



NWT OFFICE OF THE REGULATOR OF OIL AND GAS OPERATIONS

PUBLIC HEARING GUIDELINES AND INTERPRETATION NOTES

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

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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	<p>The objectives of the Guidelines are to:</p> <ul style="list-style-type: none">• Describe OROGO's approach to and process for 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.

Jurisdiction



Contents

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2. PURPOSE OF PUBLIC HEARINGS

Content	This section provides information on the purpose of public hearings held by the Regulator. It contains information on: <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	Participants in public hearings understand how a public hearing assists with decision-making.
Requirements	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. Section 19.1 does not require the Regulator to hold public hearings in any particular circumstances.
What is a Public Hearing	A hearing is a formal way for parties to provide information to the decision-maker. A public hearing is a hearing that the public can find out about or attend. The public means people other than the parties, their lawyers, agents or witnesses, and the decision-maker and its staff.
Definition	A party is an individual or organization registered as a participant in OROGO's public hearing process. Parties include the applicant and intervenors.
Purpose of a Public Hearing	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.
Regulator's Discretion	The Regulator decides whether to hold a public hearing. 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 or project.

Reasons for a Hearing

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

- Needs more information regarding a project or 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 or a project.

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
- Application to develop an oil and gas pool or field.

3. SCOPE OF PUBLIC HEARINGS

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

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	This section describes the two types of public hearings that may be held by the Regulator. It contains information on:
	<ul style="list-style-type: none">• Written public hearings;• Oral public hearings; and• Determining the type of public hearing.
Objective	Participants in public hearings understand the two types of hearing and how the Regulator decides what type of hearing to hold.
Requirements	Section 19.1 of OGOA does not specify whether the Regulator shall hold written or oral public hearings.
Written Public Hearings	In a written public hearing, the parties provide their evidence and arguments to the Regulator in writing only.
Oral Public Hearings	In an oral public hearing, the parties present their evidence and arguments to the Regulator in person at a formal meeting.
Determine the Type of Hearing	The Regulator will consider the following factors in deciding whether to hold a written or oral public hearing: <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.

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 the party's evidence and arguments 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.

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.

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6. WRITTEN PUBLIC HEARING PROCESS

Contents	This section of the Guidelines describes the process that will be used during written public hearings held by the Regulator. It contains information on:
	<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	Participants in written public hearings understand what process will be followed and how they can participate effectively.
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	The notification may be placed in local newspapers, on OROGO's website and on social media. The notification will include the following information: <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.

Written Interventions	A written intervention is a document submitted to the Regulator that presents the party's evidence and arguments with respect to the topic of the hearing.
Optional Additional Steps	Depending on the nature and purpose the hearing, the Regulator may also:
	<ul style="list-style-type: none">• 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:
	<ul style="list-style-type: none">• Order of proceedings;• Procedural or legal matters;• Relevant confidentiality provisions; and• Other relevant information.

7. ACCESS TO INFORMATION FOR PUBLIC HEARINGS

Contents	This section describes how to access information for public hearings. It contains information on:
	<ul style="list-style-type: none">• Information provided to the Regulator;• Information produced by the Regulator; and• Location of publicly available information.
Objective	Participants in hearings understand what will be made public and when.
Requirements	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.
Information Provided to the Regulator	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. Information provided to the Regulator for a public hearing could include: <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	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> .
Location of Publicly Available Information	Publicly available information is available in Portable Document Format (PDF): <ul style="list-style-type: none">• On OROGO's public registry or elsewhere on OROGO's website (www.orogo.gov.nt.ca); or• By contacting the Manager, Information Office at (867) 767-9097 or orogo@gov.nt.ca

8. CONFIDENTIAL INFORMATION AND PUBLIC HEARINGS

Contents	This section describes how confidential information will be handled during a public hearing process. It contains information on:
	<ul style="list-style-type: none">• The process for a party to a hearing to request access to confidential information; and• The options for sharing confidential information with a party to a hearing.
Objective	Parties to a hearing can participate effectively while the confidential nature of some information is respected.
Requirements	Section 22(2) of OGOA recognizes that information of certain types, that meets certain narrow criteria, may be confidential.
	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.
	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.
Process for Requesting Access to Confidential Information	The process for requesting access to confidential information is as follows: <ol style="list-style-type: none">1. The party wishing to access the information makes a written request to the Regulator for access, explaining the reasons why access is required.2. The Regulator shares the request with the provider of the confidential information and asks for:<ol style="list-style-type: none">a. Any concerns or issues with sharing the information; andb. Proposed options for sharing the information (see below).3. The Regulator consults further with the party requesting the information and the provider of the information, as needed.4. The Regulator decides whether to share the information and under what conditions.

**Options for
Sharing
Confidential
Information**

In order to support the hearing process, the Regulator may share confidential information with parties by:

- Sharing a copy of the document only if the party files an undertaking stating that it will hold the document in confidence and use it only for the purpose of the proceeding;
- Holding an oral hearing with limited access; or
- Using any other method to preserve the confidentiality of the information it sees fit.

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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 xxx, 2020.

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