



**PUBLIC ACCESS TO INFORMATION  
GUIDELINES AND  
INTERPRETATION NOTES**

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

**REVISED VERSION  
FEBRUARY 2, 2021**

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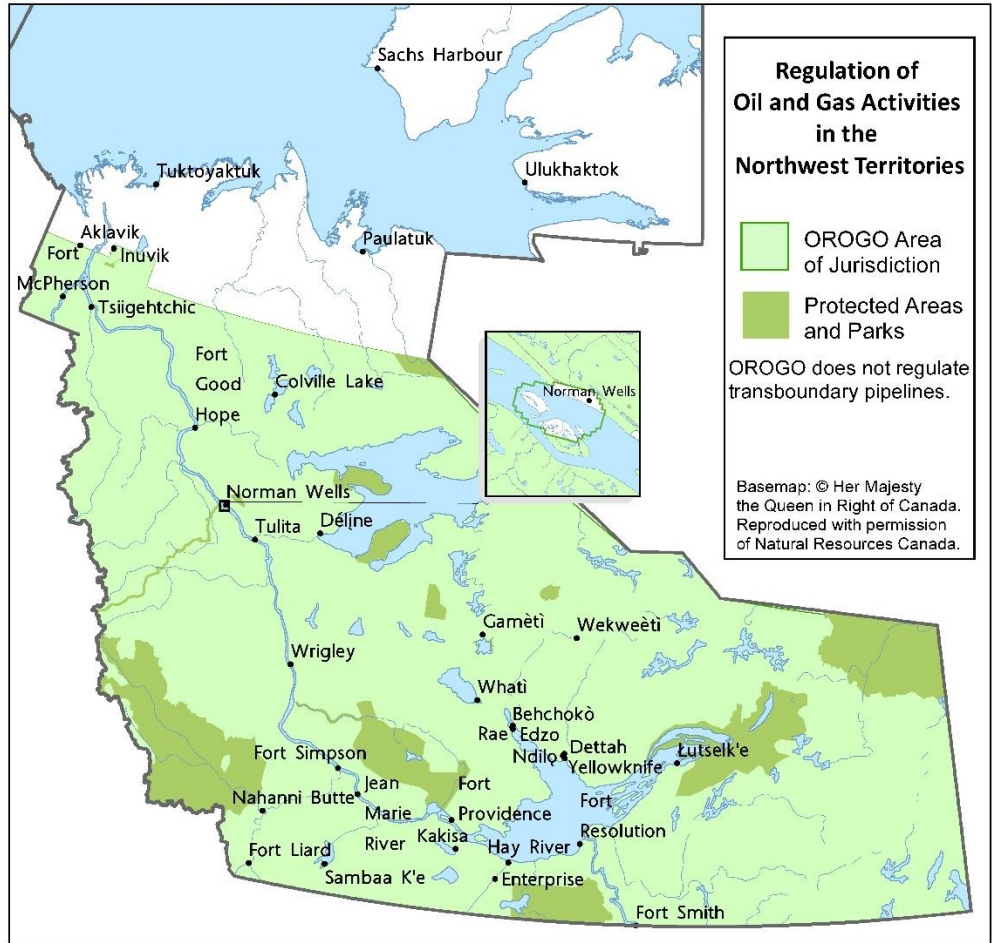
# Public Access to Information Guidelines and Interpretation Notes

## 1. INTRODUCTION

<b>Purpose</b>	The <i>Public Access to Information Guidelines and Interpretation Notes</i> (Guidelines) provide guidance on whether and how information submitted to the Regulator for the purpose of the <i>Oil and Gas Operations Act</i> (OGOA) and its regulations is made publicly available.
<b>Legislative Requirements</b>	Section 22 of OGOA describes the overall approach to making information submitted to the Regulator available to the public and explains circumstances under which information may be kept confidential: <ul style="list-style-type: none"><li>• Because it meets certain criteria; or</li><li>• For a certain period of time.</li></ul>
<b>Plain Language</b>	These Guidelines have been written in plain language in order to make them accessible to as many readers as possible.
<b>Legislation is Paramount</b>	Where a conflict exists between the Guidelines and OGOA, OGOA is paramount.
<b>Objectives</b>	The objectives of the Guidelines are to: <ul style="list-style-type: none"><li>• Describe how information provided to the Regulator is handled resulting from the amendments to OGOA which came into effect on July 23, 2020;</li><li>• Provide information on the process for requesting that information provided to the Regulator be kept confidential;</li><li>• Enhance certainty and predictability in regulatory decisions; and</li><li>• Promote accessibility and transparency in oil and gas regulation.</li></ul>
<b>Authority</b>	These Guidelines are issued by the Regulator under section 18 of the OGOA.
<b>Regulator's Discretion</b>	Application of these Guidelines is subject to the Regulator's discretion under OGOA.

# Public Access to Information Guidelines and Interpretation Notes

## Jurisdiction



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## 2. MAKING INFORMATION PUBLIC

<b>Contents</b>	<p>This section describes how the Office of the Regulator of Oil and Gas Operations (OROGO) will make information public. It contains information on:</p> <ul style="list-style-type: none"><li>• Information provided to the Regulator;</li><li>• Information produced by the Regulator;</li><li>• Location of publicly available information;</li><li>• Time periods during which the following types of information will be made public:<ul style="list-style-type: none"><li>○ Applications;</li><li>○ Active operations;</li><li>○ Drilling results;</li><li>○ Geophysical or geological work; and</li><li>○ Other research.</li></ul></li></ul>
<b>Objective</b>	<p>Persons providing information to the Regulator and members of the public interested in that information understand what will be made public and when.</p>
<b>Requirements</b>	<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 specific criteria to be kept confidential.</p> <p>Section 22(9) of OGOA lists information that must be made public and when.</p>
<b>Information Provided to the Regulator</b>	<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.</p> <p>Section 3 of these Guidelines explains the process for requesting that the Regulator keep information provided to it confidential.</p>
<b>Information Produced by the Regulator</b>	<p>OROGO is committed to transparency and accessibility in its operations. Information produced by the Regulator for the purposes of OGOA and its regulations 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> (ATIPPA) (see Section 7 of these guidelines).</p> <p>OROGO may redact information produced by the Regulator in order to allow for greater transparency while respecting the confidentiality of information due to the Regulator's decision or the ATIPPA.</p>

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### Location of Publicly Available Information

Publicly available information is:

- On OROGO's public registry;
- Elsewhere on OROGO's website ([www.orogo.gov.nt.ca](http://www.orogo.gov.nt.ca)); or
- Available through the Manager, Information Office at (867) 767-9097 or [orogo@gov.nt.ca](mailto:orogo@gov.nt.ca).

### Applications

Non-confidential information associated with applications for Operations Authorizations, Well Approvals and Operating Licences is available as follows:

Type of Information	Available
Applications	Within 5 business days after the application is deemed complete
Information requests and responses	Within 5 business days after the request is issued or response is received
Decisions	Within 5 business days after the decision is issued

### Active Operations

Non-confidential information associated with active operations is available as follows:

Type of Information	Available
Contingency plans (Emergency Response Plans)	When received as part of an application package, within 5 business days after the application is deemed complete.  As a final document, or as amended from time to time after the initial approval, within five business days after it is received.
Information on diving work, weather observation, the status of operations or development of/production from a pool or field	Within 5 business days after the information is received
Reports of accidents, incidents or petroleum spills	Within 5 business days after the information is received in the form of an incident summary report or near-miss summary report prepared by OROGO.
Hydraulic fracturing fluid information	30 days after the well was completed using hydraulic fracturing
Operator well inspection reports	Within 5 business days after the information is received

## Public Access to Information Guidelines and Interpretation Notes

### Definitions

An **incident** is:

- (a) an event that causes:
  - (i) a lost or restricted workday injury,
  - (ii) death,
  - (iii) fire or explosion,
  - (iv) a loss of containment of any fluid from a well,
  - (v) an imminent threat to the safety of a person, installation or support craft or
  - (vi) pollution
- (b) an event that results in missing person, or
- (c) an event that causes:
  - (i) the impairment of any structure, facility, equipment or system critical to the safety of persons, an installation or support craft, or
  - (ii) the impairment of any structure, facility, equipment or system critical to environmental protection.

A **near miss** is an event that would likely cause an event set out in paragraph (a) of the definition “incident” but does not, due to particular circumstances.

**Pollution** is the introduction into the natural environment of a substance or form of energy outside the authorized limits, including spills.

### Drilling Results

Non-confidential information resulting directly from the drilling of a well is available as follows:

Type of Information	Available
Well history reports, logs and other information received from drilling an exploratory well	Two years after the well was completed, suspended or abandoned
Well history reports, logs and other information received from drilling a delineation well	The later of: <ul style="list-style-type: none"> <li>• Two years after the associated exploratory well was completed, suspended or abandoned or</li> <li>• 90 days after the delineation well was completed, suspended or abandoned</li> </ul>

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Type of Information	Available
Well history reports, logs and other information received from drilling a development well	The later of: <ul style="list-style-type: none"> <li>• Two years after the associated exploratory well was completed, suspended or abandoned or</li> <li>• 60 days after the development well was completed, suspended or abandoned</li> </ul>

### Definitions

An **exploratory well** is a well drilled on a geological feature on which a significant discovery has not been made.

A **delineation well** is a well drilled in order to determine the commercial value of the accumulation penetrated by an existing well.

A **development well** is a well drilled into the same accumulation as an existing well:

- For the purpose of production or observation; or
- For the injection or disposal of fluid into or from the accumulation.

### Geophysical or Geological Work

Non-confidential information resulting from geophysical or geological work is available as follows:

Type of Information	Available
Information from exclusive geological or geophysical work	Five years after the work is completed.
Information from non-exclusive geological or geophysical work	Fifteen years after the work is completed.

### Definitions

**Exclusive** geological or geophysical work is conducted to gather data for use by a particular company.

**Non-exclusive** geological or geophysical work is conducted to gather data for the purpose of sale to the public.



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### Other Research

Non-confidential information resulting from other research is available as follows:

Type of Information	Available
Environmental study	<p>If the information relates to a well that has been drilled, after 90 days.</p> <p>Otherwise, two years after the study has been completed.</p>
Information from engineering research, feasibility studies, experimental projects and geotechnical work	<p>If the information relates to a well that has been drilled, see the requirements for exploratory, delineation and development wells.</p> <p>Otherwise, the earlier of:</p> <ul style="list-style-type: none"> <li>• Five years after the research, study or project has been completed or</li> <li>• When the land reverts to Territorial reserve lands</li> </ul>

### 3. APPLYING FOR CONFIDENTIALITY

<b>Contents</b>	<p>This section describes how to apply for information to be kept confidential by the Regulator. It contains information on:</p> <ul style="list-style-type: none"><li>• Types of information that may be deemed confidential;</li><li>• Confidentiality and traditional knowledge;</li><li>• Criteria for requesting that information be deemed confidential;</li><li>• The confidentiality request process;</li><li>• Withdrawing information from the decision-making process; and</li><li>• Information on the public registry about confidentiality requests.</li></ul>
<b>Objective</b>	<p>The process of applying for confidentiality is clear and the public is aware of decisions to consider information confidential.</p>
<b>Requirements</b>	<p>Section 22(2) of OGOA states that the Regulator will make information provided to it public, unless it meets certain specific criteria.</p>
<b>Types of Information</b>	<p>The following types of information may be considered confidential by the Regulator:</p> <ul style="list-style-type: none"><li>• Financial information;</li><li>• Commercial information;</li><li>• Scientific information; and</li><li>• Technical information.</li></ul>
<b>Confidentiality and Traditional Knowledge</b>	<p>Providers of traditional knowledge may request that it be deemed confidential. The Regulator considers traditional knowledge as “scientific” or “technical” information for the purposes of section 22(2) of OGOA.</p> <p>The criteria for requesting confidentiality described below apply to requests for confidentiality for traditional knowledge.</p>
<b>Criteria for Requesting Confidentiality</b>	<p>Information may be considered confidential by the Regulator if:</p> <ul style="list-style-type: none"><li>• It has been consistently treated as confidential by the provider;</li><li>• The provider’s interest in confidentiality outweighs the public interest in the information’s disclosure; and</li><li>• The information is not publicly available.</li></ul>

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**Confidentiality Request Process** The process for requesting confidentiality is:

1. Submit a cover letter requesting confidentiality and describing:
  - The type of information (see Types of Information, above);
  - 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 two 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.

### **Withdrawing Information**

If the provider decides to withdraw the information from the process, the Regulator cannot consider it when making a decision on the application or other submission by the provider.

Withdrawing information may have serious consequences for the provider. For example, it may result in:

- An application being considered incomplete and not being processed; or
- The failure to comply with a reporting requirement under OGOA, which is an offense under the Act.

### **Information on Public Registry**

The cover letter requesting confidentiality will be posted on the public registry within five days of receipt.

The Regulator's written reasons for decision will be posted on the public registry within five days of being issued.

## 4. CONFIDENTIAL INFORMATION AND PUBLIC HEARINGS

<b>Contents</b>	<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"><li>• Criteria for requesting additional confidentiality during a public hearing;</li><li>• The process for requesting additional confidentiality; and</li><li>• The process for requesting access to confidential information during a public hearing process.</li></ul>
<b>Objective</b>	<p>Parties to a hearing can participate effectively while the confidential nature of some information is respected.</p>
<b>Requirements</b>	<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 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>
<b>Criteria for Requesting Additional Confidentiality</b>	<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"><li>• 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</li><li>• Disclosing the information could impair the security of infrastructure and systems, including those that are safety-critical or environmental protection-critical infrastructure.</li></ul>

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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 Additional 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 two 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.

## 5. PERMITTED SHARING OF CONFIDENTIAL INFORMATION

**Contents** This section contains information on the situations where confidential information may be shared by the Regulator.

**Objective** Providers of confidential information are aware of the situations where that information may be shared with others.

**Requirements** Sections 22(5) to (8) and (10) of OGOA describe the situations in which the Regulator may share information it agreed was confidential under sections 22(2) to (4).

**Sharing Confidential Information** The Regulator may share confidential information with specific organizations for specific purposes, as shown in the following table:

<b>With</b>	<b>Purpose</b>
Unspecified	For the administration or enforcement of OGOA and its regulations.
Unspecified	For legal proceedings in relation to the administration of enforcement of OGOA and its regulations.
The Government of Canada, a province or territory, or any organization representing any Indigenous people of Canada	To fulfill an agreement between the Government of the Northwest Territories and that government or organization relating to resource management and revenue sharing associated with the exploration for or production of petroleum.  The receiver of the information must keep it confidential.
The Government of Canada, a province or territory, or a foreign government (or their agencies)	For the purpose of Northwest Territories, federal, provincial, territorial or foreign law that deals primarily with petroleum-related work or activity, including the management of the resource.  The receiver of the information must keep it confidential and must comply with any conditions established for sharing the information.  If the information is being shared with a foreign government, the Minister of Industry, Tourism and Investment must consent to sharing the information in writing.

## 6. INFORMATION FILED BEFORE THE EFFECTIVE DATE

**Contents** This section describes how information provided to the Regulator before July 23, 2020 (the effective date) will be managed.

**Objectives** Information provided to the Regulator before the effective date is managed in a way that reflects the understanding of its confidentiality at the time.

**Requirements** Section 22(13) of OGOA states that information provided to the Regulator before the effective date and required to be made available to the public under section 22(9) of OGOA will:

- Remain public if it has already been made publicly available; or
- Will be made public after the time period set out in section 22(9) (see section 2 of these Guidelines for more information on the time periods).

**Other Information** Information provided to the Regulator before the effective date and not covered under section 22(9) of OGOA will remain confidential, unless the provider consented to its disclosure under the *Information Disclosure Guidelines*.

## 7. ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT

<b>Contents</b>	<p>This section describes how the <i>Access to Information and Protection of Privacy Act</i> (ATIPPA) relates to OGOA. It contains information on:</p> <ul style="list-style-type: none"><li>• Application of ATIPPA;</li><li>• Conflict between ATIPPA and OGOA;</li><li>• Redaction of personal information; and</li><li>• Where to find ATIPPA.</li></ul>
<b>Requirements</b>	<p>Section 22(12) of OGOA states that, if there is a conflict or inconsistency between the requirements of section 22 of OGOA and ATIPPA, section 22 of OGOA prevails.</p>
<b>Application of ATIPPA</b>	<p>ATIPPA applies to information provided to the Regulator and produced by the Regulator under OGOA.</p>
<b>Conflict Between ATIPPA and OGOA</b>	<p>If there is a conflict between ATIPPA and the disclosure requirements for information provided to the Regulator for the purpose of OGOA or its regulations, the OGOA disclosure requirements prevail.</p>
<b>Redaction of Personal Information</b>	<p>OROGO may redact personal information (for example, names and contact details) from documents provided to the Regulator if it is not:</p> <ul style="list-style-type: none"><li>• Information on company representatives responsible for the application or the activity (for example, the person who signs the application form on behalf of the company);</li><li>• Information on individuals or organizations participating in public engagement or consultation;</li><li>• Available to the public elsewhere (for example, listed on another publicly accessible registry, directory or document); or</li><li>• Required to understand the document or its purpose.</li></ul>
<b>Where to Find ATIPPA</b>	<p>ATIPPA can be found at: <a href="http://www.justice.gov.nt.ca/en/legislation/#gn-filebrowse-0:/a/access-to-information-and-protection-of-privacy/">www.justice.gov.nt.ca/en/legislation/#gn-filebrowse-0:/a/access-to-information-and-protection-of-privacy/</a>.</p>

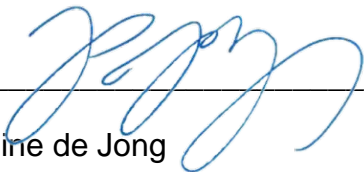


## Public Access to Information Guidelines and Interpretation Notes

### 8. REGULATOR'S APPROVAL

These revised *Public Access to Information Guidelines and Interpretation Notes* are issued under section 18 of the *Oil and Gas Operations Act* effective February 2, 2021.

They replace the *Public Access to Information Guidelines and Interpretation Notes* issued by the Regulator on July 23, 2020.



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