



NWT OFFICE OF THE REGULATOR OF OIL AND GAS OPERATIONS

SUMMARY OF PUBLIC ENGAGEMENT RESULTS

April 9, 2021

**PROOF OF FINANCIAL RESPONSIBILITY GUIDELINES
AND INTERPRETATION NOTES**

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

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INTRODUCTION

The Office of the Regulator of Oil and Gas Operations (OROGO) made the draft *Proof of Financial Responsibility Guidelines and Interpretation Notes* (Guidelines) available for public engagement on November 30, 2020.

Information on the Guidelines was made available to the public on the OROGO website and advertisements were placed in NewsNorth and L'Aquilon inviting comments.

Specific invitations to review the Guidelines and provide comments were issued to:

- Indigenous governments;
- Companies holding Operating Licences in OROGO's jurisdiction and the Canadian Association of Petroleum Producers;
- Other regulators with whom OROGO interacts as a result of existing Land Claim Agreements and Memoranda of Understanding;
- Federal and territorial departments and agencies; and
- Selected environmental non-government organizations with an NWT presence.

The deadline for comments was January 15, 2021. The following organizations provided feedback:

- Acho Dene Koe First Nation;
- The Canada Energy Regulator;
- The Department of Environment and Natural Resources, Government of the Northwest Territories;
- The Department of Lands, Government of the Northwest Territories;
- The Department of Justice, Government of the Northwest Territories;
- Explor Geophysical Ltd.;
- The Gwich'in Renewal Resource Board; and
- The Land and Water Boards of the Mackenzie Valley; and

This document summarizes the comments received during the public engagement period and the response to these comments.

COMMENTS RECEIVED AND RESPONSE

All comments received are summarized here, organized according to the sections of the draft Guidelines. General comments and comments that applied to more than one section of the Guidelines have been summarized first.

The responses to each group of comments are provided immediately after the comments themselves. Typographical errors in the draft Guidelines that were identified by reviewers will be corrected in the final version but are not addressed in this document.

GENERAL COMMENTS

The draft Guidelines were generally well received by stakeholders. No comments were received suggesting that the Guidelines as a whole were unnecessary or inappropriate.

General comments that apply to the entire document are captured in the following table.

Comments	Responses
<p>The Guidelines do not provide guidance on how operators develop a 'worst case scenario' for Indigenous and other land uses and how to develop an estimate of the amount of loss or damage that would occur from a spill or debris. The Guidelines also do not provide guidance on how Indigenous groups can provide input into this process.</p> <p>Recommend that the Guidelines include a requirement for operators to develop their 'worst case scenarios' in consultation with Indigenous Governments.</p>	<p>Under section 63(1)(a) of <i>the Oil and Gas Operations Act (OGOA)</i>, operators are fully liable for loss or damages caused by a spill or debris. Operators must develop complete and robust worst-case scenarios and contingencies to ensure that they operate in a manner that protects the environment and is safe for both their personnel and the public.</p> <p>There is no legislative requirement for operators to consult with Indigenous governments, First Nations and community governments in developing worst-case scenarios for spills and debris, but this does not preclude operators from doing so when engaging with Indigenous Governments, First Nations and community governments.</p> <p>OROGO expects operators will engage with Indigenous governments, First Nations and community governments on all aspects of their proposed operation, including the potential for spills and other project related impacts to Indigenous land use. As part of this engagement, the operator and Indigenous governments, First Nations and community governments could discuss development of a worst-case scenario and the estimates of loss or damages to Indigenous land use that could occur if a spill occurred.</p>

Comments	Responses
	<p>The Guidelines have been amended to require that operators provide information on how estimates of loss and damages were developed and who was involved in that process.</p> <p>The majority of oil and gas operations require a Land Use Permit and/or Water License from the appropriate Land and Water Board. The engagement required by the Land and Water Boards also provide an opportunity for Indigenous Governments, First Nations and community governments to discuss and raise concerns regarding worst case scenarios that could occur during oil and gas operations.</p>
<p>The Guidelines should include a requirement for operators to develop a cost estimate for compensation to be paid to Indigenous Governments and First Nations for impacts to Indigenous land use caused by oil and gas operations. The amount of compensation will be negotiated between the operator and local Indigenous Governments.</p>	<p>OGO does not include legislative provisions for the Regulator to consider claims for compensation made by Indigenous Governments and First Nations for impacts to Indigenous land use from oil and gas operations in general.</p> <p>For oil and gas activities that require a water licence, the <i>Mackenzie Valley Resource Management Act</i> includes legislative provisions for Land and Water Boards to consider claims for compensation related to proposed activities that require water licenses for the use of water or deposit of waste.</p> <p>If an Indigenous Government or First Nation has been impacted by a spill or debris resulting from an oil and gas operation, a claim can be made under section 63 of OGOA to access funds held under Proof of Financial Responsibility to clean up the spill or debris. The purpose of Proof of Financial Responsibility is to have funds available that can be paid out to persons suffering “actual loss or damage” from a spill or debris.</p>
<p>The Guidelines should include a requirement for operators to conduct an environmental site assessment (ESA) for their operation to ensure that lands have been remediated to a standard that allows land to be used by local Indigenous land users.</p>	<p>OROGO may require an operator to conduct an ESA if the site specific conditions of that operation require an assessment to determine levels of contamination at the site. This could be particularly relevant for production operations where oil and gas facilities have been operating at the same location for an extended period of time.</p>

Comments	Responses
<p>It is recommended that the Guidelines include clear and measurable objectives of what would satisfy the Regulator as it relates to clean up of a spill and or debris, abandonment and decommission of an oil and gas operation.</p>	<p>In order for the Regulator to determine that an oil and gas site operation has been cleaned up to the Regulators satisfaction, the following steps are followed:</p> <ul style="list-style-type: none"> • When an operator submits an application for an Operations Authorization (OA), it submits an Environmental Protection Plan, which outlines the operator’s plan to clean up the wellsite or area of the operation if a spill or debris occurs. • OROGO reviews the operator’s proposed plan and determines if it meets all legislative and regulatory requirements before issuing the OA. • If there is a spill or debris, the operator cleans up the wellsite or area of the operation affected as outlined in its Environmental Protection Plan. • OROGO inspects operations to ensure work has been completed and meets all legislative and regulatory requirements. When required, OROGO will also work with any other government organization that has a jurisdictional overlap to ensure consistency in approach. • If the inspection notes deficiencies, OROGO will direct the operators to conduct additional work to address noted deficiencies and an additional inspection will be required to ensure that additional work has been completed to OROGO’s satisfaction. • Once it is confirmed that all deficiencies have been addressed, the Regulator will receive a briefing from technical and compliance staff and review relevant information provided by the operator before making a final decision on whether the operation has been cleaned up satisfactorily. <p>Wording has been added to the Guidelines to describe, at a high level, the minimum requirements for clean up of spills or debris.</p>

Comments	Responses
<p>First Nations use their traditional territory for fishing, hunting, trapping, and gathering. Development and resource exploitation have significantly impacted and infringed Treaty and Aboriginal rights and title. Any new developments will infringe on Treaty and Aboriginal rights, without meaningful consultation and accommodation, which may include compensation.</p> <p>It is expected that First Nations will enter into full meaningful consultation with Government prior to any decision that has the potential to infringe Treaty or Aboriginal rights. The importance of protection Treaty and Aboriginal rights, and of preserving natural resources, cannot be overstated.</p>	<p>The Office of the Regulator of Oil and Gas Operations (OROGO) has an obligation to consult regarding adverse impacts to established or asserted Aboriginal and Treaty Rights protected by section 35 of the <i>Constitution Act, 1982</i>.</p> <p>The scope of the Regulator’s legal authority is determined by the provisions of the <i>Oil and Gas Operations Act (OGOA)</i>. If a potential infringement of rights raised by a First Nation falls outside of the Regulator’s legal authority, it may be addressed through another regulatory process or through additional consultation between the GNWT and the First Nation.</p>
<p>Clarify if Proof of Financial Responsibility can be used for reclamation and remediation activities associated with spills and debris.</p>	<p>If a spill or debris occurs from an operation that is under OROGO’s jurisdiction, then Proof of Financial Responsibility could be used for reclamation and remediation of that spill or debris.</p> <p>Most oil and gas operations require approvals from more than one regulator. A spill may occur from an activity, facility or piece of equipment that falls under the jurisdiction of another regulator (e.g. Land and Water Board) but is part of the same operation. In this case, Proof of Financial Responsibility would not apply.</p>
<p>Clarify if the <i>Oil and Gas Operations Act</i> and related regulations include the reclamation of decommissioned well and facility sites, access road and related facilities to pre-operational conditions.</p>	<p>For oil and gas operations that are in the abandonment phase, OROGO focuses on decommissioning of the operation. This means that existing OROGO regulated facilities (e.g. wells, gathering systems, batteries, etc.) are abandoned and decommissioned in manner that protects the environment and is safe for the public.</p> <p>The reclamation of well sites, access roads and related infrastructure falls under the jurisdiction of other regulators.</p>

Comments	Responses
<p>Clarify if OROGO encourages operators to conduct progressive remediation and reclamation that result from spills and debris prior to suspension and abandonment of wells and facilities.</p>	<p>The primary responsibility for reclamation falls under the jurisdiction of other regulators, such as the Land and Water Boards and the Department of Lands. Proof of Financial Responsibility is not intended to cover costs associated with the remediation and reclamation of a site and is based on a future hypothetical scenario that may never materialize. OROGO expects that operators will clean up a spill or debris immediately after it occurs.</p> <p>However, if an operator was planning to decommission a large operation, such as an oil and gas field and associated production facility, it may be possible for the decommissioning to occur in stages. Because Proof of Financial Responsibility is based on a hypothetical, incident-based scenario, staged decommissioning would not result in a reduction of the amount of Proof of Financial Responsibility held by the Regulator, but it would allow the operator flexibility to decommission parts of an operation that are no longer functional or required. This would require an operator to submit a plan for the Regulator's consideration which would be considered on a case-by-case basis.</p>
<p>Clarify if OROGO will develop additional guidance for stakeholders to better understand what aspects of a particular operation will be evaluated when arriving at a case by case basis.</p>	<p>Proof of Financial Responsibility will be considered on a case by basis for production, geophysical, suspension and abandonment operations. The 'application requirements' section outlines detailed information that operators need to submit to the Regulator in order for the Regulator to determine the appropriate amount of Proof of Financial Responsibility for that operation. Proof of Financial Responsibility only applies to the aspects of an operation that are regulated by OROGO (e.g. wells, pipelines, batteries, etc.) and to the spills and debris that may result from them.</p>

Comments	Responses
<p>Clarify if it is likely that access costs required for assessing Proof of Financial Responsibility are similar in nature to the costs that would be incurred for closure and reclamation of oil and gas sites. Clarify if OROGO is considering using a model like RECLAIM to determine the amount of Proof of Financial Responsibility.</p>	<p>OROGO requires operators to include access road costs in the event that a spill occurs and a third-party has to clean up the spill at a time when the original access established by the operator is no longer available. Depending on the scope of the spill associated with the operation, these costs may or may not be similar to access costs for closure and reclamation of the site.</p> <p>OROGO is not planning to use a model like RECLAIM to determine the amount of Proof of Financial Responsibility at this time.</p>
<p>Recommend that OROGO change the format and look of the Guidelines on Proof of Financial Responsibility so they can be easily differentiated from other OROGO Guidelines.</p>	<p>OROGO prefers to keep the formatting of its Guidelines consistent so that they are user friendly for both operators and all stakeholders.</p>
<p>Recommend that the section on seismic operation be moved to section 3 of the guidelines as it would be logical to link to exploration activities.</p>	<p>OROGO agrees with this recommendation and has moved the seismic operations to section 3.</p> <p>The title of this section has also been changed to “geophysical operations” to recognize that it incorporates more than pure seismic operations.</p>
<p>Recommend that OROGO include references in the Guidelines to Operations Authorizations for exploration projects and third-party costs.</p>	<p>OROGO has published separate Guidelines on the application process for Operations Authorizations. Applications for Operations Authorizations, including the information submitted in relation to Proof of Financial Responsibility, are available on OROGO’s public registry.</p> <p>Wording has been added to the section of the Guidelines on exploration operations to describe what is included in that group of operations.</p>

Comments	Responses
<p>Recommend that OROGO provide additional information on how OROGO balances environmental protection for people and the environment without unfairly limiting development potential.</p> <p>For example, if Proof of Financial Responsibility is too low, damages may occur that cannot be addressed by the company's resources. Should Proof of Financial Responsibility be too high, it may prohibit certain companies from pursuing development activities for the benefit of NWT residents.</p>	<p>OROGO regulates oil and gas operations in the Northwest Territories to ensure:</p> <ul style="list-style-type: none"> • Safety; • Environmental protection; and • Conservation of oil and gas resources. <p>OROGO's mandate does not include promoting economic development.</p> <p>When an operator applies for an Operations Authorization, OROGO considers whether the operator has put in place adequate environment protection measures, as described in its Environmental Protection Plan, Contingency Plan and other management system documentation, for that particular operation.</p> <p>OROGO also reviews the operator's financial information to ensure that it has adequate financial resources to respond to spills and/or debris resulting from the operation.</p> <p>OROGO assesses the amount of Proof of Financial Responsibility solely on the impact of a spill or debris resulting from the proposed operation.</p>
<p>The Department of Industry, Tourism and Investment is currently undertaking a review of all oil and gas regulations as a result of the amendments to legislation coming into force this summer. Included in this are the <i>Oil and Gas Spill and Debris Liability Regulations</i> (SDLR) referred to in OROGO's Guidelines.</p> <p>If the amounts under the SDLR are increased or changed, confirm if OROGO will use the new amounts under the SDLRs for exploration operations.</p>	<p>OROGO is bound by the regulations established under the <i>Oil and Gas Operations Act</i>.</p> <p>Once the review is complete, OROGO will review any changes to the amounts in the SDLR and will decide at that time whether to continue to apply the maximum amounts to exploration operations.</p>

Comments	Responses
<p>Clarify how Proof of Financial Responsibility differs from security deposits required by the Land and Water Boards in the Mackenzie Valley?</p>	<p>OROGO holds Proof of Financial Responsibility, under section 64(1) of OGOA) in association with an Operations Authorization applied for by an Operator. Section 64(3) of OGOA indicates that the Regulator may use Proof of Financial Responsibility to pay out claims made under section 63 of OGOA. Section 63 refers to claims for actual loss or damages from, or costs associated with the clean-up of, debris, spills or the authorized discharge, emission or escape of oil or gas.</p> <p>Section 61 of OGOA defines:</p> <ul style="list-style-type: none"> • “Actual loss or damage” as including loss of income, including future income and the loss of hunting, fishing and gathering opportunities by Aboriginal peoples; • “Debris” as an installation or structure that has been abandoned without authorization or any material that has broken away or been jettisoned or displaced in the course of an approved work or activity; and • “Spills” as a discharge, emission or escape of petroleum. <p>Proof of Financial Responsibility is not intended to cover costs associated with the closure, remediation and reclamation of a site, either with or without an operator. It is collected on a prospective basis and, unlike reclamation amounts determined by the Land and Water Boards that is based on the estimated actual costs of restoring lands to their original state, is based on a future hypothetical scenario that may never materialize.</p>
<p>Recommend that the definition for ‘body of inland water’ that is used in several places in the guidelines be reviewed to ensure it is consistent with other legislation and regulations.</p>	<p>OROGO has removed the definition of body of water from the guidelines to ensure that there is no confusion with definitions already in place under existing territorial legislation and regulations.</p>

SECTION 1: INTRODUCTION

The comments received about section 1 of the Guidelines and the responses are captured in the following table.

Comments	Responses
OROGO include an updated map to be consistent with all other OROGO Guidelines and to include labels for those areas not regulated by OROGO.	The recommended change has been made.

SECTION 2: PURPOSE OF PROOF OF FINANCIAL RESPONSIBILITY

The comments received about section 2 of the Guidelines and the responses are captured in the following table.

Comments	Responses
Clarify if the definition of debris includes debris from onsite camp and construction.	The definition of debris does not include debris from onsite camp and construction as these are not regulated by OROGO.
<p>The Guidelines state “Proof of Financial Responsibility is not intended to cover costs associated with the closure, remediation and reclamation of a site, either with or without an Operator.”</p> <p>This statement appears contradictory so clarification is needed to understand how Proof of Financial Responsibility can be used to clean up abandoned wells and associated debris. Proof of Financial Responsibility could be seen as a form of security and since Proof of Financial Responsibility cannot be used to clean up land and water liabilities, it could be perceived by a Proponent and the public as a form of security for the wells themselves.</p>	<p>Proof of Financial Responsibility is not intended to cover costs associated with the closure, remediation and reclamation of a site. It is collected on a prospective basis and, unlike reclamation amounts determined by the Land and Water Boards that is based on the estimated actual costs of restoring lands to their original state, is based on a future hypothetical scenario that may never materialize.</p> <p>For a well to be considered abandoned by OROGO, the operator has to comply with the requirements of the <i>Oil and Gas Drilling and Production Regulations</i> (OGDPR) and OROGO’s <i>Well Suspension and Abandonment Guidelines</i> (Guidelines). Inspections are conducted during operations to ensure that abandonment operations for the well meets all requirements under the OGDPR and the Guidelines. If impacts from a spill or debris remained, the well would not be considered abandoned until issues associated with the spill and debris were properly addressed.</p>

Comments	Responses
	<p>OGO A requires that any unused Proof of Financial Responsibility must be returned to the operator one year after the Regulator notifies the operator that the abandonment or decommissioning is successful. After that point, the Regulator does not hold any Proof of Financial Responsibility for the operation.</p> <p>The wording in the Guidelines has been changed to make this distinction more clear.</p>
<p>Clarify if failed well abandonments refer to a failed well abandonment operation conducted during an existing operation authorized by an Operations Authorization issued under section 10(1)(b) of OGOA, or the failure of a previously abandoned well.</p>	<p>The use of 'failed well abandonments' in the Guidelines refers to a potential failed well abandonment operation approved under an Operations Authorization issued under section 10(1)(b) of OGOA.</p> <p>If a well failure occurred for a previously abandoned well that is not covered under an Operations Authorization, or the failure occurred longer than one year from the date that the Regulator notified the operator that the well had been successfully abandoned in compliance with the OGDPR and the Guidelines, then Proof of Financial Responsibility could not be used to deal with a spill or debris from that well, as it would already have been returned to the operator under section 64(2)(a) of OGOA.</p> <p>In this situation, OROGO would first contact the company which completed the well abandonment and request that the well be repaired. If this was not possible, the responsibility to deal with issues related to well failure would rest with the land owner. In either case, a new Operations Authorization would be required to complete the repair and re-abandonment, which would trigger a new assessment of the Proof of Financial Responsibility required.</p> <p>OROGO also has a Well Watch program where communities can notify OROGO of older wells in their local area that may require maintenance or remedial measures to ensure the well is not unsafe or contaminating the environment.</p>

SECTION 3: EXPLORATION OPERATIONS

The comments received about section 3 of the Guidelines and the responses are captured in the following table.

Comments	Responses
Recommend that the Guidelines include a definition of what exploration operations specifically consist of.	The recommended change has been made.
Clarify if 'submarine areas' are intended to refer to areas in the Inuvialuit Settlement Region that are underwater shoreward of the line delineating where OGOA applies.	<p>OROGO does not regulate oil and gas activities in the Inuvialuit Settlement Region (ISR), therefore areas in the ISR that are underwater shoreward of the line delineating where OGOA applies are not regulated by OROGO.</p> <p>Section 3(b) of the <i>Oil and Gas Spills and Debris Regulations</i> state that the \$40 million limit applies to "a submarine area lying north of the sixtieth parallel of north latitude within the onshore and to which paragraph (a) does not apply" (emphasis added).</p> <p>Therefore, submarine areas do not only refer to areas under the ocean but more generally to areas under both salt and freshwater.</p>
Clarify if the limits under section 3(c) and (d) <i>Oil and Gas Spills and Debris Regulations</i> of \$25 million and \$10 million respectively apply to all wells, including delineation wells, wells drilled in areas where no previous drilling has occurred.	<p>The limits apply to all operations, including all wells, regardless of location, purpose or any other specific factor.</p> <p>The Guidelines have been amended to clarify which types of wells are included under exploration operations.</p>

SECTION 4: PRODUCTION OPERATIONS

The comments received about section 4 of the Guidelines and the responses are captured in the following table.

Comments	Responses
Clarify if a production operation may not require the maximum amount required in the <i>Oil and Gas Spills and Debris Regulations</i> . Clarify circumstances where a lower amount would be appropriate.	<p>A production operation may not require maximum amount of Proof of Financial Responsibility required under <i>Oil and Gas Spills and Debris Regulations</i> if the scope, location and purpose of the proposed operation justified consideration of a lower amount. The operator would have to provide a rationale to demonstrate why a lower amount is justified, based on the worst-case scenario identified and its impacts.</p>

Comments	Responses
<p>Clarify if 'submarine areas' are intended to refer to areas in the Inuvialuit Settlement Region that are underwater shoreward of the line delineating where OGOA applies.</p>	<p>OROGO does not regulate oil and gas activities in the Inuvialuit Settlement Region (ISR), therefore areas in the ISR that are underwater shoreward of the line delineating where OGOA applies are not regulated by OROGO.</p> <p>Section 3(b) of the <i>Oil and Gas Spills and Debris Regulations</i> state that the \$40 million limit applies to “a submarine area lying north of the sixtieth parallel of north latitude within the onshore and to which paragraph (a) does not apply” (Section 1(b) – emphasis added).</p> <p>Therefore, submarine areas do not only refer to areas under the ocean but more generally to areas under both salt and freshwater.</p>
<p>Clarify if OROGO considers and includes the costs of annual monitoring programs, including any associated labour costs, transportation of personnel and equipment and camps in the amount of Proof of Financial Responsibility required?</p>	<p>OROGO expects that third-party clean up of a spill would occur over a relatively short and defined period. Clean-up activities would conducting sampling to confirm that the area of contamination has been cleaned up.</p> <p>Once the spill has been cleaned up, no further monitoring is anticipated.</p>
<p>Clarify how long into the future that OROGO will assume that an operator will incur monitoring costs? Will OROGO use the net present value (NPV) approach for any monitoring or other costs that extend into the distant future?</p>	<p>As noted above, OROGO expects that third-party clean up of a spill would occur over a relatively short and defined period and, therefore, that ongoing monitoring into the distant future will not be required.</p> <p>Operations Authorizations are generally issued for a maximum of 5 to 6 years, which is not long enough to raise concerns about the NPV of cost estimates used to determine Proof of Financial Responsibility.</p> <p>If an operator applied to extend the term of an Operations Authorization, this would trigger a review of the Proof of Financial Responsibility associated with the authorization, along with other aspects of the operation.</p>

Comments	Responses
<p>Clarify if Proof of Financial Responsibility includes indirect costs for project management and/or contingencies and does Proof of Financial Responsibility require updates to reflect project changes or inflation.</p>	<p>The Guidelines have been amended to require operators to include indirect costs in their Proof of Financial Responsibility cost estimates.</p> <p>A change in the scope of an operation may require that Proof of Financial Responsibility be updated.</p> <p>Operations Authorizations are generally issued for a maximum of 5 to 6 years, not long enough to require that Proof of Financial Responsibility costs be updated for inflation.</p>
<p>Clarify if a sub-surface spill or release of hydraulic fluids, entrained oil and gas or intrusion of these types of fluids into groundwater would be considered a spill for the purposes of Proof of Financial Responsibility.</p>	<p>OGO does not distinguish between spills at surface or below the surface.</p> <p>However, a spill is defined as a “discharge, emission or escape of petroleum” (emphasis added).</p> <p>Therefore, if it can be demonstrated that a sub-surface spill occurred and was a spill of petroleum, then the spill could be considered a spill for the purposes of Proof of Financial Responsibility.</p>

SECTION 5: SUSPENSION AND ABANDONMENT OPERATIONS

The comments received about section 5 of the Guidelines and the responses are captured in the following table.

Comments	Responses
<p>Clarify if a description of the worst-case scenario as required under the application requirements section would include work and activities outside of the drilling location, including access roads, transportation of equipment and personnel and transportation of produced oil and gas.</p>	<p>OROGO does not regulate land use activities associated with access roads and mobilization and transportation of equipment and personnel to and from the wellsite. This normally falls under the jurisdiction of other regulators.</p> <p>OROGO does regulate the transportation of oil and gas and an operator would be required to provide information on a worst case scenario for a spill or debris that could potentially occur from transportation of oil and gas.</p>

SECTION 6: SEISMIC OPERATIONS

The comments received about section 6 of the Guidelines and the responses are captured in the following table.

Comments	Responses
Recommend that the Guidelines include a definition of what seismic operations specifically consist of.	<p>The recommended change has been made.</p> <p>The title of this section has also been changed to “geophysical operations” to recognize that it incorporates more than pure seismic operations.</p>
Clarify how Proof of Financial Responsibility will be assessed for seismic operations and if all seismic operations that come within 200 meters of a water body will be subject the maximum amount of \$25 million under the <i>Oil and Gas Spill and Debris Liability Regulations</i> . Seismic operations have a low risk of spills and should not be subject to the maximum amount of Proof of Financial Responsibility.	<p>As stated in the Guidelines, the impacts of spills or debris resulting from seismic operations vary depending on the scope of the seismic operation and of the incident resulting in the spill or debris.</p> <p>The Regulator will assess the amount of Proof of Financial Responsibility for seismic operations on a case-by-case basis, up to, but not necessarily at, the maximum amount specified under the <i>Oil and Gas Spills and Debris Liability Regulations</i>. The Guidelines identify the information that the applicant must provide to inform the Regulator’s assessment.</p>

SECTION 7: CLAIMS

The comments received about section 7 of the Guidelines and the responses are captured in the following table.

Comments	Responses
Clarify the wording on the limitation period of making claims under Proof of Financial Responsibility. It is recommended that the wording under section 63(6) of OGOA be used.	<p>The Guidelines use plain language wording that reflects section 63(6) of OGOA.</p>

Comments	Responses
<p>Clarify how actual losses or damage to an individual's income or an Indigenous person's hunting, fishing and gathering opportunities can be quantified resulting from a spill or debris.</p> <p>Clarify if OROGO has a methodology in place to address these types of issues.</p>	<p>An individual who wants to make a claim for loss or damages resulting from a spill or debris would have to submit information to the Regulator demonstrating how spill or debris have caused loss or damages to their income or to hunting, fishing and gathering opportunities.</p> <p>The Regulator would consider these types of claims on a case-by-case basis and would rely on evidence presented by the claimant and other parties in making a determination on a potential claim for Proof of Financial Responsibility in response to a spill or debris.</p> <p>OROGO does not have a specific methodology in place to assess claims for loss or damage made under Proof of Financial Responsibility.</p>

SECTION 8: FORM OF PROOF OF FINANCIAL RESPONSIBILITY

The comments received about section 8 of the Guidelines and the responses are captured in the following table.

Comments	Responses
<p>Recommend that OROGO use Irrevocable Letters of Credit as the preferred form of Proof of Financial Responsibility.</p>	<p>OROGO agrees with this recommendation. Wording to this effect is already included in the guideline.</p>
<p>Clarify if other forms of Proof of Financial Responsibility will be considered by the Regulator. These could include:</p> <ul style="list-style-type: none"> • Promissory note; • Insurance policy; • Escrow agreement; • Line of credit agreement; • Guarantee agreement; • Security bond; • Pooled funds; and • Equity shares. 	<p>The Regulator will only consider alternate forms of Proof of Financial Responsibility that allow for the following:</p> <ul style="list-style-type: none"> • Immediate and unfettered access to the full amount of Proof of Financial Responsibility; • Allows for automatic renewal; and • Allows for multiple drawings.

CONCLUSION

The public engagement process resulted in a number of comments on the Guidelines which have helped to clarify how Proof of Financial Responsibility is assessed for different types of oil and gas operations. OROGO has used the feedback to help define how Proof of Financial Responsibility is used, how it is assessed and how it differs from other forms of financial instruments used by other regulators in the NWT in assessing environmental liabilities for different types developments.

The Guidelines have been amended to reflect the comments received where possible, while maintaining the integrity of the Guidelines with respect to their objectives.

The Regulator thanks all the organizations and individuals who took time to review and comment on the Guidelines.