



Public Comment Period on CER Filing Manual revised Guides O (now Variance Applications and Project Updates) and N (now Applications to Review, Rescind or Rehear)

Regulatory Context

Edits to the Filing Manual were published on the CER website on 6 August 2020. These resulted from Royal Assent of the CER Act (2019) and related updates, including the CER's Early Engagement Guide. A series of technical updates to the Filing Manual are now underway in a process anticipated to occur over the next two years.

Public Comment Opportunity

The purpose of this note is to announce a 60-day public comment period from 1 December 2021 to 31 January 2022 on the proposed technical revisions affecting Filing Manual Guide O (Review, Rehearing, and Variance applications). A feedback page has been created on the CER website, providing links to the draft revised Guide O and Guide N, and a version tracking the proposed changes: <https://www.cer-rec.gc.ca/en/applications-hearings/submit-applications-documents/filing-manuals/filing-manual/filing-manual-updates/index.html>.

Proposed updates

Guide O was previously titled Review, Rehearing, and Variance applications. It has now been split into two separate guides; Guides O (Variance Applications and Project Updates) and Guide N (Applications to Review, Rescind or Rehear).

These sections require updating because:

- existing guidance applies to too wide a scope of scenarios, including various sections of the CER Act (ss. 190, 280, 288, 300, 348, 365);
- the Filing Manual lacks guidance on when an update or notification is required, versus a relief request or variance application. This is a long-standing issue for companies and industry associations;
- inefficiencies have resulted (e.g., when a variance application is filed for what should be an update) and inconsistent approaches are taken by companies (e.g., when an update is filed to test whether an application will subsequently be required);
- many post-approval project updates are currently filed that require significant resources to process; and
- the level of detail required in an application under s.69 is unclear which often leads to repetitive information requests.

Proposed updates will improve clarity around the filing requirements and guidance for variance requests, relief requests, and project updates and will:

- provide general examples of filings that require a variance application;
- provide examples of substantive changes to a previously approved application that require a variance application (e.g., engineering, environment);
- provide general examples of non-substantive changes that can be addressed through a project update;

- provide examples of non-substantive engineering changes that can be addressed through a project update;
- provide examples of relief requests;
- clarify requirements for notifications of company name changes where no transfer of assets is included; and
- separate filing requirements for adjudication-related reviews and rehearings into a new, short Guide N, as these applications are fundamentally different from construction or operation-related variances and updates.

Possible benefits include improved clarity around the filing requirements and guidance for variances, project updates and relief requests. Greater efficiency may be achieved through:

- a reduced volume of applications;
- better-structured applications;
- fewer information requests;
- companies no longer providing more detail than is required to achieve desired outcomes; and
- more project updates when appropriate, and fewer variance applications for inconsequential matters.

The CER welcomes written feedback regarding Guide O and Guide N and the proposed updates during the comment period ending 31 January 2022, via the feedback page at: <https://www.cer-rec.gc.ca/en/applications-hearings/submit-applications-documents/filing-manuals/filing-manual/filing-manual-updates/index.html>.

Please contact filingmanual@cer-rec.gc.ca if you would like to request a meeting to discuss your feedback or concerns.