

To: The Honorable Lisa Thompson - Minister Government & Consumer Services

Cc:

Andrea Horwath - Leader, Official Opposition

Tom Rakocevic - Critic, Government Services & Consumer Protection

Bonnie Lynsyk - Ontario Auditor General

Bonnie Rose - President & CEO TSSA

Dear Minister Thompson,

The *Operating Engineers Advisory Council (OEAC)* is a group of subject matter experts brought together at regular intervals by the *Technical Standards & Safety Authority (TSSA)* to provide industry input and advice on the safe operation and maintenance of Boilers and Pressure Vessels in Ontario. The group members hold regulatory certification and have a shared responsibility with the TSSA, plant owners and other certified Operating Engineers to ensure that plants are operated with well-trained, certified individuals on duty to protect public safety. Council members have a broad knowledge base in facilities such as refineries, steel mills, educational institutions, food processors and powerplants. Operating Engineers in general are a group of professionals who understand the potential energy behind pressure vessel equipment which if unleashed into the community due to improper operation or mismanagement can potentially cause injury and death to workers and the public at large.

The OEAC would like to formally express to the Minister our opposition regarding the development and implementation of a PATH 2 - Risk Safety Management Plan as an "Alternate Rule" to the existing Operating Engineers Regulation O. Reg 219/01 and request an immediate moratorium be placed on PATH 2 development.

In the fall of 2016 and early into 2017 there were (5) members of the OEAC that participated in the "OE Expert Panel Review" of O. Reg 219/01. This Expert Panel was assembled by the MGCS and consisted of (15) representatives from a broad range of industry stakeholders. Deloitte LLP on behalf of the Expert Panel submitted a final report to the MGCS that provided 23 recommendations, one of which was the concept of developing a risk-based approach to rating plants and staffing requirements in Ontario. There were two paths to regulatory compliance that were contemplated both adopting the risk-based concept. The PATH 1 model would be very similar to the existing prescribed O. Reg 219 with a risk component added in. The PATH 2 model was a site-specific option that would involve a plant owner developing their own Risk Safety Management Plan (RSMP). The intent would be that as the "Regulator" the TSSA would approve, audit and enforce a specific PATH 2 RSMP. Recent events and actions by the TSSA suggest that there is a focus on aggressively pursuing PATH 2 with the belief that specific industries are attempting to dilute the skillset and requirement for trained certified staff to be on duty operating facilities in Ontario. The TSSA commissioned a consultant that conducted an industry survey which concluded 75% of the respondents did not support PATH 2 and 60% believe compliance cost and administrative burden would increase. So, why pursue PATH 2 if it is not supported by stakeholders? The Provincial Government introduced the Alternate Rules Process in April of 2019 under Bill 66 which could assist in adopting recommendations from the OE Expert Panel by allowing the TSSA Chief Officer the right to accept alternate rules subject to the Minister's approval, thus avoiding the traditional regulatory change process.

The OEAC has formally advised and recommended to TSSA that their resources would be better utilized fully developing and implementing PATH 1, clearly defining the Alternate Rules Process and responding to the 22 remaining recommendations from the OE Expert Panel. PATH 2 may or may not be a pathway for the future but it is essential that a very clear and concise program for the development, audit and enforcement must be in place before industry experts would have any level of confidence that this path would be in the best interest of Ontarians. In the 2018 Auditor General's report it was stated that "the TSSA does not have effective licensing and inspection processes in place to enforce and promote public safety in the sectors it is responsible for regulating". In addition, the AGO also reported "the Ministry of Government and Consumer Services has not fulfilled its oversight responsibilities to ensure that the TSSA is accomplishing its mandate". These factors combined would suggest that a PATH 2 RSMP is clearly not a viable path to regulatory compliance.

Considering the examination process for Power/Operating Engineers is standardized across Canada by the *Standardization of Power Engineer Examinations Committee (SOPEEC)* and a proposed recommendation is underway by the *Association of Chief Inspectors (ACI)* to standardize plant ratings the OEAC believes the development and implementation of PATH 2 in Ontario would be counterintuitive. The PATH 1 model could certainly be amalgamated with the other provincial regulations to further standardize the industry. Council believes that standardized exams and standardizing plant ratings within the PATH 1 model would also align with the intent of the Labour Mobility Act, and support the concept that Ontario and Canada are open for business.

The OEAC has become increasingly frustrated over the apparent disregard of Council's advice to TSSA. This therefore begs the question of why the OEAC exists if TSSA is not able to follow up on the advice given? The belief, right or wrong, is that a specific industrial sector has secured MGCS support with the intent of having PATH 2 take priority over any or all other regulatory initiatives.

In closing, and to reiterate, the OEAC believes the development and implementation of a robust and sustainable PATH 1 Risk Based model and the adoption of a well vetted "Alternate Rules" Process are in the best interest of all stakeholders. Considering the negative consequences of self-regulation without adequate oversight, as we have witnessed both at home and abroad, a PATH 2 RSMP would be a threat to public safety in Ontario.

Respectfully,

OEAC Members

Dave Belanger	Representative - Training Institutions
Greg Black	Industry Representative (Labour) IUOE Local 772
Jamie Dreveny	Industry Representative (Public Power Generation)
Kevin Hillman	Industry Representative (Independent Power Generation)
Ralf Klopf	Professional Association - Institute of Power Engineers (IPE)
Ronald Morrison	Consumers Advisory Council
Peter Michieli	Industry Representative (Petro-Chemical)
Rod Philip (Chair)	Industry Representative (Steel)
Randy Purves	Industry Representative (Refrigeration)