



Filing Manual – Guide O – Variance Applications and Project Updates

The Commission is authorized to review, vary, or rescind any decision or order it issues under section 69 of the CER Act. It also may vary certificates, licences, and permits under sections 190, 280, 288, 300, 348, and 365 of the CER Act. This Guide addresses filing requirements for variance applications, including name changes and project updates.

For changes to the Commission's decision through a review or rehearing, please see Guide N.

Goal

The submission includes sufficient information to describe and support requested changes to the details of a regulatory instrument.

O.1 Changes to the Name of a Holder of a Certificate, License or Permit

O.1.1 Filing Requirements for transfer of ownership, lease, or amalgamation pursuant to section 181 of the CER Act

See Filing Manual Guide R.

Guidance

A variance to a certificate or order under section 190 of the CER Act is required where the company that owns the pipeline will change, for example, in the event of a sale, purchase, transfer or lease of a pipeline, or amalgamation, for which leave was granted by the Commission under section 181 of the CER Act. Refer to Filing Manual – Guide R – Transfer of Ownership, Lease or Amalgamation (CER Act s. 181).

O.1.2 Filing Requirements for Corporate Name Changes (without a change in ownership, lease, or amalgamation) pursuant to section 181 of the CER Act

Provide the following:

1. State the name change, including all previous known names;
2. A list of all regulatory instruments including orders and certificates that will require changes;

3. An update of all documents associated with Financial Resource Requirements and Abandonment Funding as needed to reflect the name change, including:
 - a. financial instruments used for abandonment funding including as applicable, updated letters of credit, surety bonds, and/or abandonment trusts;
 - b. financial instruments used for demonstration of proof of financial resources; and
4. A map (or maps) detailing all facilities for which the corporate name change applies. (See section 1.12 of the Filing Manual)
5. These documents should be submitted by the company's Accountable Officer.

Guidance

Where the company that is authorized under the order or certificate to own the pipeline has not changed (e.g., in the event of a mere corporate name change), the Commission expects companies to notify the Commission and request a change to their order or certificate. At a minimum, and if not done at the time the name is changed by the company, the changes should be noted when filing certain annual compliance information each January, such that the Commission can update certificates and orders accordingly^[1].

In either instance, in the event of variances because of a change in ownership or corporate name, signage on facilities and emergency contact information for landowners must be updated within 30 days of the name change to facilitate communication and safety reporting (see OPR, paragraph 36(f)).

O.2 Variances

Filing Requirements

Applications for variances must include the following:

1. A concise summary of the changes the applicant is requesting the CER to assess;
2. All necessary design details of the proposed changes;
3. A statement that no changes to the facility economics will result from the variance request, or provide documentation or information to explain any changes to facility economics;
4. Any supporting documentation or information to explain and support the change; and
5. Any applicable references to the Filing Manual.

¹ See MH-001-2013 Reasons for Decision Set-aside and collection mechanisms May 2014 Pipeline Abandonment – Financial issues, Appendix XV Reporting Form – Companies using Trusts for Set-aside mechanism, Appendix XVI and Appendix XVI Reporting Form – companies using Set-aside mechanisms other than trusts, and Exempt Companies, page 157-8, pdf 175-6.

Guidance

Companies are expected to file a variance request when making substantive changes to a previously granted authorization or condition.

To vary an existing order, certificate, licence or permit, companies must include the reason the variance is required and all information necessary to support the change proposed, including the information required by the relevant Filing Manual Guide(s). For example, an application seeking to vary a certificate of public convenience and necessity to reflect a design change must include all information required under Guide A, and any other relevant guides, to support the proposed change. The CER will issue a formal response, and when applicable, will vary regulatory instruments to reflect the approved changes.

Companies are expected to clearly explain what the request is. If the variance application includes multiple requests, applicants must clearly explain each request and provide the necessary information to assess each request.

Unlike many other types of applications, there are no service standards associated with variance filings. Companies are encouraged to plan accordingly and to ensure the variance application is complete prior to submission.

Examples of substantive changes that require a variance application

General

- undertaking project activities in different seasons
- scope, scale and/or nature of activities have changed such that there may be new or increased environmental or socio-economic impacts (e.g., the addition of a workcamp for accommodation of project workers)
- any additions to the project that were not contemplated in the original application
- addition of any permanent or temporary workspace that was not assessed in the original application (e.g., the workspace is not covered by the ESA, not covered by existing mitigation measures, and has the potential to change the significance determinations in the ESA)

Engineering

- change in project type (e.g., deactivation to decommissioning or abandonment)
- permanent or long-term decrease in the Maximum Operation Pressure
- change of facility type
- change in pipe material and other specifications (e.g., steel to HDPE, pipe grade, wall thickness, seam type, coating type) not subject to a condition of the regulatory instrument (e.g., technical specification updates)
- change in start and end points (e.g., location)
- change in methodology of project activities (e.g., at water crossings, also see environment section below)

- change in flow direction for projects that were not designed and approved for bi-directional flow
- change in design temperature
- addition of contingency crossovers
- changes to Schedule A details (e.g., wall thickness, approximate pipe length)

Environment

- change in watercourse crossing contingency method that was not considered in the original application and is not authorized by the regulatory instrument

Socio-Economic

- changes that result in unresolved issues and concerns from directly affected persons (e.g., might include Indigenous peoples; directly affected landowners; shippers; federal, provincial and municipal agencies)
- changes, not considered in the original application, that affect the ability to exercise or practice Indigenous and treaty rights

The CER expects applicants to consider engagement for all projects. Please refer to [Chapter 3](#), section 3.4 for additional information on what should be included in a variance application.

O.3 Project updates

Guidance

The CER expects the company to notify (“update”) the CER of any non-substantive changes to an approved project, as soon as practicable, and prior to the completion of construction. Non-substantive changes must not adversely impact environmental protection or safety of people and property. Some examples of non-substantive changes are provided below.

As they are of a non-substantive nature, project updates do not require a variance application unless the authorizing instrument indicates otherwise, e.g., by specifying or limiting the scope of project updates.

The filing will be assessed by the CER, but project updates will not receive a formal response from the CER unless the assessment results in a variance to regulatory instruments. There are no service standards associated with project updates.

Companies are expected to ensure that all project updates are shared with potentially affected parties as committed to in the originally approved application.

Examples of non-substantive changes (i.e. project updates) that do not require a variance application

General

- non-compliances that were identified during the construction phase, but were corrected at the time; notification details should include:
 - non-compliance summary including date;
 - activity that was in non-compliance to a commitment, condition or regulation (e.g., EPP, OPR, etc.);
 - steps taken to rectify the non-compliance; and
 - steps taken to ensure the non-compliance would not be repeated.
- incorporation of a new staging area for the project
- non-substantive expansion of a previously-approved temporary workspace
- filing additional documents with respect to historical or archeological resources (e.g., clearances)

Engineering

- adding or removing a light pole at a station entrance
- relocation of the suction and discharge station tie-in piping within a station
- increase or decrease in the size of buildings within a station
- change in length of the project pipe (up to 60 meters) with the same specifications as already approved
- addition of one valve/valve assembly with the same specifications as already approved
- updates to previously approved Leave to Open exemptions for tie-in assemblies, auxiliary systems and utility gas systems
- during fit-up, the addition of a new connection, including installation of a 'T' with the same specifications as already approved
- increased number of non-hydrotested field welds
- change in the number of tie-in assemblies
- change in type of valves
- additional station piping
- additional isolation valves
- partial additions to previously-approved exemptions for added components (e.g., Leave to Open, non-destructive examination)

O.4 Changes to Conditions

The CER considers the rights and interests of affected parties when setting conditions. It expects companies to comply with conditions and to proactively manage changes leading up to and during the construction and condition tracking phase of a project. However, it recognizes that there will be times when companies may require some relief including:

1. Relief requests from:

- timing of condition filings (e.g., to reduce the number of days a filing must be made prior to commencing construction or extend a post-construction filing)
- requirements of condition filings (e.g., a company files a request to not include certain details for proprietary reasons or certain components of the condition can no longer be satisfied)
- request to file a redacted document

A company seeking relief from a condition or a component of a condition must include:

- the reason the relief is required;
- the identity of all parties that have been notified or consulted on this request;
- a description of any issues or concerns raised;
- a description of how the applicant has addressed or will address any concerns or issues raised and when;
- a description of any outstanding concerns, including how the applicant intends to address any outstanding concerns, or an explanation as to why no further steps will be taken; and
- all information necessary to support the proposed relief.

The CER will issue a formal response regarding the relief request.

Next Steps ...

Companies are encouraged to include the completed relevant checklists from Appendix 1.