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Operating Engineers Alternate Rules Consultation – Feedback & Resolutions

Consultation Status: Closed

In the spring of 2020, TSSA conducted a survey to seek feedback from stakeholders on TSSA's Operating Engineers Alternate Rules proposal, which supplements the existing Operating Engineers (OE) Regulation 219/01.

The draft Alternate Rules were posted for consultation from mid-April through May 18, 2020.

Of the over 800 respondents, approximately:

- 85 per cent identified as operating engineers
 - Of those, 19 per cent identified as chief engineers
- six per cent identified as plant owners/users
- eight per cent identified as “other,” including students, retired operating engineers and risk experts

Ninety per cent of the feedback received was from respondents affiliated with attended plants.

Post-Consultation Actions: How TSSA is addressing feedback received through the survey

The majority of respondents indicated that the Alternate Rules clearly conveyed the specified requirements and obligations in all but three questions. The data shows that the three questions that were considered less clear (Q17, Q18 and Q19) by all respondents were clear to a majority of respondents who identified themselves as plant owners and users.

The summary below provides input by theme and TSSA's response to address the feedback. Respondents asked that TSSA provide more details on how Alternate Rules will work.

- TSSA published the Operating Engineers Safety Program Path 2 Risk & Safety Management Plan Guidelines, as well as responses to Alternate Rules Frequently Asked Questions on the TSSA.org website
- TSSA published guidelines for both the “Application for Plant Registration” (APR) form and the “Plant Equipment List” (PEL) forms that are required for registration under the Alternate Rules
- TSSA will publish Path 1 Guidelines and a Path 1 Assessment Tool to provide more information on Path 1 prior to launching Path 1

Questions about whether TSSA's can effectively administer Alternate Rules, and the scope of Alternate Rules.

- TSSA is clarifying publicly that it will continue to perform inspections, assess safety and maintain oversight of all plants in the province, regardless of which regulatory approach plants adopt.
- As part of the Operating Engineers Alternate Rules rollout, TSSA will be allocating additional operational capacity to support the evaluation of RSMPs. This includes support for review and acceptance of RSMPs and periodic auditing of plants.
- The scope of the Alternate Rules proposal was informed by the expert panel recommendations submitted to TSSA and to government in June 2017. The expert panel recommended that the OE regulation should be informed by evidence of the risks posed by different plant types and should include two alternate paths to achieve compliance, one that would be prescriptive and the other based on site-specific RSMPs. Paths 1 and 2 address these recommendations.

Respondents want improved accountability for facilities under Path 2.

- TSSA revised the Alternate Rules to require approval from a senior person responsible for site safety, in addition to a professional engineer

Concerns that the Alternate Rules amount to “self-regulation” or “deregulation”.

- TSSA will communicate that all risk and safety management plans (RSMPs) that are submitted to TSSA by a business must be developed and approved by a professional engineer in accordance with the CSA Z767 standard (Process Safety Management).
- These plans would also need to be signed by a member of senior management responsible for plant safety. Furthermore, if a business' plan is accepted by TSSA, it would also still be subject to TSSA's oversight through audits and inspections.
- Non-compliance would be subject to TSSA enforcement actions. That is currently what happens in the propane industry in Ontario, which has been subject to RSMP requirements and TSSA oversight for several years now.

Concerns that public safety will be undermined by Alternate Rules

- TSSA will communicate that throughout the development process of the Alternate Rules, TSSA was mindful of the government's commitment to burden reduction while still maintaining and improving safety outcomes.
- The Alternate Rules provide plant owners with options to comply while maintaining or improving public safety — a key recommendation developed by the Operating Engineers Expert Panel and part of Ontario's regulatory modernization principles.

Concerns that certification requirements are being relaxed due to the implementation of Alternate Rules.

- TSSA will communicate that the time requirements for advancement in the regulation and in Alternate Rules are not changing fundamentally. The requirements in the Alternate Rules are only a departure from a “plant code” based calculation – not quantity – of qualifying experience time

Questions about the precise experience time reductions for college graduates.

- These will be addressed in the guidelines for certificate holders, which will be expected to be posted in spring 2021

Requests for guidance on electronic logbooks.

- TSSA will look to draft a guidance document to address requests for more information on electronic logbooks

Consultation Summary: What TSSA heard

Questions 1-3 collected demographic information of respondents.

Opting in and out of paths:

Q4. How clearly do you understand the application (opt-in) process?

Q5. How clearly do you understand the acceptance process?

Q6. How clearly do you understand the opt-out process?

Question Number	Number of Respondents	Clear	Unclear
Q4	792	498 (63%)	294 (37%)
Q5	788	473 (60%)	315 (40%)
Q6	787	457 (58%)	330 (42%)

Q7. Please detail any other comments related to Section 1 – Alternate Rules for Plant Owners (general/application process). Respondents who answered that Q4-Q6 are unclear wrote the following:

- Alternate Rules amount to “self-regulation” or “deregulation”
- Public safety will be undermined by Alternate Rules
- There is a lack of detail about the proposal for Alternate Rules
- The proposal is not congruent with previous stakeholder input

Path 1:

Q8. How clearly do you understand the plant user’s obligation to submit technical details regarding the plant to facilitate a risk calculation by TSSA?

Q9. How clearly do you understand your obligation (as a plant user) to notify the chief officer 15 days prior to the change, or as soon as practicable after an unplanned change at your plant?

Question number (number of respondents)	Number of Respondents	Clear	Unclear
Q8	786	547 (69%)	239 (31%)
Q9	780	593 (76%)	187 (24%)

Q10. Please detail any other comments related to Section 2 – Path 1 Plant Rating and Attendance. Respondents who answered that Q8-Q9 are unclear wrote the following:

- Plant owners/users having greater responsibility for the determination of plant rating or staffing is concerning
- More information is needed about Path 1 plant assessments, ratings and TSSA's evaluation of ratings
- Plant ratings may be inconsistent from one plant to the next
- **Path 2**

Q11. Are you familiar with CSA Z767 standard (process safety management)?

Question number (number of respondents)	Number of Respondents	Familiar & Follow	Somewhat Familiar	Not Familiar
Q11	780	74 (9.5%)	367 (47%)	339 (43.5%)

Q12. How clear is your understanding of your obligation as a plant owner to describe the hazards?

Q13. How clear is your understanding of your obligation as a plant owner to create mitigation measures for those hazards?

Question number (number of respondents)	Number of Respondents	Clear	Unclear
Q12	766	515 (67.2%)	251 (32.8%)
Q13	758	506 (66.8%)	252 (33.2%)

Q14. How clear is your understanding of your obligation as a plant owner to suggest a plant attendance in line with non-human risk mitigation measures?

Q15. How clear is your understanding of your obligation as a plant owner to seek professional engineer's approval?

Q16. How clear is your understanding of your obligation as a plant user following Path 2 when "the chief officer may require a Path 2 plant user to affirm on a periodic basis?"

Question number (number of respondents)	Number of Respondents	Clear	Unclear
Q14	755	424 (56.2%)	331 (43.8%)
Q15	756	523 (69.2%)	233 (30.8%)
Q16	768	404 (52.6%)	364 (47.4%)

Q17. How clearly does the proposed Path 2 language adequately address the guiding principles of plant users being accountable for plant safety?

Q18. How clearly does this proposed Path 2 language adequately address the guiding principles of Baseline requirements are supported by guidance materials?

Question number	Number of Respondents	Clear	Unclear
Q17	766	330 (43.1%)	436 (56.9%)
Q18	768	295 (38.4%)	473 (61.6%)

Plant User/Owners			
Question number	Number of Respondents	Clear	Unclear
Q17	51	31 (60.8%)	20 (39.2%)
Q18	52	29 (55.8%)	23 (44.2%)

Q19. How clearly does this proposed Path 2 language adequately address the guiding principles for being clear, transparent and easy to understand?

Question number	Number of Respondents	Clear	Unclear
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Q19	765	303 (39.6%)	462 (60.3%)
Plant User/Owners			
Q19	51	31 (60.8%)	20 (39.2%)

Q20. Please detail any other comments related to Section 3 – Path 2 Risk and Safety Management Plans (RSMPs). Respondents who answered that Q19 was unclear wrote the following:

- Questions about whether TSSA has the necessary program infrastructure and technical expertise to enforce a risk-based approach
- Path 2 seems to amount to self-regulation or deregulation
- Professional engineers lack the knowledge or experience to sign off on RSMPs for power plants

Certification

Q21. To what extent are the new Alternate Rules for certification requirements clear?

Question number (number of respondents)	Number of Respondents	Clear	Unclear
Q21	785	487 (62%)	298 (38%)

Q22. What aspects do you find most clear and easy to understand?

Q23. What aspects do you find less clear and require further clarification?

Q24. Please detail any other comments related to Section 4 – New Rules for Certificate Holders (alternate Table 8 in Regulation 219/01).

- Requirements classified in hours rather than months is clear
- TSSA moving to an hours-based experience calculation from a months-based experience calculation for qualifying time is acceptable
- Concern that changes are relaxing certification requirements
- More information is required regarding the precise experience time reductions for college graduates
- Many respondents asked about marine engineers' skills and competencies in the context of certification changes

Logbooks:

Q25. To what extent are the new Alternate Rules for logbooks clear?

Question number (number of respondents)	Number of Respondents	Clear	Unclear
Q25	780	542 (69.5%)	238 (30.5%)

Q26. What aspects of the new Alternate Rules for logbooks do you find most clear and easy to understand?

- All or some of the new rules for logbooks are easy to understand

Q27. What aspects of the new Alternate Rules for logbooks do you find less clear and require further clarification?

- Accountability for electronic logbooks
- Proper authentication
- Whether TSSA will provide a standardized form for electronic logbooks
- Requirements for unattended plants
- Qualifications of person(s) making logbook entries

Additional Resources:

- [Expert Panel Report](#)
- [Path 2 Risk & Safety Management Plan \(RSMP\) Implementation Guide](#)
- [Frequently Asked Questions](#)