



## **Response to Public Comments on the CER Filing Manual revised Guides B (Abandonment) and K (Decommissioning)**

### **Outreach on the Draft Guides**

Draft revisions to Filing Manual Guides B (Abandonment) and K (Decommissioning) were posted on the CER Filing Manual Updates page for a 45-day public comment period from 1 March to 14 April 2021. Marked-up versions, a brief introductory discussion paper and CER email contacts were provided to encourage comments from any interested party. These materials were linked to a banner on the CER home page.

In considering and incorporating the comments, the CER is mindful that the Filing Manual is intended to provide direction and guidance regarding the information the CER would typically expect to see addressed in a filing. The Filing Manual cannot create a new requirement that does not exist in the relevant legislation.

As the CER's objective was to support broad external engagement and feedback opportunities on the drafts, overview presentations were provided to the TMX and Line 3 Indigenous Advisory and Monitoring Committees (IAMCs), CAPP (Canadian Association of Petroleum Producers), CEPA (Canadian Energy Pipeline Association), and Enbridge, and a newsletter item was provided to the CER Land Matters Group. Heads-up emails were sent to pipeline companies, ENGOs, Indigenous communities and organizations, landowner associations, municipal organizations, and other groups, with links to the proposed revisions.

For additional background, please refer to the [Regulatory Context and Summary of Gaps for Guides B and K](#), posted previously on this page.

Written comments were received from CAEPLA (Canadian Association of Energy and Pipeline landowner Associations), CEPA, Enbridge, Stantec, TC Energy, and UPA (Union des producteurs agricoles). All comments were posted on the Filing Manual Updates page. In general, feedback on Guides B and K was similar and often interchangeable due to the overlapping content of the Guides. The CER found the feedback and written comments to be valuable.

### **Public Comment Summary and CER Response**

Below is a high-level summary of the comments received, and CER's response to how these comments were considered. This includes identification of some areas where comments were not considered at this time, and a description of the approach on how CER intends to address those comments.

The comments accepted include:

## General

- GPS data coordinates should be able to be derived using the best available source(s).
- Monitoring plan requirement should be elaborated to provide more detail around what needs to be monitored, and the time frame of monitoring.

## Engineering

- Engineering sections are entirely focused on requirements for linear pipelines and should address other facilities.

## Environmental and Socio-economic Assessment

- Better alignment needed in the level of environmental information requirements (e.g., Environmental and Socio-economic Assessment and Environmental Protection Plans) with other application types.
- Include specific considerations and requirements regarding agriculture and forestry.
- Consider future land use, land acquisition and lease agreements in determining the abandonment/decommissioning method.
- Provide additional detail/guidance regarding monitoring plan requirements (e.g., time frame of plan, risks to agricultural/forestry sectors). • Revise the wording “potentially impacted person and communities” to “individuals and communities which may be affected by the proposed abandonment/decommissioning”.
- Revise Tables 1 and 2 to address omissions in regards to the description of interactions column, and the addition of agricultural lands under land use. Split the Air and GHG emissions row into two rows.

## Access to Funds

- Provide requirements for accessing the funds for abandonment activities when it's an abandonment versus a decommissioning.
- Provide guidance re accessing the funds before abandonment activities are completed.
- Provide additional guidance around filing of an abandonment plan.

## Financial Instruments and Trusts

- Provide guidance re the Statement of Investment Policies and Procedures.
- Provide guidance on Letter of Credit wording.
- Provide guidance re filing of Letters of Credit and Surety Bonds.

## Revisions from the CER

- Add filing requirements and guidance around “Notice of Proposed Abandonment” in Guide B; similarly add engagement requirements in Guide K.
- Add reference to Indigenous rights assessment.
- Minor edits to ensure consistency in use of terms/wording throughout Guides B and K.

- Replace the use of the term “long term monitoring” with “Abandoned Pipeline Monitoring”.

Some feedback, while understood and appreciated, has not been incorporated into the revised Guides. The following four comments could be considered in the 2021 Abandonment Cost Estimates review that will provide interested parties with an opportunity for a detailed discussion:

- Require a copy of all landowner agreements in place with respect to the pipeline to be abandoned, including land acquisition agreements.
- Include details of any estimated costs for long-term maintenance and monitoring of pipelines abandoned in place, accommodation of future land development and changes in land use, contingency funds for unforeseen events, and all other post-abandonment activities and liabilities.
- Provide proof of notification to landowners of the application to access funds and describe what consultation with landowners has been completed and how landowner consultation has been considered in the proposed abandonment funding plan.
- Replace long-term monitoring to perpetual monitoring when referring to post abandonment funding.

Below are responses to other comments that the CER did not implement at this time:

- Confirm that abandonment activities and the abandoned pipeline will not impact agricultural operations and future land development.

Response: Requiring an applicant to confirm there will be no effects to agricultural operations and future land development is inconsistent with CER's overall approach to both assessment and monitoring/oversight.

- Require that the reclamation plan be based on new disturbances only.

Response: The CER requires an assessment of the entire Project footprint (including pipeline right(s)-of-way, facility site(s), temporary workspace for abandonment activities) upon completion of abandonment to ensure that equivalent land capability (or other appropriate reclamation or restoration goal) has been met.

- Revise Table 1 to adopt the Land use classification used by Agriculture and AgriFood Canada.

Response: The CER expects companies to undertake the most appropriate approach to classify land use based on the project-specific circumstances and what best demonstrates the predicted environmental and socio-economic effects as a result of either abandonment method choice. Table 1 is provided as a template, and a note has been added indicating that companies should modify the table to ensure that all applicable land uses are identified.

- Require the company to explicitly confirm that abandonment activities and the abandoned pipeline will not affect current and potential forestry and agricultural land use.

Response: Requiring an applicant to confirm there will be no effects to current and potential forestry and agricultural land use is inconsistent with CER's overall approach to both assessment and monitoring/oversight.

### **Next Steps**

The revised Guides B and K have been published on the CER website and are now in effect. Per previous practice, a banner notice will be displayed on the CER home page, and a broad list of interested parties will receive an email linking to the new Guides.