

January 27/20

To:

Mr. Rod Philip
OEAC Chairman

Dear Rod,

The TSSA Advisory Council received the proposed Path 2 Guidelines recently (*after acknowledging that the council was not supporting this pathway and encouraged TSSA to concentrate their efforts on the other OE Expert Panel recommendations*) and are now expected to review it and provide feedback by January 31st, 2020. The Institute of Power Engineers have been an active participant of the Operating Engineers Advisory Council for the TSSA since its inception. Operating Engineers (Power Engineers) have been the front-line professional workers since the beginning of commercial steam production. Since 1940, the IPE is the only Canadian entity that represents the power engineer profession. The feedback provided herein is not personal, but, a concerned view point of the Power Engineer profession.

The Path 2 Risk and Safety Management Plan (RSMP) evolved out of the Operating Engineers Regulatory Review conducted by Deloitte LLP as the first step in modernizing the current Operating Engineer Regulation 2019/01. From the "Regulatory Review" there were 25 recommendations made and the members of the OE Expert Panel held consensus with 24 of them. Only item #1, "*The regulation should adopt a risk-based approach*" has seen much activity by the TSSA, Ministry of Government and Consumer Services (MGCS) policy writers and management. This has been evidenced by the partial development of a Path 1 strategy early last year (of which 61% of the participants surveyed supported by requiring further developments) and now the full-fledged guide to submitting a Path 2 RSMP that we (Advisory Council) are now asked to provide feedback on, that only 25% of the surveyed participants supported. The sector participation clearly showed a lack of support for Path 2. The optics are apparent that the Reg. review progress has been co-opted by others (***IIAR and Global Cold Chain Alliance***) whose motives are not for the benefit of the OE profession. If the same amount of energy was put towards the other 23 recommendations, the value of the OE to their respective employers would see an increase.

The IPE is not, nor has been, opposed to innovative approaches to risk management. Innovation is what drive human society forwards. Our concerns with the proposed Path 2 Guidelines are as follows;

- Oversight of the RSMP approval process. Who are "*approved competent*" Risk Managers? What will be the minimum education and experience requirements? To whom do they answer to? The IIAR has made it very clear, as authors in a written article, that they have been actively involved lobbying the US EPA in order to remove/reconsider a rule to amend the Risk Management Program Regulation, requiring facilities to be regulated, launched by the Obama Administration.
- Inspection of plants that choose to work under a Path 2 RSMP. Who does the inspections? How often? What will be the repercussions for failure to comply with the approved RSMP?

- Who onsite will be knowledgeable/responsible for the above information? Just having information is only a small part of being in control of the risk. Knowing how to interpret the risk and/or predict potential risk is not a job function of a manager, supervisor or line worker in normal workplace environments. This will require specialized training of the aforementioned workers and regular updating of this training in order to ensure all who have been entrusted by the owner(s) to manage the risk remain competent to do so. What are the standards for the risk management training? Who will be deemed competent to provide this training? Currently SOPEEC, a sub committee of ACI, is the recognized body that regulates the educational requirements (syllabus) of all Operating Engineers across Canada. IPECC is the council that develops the curriculum for these standards.
- If the policy writers are looking to remove the need of Operating Engineers from the workplace through the implementation of an RSMP, then why are they still included in the expectations of the TSSA? Will the OEs be reassigned to a new but non-mandatory role?
- SOPEEC and ACI has recently released an established prescriptive “standardized plant rating” for all plants across Canada, which we believe fits and aligns within the spirit of the Federal Mobility Act. The province of Newfoundland has already adopted and enacted the “standardized plant rating” within their own regulation. Is Ontario willing to compromise its safety record in order to replicate the Process Safety Management of the States, and will Ontario be contravening the fundamental nature of the Mobility Act when other provinces chime in and adopt the prescriptive standardize plant rating system?
- As this movement to an RSMP environment is new, there will be a very select group of engineering firms with the expertise or competence. The TSSA should have a well-defined expectation of competence for risk assessment to provide the basis by which in-house and corporate engineering staff can be measured. This should not be left for industry to set the “standard” by which risk assessment competence is set. One of the highest participant rated surveys, fashioned by the Ontario government disclosed and revealed clearly a lack of support for Path 2; a RSMP based on the Chemical Industry Association of Canada’s Process Safety Management Standard (CSA Z767-17) that mimics the Process Safety Management in the United States, in which the Obama administration was attempting to tighten up for safety reasons.
- What will be the auditing frequency for RSMPs used for Path 2? Annually? Bi-annually? Similar to current OE inspection protocol? Here again, the **IAR** has made it well know that it supports the so-called “*Reconsideration Rule*” that would rescind the provisions related to third party audits, root cause analysis, information sharing and safer technology analysis. Calling them problematic provisions.
- Is a gap analysis a subjective process that may be influenced by management? At first glance, the gap analysis appears very simplistic in the manner information is gathered to ascertain a company’s potential ability to use the Path 2 RSMP approach in order to reduce their perceived burden. The simplistic mode of questioning may be focused on making every plant look at this as the option above all other regulatory options.

- Throughout the document there are other professions brought forward as the best point of service to support a company in fulfilling the requirements to comply with Path 2 RSMP; all at the expense of the one profession that the writers and managers of this policy are being financially supported through, the professions Licensing fees.
- By involving many other layers of professions in the risk mitigation will in itself add risk due to the blurring of line of responsibility for risk mitigation. Most of these professionals will never set foot in the plant that they have provided their expertise, but their contribution to the RSMP will have consequences to the outcome. If a process upset occurs while under a Path 2 RSMP, where does the blame go? The company who followed their approved RSMP or the professionals who provided their expertise that made it possible for the approval of the RSMP? If the purpose of Path 2 RSMP is to reduce the burden (remove an owner paid profession) on industry by providing a theoretical means to reduce risk through a paper process, who will the blame be placed on? What will be the consequences of a failure that impacts property and/or human life in the Path 2 RSMP? There is no direction provided thus far.
- There is still a push for the use of UK based risk models as being practical for Canadian facilities that use primarily North American manufactured equipment, engineering standards and practices and management philosophies.

There seems to be a divergent interpretation of the use of time, talent and treasure being applied to addressing the 24 recommendations that the Operating Engineers Expert Panel agreed were to be worked on. The Operating Engineers Regulatory Review was completed June 19, 2017. The first item on the list is regarding the review of the Operating Engineers Regulation 219/01. To date this has been the only item that has received time and attention.

In March 2018, we received the vision for Path 1 and Path 2 as the replacement to the OE Regulation. Path 1 only expressed the mechanism by which risk would be assessed but not how it would be applied and Path 2 was only talked about as a concept. Feedback was sought both from the OE Expert Panel and eventually the public at large. If the responses were to be followed as the direction for the TSSA and MGCS regarding where to focus their time talent and treasure, it was not on Path 2 RSMP.

The work done to produce a nearly complete document and process; with a view of complete abandonment of all other recommendations defies logical understanding. If the preponderance of the inclusion of other professions are needed in the Path 2 RSMP process, then this is an indication of the voracity of these other professions to supplant Operating Engineers as the risk managers. Any work done on the other 23 recommendations would have the effect of benefiting the Operating Engineer profession. Clearly there are other actors with much different goals than those of the OE Advisory Council and maybe the TSSA at work.

Ralf Klopf

IPE sitting Rep. OEAC

cc. TSSA, MGCS, Premier Ford