



PUBLIC HEARING GUIDELINES AND INTERPRETATION NOTES

**OFFICE OF THE REGULATOR OF OIL AND
GAS OPERATIONS**

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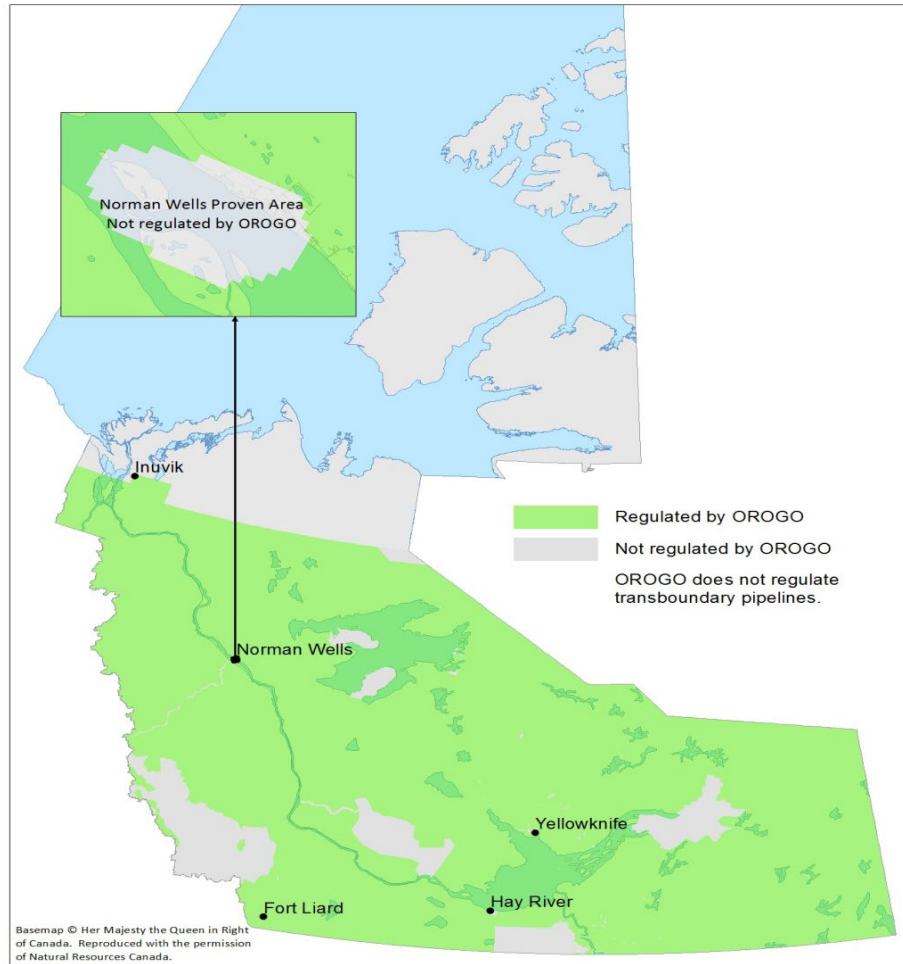
Public Hearing Guidelines and Interpretation Notes

1. INTRODUCTION

Purpose	The <i>Public Hearing Guidelines and Interpretation Notes</i> (Guidelines) provide guidance on when and how public hearings will be held by the Office of the Regulator of Oil and Gas Operations (OROGO) for the purposes of the <i>Oil and Gas Operations Act</i> (OGOA).
Legislative Requirements	Section 19.1 of the <i>Oil and Gas Operations Act</i> (OGOA) gives the Regulator the authority to hold public hearings in respect of the exercise of its powers or the performance of any of its duties and functions under OGOA.
Legislation is Paramount	Where a conflict exists between the Guidelines and OGOA, OGOA is paramount.
Objectives	The objectives of the Guidelines are to: <ul style="list-style-type: none">• Describe OROGO's approach to holding and participating in public hearings;• Describe how confidentiality of information fits into the public hearing process;• Enhance certainty and predictability in regulatory decisions; and• Promote accessibility and transparency in oil and gas regulation.
Authority	These Guidelines are issued by the Regulator under section 18 of OGOA.
Regulator's Discretion	Application of these Guidelines is subject to the Regulator's discretion under OGOA.

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Jurisdiction



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2. PURPOSE OF PUBLIC HEARINGS

Content	<p>This section provides information on the purpose of public hearings held by the Regulator. It contains information on:</p> <ul style="list-style-type: none">• What is a public hearing;• The purpose of a public hearing;• The Regulator’s discretion to hold a public hearing;• Reasons for a public hearing; and• Examples of applications that might require a public hearing.
Objective	<p>Participants in public hearings understand how a public hearing assists with decision-making.</p>
Requirements	<p>Section 19.1 of OGOA gives the Regulator the authority to hold public hearings in respect of the exercise of its powers or the performance of any of its duties and functions under OGOA.</p> <p>Section 19.1 does not require the Regulator to hold public hearings in any particular circumstances.</p>
What is a Public Hearing	<p>A hearing is a formal way for parties to provide information to the decision-maker.</p> <p>A public hearing is an oral or written hearing held in a venue chosen by the Regulator. The public means people other than the parties, their lawyers, agents or witnesses, and the Regulator and its staff.</p>
Definition	<p>A party is an individual or organization registered as a participant in OROGO’s public hearing process. Parties include the applicant and interveners.</p>
Purpose of a Public Hearing	<p>The purpose of a public hearing is to provide the Regulator with information so that it can make the best informed decision while also using the principles of fairness, transparency and objectivity in making its decision.</p>
Regulator’s Discretion	<p>The Regulator decides whether to hold a public hearing.</p> <p>There is no mandatory requirement under OGOA for the Regulator to hold a public hearing on an application for Operations Authorization (OA) or any other application.</p>

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Reasons for a Hearing

The Regulator may choose to hold a public hearing if it:

- Needs more information regarding an application which could only be gained by holding a public hearing; and/or
- Determines that the public interest would be served by conducting a more detailed and public examination of potential concerns and impacts regarding an application.

Examples

Examples of applications that might require a public hearing could include:

- Application for construction of a new pipeline;
- Application for abandonment of a pipeline; and/or
- Application to develop an oil and gas pool or field.

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3. SCOPE OF PUBLIC HEARINGS

Contents	<p>This section describes the scope of public hearings held by the Regulator. It contains information on:</p> <ul style="list-style-type: none">• The Regulator’s mandate;• The Regulator’s responsibilities;• Types of information that may be discussed and presented during a public hearing; and• The relationship between the Regulator’s responsibilities and those of other regulators.
Objective	<p>Participants in public hearings understand the Regulator’s area of responsibility.</p>
Requirements	<p>Section 2 of OGOA states that the purpose of the Act is to promote, with respect to exploring for and exploiting oil and gas:</p> <ul style="list-style-type: none">• Safety;• Protection of the environment;• Conservation of oil and gas resources;• Joint production arrangements; and• Economically efficient infrastructures. <p>Section 3 of OGOA states that the Act applies to exploration and drilling for and the production, conservation, processing and transportation of oil and gas.</p>
Regulator’s Mandate	<p>The Regulator’s mandate is to regulate the exploration for and development of oil and gas resources for the primary purposes of ensuring human safety, environmental protection and the conservation of those resources.</p>
Regulator’s Responsibilities	<p>The Office of the Regulator of Oil and Gas Operations (OROGO) assists the Regulator in fulfilling its responsibilities, which include:</p> <ul style="list-style-type: none">• Application reviews;• Regulating seismic and drilling operations;• Pipeline and well regulation;• Inspection and compliance; and• Emergency response and investigation.

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Types of Information

The Regulator will consider all information that is relevant to the application and to its mandate. Topics that may be discussed include:

- Safety and design of the project;
- Potential environmental impacts;
- Impacts on Aboriginal rights holders potentially affected by the project;
- Impacts on landowners potentially affected by the project;
- Impacts on the public; and
- Financial capacity of the applicant to conduct the work appropriately and respond to and clean-up any spills of oil or debris.

Relationship with Other Regulators

The Regulator's responsibility of ensuring environmental protection and safety for oil and gas operations works in conjunction with the legislative framework for management of land and water established under the *Mackenzie Valley Resource Management Act*.

4. TYPES OF PUBLIC HEARINGS

Contents	<p>This section describes the two types of public hearings that may be held by the Regulator. It contains information on:</p> <ul style="list-style-type: none">• Written public hearings;• Oral public hearings; and• Determining the type of public hearing.
Objective	<p>Participants in public hearings understand the two types of hearing and how the Regulator decides what type of hearing to hold.</p>
Requirements	<p>Section 19.1 of OGOA does not specify whether the Regulator shall hold written or oral public hearings.</p>
Written Public Hearings	<p>In a written public hearing, the parties provide their evidence and arguments to the Regulator in writing only.</p>
Oral Public Hearings	<p>In an oral public hearing, the parties present their evidence and arguments to the Regulator in person at a formal meeting.</p>
Determine the Type of Hearing	<p>The Regulator will consider the following factors in deciding whether to hold a written or oral public hearing:</p> <ul style="list-style-type: none">• The breadth and scope of the issue being considered by the Regulator;• What parties may participate in the hearing;• The degree of technical complexity of the issue being considered by the Regulator; and• How the issue being considered by the Regulator fits into its primary regulatory functions of safety, environmental protection and conservation of oil and gas resources.

5. ORAL PUBLIC HEARING PROCESS

- Contents** This section of the Guidelines describes the process that will be used during oral public hearings held by the Regulator. It contains information on:
- The oral public hearing process;
 - Public notification;
 - Written interventions;
 - Presentations; and
 - Optional additional steps in the oral public hearing process:
 - Pre-hearing conference; and
 - Public participation.
- Objective** Participants in oral public hearings understand what process will be followed and participate effectively.
- Oral Public Hearing Process** The process for an oral public hearing is:
1. The Regulator receives an application and determines that:
 - a. A public hearing may be warranted; and
 - b. An oral public hearing is appropriate.
 2. OROGO issues a public notification that an oral public hearing will take place;
 3. Parties submit written interventions;
 4. The applicant reviews the parties' written interventions and submits its own intervention;
 5. If additional information is required, the Regulator may issue information requests to the parties;
 6. The applicant and all interveners submit their presentations for the oral public hearing to OROGO;
 7. The Regulator closes the public record in advance of the oral public hearing to prevent any new evidence from being filed;
 8. The oral public hearing occurs;
 9. The Regulator reviews the information on the record; and
 10. The Regulator issues a decision and its reasons for decision.

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Public Notification

The notification may be placed in local newspapers, on OROGO's website and on social media. The notification will include the following information:

- Date and location of the hearing;
- Purpose of the hearing;
- Deadline for submission of written interventions;
- Date the record closes;
- Contact information for submission of interventions; and
- Web links to access applications and materials related to the proceedings.

Written Interventions

A written intervention is a document submitted to the Regulator that presents an intervener's evidence and arguments, in response to an application submitted to the Regulator, with respect to the topic of the hearing.

Presentations

Presentations cannot include any new evidence that was not included in the written interventions.

Optional Additional Steps

Depending on the nature and purpose the hearing, the Regulator may also:

- Hold a pre-hearing conference to clarify details on how the hearing will be held;
- Allow for information requests to the applicant from the Regulator and the parties prior to the hearing; and
- Allow for public participation during the hearing.

Pre-Hearing Conference

Only parties that have submitted written interventions will be invited to participate in the pre-hearing conference. Details that may be discussed at the pre-hearing conference could include:

- Order of proceedings;
- Logistics;
- Procedural or legal matters;
- Relevant confidentiality provisions;
- Public participation; and
- Other relevant information.

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Public Participation

If the Regulator determines that participation by individuals who are not registered interveners will be allowed, members of the public will have the opportunity to verbally address the Regulator and applicant at the public hearing outside of the time allotted for presentations by interveners and the applicant.

Members of the public will have to register with OROGO staff at the hearing and the Regulator will have discretion to determine the time allotted for each member of the public to address the panel.

6. WRITTEN PUBLIC HEARING PROCESS

Contents	<p>This section of the Guidelines describes the process that will be used during written public hearings held by the Regulator. It contains information on:</p> <ul style="list-style-type: none">• The written public hearing process;• Public notification;• Written interventions; and• Optional additional steps in the written hearing process:<ul style="list-style-type: none">○ Pre-hearing conference.
Objective	<p>Participants in written public hearings understand what process will be followed and how they can participate effectively.</p>
Written Public Hearing Process	<p>The process for a written public hearing process is:</p> <ol style="list-style-type: none">1. The Regulator receives an application and determines that:<ol style="list-style-type: none">a. A public hearing may be warranted; andb. A written public hearing is appropriate.2. OROGO issues a public notification that a written public hearing will take place;3. Parties submit written interventions;4. The applicant reviews the parties' written interventions and submits its own intervention;5. If additional information is required, the Regulator may issue information requests to the parties;6. The Regulator closes the public record;7. The Regulator reviews the information on the record; and8. The Regulator issues a decision and its reasons for the decision.
Public Notification	<p>The notification may be placed in local newspapers, on OROGO's website and on social media. The notification will include the following information:</p> <ul style="list-style-type: none">• Purpose of the hearing;• Deadline for submission of written interventions;• Date the record closes;• Contact information for submission of interventions; and• Web links to access applications and materials related to the proceedings.

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Written Interventions

A written intervention is a document submitted to the Regulator that presents an intervener's evidence and arguments, in response to an application submitted to the Regulator, with respect to the topic of the hearing.

Optional Additional Steps

Depending on the nature and purpose the hearing, the Regulator may also:

- Hold a pre-hearing conference to clarify details on how the hearing will be held; and
- Allow for information requests to the applicant from the Regulator and the parties prior to the hearing.

Pre-Hearing Conference

Only parties that have submitted written interventions will be invited to participate in the pre-hearing conference. Details that may be discussed at the pre-hearing conference could include:

- Order of proceedings;
- Procedural or legal matters;
- Relevant confidentiality provisions; and
- Other relevant information.

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7. ACCESS TO INFORMATION FOR PUBLIC HEARINGS

Contents	<p>This section describes how to access information for public hearings. It contains information on:</p> <ul style="list-style-type: none">• Information provided to the Regulator;• Information produced by the Regulator; and• Location of publicly available information.
Objective	<p>Participants in hearings understand what will be made public and when.</p>
Requirements	<p>Section 22(2) of OGOA states that the Regulator will make information provided to it public, unless the Regulator determines the information meets the narrow criteria to be kept confidential.</p>
Information Provided to the Regulator	<p>Section 22(2) of OGOA applies to any information provided to the Regulator in relation to a requirement of OGOA or of its regulations, including information provided for a public hearing.</p> <p>Information provided to the Regulator for a public hearing could include:</p> <ul style="list-style-type: none">• The application;• Letters and correspondence between the Regulator, the applicant and interveners, including information requests; and• Other relevant information.
Information Produced by the Regulator	<p>OROGO is committed to transparency and accessibility in its operations. All information produced by the Regulator is publicly available, except when it contains information that has been determined to be confidential by the Regulator or is held confidential under the <i>Access to Information and Protection of Privacy Act</i>.</p>
Location of Publicly Available Information	<p>Publicly available information is available in Portable Document Format (PDF):</p> <ul style="list-style-type: none">• On OROGO's public registry or elsewhere on OROGO's website (www.oro.go.nt.ca); or• By contacting the Manager, Information Office at (867) 767-9097 or oro.go@gov.nt.ca

8. CONFIDENTIAL INFORMATION AND PUBLIC HEARINGS

Contents	<p>This section describes how confidential information will be handled during a public hearing process. It contains information on:</p> <ul style="list-style-type: none">• Criteria for requesting additional confidentiality during a public hearing;• The process for requesting additional confidentiality; and• The process for requesting access to confidential information during a public hearing process.
Objective	<p>Parties to a hearing can participate effectively while the confidential nature of some information is respected.</p>
Requirements	<p>Section 19(1) of OGOA authorizes the Regulator to hold a public hearing to carry out any of its powers, duties or functions.</p> <p>Section 22(2) of OGOA recognizes that information of certain types, that meets certain narrow specific criteria, may be confidential.</p> <p>Section 22(3) of OGOA recognizes that the Regulator may need to protect the confidentiality of certain information disclosed at a hearing because of the impact it may have on the provider's financial or competitive position.</p> <p>Section 22(4) of OGOA recognizes that the Regulator may need to protect the confidentiality of certain information disclosed at a hearing because of the impact it may have on the security of operations or infrastructure.</p> <p>Section 22(5) of OGOA allows the Regulator to disclose confidential information without written consent from the provider for the purpose of the administration or enforcement of the Act or the regulations.</p>
Criteria for Requesting Additional Confidentiality	<p>In addition to information determined to be confidential under section 22(2) of OGOA, additional information disclosed during a hearing may be considered confidential by the Regulator if:</p> <ul style="list-style-type: none">• Disclosing the information could result in a material loss or gain to an individual directly affected by the hearing or negatively affect that person's competitive position; or• Disclosing the information could impair the security of infrastructure and systems, including those that are safety-critical or environmental protection-critical infrastructure.

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In both cases, the potential harm or risk from the disclosure must outweigh the public interest in making the disclosure in order for the information to be considered confidential.

Requesting Additional Confidentiality

Requests for additional confidentiality under sections 22(3) or 22(4) of OGOA must be made before the hearing, using the following process:

1. Submit a cover letter requesting confidentiality and describing:
 - The type of information;
 - The criteria the information meets (see Criteria for Requesting Confidentiality, above); and
 - The reasons for the request.
2. Submit the information itself separately, clearly identified as confidential in the document title and the electronic file name.
3. The Regulator will decide whether the information is confidential and will provide written reasons for its decision to the information provider within 2 working days.
4. If the Regulator decides the information is confidential, the information will not be publicly available.
5. If the Regulator decides the information is not confidential, the provider has five working days from the date of the Regulator's notification to advise OROGO of its choice to either:
 - Accept that the information will be made public
 - or
 - Withdraw the information from the process.

Requesting Access to Confidential Information

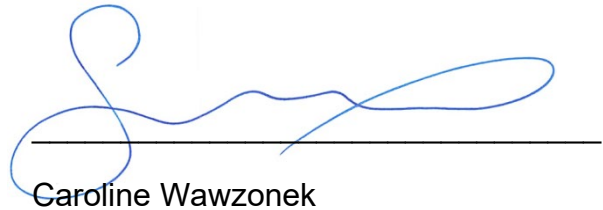
Requests for access to confidential information during a public hearing will be addressed on a case-by-case basis during the pre-hearing process.

The Regulator's written decision on requests to access confidential information will be made public within five days of the decision being made.

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9. REGULATOR'S APPROVAL

These *Public Hearing Guidelines and Interpretation Notes* are issued under section 18 of the *Oil and Gas Operations Act* effective July 23, 2020.



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