

Comments on Procedures for Processing the Engineering Service Provider Infraction Report

Comments received by TCP			
Comment ID	Organization	Comment	Response

Comments received by email			
Number	Organization	Comment	Response
	ACEC-Ontario	If the matter is serious, the ESP should be informed immediately. As an Infraction Report requires preparation, there are no circumstances by which a Report should be issued prior to a verbal notification or warning. Please delete "verbal" (Page 6, para 2)	When issues are related to Environment and Safety due to the negligence of the ESP, verbal warnings may be given, although rare. In rare circumstances, the Infraction Report can follow a verbal warning/notification, thus no change is required.
	ACEC-Ontario	Please add "In any event, the administrator should preference verbal notification, for immediate consideration by the ESP" as ending text (Page 6, para 3)	The Ministry has revised the language to give preference to verbal notification.
	ACEC-Ontario	Please add "If issued" as preface text (Page 6, para 4)	The Ministry has revised the language.
	ACEC-Ontario	"was", in subpart d), indicates that a corrective action was not achieved,	The Ministry has revised the language.

		<p>however a formal written notice may be the ESP's first receipt of a concern. Please delete "was" where the written notice is (Page 6, subpart d))</p>	
	ACEC-Ontario	<p>"without further verbal or written communication" in subpart e) is inappropriate considering this subpart is an escalation of further administrative action. Please delete "without" (Page 6, subpart e))</p>	<p>The Ministry has revised the language.</p>
	ACEC-Ontario	<p>If the matter is serious, the ESP should be informed immediately. As a Warning or Infraction Report requires preparation, there are no circumstances by which a Report should be issued prior to a verbal notification or warning. Please delete "verbal." (Page 6, para 5)</p>	<p>When issues are related to Environment and Safety due to the negligence of the ESP, verbal warnings may be given, although rare.</p> <p>In rare circumstances, the Infraction Report can follow a verbal warning/notification, thus no change is required.</p>
	ACEC-Ontario	<p>"poor quality", subpart A., is speculative and could be used in a punitive manner. Please rewrite to "Quality of services rendered by ESP (or sub) does not satisfy the relevant contract" (Page 10, subpart A)</p>	<p>The Ministry has revised the language.</p>
	ACEC-Ontario	<p>"discharge liabilities", subpart E., is unclear and could be used in a punitive manner. Please rewrite to "failure to discharge known liabilities arising out of ESP's performance, contractual obligation, or statutory responsibility" (Page 10, subpart E)</p>	<p>The Ministry has revised the language.</p>

	ACEC-Ontario	<p>"any Contract clause", subpart K., could apply to immaterial clauses (e.g. typographical errors on invoice) and could be used in a punitive manner. Please rewrite to "any significant or material Contract clause" (Page 10, subpart K)</p>	The Ministry has deleted subpart K.
	ACEC-Ontario	<p>The current Qualification Committee Procedures does not provide the ESP an opportunity to defend or present at its own Infraction Report assessment (Quorum for a meeting is four (4) voting members one of which must be the Chair or Vice-Chair. For the presentation of and final decision regarding an Infraction Report, Quorum shall include the two (2) non-MTO members of the Ontario Public Service.)</p> <p>Please reverse this deletion, and provide the ESP an opportunity to present to the Committee, otherwise the MTO could be exposed to allegations of unfair treatment. (Page 15, para 1)</p>	Paragraphs 1, 2, 4 have been undeleted.