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**THE STATE OF TEXAS
TEXAS ENGINEERING PRACTICE ACT
AND RULES CONCERNING
THE PRACTICE OF ENGINEERING
AND
PROFESSIONAL ENGINEERING LICENSURE**



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Rules effective June 19, 2017

THE TEXAS ENGINEERING PRACTICE ACT

CHAPTER 1001 TEXAS OCCUPATIONS CODE

SUBCHAPTER A. GENERAL PROVISIONS

§ 1001.001. Short Title

This chapter may be cited as The Texas Engineering Practice Act.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.002. Definitions

In this chapter:

- (1) "Board" means the Texas Board of Professional Engineers.
- (2) "Engineer" means a person licensed to engage in the practice of engineering in this state.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.003. Practice of Engineering

(a) In this section:

- (1) "Design coordination" includes the review and coordination of technical submissions prepared by others, including the work of other professionals working with or under the direction of an engineer with professional regard for the ability of each professional involved in a multidisciplinary effort.
- (2) "Engineering survey" includes any survey activity required to support the sound conception, planning, design, construction, maintenance, or operation of an engineered project. The term does not include the surveying of real property or other activity regulated under Chapter 1071.

(b) In this chapter, "practice of engineering" means the performance of or an offer or attempt to perform any public or private service or creative work, the adequate performance of which requires engineering education, training, and experience in applying special knowledge or judgment of the mathematical, physical, or engineering sciences to that service or creative work.

(c) The practice of engineering includes:

- (1) consultation, investigation, evaluation, analysis, planning, engineering for program management, providing an expert engineering opinion or testimony, engineering for testing or evaluating materials for construction or other engineering use, and mapping;
- (2) design, conceptual design, or conceptual design coordination of engineering works or systems;
- (3) development or optimization of plans and specifications for engineering works or systems;
- (4) planning the use or alteration of land or water or the design or analysis of works or systems for the use or alteration of land or water;
- (5) responsible charge of engineering teaching or the teaching of engineering;
- (6) performing an engineering survey or study;
- (7) engineering for construction, alteration, or repair of real property;
- (8) engineering for preparation of an operating or maintenance manual;
- (9) engineering for review of the construction or installation of engineered works to monitor compliance with drawings or specifications;
- (10) a service, design, analysis, or other work performed for a public or private entity in connection with a utility, structure, building, machine, equipment, process,

system, work, project, or industrial or consumer product or equipment of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature; or

(11) providing an engineering opinion or analysis related to a certificate of merit under Chapter 150, Civil Practice and Remedies Code; or

(12) any other professional service necessary for the planning, progress, or completion of an engineering service.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.001(a), eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 1, eff. September 1, 2005.

§ 1001.0031. Practices of Engineering and Architecture.

(a) Except as provided by Subsection (d) or (e), the practice of engineering does not include, and engineers may not engage in or offer to engage in, the practice of architecture as defined by Sections 1051.001(7)(A), (B), and (C), as that definition existed on April 1, 2011, and by Section 1051.0016(a).

(b) An engineer may not prepare or provide a complete, comprehensive set of building plans for a building designed for human use or occupancy unless:

- (1) the plans and specifications as described by Section 1051.001(7)(A) or (B) are prepared by, or under the supervision of, an architect;
- (2) the building is part of a project described by Section 1051.601(b) or a building described by Section 1051.606(a)(4); or
- (3) the engineer has received administrative approval by the Texas Board of Architectural Examiners to practice architecture under Section 1051.607.

(c) An engineer is responsible for the engineering plans and specifications of a building unless the work is exempt under Section 1001.053 or 1001.056. In this section, the term "engineering plans and specifications" means:

- (1) plans for a structural, mechanical, electrical, electronic, fire suppression, or geotechnical system in a building;
- (2) specifications of structural elements and connections of a building;
- (3) foundation design;
- (4) hydrologic management calculations and design of surface water control and detention necessary for compliance with ordinances and regulations;
- (5) design of building drain and waste system plumbing, fresh water plumbing, graywater systems, and mechanical aspects of moving water in and out of a structure, other than simple roof drainage;
- (6) evaluation of structural framing members before the addition of roof-mounted equipment or a heavier roof covering;
- (7) design of changes in roof pitch by the addition of structural framing members;
- (8) evaluation and repair of damaged roof structural framing;
- (9) design of electrical and signal and control systems;
- (10) shop drawings by manufacturers or fabricators of materials and products to be used in the building features designed by the engineer; and
- (11) specifications listing the nature and quality of materials and products for construction of features of the building elements or systems designed by an engineer.

(d) The preparation of engineering plans and specifications for the following tasks is within the scope of practice of both engineering and architecture:

- (1) site plans depicting the location and orientation of a building on the site based on:

- (A) a determination of the relationship of the intended use with the environment, topography, vegetation, climate, and geographic aspects; and
 - (B) the legal aspects of site development, including setback requirements, zoning and other legal restrictions, and surface drainage;
- (2) the depiction of the building systems, including structural, mechanical, electrical, and plumbing systems, in:
- (A) plan views;
 - (B) cross-sections depicting building components from a hypothetical cut line through a building; and
 - (C) the design of details of components and assemblies, including any part of a building exposed to water infiltration or fire-spread considerations;
- (3) life safety plans and sheets, including accessibility ramps and related code analyses; and
- (4) roof plans and details depicting the design of roof system materials, components, drainage, slopes, and directions and location of roof accessories and equipment not involving structural engineering calculations.
- (e) The following activities may be performed by either an engineer or an architect:
- (1) programming for construction projects, including:
 - (A) identification of economic, legal, and natural constraints; and
 - (B) determination of the scope of functional elements;
 - (2) recommending and overseeing appropriate construction project delivery systems;
 - (3) consulting with regard to, investigating, and analyzing the design, form, materials, and construction technology used for the construction, enlargement, or alteration of a building or its environment; and
 - (4) providing expert opinion and testimony with respect to issues within the responsibility of the engineer or architect.

Added 82nd Leg., HB 2284, eff. September 1, 2011.

§ 1001.004. Legislative Purpose and Intent; Liberal Construction of Chapter

- (a) The legislature recognizes the vital impact that the rapid advance of knowledge of the mathematical, physical, and engineering sciences as applied in the practice of engineering has on the lives, property, economy, and security of state residents and the national defense.
- (b) The purpose of this chapter is to:
- (1) protect the public health, safety, and welfare;
 - (2) enable the state and the public to identify persons authorized to practice engineering in this state; and
 - (3) fix responsibility for work done or services or acts performed in the practice of engineering.
- (c) The legislature intends that:
- (1) the privilege of practicing engineering be entrusted only to a person licensed and practicing under this chapter;
 - (2) only a person licensed under this chapter may:
 - (A) engage in the practice of engineering;
 - (B) be represented in any way as any kind of “engineer”; or
 - (C) make any professional use of the term “engineer”; and
 - (3) this chapter will be strictly complied with and enforced.
- (d) This chapter shall be liberally construed to carry out the intent of the legislature.

(e) This chapter does not:

- (1) prevent a person from identifying the person in the name and trade of any engineers’ labor organization with which the person is affiliated;
- (2) prohibit or otherwise restrict a person from giving testimony or preparing an exhibit or document for the sole purpose of being placed in evidence before an administrative or judicial tribunal, subject to the board’s disciplinary powers under Subchapter J regarding negligence, incompetency, or misconduct in the practice of engineering;
- (3) repeal or amend a law affecting or regulating a licensed state land surveyor; or
- (4) affect or prevent the practice of any other legally recognized profession by a member of the profession who is licensed by the state or under the state’s authority.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER B. EXEMPTIONS

§ 1001.051. Limitation on Exemption

An exemption under this subchapter applies only to a person who does not offer to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 2003.

§ 1001.052. Employee of License Holder

A person who is an employee or subordinate of an engineer is exempt from the licensing requirements of this chapter if the person’s practice does not include responsible charge of design or supervision.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.053. Public Works

The following work is exempt from this chapter:

- (1) a public work that involves electrical or mechanical engineering, if the contemplated expense for the completed project is \$8,000 or less; or
- (2) a public work that does not involve electrical or mechanical engineering, if the contemplated expense for the completed project is \$20,000 or less; or
- (3) road maintenance or improvement undertaken by the commissioners court of a county.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1142, Sec. 1, eff. June 19, 2009.

§ 1001.054. Federal Officer or Employee

An officer or employee of the United States is exempt from the licensing requirements of this chapter during the time the officer or employee is engaged in the practice of engineering for the United States in this state.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.055. Mechanical, Electrical, or Other Equipment

(a) A person is exempt from the licensing requirements of this chapter if the person is installing, operating, repairing, or servicing a locomotive or stationary engine, steam boiler, diesel engine, internal combustion engine, refrigeration compressor or system, hoisting engine,

electrical engine, air conditioning equipment or system, or mechanical, electrical, electronic, or communications equipment or apparatus.

(b) This exemption does not permit a person to:

- (1) sign an engineering plan or specification if the person is not an engineer; or
- (2) use the term “engineer” or “engineering” in any manner prohibited by this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.056. Construction or Repair of and Plans for Certain Buildings

(a) A person, sole proprietorship, firm, partnership, joint stock association, or private corporation is exempt from the licensing requirements of this chapter if:

- (1) a representation that engineering services have been or will be offered to the public is not made or implied; and
- (2) the person or entity is erecting, constructing, enlarging, altering, or repairing or is drawing plans or specifications for:
 - (A) a private dwelling;
 - (B) apartments not exceeding eight units for each building in the case of one-story buildings;
 - (C) apartments not exceeding four units for each building and having a maximum height of two stories;
 - (D) a garage or other structure pertinent to a building described by Paragraph (A), (B), or (C);
 - (E) a private building to be used exclusively for:
 - (i) farm, ranch, or agricultural purposes; or
 - (ii) storage of raw agricultural commodities
 - (F) a building having no more than one story that:
 - (i) is not a building exempt from the licensing requirements of this chapter under Section 1001.053 or subject to Section 1001.407;
 - (ii) has a total floor area of not more than 5,000 square feet; and
 - (iii) does not contain a clear span between supporting structures greater than 24 feet on the narrow side.

(b) If a structure described by Subsections (a)(2)(F)(i) and (ii) contains unsupported spans greater than 24 feet, only the trusses, beams, or other roof supporting members must be engineered or pre-engineered.

(c) The exemption provided by this section does not apply to a person or entity that is:

- (1) providing engineering design or inspection services necessary to comply with windstorm certification standards for a residential dwelling under Subchapter F, Chapter 2210, Insurance Code; or
- (2) providing engineering design relating to constructing, enlarging, altering, or repairing, or drawing plans or specifications for, a residential dwelling slab located on expansive soil that meets the expansive soil classification provisions of the International Residential Code as applied in the jurisdiction in which the residential dwelling is located, unless the construction, enlargement, alteration, repair, or drawing of plans or specifications meets the International Residential Code requirements as applied in the jurisdiction in which the residential dwelling is located.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1142, Sec. 1, eff. June 19, 2009.

§ 1001.057. Employee of Private Corporation or Business Entity

(a) This chapter shall not be construed to apply to the activities of a private corporation or other business entity, or the activities of the full-time employees or other personnel under the direct supervision and control of the business entity, on or in connection with:

- (1) reasonable modifications to existing buildings, facilities, or other fixtures to real property not accessible to the general public and which are owned, leased, or otherwise occupied by the entity; or
- (2) activities related only to the research, development, design, fabrication, production, assembly, integration, or service of products manufactured by the entity.

(b) A person who claims an exemption under this section and who is determined to have directly or indirectly represented the person as legally qualified to engage in the practice of engineering or who is determined to have violated Section 1001.301 may not claim an exemption until the 10th anniversary of the date the person made that representation.

(c) This exemption does not prohibit:

- (1) a licensed professional engineer who intends to incorporate manufactured products into a fixed work, system, or facility that is being designed by the licensee on public property or the property of others from requiring the manufacturer to have plans or specifications signed and sealed by a licensed professional engineer; or
- (2) the board from requiring, by rule, that certain manufactured products delivered to or used by the public must be designed and sealed by a licensed professional engineer, if necessary to protect the public health, safety, and welfare.

(d) For purposes of this section, “products manufactured by the entity” also includes computer software, firmware, hardware, semiconductor devices, and the production, exploration, and transportation of oil and gas and related products.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 3, eff. Sept. 1, 2003.

§ 1001.058. Employee of Certain Utilities or Affiliates

(a) A regular full-time employee of a privately owned public utility or cooperative utility or of the utility’s affiliate is exempt from the licensing requirements of this chapter if the employee:

- (1) performs services exclusively for the utility or affiliate; and
- (2) does not have the final authority to approve, or the ultimate responsibility for, engineering designs, plans, or specifications that are to be:
 - (A) incorporated into fixed works, systems, or facilities on the property of others; or
 - (B) made available to the public.

(b) A person who claims an exemption under this section and who is determined to have directly or indirectly represented the person as legally qualified to engage in the practice of engineering or who is determined to have violated Section 1001.301 may not claim an exemption until the 10th anniversary of the date the person made that representation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 4, eff. Sept. 1, 2003.

§ 1001.059. Qualified Scientists

A qualified scientist engaged in scientific research and investigation of the physical or natural sciences is exempt from the licensing requirements of this chapter. This exemption includes the usual work and activities of a meteorologist, seismologist, geologist, chemist, geochemist, physicist, or geophysicist.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.060. Soil and Water Conservation

Agricultural work performed in carrying out soil and water conservation practices is exempt from this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.061. Telephone Companies

(a) An operating telephone company, an affiliate of the company, or an employee of the company or affiliate is exempt from this chapter with respect to any plan, design, specification, or service that relates strictly to the science and art of telephony.

(b) This exemption includes the use of a job title or personnel classification by a person included under Subsection (a) if the person does not use:

- (1) the title or classification in connection with an offer to the public to perform engineering services; and
- (2) a name, title, or word that tends to convey the impression that a person not licensed under this chapter is offering to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.062. Certain Employees Working From Engineer's Plans

(a) A regular full-time employee of a private business entity who is engaged in erecting, constructing, enlarging, altering, repairing, rehabilitating, or maintaining an improvement to real property in accordance with plans or specifications that have an engineer's seal is exempt from this chapter.

(b) This exemption includes the use of a job title or personnel classification by the employee if the employee does not use the title or classification in connection with an offer to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.063. Architects, Landscape Architects, and Interior Designers

This chapter or a rule adopted under this chapter does not prevent or otherwise restrict a person licensed as an architect under Chapter 1051, a landscape architect under Chapter 1052, or an interior designer under Chapter 1053 from performing an act, service, or work that is within the definition of the person's practice under those chapters.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.064. State Land Surveyors

A licensed state land surveyor is exempt from this chapter in performing a state land surveyor's duties.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.065. Employees of Institutions of Higher Education

(a) In this section, "institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(b) An employee of an institution of higher education or a private or independent institution of higher education who is performing research or instructional work within the scope of the person's employment by the institution is exempt from the licensing requirements of this chapter.

Added Section 14A.002, (HB3507), 78th Leg. eff. September 1, 2003

§ 1001.066. Certain NASA-Related Activities

This chapter does not:

- (1) apply to a business entity or the business entity's employees to the extent that the entity's products or services consist of space vehicles or space services provided to, or space technology transfer programs required by, the National Aeronautics and Space Administration; or
- (2) prohibit the use of the term "engineer" or "engineering" in a job title or personnel classification by an employee described by Subdivision (1) to the extent that the use of the title or classification is related to activities described by that subdivision.

Added 78th Leg, SB277 eff. September 1, 2003.

§ 1001.067. Certain Fire Department Employees

This chapter does not prohibit the professional use of the term "fire engineer" by a member of a fire department in a municipality with a population of one million or more that has adopted Chapter 143, Local Government Code, and to which Subchapter G of that chapter does not generally apply, who:

- (1) holds the position of fire apparatus operator; and
- (2) is not otherwise engaged in the practice of engineering.

Added by Acts 2009, 81st Leg., R.S., Ch. 1142, Sec. 2, eff. June 19, 2009.

§ 1001.068. Certain Out-Of-State Engineers Engaged In Evaluating Oil And Gas Resources

(a) In this section, "evaluation of oil and gas resources" includes:

- (1) the quantification of the volume of oil and gas reserves and resources in the subsurface of the earth;
- (2) the determination of production forecasts for the reserves or resources; and
- (3) the evaluation of the economic impact of the production forecasts.

(b) This chapter does not apply to the evaluation of oil and gas resources if the evaluation:

- (1) is done by an engineer licensed in a state that does not prohibit engineers licensed under this chapter from engaging in the evaluation of oil and gas resources in that state;
- (2) does not involve design, construction, or engineering assessments on the surface; and
- (3) does not present a risk to public health or safety.

Added by HB 2067, 82nd Leg. Session, effective May 28, 2011.

SUBCHAPTER E. BOARD POWERS AND DUTIES

§ 1001.201. General Powers and Duties

(a) The board shall administer and enforce this chapter.

(b) The board may spend money for any purpose the board considers reasonably necessary for the proper performance of its duties under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.202. Rules

The board may adopt and enforce any rule or bylaw necessary to perform its duties, govern its proceedings, and regulate the practice of engineering.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.203. Rules Restricting Advertising or Competitive Bidding

(a) The board by rule shall prescribe standards for compliance with Subchapter A, Chapter 2254, Government Code.

(b) Except as provided by Subsection (a), the board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(c) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a license holder's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the license holder; or
- (4) restricts the license holder's advertisement under a trade name.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 13, eff. Sept. 1, 2003.

§ 1001.2035. Rules on Consequences of Criminal Conviction

The board shall adopt rules and guidelines as necessary to comply with Chapter 53.

Added 78th Leg, SB 277, eff. September 1, 2003.

§ 1001.207. Standards of Conduct and Ethics

The board may establish standards of conduct and ethics for engineers in keeping with the purposes and intent of this chapter and to ensure strict compliance with and enforcement of this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.210. Continuing Education Programs

(a) The board shall recognize, prepare, or administer continuing education programs for its license holders. A license holder must participate in the programs to the extent required by the board to keep the person's license.

(b) The board may not require a license holder to obtain more than 15 hours of continuing education annually. The board shall permit a license holder to certify at the time the license is renewed that the license holder has complied with the board's continuing education requirements.

(c) The board shall permit a license holder to receive continuing education credit for educational, technical, ethical, or professional management activities related to the practice of engineering, including:

- (1) successfully completing or auditing a course sponsored by an institution of higher education;
- (2) successfully completing a course certified by a professional or trade organization;
- (3) attending a seminar, tutorial, short course, correspondence course, videotaped course, or televised course;

(4) participating in an in-house course sponsored by a corporation or other business entity;

(5) teaching a course described by Subdivisions (1)-(4);

(6) publishing an article, paper, or book on the practice of engineering;

(7) making or attending a presentation at a meeting of a technical or engineering management society or organization or writing a paper presented at such a meeting;

(8) participating in the activities of a professional society or association, including serving on a committee of the organization; and

(9) engaging in self-directed study.

(d) A license holder may not receive more than five continuing education credit hours annually for engaging in self-directed study.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 17, eff. Sept. 1, 2003.

§ 1001.213. Subpoena

(a) The board may request and, if necessary, compel by subpoena:

(1) the attendance of a witness for examination under oath; and

(2) the production for inspection or copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter.

(b) The board, acting through the attorney general, may bring an action to enforce a subpoena issued under Subsection (a) against a person who fails to comply with the subpoena.

(c) Venue for an action brought under Subsection (b) is in a district court in:

(1) Travis County; or

(2) the county in which the board may hold a hearing.

(d) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER F. CONSUMER INTEREST INFORMATION AND COMPLAINT PROCEDURES

§ 1001.251. Consumer Interest Information

(a) The board shall prepare information of consumer interest describing the regulatory functions of the board and the procedures by which consumer complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

(c) The board shall maintain on the board's Internet website:

- (1) information regarding the procedure for filing a complaint with the board; and
- (2) a form that a person may use to file a complaint with the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 19, eff. Sept. 1, 2003.

§ 1001.252. General Rules Regarding Complaint Investigation and Disposition

(a) The board shall adopt rules that permit the board to receive and investigate a confidential complaint against a license holder or other person who may have violated this chapter. The board shall maintain the confidentiality of the complaint during the investigation.

(b) The board by rule shall specify:

- (1) the manner by which a person may contact the board for assistance in filing a complaint;
- (2) the place at which a complaint must be filed;
- (3) the proper form of a complaint; and
- (4) the information that must be included in a complaint.

(c) The board's procedures must permit a member of the public who desires to file a complaint to:

- (1) speak to an investigator on the staff of the board if the person desires to do so; or
- (2) easily and conveniently access the board's complaint process without being required to speak to an investigator on the staff of the board if the person does not desire to speak to an investigator.

(d) The board shall consider any written grievance against a license holder or other person filed with the board as a complaint.

(e) A complaint must include information sufficient for the board to determine whether it has the authority to resolve the complaint. A complaint that contains sufficient information for the board to commence an investigation is not required to include all of the information necessary for the board to determine the validity of the complaint.

(f) On receipt of a complaint, the board shall determine whether the board has the authority to resolve the complaint. If the board does not have the authority to resolve the complaint, the board shall dismiss the complaint. If the board has the authority to resolve the complaint, the board shall initiate a disciplinary proceeding against the person who is the subject of the complaint.

(g) The board by rule shall prescribe a method for prioritizing complaints for purposes of complaint investigation. In establishing priorities:

- (1) a complaint that alleges an action that could potentially harm the public takes precedence over a complaint that does not allege an action that could potentially harm the public; and
- (2) with regard to complaints that do not allege an action that could potentially harm the public, a complaint filed by a member of the public takes precedence over a complaint filed by the staff of the board.

(h) The board's staff is responsible for conducting all phases of complaint investigation, including gathering evidence necessary to determine the validity of the complaint.

(i) The board may employ or contract with advisors, consultants, engineers, or other persons to provide technical assistance in investigations and disciplinary proceedings. Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties.

(j) The board's staff shall regularly report to the board on each complaint dismissed by board staff, including:

- (1) the name of the complainant;
- (2) the name of the person who is the subject of the complaint;
- (3) the basis of the complaint; and
- (4) the reason for the dismissal of the complaint.

(k) Except as provided by Subsection (l), a complaint filed with the board is public information.

(l) For any complaint determined to be frivolous or without merit, the complaint and other enforcement case information related to that complaint are confidential. The information may be used only by the board or by its employees or agents directly involved in the enforcement

process for that complaint. The information is not subject to discovery, subpoena, or other disclosure.

(m) In this section, "frivolous complaint" means a complaint that the executive director and investigator, with board approval, determined:

- (1) was made for the purpose of harassment; and
- (2) does not demonstrate harm to any person.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 20, eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 3, eff. September 1, 2005.

§ 1001.253. Complaint Information

(a) The board shall:

- (1) assign a number to each complaint filed with the board; and
- (2) ensure that each phase of the processing of a complaint is appropriately

documented.

(b) The board shall maintain a file on each written complaint filed with the board. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the board;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(c) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(d) The board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 20, eff. Sept. 1, 2003.

SUBCHAPTER G. LICENSE REQUIREMENTS

§ 1001.301. License Required

(a) A person may not engage in the practice of engineering unless the person holds a license issued under this chapter.

(b) Except as provided by Subsection (f), a person may not, unless the person holds a license issued under this chapter, directly or indirectly use or cause to be used as a professional, business, or commercial identification, title, name, representation, claim, asset, or means of advantage or benefit any of, or a variation or abbreviation of, the following terms:

- (1) "engineer";
- (2) "professional engineer";
- (3) "licensed engineer";
- (4) "registered engineer";
- (5) "registered professional engineer";
- (6) "licensed professional engineer"; or
- (7) "engineered."

(c) Except as provided by Subsection (f), a person may not directly or indirectly use or cause to be used an abbreviation, word, symbol, slogan, or sign that tends or is likely to create an

impression with the public that the person is qualified or authorized to engage in the practice of engineering unless the person holds a license and is practicing under this chapter.

(d) A person may not receive any fee or compensation or the promise of any fee or compensation for engaging in the practice of engineering unless the person holds a license issued under this chapter.

(e) A person, sole proprietorship, firm, partnership, association, or corporation that engages in or offers or attempts to engage in conduct described by this section is conclusively presumed to be engaged in the practice of engineering.

(f) Notwithstanding the other provisions of this chapter, a regular employee of a business entity who is engaged in engineering activities but is exempt from the licensing requirements of this chapter under Sections 1001.057 or 1001.058 is not prohibited from using the term "engineer" on a business card, cover letter, or other form of correspondence that is made available to the public if the person does not:

- (1) offer to the public to perform engineering services; or
- (2) use the title in any context outside the scope of the exemption in a manner that represents an ability or willingness to perform engineering services or make an engineering judgment requiring a licensed professional engineer.

(g) Subsection (f) does not authorize a person to use a term listed in Subsections (b)(2)-(6) or a variation or abbreviation of one of those terms.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 22, eff. Sept. 1, 2003.

§ 1001.309. Certification or Enrollment of Engineers-In-Training

(a) The board shall certify or enroll as an engineer-in-training an applicant who meets the requirements of Subsection (b) if the applicant is otherwise qualified.

(b) The board shall consider as minimum evidence that an applicant is qualified for certification or enrollment as an engineer-in-training if the applicant:

- (1) complies with the education and character requirements of Section 1001.302; and
- (2) has passed the board's examination in the fundamentals of engineering.

(c) The fee for an engineer-in-training certificate or enrollment must accompany the application.

(d) The certification or enrollment of an engineer-in-training is valid for eight years.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003. Amended 83rd Leg., R.S., SB 204, eff. September 1, 2013.

SUBCHAPTER H. LICENSE RENEWAL

§ 1001.351. Annual Renewal Required

(a) The board shall provide for the annual renewal of a license or registration issued under this chapter.

(b) The board by rule may adopt a system under which licenses and registrations expire on various dates during the year. For the year in which the license or registration expiration date is changed, the board shall prorate license or registration fees on a monthly basis so that each license or registration holder pays only that portion of the license or registration fee that is allocable to the number of months during which the license or registration is valid. On renewal of the license or registration on the new expiration date, the total license or registration renewal fee is payable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 26, eff. Sept. 1, 2003.

§ 1001.352. Notice of License Expiration

Not later than the 30th day before the date a person's license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the records of the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 27, eff. Sept. 1, 2003.

§ 1001.353. Procedure for Renewal

(a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required annual renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required annual renewal fee and a late renewal fee.

(c) A person whose license has been expired for more than 90 days but less than two years may renew the license by paying to the board the required annual renewal fee and a late renewal fee for each delinquent year or part of a year.

(d) A person whose license has been expired for two years or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 27, eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 4, eff. September 1, 2005. Amended by 84th Leg., R.S., HB7, eff. September 1, 2015.

§ 1001.355. Inactive Status

(a) An engineer may request inactive status at any time. A license holder on inactive status may not practice engineering.

(b) A license holder on inactive status must pay an annual fee set by the board.

(c) A license holder on inactive status is not required to:

- (1) comply with the continuing education requirements adopted by the board; or
- (2) take an examination for reinstatement to active status.

(d) To return to active status, a license holder on inactive status must:

- (1) file with the board a written notice requesting reinstatement to active status;
- (2) pay the fee for the annual renewal of the license; and
- (3) provide evidence satisfactory to the board that the person has complied with the continuing education requirements adopted by the board.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 28, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 5, eff. September 1, 2007. Amended by 84th Leg., R.S., HB7, eff. September 1, 2015.

§ 1001.3035. Criminal History Record Information Requirement for License Issuance

(a) The board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The board shall conduct a criminal history check of each applicant for a license using information:

- (1) provided by the individual under this section; and
- (2) made available to the board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The board may:

- (1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and
- (2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

Added 83rd Leg., R.S., SB 204, eff. September 1, 2013.

§ 1001.3535. Criminal History Record Information Requirement for License Renewal

- (a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 1001.3035.
- (b) The board may not renew the license of a person who does not comply with the requirement of Subsection (a).
- (c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:
 - (1) Section 1001.3035 for the initial issuance of the license; or
 - (2) this section as part of a prior license renewal.

Added 83rd Leg., R.S., SB 204, eff. September 1, 2013.

SUBCHAPTER I. PRACTICE OF ENGINEERING

§ 1001.401. Use of Seal

- (a) On receiving a license, a license holder shall obtain a seal in a design authorized by the board, showing the license holder's name and the legend "Licensed Professional Engineer" or "Registered Professional Engineer."
- (b) A plan, specification, plat, or report issued by a license holder for a project to be constructed or used in this state must include the license holder's seal placed on the document. A license holder is not required to use a seal required by this section if the project is to be constructed or used in another state or country.
- (c) A person may not place a seal on a document if the license of the license holder named on the seal has expired or has been suspended or revoked.
- (d) A license holder is not required to use a seal under this section for a project for which the license holder is not required to hold a license under an exemption provided by Subchapter B.
- (e) A license holder shall not be required to provide or hold any additional certification, other than a license issued under this chapter, to seal an engineering plan, specification, plat, or report.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 5, eff. September 1, 2005. Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 6, eff. September 1, 2007. Acts 2009, 81st Leg., R.S., Ch. 1142, Sec. 3, eff. June 19, 2009.

§ 1001.402. Enforcement by Certain Public Officials

A public official of the state or of a political subdivision of the state who is responsible for enforcing laws that affect the practice of engineering may accept a plan, specification, or other related document only if the plan, specification, or other document was prepared by an engineer, as evidenced by the engineer's seal.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.403. Professional Identification

A person licensed under this chapter shall use the term "Engineer," "Professional Engineer," or "P.E." in the professional use of the person's name on a sign, directory, listing, document, contract, pamphlet, stationery, advertisement, signature, or another similar written or printed form of identification.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.405. Practice by Business Entity; Registration

- (a) In this section, "business entity" includes a sole proprietorship, firm, partnership, corporation, or joint stock association.
- (b) A business entity may not engage in the practice of engineering in this state unless:
 - (1) the business entity is registered with the board; and
 - (2) the practice is carried on only by engineers.
- (c) A business entity may register under this section by filing an application with the board on a form provided by the board. In addition to any other information required by board rule, the application must list the name and address of each officer or director of the business entity and each engineer who engages in the practice of engineering on behalf of the business entity.
- (d) The registration of a business entity issued under this section expires on the first anniversary of the date the registration is issued. The registration may be renewed by the filing of an updated application under Subsection (c).
- (e) A business entity may not represent to the public that it is engaged in the practice of engineering under any business name or use or cause to be used the term "engineer," "engineering," "engineering services," "engineering company," "engineering, inc.," "professional engineers," "licensed engineer," "registered engineer," "licensed professional engineer," "registered professional engineer," or "engineered," or any abbreviation or variation of those terms, or directly or indirectly use or cause to be used any of those terms in combination with other words, letters, signs, or symbols as a part of any sign, directory, listing, contract, document, pamphlet, stationery, advertisement, signature, or business name unless:
 - (1) the business entity is registered under this section;
 - (2) the business entity is actively engaged in the practice of engineering; and
 - (3) each service, work, or act performed by the business entity that is part of the practice of engineering is either personally performed by an engineer or directly supervised by an engineer who is a regular full-time employee of the business entity.
- (f) This section does not prohibit an engineer from performing engineering services on a part-time basis.
- (g) Notwithstanding the other provisions of this section, the board by rule may provide that a business entity that has not previously registered with the board and that is engaged in the practice of engineering in violation of Subsection (b) is not subject to disciplinary action for the violation if the business entity registers with the board not later than the 30th day after the date the board gives written notice to the business entity of the registration requirement. This subsection does not apply to a business entity whose registration has expired.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 29, eff. Sept. 1, 2003.

§ 1001.406. Graduate Engineers

(a) A graduate of a university recognized by the American Association of Colleges and Universities who has a degree from an engineering program accredited by the Accreditation Board for Engineering and Technology (ABET) has the right to:

- (1) disclose any college degree received by the person; and
- (2) use the term “graduate engineer” on the person’s stationery or business cards or in personal communications of any character.

(b) A graduate engineer who is employed in a firm registered under this chapter and who is working under the direct supervision of a licensed professional engineer may use the term “engineer” on the person’s stationery or business cards or in personal communications of any character.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 30, eff. Sept. 1, 2003.

§ 1001.407. Construction of Certain Public Works

The state or a political subdivision of the state may not construct a public work involving engineering in which the public health, welfare, or safety is involved, unless:

- (1) the engineering plans, specifications, and estimates have been prepared by an engineer; and
- (2) the engineering construction is to be performed under the direct supervision of an engineer.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER J. PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES

§ 1001.451. Disciplinary Powers of Board

On a determination that a ground for disciplinary action exists under Section 1001.452, the board may:

- (1) deny an application for a license;
- (2) revoke, suspend, or refuse to renew a license;
- (3) probate the suspension of a license; or
- (4) formally or informally reprimand a license holder.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.452. Grounds for Disciplinary Action

A person is subject to disciplinary action under Section 1001.451 for:

- (1) a violation of this chapter or a board rule;
- (2) fraud or deceit in obtaining a license;
- (3) a documented instance of retaliation by an applicant against an individual who has served as a reference for that applicant;
- (4) gross negligence, incompetency, or misconduct in the practice of engineering; or
- (5) a failure to timely provide plans or specifications to the Texas Department of Licensing and Regulation as required by Article 9102, Revised Statutes.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.4525. Probation

(a) If a person’s license suspension is probated, the board may require the person to:

- (1) report regularly to the board on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by the board; or
- (3) continue or review professional education until the person attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(b) The board by rule shall adopt written guidelines to ensure that probation is administered consistently.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003.

§ 1001.4526. Restitution

(a) Subject to Subsection (b), the Board may order a person licensed or registered under this chapter to pay restitution to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of restitution ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the person for a service regulated by this chapter. The Board may not require payment of other damages or estimate harm in a restitution order.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003.

§ 1001.4527. Recusal of Board Member

(a) A board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint:

- (1) may not vote on the matter at a board meeting related to the complaint; and
- (2) shall state at the meeting why the member is prohibited from voting on the matter.

(b) A statement under Subsection (a)(2) shall be entered into the minutes of the meeting.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 7, eff. September 1, 2007.

§ 1001.4528. Emergency Suspension

(a) The board or a three-member panel of board members designated by the board shall temporarily suspend the license, certificate, or registration of a person if the board or panel determines from the evidence or information presented to it that continued practice by the person would constitute a continuing and imminent threat to the public welfare.

(b) A license, certificate, or registration may be suspended under this section without notice or hearing on the complaint if:

- (1) action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings simultaneously with the temporary suspension; and
- (2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

Added 83rd Leg., R.S., SB 204, eff. September 1, 2013.

§ 1001.453. Review of License Holder's Status

- (a) The board by rule may review the status of a license holder the board believes:
- (1) may have been issued a license through fraud or error; or
 - (2) may constitute a threat to the public health, safety, or welfare.
- (b) The board may suspend or revoke a license held by a person whose status is reviewed under this section.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.454. Right to Hearing

- (a) If the board proposes to suspend or revoke a person's license, the person is entitled to a hearing.
- (b) Proceedings for the suspension or revocation of a license are governed by Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.455. Appeal of License Revocation

- A person whose license has been revoked may file suit to annul or vacate the board's order revoking the license. The person may file the suit in the district court of the county in which:
- (1) the person resides; or
 - (2) the alleged conduct that is the ground for revocation occurred.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.456. Reissuance of Revoked License

The board may reissue a license to a person whose license has been revoked if the board has sufficient reason to reissue the license. At least six board members must vote for reissuance of the license. A new license may be issued in accordance with board rules.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER K. ADMINISTRATIVE PENALTY

§ 1001.501. Imposition of Administrative Penalty

The board may impose an administrative penalty on a person who violates this chapter or a rule adopted or order issued under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.502. Amount of Administrative Penalty

- (a) The amount of an administrative penalty may not exceed \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.
- (b) The amount of the penalty shall be based on:
- (1) the seriousness of the violation, including:
 - (A) the nature, circumstances, extent, and gravity of the prohibited act; and
 - (B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;
 - (2) the economic harm to property or the environment caused by the violation;
 - (3) the history of previous violations;
 - (4) the amount necessary to deter a future violation;

(5) efforts or resistance to efforts to correct the violation; and

(6) any other matter that justice may require.

- (c) The board may include in the amount of the penalty the actual costs of investigating and prosecuting the violation.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.503. Options Following Decision: Pay or Appeal

- (a) Not later than the 30th day after the date the board's order becomes final, the person shall:
- (1) pay the administrative penalty;
 - (2) pay the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both; or
 - (3) without paying the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.
- (b) Within the 30-day period, a person who acts under Subsection (a)(3) may:
- (1) stay enforcement of the penalty by:
 - (A) paying the penalty to the court for placement in an escrow account; or
 - (B) giving to the court a supersedeas bond that is approved by the court and that is:
 - (i) for the amount of the penalty; and
 - (ii) effective until judicial review of the board's order is final; or
 - (2) request the court to stay enforcement of the penalty by:
 - (A) filing with the court an affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
 - (B) giving a copy of the affidavit to the executive director by certified mail.
- (c) If the executive director receives a copy of an affidavit under Subsection (b)(2), the executive director may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.
- (d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or give a supersedeas bond.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.504. Collection of Penalty

If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.505. Determination by Court

- (a) If a court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced penalty.
- (b) If a court does not sustain the determination that a violation occurred, the court shall order that an administrative penalty is not owed.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.506. Remittance of Penalty and Interest

(a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall:

- (1) order the appropriate amount, plus accrued interest, be remitted to the person if the person paid the penalty; or
- (2) order the release of the bond:
 - (A) if the person gave a supersedeas bond and the penalty is not upheld by the court; or
 - (B) after the person pays the penalty if the person gave a supersedeas bond and the penalty is reduced.

(b) The interest paid under Subsection (a)(1) is at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.507. Disposition of Penalty

The part of an administrative penalty that represents the costs incurred by the board in investigating and prosecuting the violation may be appropriated only to the board to reimburse the board for performance of its regulatory functions.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.508. Administrative Procedure

- (a) A proceeding under this subchapter is subject to Chapter 2001, Government Code.
- (b) The board shall adopt rules of procedure for imposing an administrative penalty. The rules must conform to the requirements of Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER L. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

§ 1001.551. Injunction

- (a) In addition to any other action authorized by law, the board may bring an action in the board's name to enjoin a person from violating this chapter or a board rule.
- (b) An action under this section must be brought in a district court of Travis County.
- (c) To sustain an action under this section, the board is not required to allege or prove that:
 - (1) an adequate remedy at law does not exist; or
 - (2) substantial or irreparable damage would result from the continued violation.
- (d) In an action for an injunction under this section, the defendant may assert and prove as a complete defense to the action that the board deprived the defendant of a license by a board action or proceeding that was:
 - (1) arbitrary or capricious;
 - (2) contrary to law; or
 - (3) conducted without due process of law.
- (e) Either party to an action under this section may appeal to the appellate court with jurisdiction of the action.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.552. Criminal Penalty

- (a) A person commits an offense if the person:

- (1) engages in the practice of engineering without being licensed or exempted from the licensing requirement under this chapter;
- (2) violates this chapter;
- (3) presents or attempts to use as the person's own the license or seal of another; or
- (4) gives false evidence of any kind to the board or a board member in obtaining a license.

- (b) An offense under this section is a Class A misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.553. Report of Violation

A public official shall report a violation of this chapter to the proper authorities.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.554. Presentation of Complaints by Board; Assistance at Trial

- (a) A member of the board may present to a prosecuting officer a complaint relating to a violation of this chapter.
- (b) The board through its members, officers, counsel, and agents and subject to the control of the prosecuting officer may assist in the trial of a case involving an alleged violation of this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.555. Attorney General as Legal Advisor; Representation by Attorney General

- (a) The attorney general shall:
 - (1) act as legal advisor of the board;
 - (2) provide legal assistance to the board as necessary to enforce this chapter and make it effective; and
 - (3) represent the board in an action brought to enforce this chapter.
- (b) This section does not affect the duties of local prosecuting officers.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

§ 1001.556. Appeal Bond

The board is not required to give an appeal bond in a cause arising under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

§ 1001.5511. Cease and Desist Order

If it appears to the board that a person who is not licensed, certified, or registered under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of engineering, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

Added 83rd Leg., R.S., SB 204, eff. September 1, 2013.

SUBCHAPTER M. ADVISORY OPINIONS

§ 1001.601. Board Advisory Opinions

(a) On its own initiative or at the request of any interested person, the board shall prepare a written advisory opinion about:

- (1) an interpretation of this chapter; or
- (2) the application of this chapter to a person in regard to a specified existing or hypothetical factual situation.

(b) The board shall respond to requests for opinions within 180 days unless the board affirmatively states the board's reason:

- (1) for not responding to the request within 180 days; or
- (2) for not responding to the request at all.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 6, eff. September 1, 2005.

§ 1001.602. Maintenance of Opinions; Summary

The board shall:

- (1) number and classify each advisory opinion issued under this subchapter; and
- (2) annually compile a summary of the opinions in a single reference document that is available on the Internet.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.

§ 1001.603. Attorney General's Opinions

The authority of the board to issue an advisory opinion under this subchapter does not affect the authority of the attorney general to issue an opinion as authorized by law.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.

§ 1001.604. Reliance on Advisory Opinion

It is a defense to prosecution or to imposition of a civil penalty that a person reasonably relied on a written advisory opinion of the board relating to:

- (1) the provision of the law the person is alleged to have violated; or
- (2) a fact situation that is substantially similar to the fact situation in which the person is involved.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.

SUBCHAPTER N. WINDSTORM-RELATED DESIGN SERVICES

§ 1001.651. Definitions In this subchapter:

Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

Sec. 1001.652. Qualifications; Roster

Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

Sec. 1001.653. Compliance With Building Codes; Enforcement

Added by Acts 2011, 82nd Leg., Special Session, HB 3, effective September 28, 2011. Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

Rules Concerning the Practice of Engineering and Professional Engineering Licensure

Chapter 131: Organization and Administration

SUBCHAPTER F: ADMINISTRATION

§131.81 Definitions

In applying the Texas Engineering Practice Act and the board rules, the following definitions shall prevail unless the word or phrase is defined in the text for a particular usage. Singular and masculine terms shall be construed to include plural and feminine terms and vice versa.

- (1) ABET--ABET, Inc., formerly the Accreditation Board for Engineering and Technology.
- (2) Act--The Texas Engineering Practice Act, Chapter 1001, Texas Occupations Code.
- (3) Advisory Opinion--A statement of policy issued by the board that provides guidance to the public and regulated community regarding the board's interpretation and application of Chapter 1001, Texas Occupations Code, referred to as the Texas Engineering Practice Act "Act" and/or board rules and that do not have the force and effect of law.
- (4) Agency or Board--Texas Board of Professional Engineers.
- (5) Applicant--A person applying for a license to practice professional engineering or a firm applying for a certificate of registration to offer or provide professional engineering services.
- (6) Application--The forms, information, and fees necessary to obtain a license as a professional engineer, certification as an engineer-in-training, or a certificate of registration for a firm.
- (7) Certificate of Registration--The annual certificate issued by the board to a firm offering or providing professional engineering services to the public in Texas.
- (8) Complainant--Any party who has filed a complaint with the board against a person or entity subject to the jurisdiction of the board.
- (9) Contested case--A proceeding, including but not restricted to rate making and licensing, in which the legal rights, duties, or privileges of a party are to be determined by an agency after an opportunity for adjudicative hearing pursuant to the Administrative Procedure Act, Chapter 2001, Texas Government Code.
- (10) Direct supervision--The control over and detailed professional knowledge of the work prepared under the engineer's supervision. The degree of control should be such that the engineer personally makes engineering decisions or personally reviews and approves proposed decisions prior to their implementation. The engineer must have control over the decisions either through physical presence or the use of communications devices.
- (11) EAC/ABET--Engineering Accreditation Commission of ABET.
- (12) EAOR number--An engineering advisory opinion request file number assigned by the executive director to a pending advisory opinion in accordance with this chapter.
- (13) Electronic Seal--For the purposes of this Chapter, an electronic seal is a digital representation of an engineer's seal including, but not limited to, digital scans of physical seals.
- (14) Electronic Signature--For the purposes of this Chapter, an electronic signature is a digital representation of an engineer's signature including, but not limited to, digital scans of physical signatures.
- (15) Engineering--The profession in which a knowledge of the mathematical, physical, engineering, and natural sciences gained by education, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the benefit of mankind.
- (16) ETAC/ABET--Engineering Technology Accreditation Commission of ABET.

- (17) Firm--Any entity that engages or offers to engage in the practice of professional engineering in this state. This includes sole practitioners, sole proprietorships, firms, co-partnerships, corporations, partnerships, or joint stock associations.
- (18) Good Standing--(License or Registration)--A license or registration that is current, eligible for renewal, and has no outstanding fees or payments.
- (19) Gross negligence--Any willful or knowing conduct, or pattern of conduct, which includes but is not limited to conduct that demonstrates a disregard or indifference to the rights, health, safety, welfare, and property of the public or clients. Gross negligence may result in financial loss, injury or damage to life or property, but such results need not occur for the establishment of such conduct.
- (20) Incompetence--An act or omission of malpractice which may include but is not limited to recklessness or excessive errors, omissions or failures in the license holder's record of professional practice; or an act or omission in connection with a disability which includes but is not limited to mental or physical disability or addiction to alcohol or drugs as to endanger health, safety and interest of the public by impairing skill and care in the provision of professional services.
- (21) License--The legal authority granting the holder to actively practice engineering upon the payment of the annual renewal fee. Also, a certificate issued by the board showing such authority.
- (22) License Holder--Any person whose license to practice engineering is current.
- (23) Licensure--The granting of an original certificate and license to an individual.
- (24) Misconduct--The violation of any provision of the Texas Engineering Practice Act and board rules. A conviction of a felony or misdemeanor that falls under the provisions of Texas Occupations Code, Chapter 53, will also be misconduct under the Texas Engineering Practice Act.
- (25) NAFTA--North American Free Trade Agreement. NAFTA is related to the practice and licensure of engineering through mutual recognition of registered/licensed engineers by jurisdictions of Canada, Texas, and the United Mexican States.
- (26) NCEES--National Council of Examiners for Engineering and Surveying.
- (27) Party--Each person or agency named or admitted as a party to a proceeding under the Administrative Procedure Act.
- (28) Person--Any individual, firm, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.
- (29) Petitioner--Any party requesting the adoption of a rule by the board.
- (30) Pleading--Written allegations filed by parties concerning their respective claims.
- (31) Professional engineering--Professional service which may include consultation, investigation, evaluation, planning, designing, or direct supervision of construction, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the public welfare, or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.
- (32) Professional engineering services--Services which must be performed by or under the direct supervision of a licensed engineer and which meet the definition of the practice of engineering as defined in the Act, §1001.003. A service shall be conclusively considered a professional engineering service if it is delineated in that section; other services requiring a professional engineer by contract, or services where the adequate performance of that service requires an engineering education, training, or experience in the application of special knowledge or judgment of the mathematical, physical or engineering sciences to that service shall also be conclusively considered a professional engineering service.
- (33) Protestant--Any party opposing an application or petition filed with the Board.

- (34) Recognized institution of higher education--An institution of higher education as defined in §61.003, Education Code; or in the United States, an institution recognized by one of the six regional accrediting associations, specifically, the New England Association of Schools and Colleges, the North Central Association Commission on Accreditation and School Improvement, the Northwest Association of Schools and Colleges, the Southern Association of Colleges and Schools, the Western Association of Schools and Colleges, or the Middle States Association of Colleges & Schools; or, outside the United States, an institution recognized by the Ministry of Education or the officially recognized government education agency of that country; or a program accredited by ABET.
- (35) Respondent--The person or party that is the subject of a complaint filed with the board.
- (36) Responsible charge--An earlier term synonymous with the term "direct supervision"; the term is still valid and may be used interchangeably with "direct supervision" when necessary.
- (37) Responsible supervision--An earlier term synonymous with the term "direct supervision"; the term is still valid and may be used interchangeably with "direct supervision" when necessary.
- (38) Sole Practitioner--A firm that consists of an individual license holder with no other employees.
- (39) Supervision of Engineering Construction--As used in §1001.407 of the Act, includes but is not limited to the periodic observation of materials and completed work to determine general compliance with plans, specifications and design and planning concepts. Supervision of engineering construction does not include the construction means and methods; responsibility for the superintendence of construction processes, site conditions, operations, equipment, personnel; or the maintenance of a safe place to work or any safety in, on or about the site.

Source Note: The provisions of this §131.81 amended to be effective December 11, 2016.

SUBCHAPTER G: ADVISORY OPINIONS

§131.101 Subject of an Advisory Opinion.

On its own initiative or at the request of any interested person, the board shall prepare a written advisory opinion about:

- (1) an interpretation of the Act; or
- (2) the application of the Act to a person in regard to a specified existing or hypothetical factual situation.

Source Note: The provisions of this §131.101 amended to be effective December 21, 2008.

§131.103 Request for an Advisory Opinion.

(a) A request for an advisory opinion shall include, at a minimum, sufficient information in order for the board to provide a complete response to the request. The requestor must provide the following, as applicable:

- (1) requestor contact information,
- (2) affected section(s) of the Act and/or board rules,
- (3) description of the situation,
- (4) reason engineering advisory opinion is requested,
- (5) parties or stakeholders that will be affected by the opinion, if known, and
- (6) any known, pending litigation involving the situation

(b) A request for an advisory opinion shall be in writing. A written request may be mailed, sent via electronic mail, hand-delivered, or faxed to the board at the agency office.

Source Note: The provisions of this §131.103 amended to be effective September 8, 2005.

§131.105 Board Initiated Opinion.

When a majority of the board determines that an opinion would be in the public interest or in the interest of any person or persons within the jurisdiction of the board, the board may on its own motion issue an advisory opinion.

Source Note: The provisions of this §131.105 amended to be effective May 20, 2004.

Chapter 133: Licensing

SUBCHAPTER A: ENGINEER-IN-TRAINING

§133.1 Engineer-in-Training Designation

Individuals who meet the educational requirements of §1001.302(a)(1) of the Act and have successfully passed the examination on the fundamentals of engineering are eligible to apply for engineer-in-training certification. This certification does not entitle an individual to practice as a professional engineer.

Source Note: The provisions of this §133.1 amended to be effective May 20, 2004.

§133.3 Engineer-in-Training Application and Certification

- (a) To become enrolled as an Engineer-in-Training (EIT), an individual must:
- (1) submit an EIT application in a format prescribed by the Board,
 - (2) submit an official transcript in accordance with §§133.33 or 133.35 of this chapter (relating to Proof of Educational Qualifications), and
 - (3) pay the fee as established by the Board.
- (b) A certificate as an engineer-in-training expires eight years from the date of issuance. Although the certificate has an expiration date, the records of the Board will indicate that an individual has passed the Fundamentals of Engineering examination and these records will be maintained in the file indefinitely and will be made available as requested by the individual or another licensing jurisdiction.
- (c) The certificate may be renewed upon receipt of an application in a format prescribed by the Board and payment of the EIT certification fee established by the Board.
- (d) Effective January 1, 2002, official transcripts will be kept on file and an EIT may request its use when filing the professional engineer application.
- (e) If the applicant for EIT certification does not submit all documents required within 90 days of the original application date, the application shall expire and the applicant must reapply and pay a new application fee.

Source Note: The provisions of this §133.3 amended to be effective May 1, 2016.

Subchapter H: Review Process of Applications and License Issuance

§133.97 Issuance of License

- (a) A license as a professional engineer shall be issued upon the approval of the application pursuant to §133.87(a) of this chapter (relating to Final Action on Applications).
- (b) The new license holder shall be assigned a serial number issued consecutively in the order of approval.
- (c) The executive director shall notify the new license holder in writing of:
- (1) the license issuance;
 - (2) the license serial number;
 - (3) the instructions to obtain a seal; and
 - (4) the instructions to return a seal imprint and a recent, wallet-size, portrait photograph.

(d) Within 60 days from the written notice from the executive director of license issuance, the new license holder shall:

- (1) obtain a seal(s);
- (2) place the seal imprint(s) on the form provided by the board and return it to the board office; and
- (3) furnish a wallet-size portrait photograph for the board's files.

(e) Failure to comply with paragraph (d) of this section is a violation of board rules and shall be subject to sanctions.

(f) The printed license shall bear the signature of the chair and the secretary of the board, bear the seal of the board, and bear the full name and license number of the license holder.

(g) The printed license shall be uniform and of a design approved by the board. Any new designs for a printed license shall be made available to all license holders upon request and payment of a replacement certificate fee.

(h) A license issued by the board is as a professional engineer, regardless of branch designations or specialty practices. Practice is restricted only by the license holder's professional judgment and applicable board rules regarding professional practice and ethics.

(i) The records of the board shall indicate a branch of engineering considered by the board or license holder to be a primary area of competency. A license holder shall indicate a branch of engineering by providing:

- (1) a transcript showing a degree in the branch of engineering;
- (2) a supplementary experience record documenting at least 4 years of experience in the branch of engineering and verified by at least one PE reference provider that has personal knowledge of the license holder's character, reputation, suitability for licensure, and engineering experience; or
- (3) verification of successful passage of the examination on the principles and practice of engineering in the branch of engineering.

(j) A license holder may request that the board change the primary area of competency or indicate additional areas of competency by providing one or more of the items listed in paragraphs (1) - (3) of this subsection:

- (1) a transcript showing an additional degree in the new branch other than the degree used for initial licensure;
- (2) a supplementary experience record documenting at least 4 years of experience in the new branch verified by at least one PE reference provider who has documented competence in the engineering discipline being added that has personal knowledge of the license holder's character, reputation, suitability for licensure, and engineering experience; or
- (3) verification of successful passage of the examination on the principles and practice of engineering in the new branch.

(k) All requests relating to branch listings for areas of competency require the review and approval of the executive director or the executive director's designee.

Source Note: The provisions of this §133.97 amended to be effective December 14, 2015.

§133.99 Processing of Applications with a Criminal Conviction

The board shall follow the requirements of Chapter 53, Texas Occupations Code, regarding an applicant for a license and may deny a license or deny a request for an examination on the grounds that a person has been convicted of a felony or misdemeanor that directly relates to the duties of an engineer or the occupation of engineering.

Source Note: The provisions of this §133.99 amended to be effective September 8, 2005.

Chapter 135: Firm Registration

§135.1 Authority

The Texas Board of Professional Engineers shall receive, evaluate, and process all applications for a certificate of registration issued under the authority of the Texas Engineering Practice Act (Act). Applications for the certificate of registration shall be accepted from all firms offering to engage or engaging in the practice of professional engineering for the public in Texas. For the purposes of this section, the term “public” includes but is not limited to political subdivisions of the state, business entities, and individuals. The board has the authority under the Act to issue an annual certificate of registration to applicants that, subsequent to review and evaluation, are found to have met all requirements of the Act and board rules. The board has the authority under the Act to deny a certificate of registration to any applicant found not to have met all requirements of the Act and board rules.

Source Note: The provisions of this §135.1 amended to be effective May 20, 2004.

§135.3 Application for a Certificate of Registration

(a) The board may issue a certificate of registration only to applicant firms having submitted sufficient information to meet the requirements set forth in §1001.405 of the Act and this section.

(b) The authorized official of the firm shall complete the form furnished by the board including but not limited to the following information listed in paragraphs (1) - (7) of this subsection:

- (1) the name, address, and communication number of the firm offering to engage or engaging in the practice of professional engineering for the public in Texas;
- (2) the name, position, address, and communication numbers of each officer or director;
- (3) the name, address, and current active Texas professional engineer license number of each engineer employee performing engineering for the public in Texas on behalf of the firm;
- (4) the name, location, and communication numbers of each subsidiary or branch office offering to engage or engaging in the practice of professional engineering for the public in Texas, if any;
- (5) the federal employer identification number (EIN) for the firm (unless the firm is a sole practitioner);
- (6) a signed statement attesting to the correctness and completeness of the application; and
- (7) a registration fee as established by the board.

(c) The application fee will not be refunded.

Source Note: The provisions of this §135.3 amended to be effective December 10, 2006.

§135.5 Renewal and Good Standing

To maintain a certificate of registration in good standing, a firm shall abide by the compliance rules as prescribed in Chapter 137, Subchapter D of this title (relating to Firm and Governmental Entity Compliance)

Source Note: The provisions of this §135.5 amended to be effective December 10, 2006.

Chapter 137: Compliance and Professionalism

SUBCHAPTER A: INDIVIDUAL AND ENGINEER COMPLIANCE

§137.1 License Holder Designations

- (a) Pursuant to §1001.301 of the Act, a license holder may use the following terms when representing himself or herself to the public:
- (1) “engineer”,
 - (2) “professional engineer”,
 - (3) “licensed engineer”,
 - (4) “registered engineer”,
 - (5) “licensed professional engineer”,
 - (6) “registered professional engineer”, or
 - (7) any combination of words with or variation of the terms listed in paragraphs (1) - (6) of this subsection.

(b) Certificates, seals, and other official documentation showing earlier terminology shall be considered valid for all purposes.

(c) License holders who have placed their license in an inactive status pursuant to §137.13 of this chapter (relating to Inactive Status) may use the terms in §137.1(a) of this section but must include the term "inactive" or "retired" in conjunction with the designation.

Source Note: The provisions of this §137.1 amended to be effective December 21, 2008.

§137.3 Other Use of Term “Engineer”

A person may not use the name, title, or words that convey to the public that a person is offering to perform engineering services to the public unless licensed under the requirements of the Act. The Act allows for the use or variation of the term “engineer” in a limited manner as summarized in this section.

- (1) Pursuant to §1001.004(e)(1) of the Act, a person may use the term “engineer” or variation of the term to identify the name and trade in affiliation with an engineers’ labor organization.
- (2) Pursuant to §1001.055(b)(2) of the Act, a person who installs, operates, repairs or services any equipment or apparatus as listed in the statute may not use the term “engineer” unless authorized by another provision in the Act.
- (3) Pursuant to §1001.061(b)(2) of the Act, a person employed by an operating telephone company or an affiliate of an operating telephone company engaged strictly in the art and science of telephony may use the term “engineer” in the person’s job title or personnel classification if the person does not offer engineering services to the public and if the designation does not imply that the person is licensed under the Act.
- (4) Pursuant to §1001.062(b) of the Act, a person who is a regular full-time employee of a private business entity that implements the design or specification sealed by an engineer licensed under the Act may use the term “engineer” in the person’s job title or personnel classification if the person does not use the designation in conjunction with an offer to perform engineering services for the public.
- (5) Pursuant to §1001.066(2) of the Act, a person employed by a business entity whose products or services consist of space vehicles, services or technology required by the National Aeronautical and Space Administration (NASA) may use the terms "engineer" or "engineering" in the person's job title or personnel classification if the person only uses the designation in association with the products and services related to NASA.

(6) Pursuant to §1001.301(f) of the Act, a person who is a regular employee of a business entity that is engaged in engineering activities but exempt from the licensure requirements under §1001.057 or §1001.058 of the Act may use the term "engineer" on business cards and forms of correspondence made available to the public providing the person does not:

- (A) offer to perform engineering services to the public;
- (B) use the designation outside the scope of §1001.057 or §1001.058 to convey the ability or willingness to perform engineering services or make an engineering judgment requiring a licensed professional engineer.

(7) Pursuant to §1001.406(a)(2) of the Act, a person who has an undergraduate or graduate degree from an engineering program accredited by ABET may use the term "graduate engineer" on the person's business cards and in any forms of correspondence or personal communication.

(8) Pursuant to §1001.406(b) of the Act, a person who has an undergraduate or graduate degree from an engineering program accredited by ABET and who is employed by a firm registered pursuant to Chapter 135 of this title and under the direct supervision of a licensed professional engineer may use the term "engineer" on the person's business cards and in any forms of correspondence or personal communication.

Source Note: The provisions of this §137.3 amended to be effective December 21, 2008.

§137.5 Notification of Name Change, Address Change, Employer Change, and Criminal Convictions

(a) Each license holder shall notify the board in writing not later than 30 days after a change in the person's legal name, personal mailing address, or employment status.

(b) A notice informing the board of a change in employment status shall include, as applicable, the:

- (1) full legal trade or business name of the association or employment;
- (2) physical location and mailing address of the business;
- (3) telephone number of the business office;
- (4) type of business (corporation, assumed name, partnership, or self-employment through use of own name);
- (5) legal relationship and position of responsibility within the business; and
- (6) effective date of this change.

(c) Each license holder shall notify the board in writing not later than 30 days after a misdemeanor or felony criminal conviction, or any sanction is imposed against a licensee by another state's engineering licensing board.

Source Note: The provisions of this §137.5 amended to be effective December 11, 2016.

§137.7 License Expiration and Renewal

(a) Pursuant to §1001.352 of the Act, the license holder must renew the license annually to continue to practice engineering under the provisions of the Act. If the license renewal requirements are not met by the expiration date of the license, the license shall expire and the license holder may not engage in engineering activities that require a license until the renewal requirements have been met.

(b) Pursuant to §1001.352 of the Act, the board will mail a renewal notice to the last recorded address of each license holder at least 30 days prior to the date a person's license is to expire. Regardless of whether the renewal notice is received, the license holder has the sole

responsibility to pay the required renewal fee together with any applicable late fees at the time of payment.

(c) A license holder may renew a license by submitting:

- (1) the required annual renewal fee. Payment may be made by personal, company, or other checks drawn on a United States bank (money order or cashier's check), or by electronic means, payable in United States currency;
- (2) the continuing education program documentation as required in §137.17 of this chapter (relating to Continuing Education Program) to the board prior to the expiration date of the license; and
- (3) documentation of submittal of fingerprints for criminal history record check as required by §1001.3535 of the Act, unless previously submitted to the board.

(d) Licenses will expire according to the following schedule:

- (1) Licenses originally approved in the first quarter of a calendar year will expire on December 31.
- (2) Licenses originally approved in the second quarter of a calendar year will expire on March 31.
- (3) Licenses originally approved in the third quarter of a calendar year will expire on June 30.
- (4) Licenses originally approved in the fourth quarter of a calendar year will expire on September 30.

(e) A temporary license may only be renewed twice for a total duration of three years, after which the former license holder may apply for a new temporary or a standard license as provided in the current Act and applicable board rules.

(f) A license holder who, at the time of his or her annual renewal, has any unpaid administrative penalty owed to the Board or who has failed to comply with any term or condition of a Consent Order, Agreed Board Order, or a Final Board Order shall not be allowed to renew his or her license to practice engineering until such time as the administrative penalty is paid in full or the term or condition is satisfied unless otherwise authorized by the Consent Order, Agreed Board Order, or a Final Board Order.

Source Note: The provisions of this §137.7 amended to be effective December 14, 2015.

§137.9 Renewal for Expired License

(a) A license holder may renew a license that has expired for 90 days or less by submitting to the board the required annual renewal fee, a late renewal fee and the continuing education program documentation as required in §137.17 of this chapter.

(b) A license holder may renew a license that has expired for more than 90 days but less than one year by submitting to the board the required annual renewal fee, a late renewal fee and the continuing education program documentation as required in §137.17 of this chapter (relating to Continuing Education Program).

(c) A license holder may renew a license that has expired for more than one year but less than two years by submitting to the board the required annual renewal fee, a late renewal fee and the continuing education program documentation as required in §137.17 of this chapter for each delinquent year or part of a year.

(d) A license which has been expired for two years may not be renewed, but the former license holder may apply for a new license as provided in the current Act and applicable board rules. Military service members, as defined in Texas Occupations Code, §55.001(4), may be granted up to two years of additional time to renew a license.

(e) Annual renewal fees or late renewal fees will not be refunded unless incorrect fee was assessed through a documented procedural error by Board staff.

(f) In strict accordance with the provisions of the Texas Education Code §57.491, pertaining to the loan default proceedings of the Texas Guaranteed Student Loan Corporation (TGSLC), if a license holder's name has been provided by the TGSLC as being in default of a loan, the board shall not renew the license of the license holder, unless the TGSLC certifies that the individual has entered into a repayment agreement with TGSLC, or is not in default on a loan. Such license holder may request an informal hearing, similar to that provided by §139.33 of this title (relating to Informal Proceedings), before any action concerning the denial of a renewal of a license is taken under this subsection. A defaulted loan shall not bar the board's issuance of an initial license if the applicant is otherwise qualified for licensure.

(g) In strict accordance with the provisions of the Texas Family Code, Chapter 232, pertaining to delinquent child support, if a license holder's name has been provided by the OAG (Office of the Attorney General) as being in default of child support, the board shall not renew the license of the license holder on the renewal date following such notification. The board shall not renew or reinstate said license unless the OAG certifies the individual has satisfied the requirements of the Texas Family Code, Chapter 232.

(h) Pursuant to Texas Occupations Code Chapter 55, a license holder is exempt from any penalty imposed in this section for failing to renew the license in a timely manner if the license holder provides adequate documentation, including copies of orders, to establish to the satisfaction of the board that the license holder failed to renew in a timely manner because the license holder was serving as a military service member as defined in Texas Occupations Code, §55.001(4).

Source Note: The provisions of this §137.9 amended to be effective December 14, 2015.

§137.13 Inactive Status

(a) A license holder may request in writing to change the status of the license to "inactive" at any time. A license holder whose license is inactive may not practice engineering. A license holder who has requested inactive status shall not receive any refunds for licensing fees previously paid to the board.

(b) A license holder whose license is inactive must pay an annual fee as established by the board at the time of the license renewal. If the inactive fee is not paid by the date a person's license is to expire, the inactive renewal fee for the expired license shall be increased in the same manner as for an active license renewal fee.

(c) A license holder whose license is inactive is not required to:

- (1) comply with the continuing education requirements adopted by the board; or
- (2) take an examination for reinstatement to active status.

(d) To return to active status, a license holder whose license is inactive must:

- (1) submit a request in writing for reinstatement to active status;
- (2) pay the fee for annual renewal, as applicable;
- (3) provide documentation of submittal of fingerprints for criminal history record check as required by §1001.3535 of the Act, unless previously submitted to the board; and
- (4) comply with the continuing education program requirements for inactive license holders returning to practice as prescribed in §137.17(o) of this chapter (relating to Continuing Education Program).

(e) A license holder may claim inactive status and return to active only once during the year period determined by the renewal schedule of the license. If a license holder claims inactive status and returns to active status during the same annual renewal period, the license holder shall comply with the full continuing education program requirements for that year.

(f) A license holder claiming inactive status may use any term allowed for an active license holder followed by the term "Inactive" or "Retired" on business cards, stationery and other

forms of correspondence. Failure to note inactive status in this manner is a violation of the Act and board rules and is subject to disciplinary action by the board.

(g) A license holder on inactive status may provide a reference statement for an applicant for licensure.

(h) Offering or performing engineering services to the public while the license is inactive is a violation of the inactive status and is subject to disciplinary action by the board.

Source Note: The provisions of this §137.13 amended to be effective December 14, 2015.

§137.14. Voluntary Surrender of License.

(a) A license holder who does not wish to maintain a license, the legal guardian of the license holder, or other legal representative of the license holder may voluntarily surrender the license by submitting a request in writing provided that the license holder:

- (1) is in good standing, and
- (2) does not have an enforcement case pending before the board.

(b) A license that has been voluntarily surrendered may not be renewed. A license holder who has voluntarily surrendered a license may apply for a new license.

Source Note: The provisions of this §137.14 amended to be effective December 21, 2008.

§137.17 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.
- (5) Self-directed study--Time spent engaging in professional development that is not otherwise identified in this rule. (Examples include, but are not limited to: reading/reviewing trade magazines or books, watching tutorials, and viewing other online content.)

(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. PDH units carried forward may not be counted to meet the professional ethics requirement.

(e) If a license holder exceeds the annual requirement in any renewal period, a maximum of 14 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, other business entity, professional or technical societies, associations, agencies, or organizations, or other group.

(3) Successful completion of correspondence, on-line, televised, videotaped, and other short courses/tutorials.

(4) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences sponsored by a corporation, other business entity, professional or technical societies, associations, agencies, or organizations, or other group.

(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) Serving in other official positions.

(8) Patents issued.

(9) Engaging in self-directed study.

(10) Active participation in educational outreach activities involving K-12 or higher education students.

(g) All activities described in §137.17(f) of this title shall be relevant to the practice of a technical profession and may include educational, 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 in course work, seminars, or professional or technical presentations made at meetings, conventions, or conferences--1 PDH

(5) 1 Hour of professional development through self-directed study--1 PDH (Not to exceed 5 PDH)

(6) Each published paper, article, or book--10 PDH

(7) Active participation in professional or technical society, association, agency, or organization--1 PDH (Not to exceed 5 PDH per organization)

(8) Active participation in educational outreach activities--1 PDH (Not to exceed 3 PDH)

(9) Each patent issued--15 PDH

(10) 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 seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at 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 serve in other official positions. 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 certify that CEP requirements have been satisfied 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 active duty and deployed outside the United States, its possessions and territories, in or for the military service 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 "Inactive" and who further certify that they are not providing professional engineering services in Texas shall be exempt from the professional development hours required.

(5) Exemptions must be claimed at the time of renewal.

(o) A license holder may bring an inactive license to active status by obtaining all delinquent PDH units and submitting copies of CEP records demonstrating compliance to the board or its authorized representative for verification purposes. If the total number required to become current exceeds 30 units, then 30 units shall be the maximum number required, and hours acquired must be within the two years prior to reactivation.

(p) Noncompliance:

- (1) If a license holder 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) Failure to comply with CEP reporting requirements as listed in this section is a violation of board rules and shall be subject to sanctions.
- (3) 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.
- (4) If found to be noncompliant, the board may require additional audits of the license holder.

Source Note: The provisions of this §137.17 amended to be effective December 11, 2016.

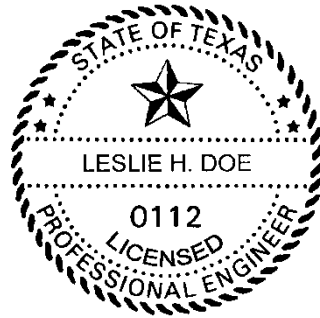
§137.19. Engineers Qualified to be Texas Windstorm Inspectors.

Source Note: The provisions of this §137.19 adopted to be effective December 11, 2011. Amended to be effective December 14, 2015. Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

SUBCHAPTER B: SEALING REQUIREMENTS

§137.31 Seal Specifications

- (a) Upon issuance of a license, each license holder is required to obtain a seal under the requirements of §133.97 of this title (relating to Issuance of License) and submit an impression of the seal or an electronic seal, and an original or an electronic signature to the board for board records.
- (b) Physical and electronic seals shall be of the design illustrated in this section and shall be no larger than two inches. Regardless of seal size the engineer's name and number must be clearly legible.
- (c) All physical seals obtained and used by license holders shall be capable of leaving a permanent ink image or permanent impression of the seal attached to the engineering work.
- (d) All seals obtained and used by license holders shall contain any given name, commonly accepted variation of the given name, or initial combination with the surname as currently listed with the board and in the usual written signature. Nicknames shall not be permitted on a seal in lieu of a given name or initial combination. The name can be displayed on the seal using all uppercase letters such as "LESLIE H. DOE" or using the standard combination of upper and lowercase letters, such as "Leslie H. Doe". If after licensure, a license holder legally changes his/her name, the license holder must have a new seal or seals made showing the new legal name and submit an imprint or imprints of the new seal(s) to the board for review, approval, and processing (submitted within 60 days of name change).
- (e) Preprinting of blank forms with an engineer's seal, or the use of decal or other seal replicas is prohibited.
- (f) When signing an engineering work, the engineer may utilize the designation "P.E." or other terms as described in §137.1 of this chapter (relating to License Holder Designations).
- (g) This section does not prevent the reproduction of sealed and signed, original works for distribution.



Source Note: The provisions of this §137.31 amended to be effective December 11, 2016.

§137.33 Sealing Procedures

- (a) The purpose of the engineer's seal is to assure the user of the engineering product that the work has been performed or directly supervised by the professional engineer named and to delineate the scope of the engineer's work.
- (b) License holders shall only seal work done by them, performed under their direct supervision as defined in §131.81 of this title, relating to Definitions, or shall be standards or general guideline specifications that they have reviewed and selected. Upon sealing, engineers take full professional responsibility for that work.
- (c) When a license holder reviews and elects to use standards or general guideline specifications, those items shall be clearly labeled as such, shall bear the identity of the publishing entity, and shall be:
 - (1) individually sealed by the license holder; or
 - (2) specified on an integral design/title/contents sheet that bears the engineer's seal, signature, and date with a statement authorizing its use.
- (d) License holders shall take reasonable steps to ensure the security of their physical or electronic seals and electronic signatures. For electronic seals and electronic signatures, the engineer must have reasonable security measures in place to protect these files. In the event of loss of a seal or electronic signature, the engineer will, as soon as possible, but within 30 days of discovery, give written notification of the facts concerning the loss to board.
- (e) Preliminary documents released from a license holder's control shall identify the purpose of the document, the engineer(s) of record and the engineer license number(s), and the release date by placing the following text or similar wording on the title sheet of bound engineering reports, specifications, details, calculations or estimates, and each sheet of plans or drawings regardless of size or binding, instead of a seal: "This document is released for the purpose of (Examples: interim review, mark-up, drafting) under the authority of (Example: Leslie H. Doe, P.E. 0112) on (date). It is not to be used for (Examples: construction, bidding, permit) purposes."
- (f) License holders shall affix their seal and original signature or electronic seal and signature with the date on the final version of their engineering work before such work is released from their control.
 - (1) The signature and date shall not obscure the engineer's name or license number in the seal.
 - (2) Engineering work required to bear a seal and signature includes the original title sheet of bound engineering reports, specifications, details, calculations or estimates, and each original sheet of plans or drawings regardless of size or binding.
 - (3) All other engineering work, including but not limited to research reports, opinions, recommendations, evaluations, addenda, documents produced for litigation, and engineering software shall bear the engineer's printed name, date, signature and the designation "P.E." or other terms as described in §137.1 of this chapter (relating to License Holder Designations). A seal may be added on such work if required or at the engineer's discretion.
- (g) Work performed by more than one license holder shall be sealed in a manner such that all engineering can be clearly attributed to the responsible license holder or license holders. When sealing plans or documents on which two or more license holders have worked, the seal and signature of each license holder shall be placed on the plan or document with a notation describing the work done under each license holder's responsible charge.
- (h) Licensed employees of the state, its political subdivisions, or other public entities are responsible for sealing their original engineering work; however, such licensed employees

engaged in review and evaluation for compliance with applicable law or regulation of engineering work submitted by others, or in the preparation of general planning documents, a proposal for decision in a contested case or any similar position statement resulting from a compliance review, need not seal the review reports, planning documents, proposals for decision, or position statements.

- (i) A license holder, as a third party, may alter, complete, correct, revise, or add to the work of another license holder when engaged to do so by a client, provided:
- (1) the first license holder is notified in writing by the second license holder of the engagement immediately upon acceptance of the engagement; and
 - (2) any work altered, completed, corrected, revised, or added to shall have a seal affixed by the second license holder. The second license holder then becomes responsible for any alterations, additions or deletions to the original design including any effect or impact of those changes on the original license holder's design.
- (j) A local authority may require an original seal and/or signature on reproduced documents.
- (k) A plan, specification, plat, or report issued by a license holder for a project to be constructed or used in this state must include the license holder's seal placed on the document. A license holder is not required to use a seal if the project is to be constructed or used in another state or country.
- (l) An engineer may securely transmit his or her final version of engineering work electronically provided that work bears the engineer's seal and uses one of the techniques described in §137.35(a) of this chapter (relating to Electronic Seals and Electronic Signatures) and must employ reasonable security measures to make the documents unalterable. Electronic correspondence of this type may be followed by a hard copy containing the engineer's printed name, date, signature and the designation "P.E." or other terms described in §137.1 of this chapter (relating to License Holder Designations).
- (m) A license holder is not required to use a seal for a project for which the license holder is not required to hold a license under an exemption set forth under the Act, Texas Occupation Code §§1001.051 - 1001.066.
- (n) All engineering documents released, issued, or submitted by a licensee, including preliminary documents, shall clearly indicate the firm name and registration number of the engineering firm by which the engineer is employed.
- (1) If the engineer is employed by a local, State, or Federal Government agency, then only the name of the agency shall be required.
 - (2) If the engineer is exempt from sealing a document under subsection (m) of this section, but elects to seal a document, then only the name of the employer shall be required.

Source Note: The provisions of this §137.33 amended to be effective December 11, 2016.

§137.35 Electronic Seals and Electronic Signatures

- (a) Licensed professional engineers shall maintain the security of their electronic seals and electronic signatures. The following methods are allowed:
- (1) Licensed professional engineers may electronically copy their original hard copy work that bears their seal, original signature, and date and transmit this work in a secure electronic format.
 - (2) An engineer may create an electronic seal and electronic signature for use in transmitting electronically formatted engineering work, regardless of whether the work was originally in hard copy or electronic format.
- (b) As an alternative to electronic sealing and electronic signatures, engineers shall affix their original seals and signatures and date to their engineering work as specified in §137.33(f) of this chapter (relating to Sealing Procedures).

Source Note: The provisions of this §137.35 amended to be effective April 27, 2008.

§137.37 Sealing Misconduct

- (a) A license holder is guilty of misconduct and subject to disciplinary action if the license holder:
- (1) knowingly signs or seals any engineering document or product if its use or implementation may endanger the health, safety, property or welfare of the public.
 - (2) signs or affixes a seal on any document or product when the license is inactive or has been revoked, suspended, or has expired.
 - (3) alters a sealed document without proper notification to the responsible license holder.
 - (4) allows others access to his or her electronic files containing his or her seal and/or electronic signature, unless access is explicitly authorized for particular engineering work.
- (b) A person not licensed by the board shall not use, cause to be used, affix, or cause to be affixed or in any other manner, regardless of the means, attach or in any way depict an engineering seal or a representation of an engineering seal without the express permission of the currently active licensee.

Source Note: The provisions of this §137.37 amended to be effective December 11, 2016.

SUBCHAPTER C: PROFESSIONAL CONDUCT AND ETHICS

§137.51 General Practice

- (a) In order to safeguard, life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the rules relating to professional conduct in this title shall be binding on every person holding a license authorized to offer or perform engineering services in Texas.
- (b) License holders having knowledge of any alleged violation of the Act and/or board rules shall cooperate with the board in furnishing such information or assistance as may be required.
- (c) A license holder shall respond to the board in writing to all written requests for information regarding all inquiries under the jurisdiction of the board within 21 days of receipt or by the date specified in board correspondence. A license holder shall fully comply with final decisions and orders of the board. Failure to comply with these matters will constitute a separate offense of misconduct and will subject the license holder to any of the penalties provided under §1001.451(2), (3), or (4) and §1001.502 of the Act.
- (d) Any license holder who directly or indirectly enters into any contract, arrangement, plan, or scheme with any person, firm, partnership, association, or corporation or other business entity which in any manner results in a violation of §137.77 of this title (relating to Firm Registration Compliance) shall be subject to legal and disciplinary actions available to the board. Professional engineers shall perform or directly supervise the engineering work of any subordinates as characterized in §131.81(10) of this title (relating to Definitions). Under no circumstances shall engineers work in a part-time arrangement with a firm not otherwise in full compliance with §137.77 of this chapter (relating to Firm Registration Compliance) in a manner that could enable such firm to offer or perform professional engineering services.
- (e) A licensed professional engineer may offer or perform engineering services on a full or part-time basis as a firm (including a sole practitioner) or other business entity if registered pursuant to the requirements of Chapter 135 of this title (Relating to Firm Registration).

Source Note: The provisions of this §137.51 amended to be effective December 11, 2011.

§137.53 Engineer Standards of Compliance with Professional Services Procurement Act

(a) A licensed engineer shall not submit or request, orally or in writing, a competitive bid to perform professional engineering services for a governmental entity unless specifically authorized by state law and shall report to the board any requests from governmental entities and/or their representatives that request a bid or cost and/or pricing information or any other information from which pricing or cost can be derived prior to selection based on demonstrated competence and qualifications to perform the services.

(b) For the purposes of this section, competitive bidding to perform engineering services includes, but is not limited to, the submission of any monetary cost information in the initial step of selecting qualified engineers. Cost information or other information from which cost can be derived must not be submitted until the second step of negotiating a contract at a fair and reasonable cost.

(c) This section does not prohibit competitive bidding in the private sector.

Source Note: The provisions of this §137.53 amended to be effective June 4, 2007.

§137.55 Engineers Shall Protect the Public

(a) Engineers shall be entrusted to protect the health, safety, property, and welfare of the public in the practice of their profession. The public as used in this section and other rules is defined as any individual(s), client(s), business or public entities, or any member of the general population whose normal course of life might reasonably include an interaction of any sort with the engineering work of the license holder.

(b) Engineers shall not perform any engineering function which, when measured by generally accepted engineering standards or procedures, is reasonably likely to result in the endangerment of lives, health, safety, property, or welfare of the public. Any act or conduct which constitutes incompetence or gross negligence, or a criminal violation of law, constitutes misconduct and shall be censurable by the board.

(c) Engineers shall first notify involved parties of any engineering decisions or practices that might endanger the health, safety, property or welfare of the public. When, in an engineer's judgment, any risk to the public remains unresolved, that engineer shall report any fraud, gross negligence, incompetence, misconduct, unethical or illegal conduct to the board or to proper civil or criminal authorities.

(d) Engineers should strive to adequately examine the environmental impact of their actions and projects, including the prudent use and conservation of resources and energy, in order to make informed recommendations and decisions.

Source Note: The provisions of this §137.55 amended to be effective May 20, 2004.

§137.57 Engineers Shall Be Objective and Truthful

(a) Engineers shall issue statements only in an objective and truthful manner. Engineers should strive to make affected parties aware of the engineers' professional concerns regarding particular actions or projects, and of the consequences of engineering decisions or judgments that are overruled or disregarded.

(b) The issuance of oral or written assertions in the practice of engineering shall not be:

- (1) fraudulent,
- (2) deceitful, or
- (3) misleading or shall not in any manner whatsoever tend to create a misleading impression.

(c) The engineer shall disclose a possible conflict of interest to a potential or current client or employer upon discovery of the possible conflict.

(d) A conflict of interest exists when an engineer accepts employment when a reasonable probability exists that the engineer's own financial, business, property, or personal interests may affect any professional judgment, decisions, or practices exercised on behalf of the client

or employer. An engineer may accept such an employment only if all parties involved in the potential conflict of interest are fully informed in writing and the client or employer confirms the knowledge of the potential conflict in writing. An engineer in a conflict of interest employment shall maintain the interests of the client and other parties as provided by §137.61 of this title (relating to Engineers Shall Maintain Confidentiality of Clients) and other rules and statutes.

Source Note: The provisions of this §137.57 amended to be effective December 21, 2008.

§137.59 Engineers' Actions Shall Be Competent

(a) Engineers shall practice only in their areas of competence.

(b) The engineer shall not perform any engineering assignment for which the engineer is not qualified by education or experience to perform adequately and competently. However, an engineer may accept an assignment which includes phases outside of the engineer's area of competence if those other phases are performed by qualified licensed professionals, consultants, associates, or employees.

(c) The engineer shall not express an engineering opinion in deposition or before a court, administrative agency, or other public forum which is contrary to generally accepted scientific and engineering principles without fully disclosing the basis and rationale for such an opinion. Engineering opinions which are rendered as expert testimony and contain quantitative values shall be supported by adequate modeling or analysis of the phenomena described.

Source Note: The provisions of this §137.59 amended to be effective September 4, 2006.

§137.61 Engineers Shall Maintain Confidentiality of Clients

(a) The engineer may reveal confidences and private information only with a fully informed client's or employer's consent, or when required by law or court order; or when those confidences, if left undisclosed, would constitute a threat to the health, safety or welfare of the public.

(b) The engineer shall not use a confidence or private information regarding a client or employer to the disadvantage of such client or employer or for the advantage of a third party.

(c) The engineer shall exercise reasonable care to prevent unauthorized disclosure or use of private information or confidences concerning a client or employer by the engineer's employees and associates.

Source Note: The provisions of this §137.61 amended to be effective May 20, 2004.

§137.63 Engineers' Responsibility to the Profession

(a) Engineers shall engage in professional and business activities in an honest and ethical manner. Engineers should strive to promote responsibility, commitment, and ethics both in the education and practice phases of engineering. They should attempt to enhance society's awareness of engineers' responsibilities to the public and encourage the communication of these principles of ethical conduct among engineers.

(b) The engineer must:

- (1) meet all of the applicable professional practice requirements of federal, state and local statutes, codes, regulations, rules, ordinances or standards in the performance of engineering services;
- (2) exercise reasonable care or diligence to prevent the engineer's partners, associates, and employees from engaging in conduct which, if done by the engineer, would violate any provision of the Texas Engineering Practice Act, general board rule, or any of the professional practice requirements of federal, state and local

statutes, codes, regulations, rules or ordinances in the performance of engineering services;

(3) exercise reasonable care to prevent the association of the engineer's name, professional identification, seal, firm or business name in connection with any venture or enterprise which the engineer knows, or should have known, is engaging in trade, business or professional practices of a fraudulent, deceitful, or dishonest nature, or any action which violates any provision of the Texas Engineering Practice Act or board rules.

(4) act as faithful agent for their employers or clients;

(5) conduct engineering and related business affairs in a manner that is respectful of the client, involved parties, and employees. Inappropriate behaviors or patterns of inappropriate behaviors may include, but are not limited to, misrepresentation in billing; unprofessional correspondence or language; sale and/or performance of unnecessary work; or conduct that harasses or intimidates another party; and

(6) practice engineering in a careful and diligent manner.

(c) The engineer shall not:

(1) aid or abet, directly or indirectly, any unlicensed person or business entity in the unlawful practice of engineering;

(2) maliciously injure or attempt to injure or damage the personal or professional reputation of another by any means. This does not preclude an engineer from giving a frank but private appraisal of engineers or other persons or firms when requested by a client or prospective employer;

(3) retaliate against a person who provides reference material for an application for a license or who in good faith attempts to bring forward an allegation of wrongdoing;

(4) give, offer or promise to pay or deliver, directly or indirectly, any commission, gift, favor, gratuity, benefit, or reward as an inducement to secure any specific engineering work or assignment;

(5) accept compensation or benefits from more than one party for services pertaining to the same project or assignment; or

(6) solicit professional employment in any false or misleading advertising.

Source Note: The provisions of this §137.63 amended to be effective December 11, 2016.

§137.65 Action in Another Jurisdiction

(a) The engineer shall not practice or offer to practice engineering in any other jurisdiction in violation of the laws regulating the practice of professional engineering in that jurisdiction. A finding by such jurisdiction of illegal practice or offer to practice is misconduct and will subject the engineer to disciplinary action in Texas.

(b) Any disciplinary actions taken by another jurisdiction on a matter which would constitute a violation of the Texas Engineering Practice Act or board rules shall be sufficient cause for disciplinary action by this board. A certified copy of the board Order or Final Action from another jurisdiction shall be sufficient evidence to take disciplinary action in this state.

(c) Any complaint, referral or report that a Texas licensed professional engineer performing engineering related to Texas Occupations Code, §1001.068 in another state may be subject to disciplinary action by this board, if after investigation it is determined that the engineering work done in that other state was inadequate, deficient, incorrect or violated that state's law or rules regarding the practice of engineering.

Source Note: The provisions of this §137.65 amended to be effective December 25, 2012.

SUBCHAPTER D: FIRM AND GOVERNMENTAL ENTITY COMPLIANCE

§137.71 Firm Names

Pursuant to §1001.405(e), a business entity that is not registered with the board may not represent to the public by way of letters, signs, or symbols as a part of any sign, directory, listing, contract, document, pamphlet, stationery, advertisement, signature, or business name that it is engaged in the practice of engineering by using the terms:

(1) "engineer,"

(2) "engineering,"

(3) "engineering services,"

(4) "engineering company,"

(5) "engineering, inc.,"

(6) "professional engineers,"

(7) "licensed engineer,"

(8) "registered engineer,"

(9) "licensed professional engineer,"

(10) "registered professional engineer,"

(11) "engineered," or

(12) any abbreviation or variation of those terms listed in (1)-(11) above, or directly or indirectly use or cause to be used any of those terms in combination with other words.

Source Note: The provisions of this §137.71 amended to be effective December 21, 2008.

§137.73 Firm Record Modifications

(a) Each registered firm shall notify the board in writing not later than 30 days after a change in the business entity's:

(1) physical or mailing address, electronic mail address, telephone or facsimile number or other contact information;

(2) officers or directors;

(3) employment status of the professional engineers of the firm;

(4) operation including dissolution of the firm or that the firm no longer offers to provide or is not providing engineering services to the public in Texas; or

(5) operation including addition or dissolution of branch and/or subsidiary offices.

(b) Notice shall include, as applicable, the:

(1) full legal trade or business name entity,

(2) the firm registration number,

(3) telephone number of the business office,

(4) name and license number of the license holder employed or leaving the entity,

(5) description of the change, and

(6) effective date of this change.

Source Note: The provisions of this §137.73 amended to be effective December 21, 2008.

§137.75 Registration Renewal and Expiration

(a) The certificate of registration shall be valid until the last day of the twelfth month following the date of issuance of the certificate of registration. At least one month in advance of the date of the expiration, the board shall notify each firm holding a certificate of registration of the date of the expiration and the amount of the fee that shall be required for its renewal for one year. The renewal notice shall be mailed to the last address provided by the firm to the board. The certificate of registration may be renewed by completing the renewal

application and paying the annual registration renewal fee set by the board. It is the sole responsibility of the firm to pay the required renewal fee prior to the expiration date, regardless of whether the renewal notice is received.

(b) A certificate of registration which has been expired for less than one year may be renewed by completing the renewal statement sent by the board and payment of two (2) times the normal renewal fee. When renewing an expired certificate of registration, the authorized official of the firm shall submit a written statement of whether engineering services were offered, pending, or performed for the public in Texas during the time the certificate of registration was expired.

(c) If a certificate of registration has been expired for more than one year, the firm must re-apply for certification under the laws and rules in effect at the time of the new application and shall be issued a new certificate of registration serial number if the new application is approved.

(d) The renewal fee will not be refunded.

Source Note: The provisions of this §137.75 amended to be effective May 20, 2004.

§137.77 Firm Registration Compliance

(a) Any firm or other business entity shall not offer or perform engineering services to the public unless registered with the board pursuant to the requirements of Chapter 135 of this title (relating to Firm Registration).

(b) A firm shall provide that at least one full-time active license holder is employed with the entity and that the active license holder performs or directly supervises all engineering work and activities that require a license that is performed in the primary, branch, remote, or project office(s).

(c) An active license holder who is a sole practitioner shall satisfy the requirement of the regular, full-time employee.

(d) No engineering services are to be offered to or performed for the public in Texas by a firm while that firm does not have a current certificate of registration.

(e) A business entity that offers or is engaged in the practice of engineering in Texas and is not registered with the board or has previously been registered with the board and whose registration has expired shall be considered to be in violation of the Act and board rules and will be subject to administrative penalties as set forth in §§1001.501 - 1001.508 of the Act and §139.35 of this title (relating to Sanctions and Penalties).

(f) The board may revoke a certificate of registration that was obtained in violation of the Act and/or board rules including, but not limited to, fraudulent or misleading information submitted in the application or lack of employee relationship with the designated professional engineer for the firm.

(g) If a firm has notified the board that it is no longer offering or performing engineer services to the public, including the absence of a regular, full-time employee who is an active professional engineer licensed in Texas, the certificate of registration record will be placed in inactive status until the board is notified of resumed offering and services. If firm certificate of registration is inactive, the certificate of registration will expire under the same requirements of subsection (e) of this section unless renewed.

(h) All engineering documents released, issued, or submitted by or for a registered engineering firm, including preliminary documents, must clearly indicate the firm name and registration number.

(i) A firm registered under Chapter 135 of this title may voluntarily surrender the registration by submitting a request in writing provided that the firm:

(1) is in good standing; and

(2) does not have an enforcement case pending before the board.

(j) A firm registration that has been voluntarily surrendered may not be renewed. A firm which has voluntarily surrendered a registration may apply for a new registration.

Source Note: The provisions of this §137.77 amended to be effective June 13, 2010.

§137.79 Standards for Compliance with Professional Services Procurement Act

When procuring professional engineering services, a governmental entity and/or its representative(s) shall comply with the requirements of Subchapter A, Chapter 2254, Texas Government Code and shall select and award on the basis of demonstrated competence and qualifications to perform the services for a fair and reasonable price and shall not select services or award contracts on the basis of competitive bidding.

Source Note: The provisions of this §137.79 amended to be effective December 21, 2008.

Chapter 139: Enforcement

SUBCHAPTER A: ENFORCEMENT AUTHORITY

§139.1 General

The board will conduct inquiries into situations which allegedly violate the requirements of the Texas Engineering Practice Act (Act) and board rules concerning the practice of engineering, representations which imply the legal capacity to offer or perform engineering services for the public, and situations which are considered by the board to pose or have caused harm to the public. Situations that represent a repeat offense, a danger or nuisance to the public or cannot be reasonably resolved through voluntary compliance, will be disposed of by administrative, civil, or criminal proceedings as authorized by law.

Source Note: The provisions of this §139.1 amended to be effective May 20, 2004.

SUBCHAPTER B: COMPLAINT PROCESS AND PROCEDURES

§139.11 Complaints - General

(a) The board shall initiate or receive and investigate a complaint against a license holder or other person who may have violated the Act or board rules.

(b) The board shall maintain the confidentiality of the complaint from receipt through the investigation of the complaint. The complaint information will no longer be confidential after formal charges are filed with the State Office of Administrative Hearings or after the investigative file is closed. The following documents in an investigative file are releasable to a respondent or an attorney representing the respondent before the board during the informal resolution process of a complaint: copies of the original complaint documentation; copies of communications to or from the board and the complainant, the respondent, witnesses, technical experts used by the board to advise on the complaint issues, and private or public entities regarding requests for records, documents, or information regarding the complaint; and witness interview reports.

(c) The provisions of the Act and the provisions of the Administrative Procedure Act, Chapter 2001, Texas Government Code, shall apply to the conduct of all investigations and administrative actions in the board's processing of a complaint. In addition, the board may

promulgate other procedural rules consistent with the Act or Chapter 2001, Texas Government Code.

Source Note: The provisions of this §139.11 amended to be effective December 21, 2008.

§139.13 Filing a Complaint

(a) A person who wishes to make a complaint with the board may obtain assistance, filing information, or contact the board by:

- (1) visiting the board website at <http://engineers.texas.gov>;
- (2) sending electronic mail to peboard@engineers.texas.gov;
- (3) sending written correspondence to: 1917 S. Interstate 35, Austin, Texas 78741-3702;
- (4) sending fax to (512) 440-5715;
- (5) telephoning the board office at (512) 440-7723; or
- (6) visiting the board office located at 1917 S. Interstate 35, Austin, Texas.

(b) A person may submit the complaint in writing through mail, electronic mail or facsimile.

(c) A complainant may contact the board in person or by telephone to file a complaint.

However, the complaint shall be submitted in writing containing sufficient information to determine jurisdiction.

(d) A complaint shall be on the forms provided by the board or in written format and contain the following information as applicable:

- (1) complainant's name and contact information;
- (2) description of the alleged violation;
- (3) name and contact information of the subject or parties of the complaint, if known;
- (4) sections of the Act and board rules alleged violated, if known;
- (5) name and contact information of witnesses, if known; and
- (6) sources of other pertinent information, if known.

(e) Contact information may include, but is not limited to, name, address, telephone number, email address, business name, business address, business telephone number, and websites.

(f) A complaint shall contain sufficient information for the board to determine whether it has authority to resolve the complaint.

(g) Anonymous complaints will be received but will not be investigated unless sufficient information and evidence exists to demonstrate harm or potential harm to the public or violation of Act or board rules. Anonymous complaints that do not contain sufficient evidence and information to initiate an investigation will be logged and filed for information purposes only.

Source Note: The provisions of this §139.13 amended to be effective December 11, 2016.

§139.15 Processing a Complaint

(a) Upon receipt of the written complaint and supporting evidence, it will be logged and assigned a case number.

(b) The board staff shall review the complaint. If the complaint does not contain sufficient information to determine whether the board has jurisdiction or is determined to be outside the board's authority, the board staff may interview the complainant to develop additional information. If the board staff determines that a potential violation exists, the board staff will proceed with the investigation. If board staff concludes that the complaint resulted from a misunderstanding, is outside the jurisdiction of the board, or is without merit, the board staff will recommend to the executive director that the investigation be closed and that the complaint be dismissed. If the executive director concurs with the recommendation, the

complainant will be so notified and the investigation will be closed. The board staff shall write a dismissal explanation for the dismissed complaint and close the file.

(c) If a potential violation exists and the board has jurisdiction over and authority to resolve the complaint, the board staff shall set a priority for the complaint and initiate disciplinary proceedings against the subject of the complaint. In setting the priority for complaints, a complaint from the public or initiated by the board or board staff that alleges action that could potentially harm the public shall be rated highest priority and investigation for this type complaint takes precedence over all other complaints. Complaints rating highest priority may include, but are not limited to, those complaints involving incompetence, gross negligence, plan stamping, or practicing without a license. The board staff shall report status of the investigation and preliminary determination to the executive director and complainant within 45 days of receiving complaint that rates as a high priority.

Source Note: The provisions of this §139.15 amended to be effective December 11, 2016.

§139.17 Investigating a Complaint

(a) The board staff shall be responsible for investigating the complaint including determining the need for and obtaining any additional evidence that may be required to proceed with disciplinary action.

(b) Board staff and persons acting in the official capacity of the board have authority to:

- (1) informally or formally request information and documentation from the involved parties,
- (2) perform site visits or inspections to investigate the complaint,
- (3) contract technical consultants and other services to investigate and evaluate aspects of the complaint or evidence,
- (4) subpoena information, as required,
- (5) seek the assistance of local and state law enforcement authorities, and/or
- (6) seek out any other investigative action needed to assist in the resolution of the complaint.

(c) Upon determination that sufficient evidence exists to indicate that a violation of law or rules may have occurred, the executive director shall notify the person or entity by personal service or by certified or registered mail of the alleged violation. The respondent will be afforded the opportunity to respond to the complaint to show that the actions which precipitated the complaint are not in violation of the Act or board rules.

(d) At any time before a complaint is resolved, board staff may conduct further investigation including, but not limited to, obtaining second or third opinions, obtaining supporting documents, or interviewing other witnesses depending on the case at hand.

(e) If the board staff intends to dismiss the complaint because the investigation of the complaint does not produce sufficient evidence to substantiate a violation of the Act or board rules, the board staff will inform the complainant of the rationale for the determination prior to reporting the dismissal to the board.

(f) Withdrawal of a complaint shall not be a reason to terminate or disrupt an ongoing investigation.

(g) At least quarterly during the investigation of the complaint, the board shall notify the parties of the complaint of the complaint status unless the notice would jeopardize an undercover investigation and such notation shall be included in the complaint file.

Source Note: The provisions of this §139.17 amended to be effective December 11, 2016.

§139.19 Final Resolution of Complaint

(a) Upon the completion of an investigation, the board staff shall present to the executive director a report of investigation and recommendation of final resolution of the complaint. If sufficient evidence and documentation exists to substantiate one or more violations of the Act or board rules has occurred, the board shall proceed as prescribed in §139.31 of this chapter (relating to Enforcement Actions for Violations of the Act). These actions may include, but are not limited to, one or more of the following:

- (1) enter into an agreement of voluntary compliance;
- (2) agree to informal Consent Order or Agreed Board Order that may include an administrative penalty and/or compliance requirements;
- (3) referral of injunctive or criminal actions to the proper authorities;
- (4) referral to the State Office of Administrative Hearings; or
- (5) other action as provided by law.

(b) If sufficient evidence and documentation does not exist to substantiate that one or more violations of the Act or board rules has occurred and disciplinary action is not warranted, the board staff shall recommend to dismiss the complaint and report the dismissal to the board.

Source Note: The provisions of this §139.19 amended to be effective December 11, 2016.

§139.21 Reporting Complaint Status to the Board

(a) The executive director shall provide a summary report on the status of all complaints at the regularly scheduled board meetings. The report shall include:

- (1) number of complaints filed;
- (2) number of complaints received in each category;
- (3) number of complaints initiated by the board;
- (4) number of complaints filed by persons other than the board;
- (5) the average length of time to resolve a complaint by totaling all the days accumulated for all resolved complaints and dividing by the total number of resolved complaints during the reporting period;
- (6) number of complaints that are unresolved, including:
 - (A) by those filed by the board , or
 - (B) by those filed by persons other than the board, and
 - (C) including the average length of time the unresolved complaints have been on file obtained by summing the days accumulated for all unresolved complaints and dividing by the total number of unresolved complaints;
- (7) number of dismissed cases; and
- (8) number of complaints resulting in disciplinary action including the disciplinary action taken and whether the action was imposed by stipulation, agreed settlement, consent order, default, or order following a contested case hearing.

(b) The executive director shall report dismissed complaints to the board and shall include in the report the following information:

- (1) name of the complainant,
- (2) name of the person who is subject of the complaint,
- (3) the basis of the complaint, and
- (4) the reason for the dismissal of the complaint.

(c) If the executive director determines that the complaint filed is frivolous or without merit, the case information will be classified as confidential and as such the information is not subject to discovery, subpoena, and or other disclosure. The board shall approve this action upon acceptance of the report and the case will then be closed. Closed cases will not be reconsidered for classification under this rule .

(1) A "frivolous complaint" means a complaint that the executive director has determined:

- (A) was made for the purpose of harassment; and
- (B) does not demonstrate harm to any person.

(2) A complaint that is determined by the executive director to be "without merit" would include situations where a:

- (A) professional engineer, individual, or firm has been determined to not be responsible or connected in any way with the alleged violative action in the complaint, as it relates to a violation of the Engineering Practice Act and or board rules; or,
- (B) case has been determined to be outside the jurisdiction of the board; or,
- (C) case has been determined to have been administratively opened in error.

Source Note: The provisions of this §139.21 amended to be effective December 21, 2008.

§139.23 Technical Consultants

(a) The executive director may employ or contract with or gain technical advice from technical consultants, including, but not limited to, advisors, consultants, engineers and other persons to provide technical assistance in investigations and disciplinary proceedings. In the course of performing the person's official duties for the board, technical consultants are immune from civil liability and may not be subject to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken, except for when an action involves fraud, conspiracy, or malice.

(b) The executive director may select technical consultants on the basis of their qualifications and may maintain a list of experts as technical consultants. The selection process may require documentation of a technical consultants qualifications including transcripts; verifiable experience records; references statements; texts, articles, and other published works; and compliance history and records. The board may interview prospective technical consultants. The board shall review a potential technical consultant's documentation to determine if the person's records demonstrate expert status and competency in a technical area. A technical consultant must inform the board and decline an assignment if the resource has personal knowledge of the complaint, parties involved in the complaint, or other conflicts of interest.

(c) During the course of an investigation, the executive director may dismiss a technical consultant that does not possess the technical knowledge to assist in the investigation or for any other reason relevant to the investigation.

Source Note: The provisions of this §139.23 amended to be effective December 21, 2008.

SUBCHAPTER C: ENFORCEMENT PROCEEDINGS

§139.31 Enforcement Actions for Violations of the Act

(a) Under the authority and provisions of §1001.201, §1001.202, and Subchapters J, K, and L of the Texas Engineering Practice Act (Act), the board shall take action against a person or entity, upon determination that censure is warranted, for a violation of the Act and/or board rules. An action may be composed of one or more of the following:

- (1) revocation of a license;
- (2) suspension of a license;
- (3) probation of a suspended license;
- (4) refusal to renew a license;
- (5) issuance of a formal or informal reprimand;
- (6) cease and desist order;
- (7) voluntary compliance agreement;

(8) emergency suspension; or

(9) assessment of an administrative penalty under Subchapter K of the Act.

(b) All actions issued by the board will take the form of a Board Order and shall be permanently recorded and made available upon request as public information. Except for an informal reprimand, all enforcement actions shall be published in the board newsletter and on the board website, may be issued in a press release, and shall be transmitted to the National Council of Examiners for Engineering and Surveying.

(c) The respondent shall be afforded an opportunity to present rebuttals, arguments, and evidence prior to the initiation of disciplinary proceedings. If a respondent does not respond, the board may proceed with a contested case hearing at the State Office of Administrative Hearings.

Source Note: The provisions of this §139.31 amended to be effective December 11, 2016.

§139.33 Informal Proceedings

If, after evaluation of the respondent's response a violation appears evident, the executive director shall initiate enforcement action. Before proceeding with the formal contested case hearing process, the respondent shall have an opportunity to resolve the allegations informally.

(1) The executive director may also offer the respondent a Consent Order that will be presented to the board for acceptance or rejection. If the respondent declines such an offer, or if the board rejects it, the procedures in paragraphs (2) or (3) of this subsection will be followed.

(2) The respondent may request an informal conference to present additional evidence and discuss details of the allegation. Upon receipt of such a request the executive director shall schedule a conference at the board office or other location, and shall appoint an informal conference committee composed of one board member or board representative, the executive director or executive director's designee, and legal counsel; the committee may meet and act provided that no more than one committee member is absent. Other persons designated by the respondent or the executive director may be present as resources or as legal counsel to respondent. The informal conference committee shall hear the details of the allegations and shall recommend:

(A) dismissal;

(B) a proposal for an Agreed Board Order for disciplinary actions that will be presented to the board for acceptance or rejection; or

(C) scheduling of a formal hearing.

(3) Any board action under this subsection which is not informally disposed by Agreed or Consent Order, will be considered a contested case and will be handled in accordance with applicable law and board rules.

Source Note: The provisions of this §139.33 amended to be effective December 21, 2008.

§139.35 Sanctions and Penalties

(a) The board, the executive director, an administrative law judge, and the participants in an informal conference may arrive at a greater or lesser sanction than suggested in these rules. The minimum administrative penalty shall be \$100 per violation. The maximum administrative penalty shall be \$5,000.00 per violation. Pursuant to §1001.502(a) of the Act, each day a violation continues or occurs is considered a separate violation for the purpose of assessing an administrative penalty. Allegations and disciplinary actions will be set forth in the final board order and the severity of the disciplinary action will be based on the following factors:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act and the hazard or potential hazard created to the health, safety, or economic welfare of the public;
- (2) the history of prior violations of the respondent;
- (3) the severity of penalty necessary to deter future violations;
- (4) efforts or resistance to efforts to correct the violations;
- (5) the economic harm to property or the environment caused by the violation; and
- (6) any other matters impacting justice and public welfare, including any economic benefit gained through the violations.

(b) The following is a table of suggested sanctions the board may impose against license holders for specific violations of the Act or board rules. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table. Also, for those suggested sanctions that list "suspension", all or any portion of the sanction could be probated depending on the severity of each violation and the specific case evidence.

Figure: 22 TAC §139.35(b):

CLASSIFICATION	VIOLATION	CITATION	SUGGESTED SANCTIONS
Engineering Misconduct	Gross negligence	§137.55(a), (b)	Revocation / \$5,000.00
	Failure to exercise care and diligence in the practice of engineering	§§137.55(b), 137.63(b)(6)	1 year suspension / \$2,500.00
	Incompetence; includes performing work outside area of expertise	§137.59(a), (b)	3 year suspension / \$5,000.00
Licensing	Misdemeanor or felony conviction without incarceration relating to duties and responsibilities as a professional engineer	§139.43(b)	3 year suspension / \$5,000.00
	Felony conviction with incarceration	§ 139.43(a)	Revocation / \$5,000.00
	Fraud or deceit in obtaining a license	§§1001.452(2) 1001.453	Revocation/\$5,000.00
	Retaliation against a reference	§137.63(c)(3)	1 year suspension/\$2,500.00
Ethics Violations	Enter into a business relationship which is in violation of 137.77(Firm Compliance)	§137.51(d)	1 year suspension / \$1,500.00
	Failure to engage in professional and business activities in an honest and ethical manner	§137.63(a)	2 year suspension / \$4,000.00

	Failure to design a structure associated with windstorm insurance that complies with cited windstorm code design criteria	137.63(b)(1)	1 year suspension / \$3,000.00
	Misrepresentation; issuing oral or written assertions in the practice of engineering that are fraudulent or deceitful	§§137.57(a) and 137.57(b)(1) or (2)	2 year suspension / \$4,000.00
	Misrepresentation; issuing oral or written assertions in the practice of engineering that are misleading	§§137.57(a) and 137.57(b)(3)	1 year suspension / \$1,500.00
	Conflict of interest	§137.57(c), (d)	2 year suspension / \$4,000.00
	Inducement to secure specific engineering work or assignment	§137.63(c)(4)	2 year suspension / \$4,000.00
	Accept compensation from more than one party for services on the same project	§137.63(c)(5)	2 year suspension / \$4,000.00
	Solicit professional employment in any false or misleading advertising	§137.63(c)(6)	1 year suspension / \$4,000.00
	Offer or practice engineering while license is expired or inactive	§§137.7(a) and 137.13(a) and (h)	1 year suspension / \$750.00
	Failure to act as a faithful agent to their employers or clients	§137.63(b)(4)	1 year suspension / \$2,500.00
	Reveal confidences and private information	§137.61(a), (b), (c)	Reprimand / \$2,500.00
	Attempt to injure the reputation of another	§137.63(c)(2)	1 year suspension / \$2,500.00
	Retaliation against a complainant	§137.63(c)(3)	1 year suspension / \$2,500.00
	Aiding and abetting unlicensed practice or other assistance	§§137.63(b)(3), 137.63(c)(1)	3 year suspension / \$5,000.00
	Failure to report violations of others	§137.55(c)	Reprimand / \$2,500.00
	Failure to consider societal and environmental impact of actions	§137.55(d)	Reprimand / \$2,500.00
	Failure to prevent violation of laws, codes, or ordinances	§137.63(b)(1), (2)	Reprimand / \$2,500.00
	Failure to conduct engineering and related business in a manner that is respectful of the client, involved parties and employees	§137.63(b)(5)	1 year suspension / \$2,500.00
	Competitive bidding with governmental entity	§137.53	Reprimand / \$2,500.00
	Falsifying documentation to demonstrate compliance with CEP	§§137.17(p)(2), (3), 137.63(a)	2 year suspension / \$4,000.00
	Action in another jurisdiction	§137.65(a) and (b)	Similar sanction as listed in this table if action had occurred in Texas
	Failure to provide plans and/or specs to TDLR/RAS for assessment within 20 days of issuance	§§1001.452(5), 137.63(b)(1) and (2)	Informal Reprimand / \$750.00
Improper use of Seal	Failure to safeguard seal and/or electronic signature.	§137.33(d)	Reprimand / \$1,500.00
	Failure to sign, seal, date, or include firm identification on work	§§137.33(e), (f), (h), (n), 137.35(a), (b)	Reprimand / \$750.00
	Alter work of another	§§137.33(i), 137.37(a)(3)	1 year suspension / \$2,500.00
	Sealing work not performed or directly supervised by the professional engineer	§137.33(b)	Reprimand / \$1,500.00
	Practice or affix seal with expired or inactive license	§§1001.401(c), 137.13(h), 137.37(a)(2)	1 year suspension / \$750.00
	Practice or affix seal with suspended license	§137.37(a)(2)	Revocation / \$5,000.00
	Preprinting of blank forms with engineer seal; use of a decal or other seal replicas	§137.31(e)	1 year suspension / \$2,500.00
	Sealing work endangering the public	§137.37(a)(1)	Revocation / \$5,000.00
	Work performed by more than one engineer not attributed to each engineer	§137.33(g)	Reprimand / \$750.00
	Improper use of standards	§137.33(c)	Reprimand / \$750.00
Administrative	Failure to return seal imprint and/or portrait	§§133.97(e), (f); 137.31(a)	Reprimand / \$250.00
	Failure to report: change of address or employment, or of any criminal convictions, or legal name change	§137.5(a), (b), and/or (c)	Reprimand / \$150.00
	Failure to respond to board communications	§137.51(c)	Reprimand / \$750.00
	Failure to include "inactive" or "retired" representation with title while in inactive status	§137.13(f)	Reprimand / \$500.00

(c) The following is a table of suggested sanctions that may be imposed against a *person or business entity* for specific violations of the Act or board rules. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table.

Figure: 22 TAC §139.35(c):

VIOLATION	CITATION	SUGGESTED SANCTION	
		FIRST OCCURRENCE	SUBSEQUENT OCCURRENCES
Use of "Engineer" title	§§1001.004(c)(2)(B)(C); 1001.301(b)(1)	Voluntary Compliance Cease and Desist	Injunctive / Criminal and \$1,500.00
Use of "P.E." designation, or claim to be a "Professional Engineer"	§1001.301(b)(2)-(6), (c), and (e)	Cease and Desist and \$2,500.00	Injunctive / Criminal and \$5,000.00
Offer or attempt to practice engineering (e.g., through solicitation, proposal, contract, etc.)	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405	Cease and Desist and \$2,500.00	Injunctive / Criminal and \$5,000.00
Representation of ability to perform engineering (e.g., telephone or HUB listing, newspaper, or other publications, letterhead, Internet, etc.)	§1001.405(e)	Voluntary Compliance	Cease and Desist and \$750.00
Use of word "engineer" or any variation or abbreviation thereof under any assumed, trade, business, partnership, or corporate name	§1001.405(e)	Voluntary Compliance	Injunctive / Criminal and \$5,000.00
Unlicensed practice of engineering	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §§137.51(e), 137.77(a)	Cease and Desist and \$3,000.00	Injunctive / Criminal and \$5,000.00
Unauthorized use of a P.E. seal	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §§137.37(b), 137.77(a)	Cease and Desist and \$3,000.00	Injunctive / Criminal and \$5,000.00
Fraudulent use of a P.E. seal	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §§137.37(b), 137.77(a)	Cease and Desist and \$3,000.00	Injunctive / Criminal and \$5,000.00

(d) The following is a table of suggested sanctions that may be imposed against a *person or business entity* for violations of the Act or board rules involving firm registration. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table.

VIOLATION	CITATION	SUGGESTED SANCTION	
		FIRST OCCURRENCE	SECOND OCCURRENCE
Offer and perform consulting engineering services without being registered	§1001.405; §137.77(a), (e)	Voluntary Compliance / \$500.00	Cease and Desist / \$1,500.00
Offer and perform consulting engineering services while registration was expired	§1001.405; §137.77(d), (e)	\$750.00	\$2,000.00
Offer only (no consulting engineering services were performed) without being registered or while registration was expired	§1001.405; §137.77(a), (e)	Voluntary Compliance / \$250.00	Cease and Desist / \$1,500.00
Failure to include firm name and registration number on engineering work	§137.77(h)	Voluntary Compliance	\$1,500.00
Failure to notify board of firm registration record modification	§137.73	Voluntary Compliance	\$750.00

(e) The following is a table of suggested sanctions that may be imposed against a *governmental entity and/or its representative* for violations of the Act or board rules. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table. Injunctive action could also result from a second or later occurrence of these violations.

VIOLATION	CITATION	SUGGESTED SANCTION	
		FIRST OCCURRENCE	SECOND OCCURRENCE
Failure to engage a professional engineer in the construction of any public work involving professional engineering	§1001.407(1)	Voluntary Compliance	Cease and Desist / \$5000.00
Accepting engineering plans, specifications and estimates that were not prepared by a professional engineer	§1001.402	Voluntary Compliance	Cease and Desist / \$5000.00
Failure to ensure that the engineering construction is performed under the direct supervision of a professional engineer	§1001.407(2)	Voluntary Compliance	Cease and Desist / \$5000.00

Source Note: The provisions of this §139.35 amended to be effective June 19, 2017.

SUBCHAPTER D: SPECIAL DISCIPLINARY PROVISIONS FOR LICENSE HOLDERS

§139.41 License Holder with Renewable, Expired License

A license holder whose license has expired for nonpayment of renewal fees continues to be subject to all provisions of the Act and board rules governing license holders until the license is revoked by the board or becomes non-renewable under §1001.353(d) of the Act.

Source Note: The provisions of this §139.41 amended to be effective May 20, 2004.

§139.43 License Holder with Criminal Convictions

(a) The board shall follow the requirements of Chapter 53, Texas Occupations Code, and shall revoke the license of any license holder incarcerated after licensure as a professional engineer as a result of:

- (1) a felony conviction,
- (2) violation of felony probation or parole, or
- (3) revocation of mandatory supervision.

(b) The board, after it considers the factors provided in Texas Occupations Code §53.022 and §53.023, may take any of the actions set out in §139.31 of this chapter when a license holder is convicted of a misdemeanor or a felony without incarceration if the crime directly relates to the license holder's duties and responsibilities as a professional engineer.

(c) Any license holder whose license has been revoked under the provisions of this subsection may apply for a new license upon release from incarceration, but the application shall be subject to additional scrutiny relating to the incarceration. Such scrutiny shall be in accordance with Chapter 53, Texas Occupations Code.

Source Note: The provisions of this §139.43 amended to be effective December 21, 2008.

§139.45 Restitution

In addition to or in lieu of an administrative penalty, the board may order a license holder to pay restitution to a consumer as a result of an agreement resulting from an informal settlement conference. The amount of the restitution may not exceed the amount paid by the consumer to the person for a service regulated by the Act.

Source Note: The provisions of this §139.45 amended to be effective May 20, 2004.

§139.47 Probation

As part of a disciplinary action for violating the Act and board rules including, but not limited to, negligence, incompetence, or endangerment to the public, the board may prescribe conditions of probation for each probated suspension on a case-by-case basis depending on the severity of the violation that will include reporting requirements, restrictions on practice, and/or continuing education requirements as applicable as described in this subsection.

- (1) The board will determine the reporting requirements for each probated suspension and will include a list of board probation requirements and schedule for completion of those requirements in which the board may require the license holder to submit documentation including, but not limited to, client lists, job assignments, designs, proof of continuing education participation, restricted practice reports, and other documents concerning the practice of engineering to demonstrate compliance with the conditions of probation. As a condition of probation, the license holder shall accept that schedule deadlines are final and no extensions or revision shall be granted, unless approved by the board.
- (2) Board will receive and date stamp documentation on the day received and track compliance with probation requirements for each probated suspension. The board

shall honor postmarks for date of submittal; however, if not received by the required deadline, the license holder shall have the burden of proof to demonstrate documentation was submitted by the schedule deadline.

(3) As a condition of probation, the board may restrict the area of practice of the license holder. The board may require the license holder to practice under the supervision and mentorship of another professional engineer when performing engineering in prescribed areas.

(4) As a condition of probation, the board may require the license holder to obtain additional continuing education in addition to the minimum requirements of §137.17 and may prescribe formal classroom study, workshops, seminars, and other specific forms of continuing education.

(5) Failure to comply with probation requirements shall result in lifting of probation and suspending of the engineering license for the remainder of the suspension period.

Source Note: The provisions of this §139.47 amended to be effective December 11, 2016.

§139.49 License Suspension/Revocation Based on License Holder's Status Review.

(a) The board may review the status of a license holder the board believes:

- (1) may have been issued a license through fraud or error; or
- (2) may constitute a threat to the public health, safety, or welfare.

(b) The board may, as set out in §139.31, of this chapter (relating to Enforcement Actions for Violations of the Act) suspend or revoke a license held by a person whose status is reviewed under this section.

Source Note: The provisions of this §139.49 amended to be effective January 1, 2006.

§139.51 License Suspension Based on Delinquent Child Support

Pursuant to Texas Family Code, Chapter 232, on receipt of a final order by the OAG (Office of the Attorney General) regarding delinquent child support, the board must suspend a professional engineer license until the OAG notifies the Board that the obligor has paid the child support, established a repayment schedule, has been granted an exception as part of a court-supervised plan or successfully contested the denial of licensure.

Source Note: The provisions of this §139.51 added to be effective September 20, 2009.

SUBCHAPTER E: HEARINGS

§139.61 Contested Case Hearings

The State Office of Administrative Hearings shall conduct all formal hearings and contested cases in accordance with the Administrative Procedures Act, Chapter 2001, Texas Government Code and Title 1, Chapter 155, Texas Administrative Code.

Source Note: The provisions of this §139.61 amended to be effective May 20, 2004.

§139.63 Extensions of Time

The Executive Director may enter into an agreement with parties to a contested case to modify time limits as provided under the APA, Texas Government Code §2001.147.

Source Note: The provisions of this §139.63 added to be effective September 20, 2009.

POLICY ADVISORY OPINIONS

TBPE accepts and acts on formal Policy Advisory Opinion requests and issues responses or opinions where appropriate. The following is a list of all the approved requests and the Board's interpretations, actions, and recommendations can be viewed/downloaded on our website at: <http://engineers.texas.gov/policy.htm>

Request Number	Description	Date Adopted or Amended
1	Engineering Aspects of Water Quality Planning	August 10, 2005
2	Engineering Aspects of Metropolitan Transportation Planning	May 18, 2005
3	Structural or Mechanical Modifications to Building Roofs	October 6, 2004
4	Engineering Aspects of Water Tank Rehabilitation	November 29, 2004
7	Construction Materials Engineering and Testing	Amended August 20, 2009
10	Identification of P.E.s licensed in other jurisdictions	August 10, 2005
12	Engineering Aspects of the Design of Indoor Antenna Systems	February 23, 2006
13	Design of Manufactured Utility Poles	August 10, 2005
14	Design of Data and Communication Systems	August 10, 2005
15	Use of Current Regulations in Design	August 9, 2006
16	Areas of Engineering Competence	March 7, 2006
17	Forensic Engineering and Expert Witness Testimony	February 23, 2006
18	Sealing As-Built or Record Drawings	February 7, 2007
19	Commissioning of Engineered Systems	February 7, 2007
20	When is an Engineer required on Buildings?	August 9, 2006
21	Manufactured Buildings	Amended August 16, 2012
22	Conflict of Interest	May 9, 2007
23	Engineering Aspects of Facilities Assessment	August 20, 2009
24	Procurement of Engineering Services for Public Works Projects	August 20, 2009
25	Corrosion Protection System Design	February 25, 2010
26	Structural Integrity and Building Codes	August 20, 2009
28	Preliminary Documents	November 19, 2009
29	Engineering Aspects of Gas Turbine Acceptance Testing	February 25, 2010
30	Real Estate Inspection Reports	February 25, 2010
31	Are Designated Engineering Representatives required to be licensed in Texas?	AG Opinion Issued July 25, 2012; Board Approved August 16, 2012
32	Can Staff deviate from the Texas Engineering Practice Act?	February 15, 2012
33	Direct Supervision and Court Testimony	May 24, 2012
34	Industry Exemption	May 21, 2014

35	Oil Well Production Casing String Design	May 23, 2013
36	Construction Management	May 21, 2014
37	Interpretation of Utility and Telephone Company Exemptions	Revoked May 5, 2015
38	Direct Supervision of Engineering Performed in Overseas Offices	November 20, 2014
39	On-Farm Energy Audits	February 11, 2016
40	Extent of Jurisdiction outside Texas	May 26, 2016
41	Firm Registration	February 16, 2017