

Digital Signatures and Seals Essential to Industry Innovation, Report Says – The AEC industry needs to keep pace with technological advances and move away from paper-heavy projects—particularly with use of standard digital seals and signatures—says a new project management guide.

Published by Fiatech, an international group dedicated to innovation in capital projects, the report explains how digital seals and signatures can help streamline processes and increase efficiency in the delivery of projects.

AEC firms are increasingly digitizing business processes with the expansion of mobile technology, as they strengthen their commitment to environmentally friendly practices. Yet, the guide says, there is a "wet signature" problem. When documents need signatures and professional seals—the ink comes out. The dependence on a "wet signature" can increase expenses for a firm in various ways, through printing and shipping costs, time associated with obtaining multiple signatures, and delays if an individual is not immediately available to sign or seal documents.

What are the benefits of using digital signatures? Users of this technology have the ability to sign multiple documents efficiently and from any location in the world without downgrading document quality. An electronic process also allows for an acknowledgement of signer intent in addition to a reduction in project costs and schedule delays.

The guide recommends that firms deploy software and applications that meet the standards set by an organization such as the National Institute of Standards and Technology. Firm leaders should also fully examine the following components before selecting a system:

- Maintenance of the integrity of the document, record, report, or calculation to which the signature is applied;
- Compatibility with a company's content-authoring applications;
- Accessible interfaces, if needed for larger workflow and collaboration solutions;
- Binding the signatory to the document;
- Compatibility with your current governing policy and procedure for user enrollment and authentication;
- Control over signature privileges, digital signature credentials, and digitized seals; and
- Binding digitized seals to the document and signatory.

Access A Practical Deployment Strategy for Digital Signatures and Seals in Fully Electronic AEC Processes at www.fiatech.org.

NRC Report Calls for 'Culture of Safety' In Offshore Drilling – The federal bureau that oversees offshore oil and gas drilling needs to undergo changes to create a holistic approach for evaluating safety, according to the National Research Council.

The Bureau of Safety and Environmental Enforcement, according to the report, should implement inspections, operator audits, bureau audits, key performance indicators, and a whistleblower program. The report also emphasizes using cooperation and consultation to further develop a culture of safety.

"BSEE should seize this opportunity to make a step change in safety culture," says NSPE member Kenneth Arnold, P.E., senior technical adviser at WorleyParsons, Houston, and chair of the committee that wrote the report.

"The bureau can tailor its approach to evaluating the effectiveness of [the safety and environmental management system] in order to move both the industry and the government from a culture of relying on punishment only—obtaining prescriptive adherence to pass-failure requirements—to a culture of continuous improvement," he added. "The idea is to meet the goals of SEMS through a mixture of cooperation and consultation as well as punishment."

Since the April 2010 Deepwater Horizon blowout and explosion, the federal government as well as the offshore oil and gas industry have been undergoing major changes, including the issuance of regulations requiring operators of offshore facilities to adopt and implement comprehensive safety and environmental management system programs by November 15, 2011. These systems are intended to shift from an entirely prescriptive approach to a proactive risk-based, goal-oriented regulatory approach to improve safety and reduce the likelihood of similar events recurring.

The committee for this study was charged with recommending a method of assessing the effectiveness of operators' SEMS programs on any offshore drilling or production facility.

To ensure compliance with regulations, NRC recommends that inspectors spend more time on offshore facilities—enough time to observe multiple activities, interact with staff, and get a better sense of day-to-day operations.

In addition to inspections, operator audits should be carried out by the operator's own internal, independent team, the NRC says, although smaller operators may need to use third-party auditors. Audit frequency should be based on the risk associated with the facility.

Among the NRC's other conclusions:

- The Bureau of Safety and Environmental Enforcement is responsible for ensuring that quality audits are carried out and acted on;
- BSEE should have a program for anonymous reporting of potential violations and a process to act on those reports, while taking care that the program does not become a tool for disgruntled workers; and
- BSEE should collect and evaluate operations data from across installations and distribute information on trends to help improve safety.

PE Named First Woman Commander of NAVFAC – History will be made this fall when Rear Adm. Katherine Gregory, P.E., assumes command of the Naval Facilities Engineering Command. She will be the first woman to lead NAVFAC, originally established as the Bureau of Navy Yards and Docks in 1842.

Gregory, who will also become chief of the Navy's Civil Engineer Corps, is no stranger to making history. When she was promoted to rear admiral in 2010, she became the first female CEC flag officer.

Gregory currently leads Naval Facilities Engineering Command Pacific and the Pacific Fleet Civil Engineer Corps. When she takes command of NAVFAC and CEC at a Washington, D.C., ceremony this fall she will succeed Rear Adm. Christopher Mossey, P.E.

A St. Louis native, Gregory graduated from the U.S. Naval Academy in 1982. She holds graduate degrees from the University of Southern California and George Washington University and is a licensed professional engineer in Virginia.

NAVFAC manages the planning, design, construction, contingency engineering, real estate, environmental, and public works support for U.S. Navy shore facilities around the world.

COURT DECISIONS

Amyriad Manufacturing & Distributing Industries v. Budd Engineering – An Illinois Circuit Court in Cook County ruled in April that sections of the Illinois Professional Engineering Services Act are unconstitutional because they overreach by making use of the "engineer" title unlawful.

The case involved a dispute over services, the court found that the defendants Burton Siegal and Budd Engineering, were not in violation of the state's PE Act because of the manufacturing exemption to the law, which doesn't prohibit use of the term "engineer" or related advertisements when providing services to the manufacturing industry.

An individual is in violation of the Illinois PE Act if he advertises to the public that he is entitled to practice as a professional engineer, use the initials "P.E.", or use the title "engineer" without holding an active PE license.

Amyriad CEO Harry Barnett hired Budd Engineering on January 29, 2003, to design an aluminum extrusion for a shelving unit after finding the company's advertisement in the Business-to-Business Yellow Pages. Amyriad entered into an agreement with the company and paid a $1,000 retainer for the services. Budd Engineering submitted drawings a month later; however, the company was fired on March 4 because Barnett was not satisfied with the plans. Amyriad hired another firm, which completed the work five months later, and sued Budd Engineering.

The plaintiff alleged that he would not have hired the company if he had known that Siegal was not a licensed professional engineer. Siegal has a mechanical engineering degree from the University of Illinois's College of Engineering and is not a licensed professional engineer in the state. In response to the plaintiff's allegation, the defendants asserted that the PE Act violates a First Amendment right to engage in commercial free speech by truthfully advertising as engineers.

The court found that preventing the defendants from using the title "engineer" or any of its derivations would also prevent the defendants from engaging in manufacturing operations. The services provided by the defendants to the plaintiff didn't fall under the PE Act's list of "professional engineering services." The court also ruled that the defendants don't have standing to challenge the misdemeanor provision of the PE Act because the Department of Financial and Professional Regulation has refrained from prosecuting Budd Engineering or Siegal for using the term "engineering" during the case.

The court agreed that the PE Act reaches beyond speech that proposes a commercial transaction and into noncommercial speech because there are a substantial number of impermissible applications and a minority of engineers in the state are licensed to practice professional engineering.

In Re: Individual 35W Bridge Litigation – On May 29, 2012, the U.S. Supreme Court refused to hear an appeal by Jacobs Engineering Group, Inc., claiming Minnesota's highest court wrongly allowed the state to retroactively revive liability claims over the deadly 2007 collapse of a 40-year-old bridge.

The high court denied a Feb. 28 petition for writ of certiorari by Jacobs Engineering Group Inc., which designed steel plates for the 1,900-foot I-35W bridge that were allegedly not thick enough. Jacobs was one of several builders sued by the state under a 2008 law.

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