

ENVIRONMENTAL ASSESSMENT OFFICE >>
FAIRNESS AND SERVICE CODE



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FOREWORD

The *Fairness and Service Code* for the Environmental Assessment Office (EAO) has been developed to give project proponents, First Nations and the public an understanding of what can be expected during a provincial environmental assessment.

This *Code* begins by outlining the basic steps in an environmental assessment. It also sets out the EAO's guiding principles and the service standards that will be applied by the EAO in its dealings with interested parties.

British Columbia is well served by our environmental assessment process. I hope that this *Code* assists persons to better understand how these assessments are done and the basis upon which this work is undertaken.



HONOURABLE BARRY PENNER
MINISTER OF ENVIRONMENT



INTRODUCTION

The Environmental Assessment Office (EAO) manages the assessment of proposed major projects in British Columbia as required by the *Environmental Assessment Act* (Act). The assessment process examines major projects for potentially adverse environmental, economic, social, heritage and health effects that may occur during the life cycle of these projects. The process includes:

- opportunities for the involvement of all interested parties;
- consultations with First Nations;
- technical studies to identify and examine potential significant adverse effects;
- strategies to prevent, or reduce, adverse effects; and,
- development of comprehensive reports summarizing input and findings.

What projects are reviewable?

Projects that may need to go through the environmental assessment process include the following:

- industrial projects: chemical manufacturing, primary metal and forest product industries;
- energy projects: power plants, electric transmission lines, natural gas processing or storage plants and transmission pipelines;
- water management projects: water diversions, dams, dykes, groundwater extraction;
- waste disposal projects: special waste facilities, local government solid and liquid waste management facilities;



- mine projects: coal and mineral mines, sand and gravel pits, placer mineral mines, construction stone and industrial mineral quarries and off-shore mines;
- food processing projects: meat and meat products manufacturing and fish processing;
- transportation projects: large public highways and railways, large ferry terminals and marine ports; and,
- tourist destination resort projects: large golf, marine, or ski hill destinations.

Projects become reviewable in three ways:

1. The Reviewable Projects Regulation provides for a broad range of major projects to be automatically reviewable if they meet certain thresholds; such as, area or production volume. Most major projects are reviewable based on this regulation.
2. Ministerial Designation by the Minister of Environment who has the authority to direct the review of projects which are not automatically reviewable under the Reviewable Projects Regulation.
3. Proponent “opt-in” whereby a proponent may request that the EAO consider designating its project (that otherwise would not be reviewable) as a reviewable project, and the EAO agrees with and orders such a designation.



STAGES IN A REVIEW

There are two stages in an environmental assessment – pre-application stage and application review stage. After the application review stage, the Minister may issue an environmental assessment certificate, allowing the proposed project to proceed.

Pre-Application

The purpose of the pre-application stage is to ensure that when an application for an environmental assessment certificate is reviewed it contains the necessary information to allow the EAO to undertake its assessment and make recommendations to the Ministers making the decision. The pre-application phase includes the following key steps:

- » review of project description to determine whether the project is reviewable;
- » issuance of a section 10 order confirming that a proposed project is reviewable;
- » issuance of a section 11 order specifying the scope, procedures, and methods by which a review must be conducted;
- » establishment of a working group composed of representatives of First Nations and various government agencies;
- » preparation of draft terms of reference that specify the matters that must be studied and information that must be included in an application;
- » review and comment on the draft terms of reference by the working group, First Nations and the public. This stage typically includes an open house where the terms of reference (and the project generally) are discussed;



- » finalization of the terms of reference;
- » completion by the proponent of studies and information gathering as specified in the terms of reference;
- » submission of the application by the proponent; and,
- » evaluation by the EAO within 30 days to determine whether the application provides information on all matters required by the terms of reference (including proposed commitments by the proponent to address any potential adverse effects).

Other than this 30-day evaluation period, neither the Act nor the regulations impose time limits on the EAO during the pre-application phase.

Application Review

During the application review stage the application is provided to the working group and First Nations for review and comment. It is also made publicly available for review and comment, and the comments received during the public comment period are posted on the EAO's website.

Based on this feedback, the EAO works with the proponent and interested parties to resolve outstanding concerns wherever possible. This may include securing further commitments or modifications to the proposed project.



If concerns exist despite these efforts, the EAO will assess whether the project is likely to cause significant adverse effects. If so, the EAO will further consider whether any such effects may be justified in the circumstances, given the benefits and opportunities that the proposed project is expected to provide.

In practice, findings of significant adverse effects are typically avoided based on the extensive dialogue that occurs between the EAO, the proponent and interested parties, and in light of the extensive commitments and conditions that are included in environmental assessment certificates.

The Prescribed Time Limits Regulation requires that the application review be completed within 180 days. The EAO can extend this time frame if requested by the proponent, or if further information is required to complete the environmental assessment.



Ministerial Decision

Upon completion of the application review stage, the EAO provides an assessment report and makes recommendations jointly to the Minister of Environment and to the Minister responsible for the project sector.

The Ministers may decide to certify a project, decline to certify a project, or require further study.

A decision must be made by the Ministers within 45 days of receiving the assessment report.



GUIDING PRINCIPLES

The EAO will be guided by the following principles:

Fairness

- » The EAO will undertake objective environmental assessments and will give full and fair consideration to all interests.

Transparency

- » Policies will be available on the EAO website, and will be updated as required.
- » Information will be provided about the environmental assessment process and how to participate in it.
- » Information and records relating to environmental assessments will be available on the EAO website.
- » Reasons will be provided for all decisions and recommendations made to the Ministers.

Inclusiveness

- » The EAO will provide opportunities for all interested parties to participate in the environmental assessment process.

Comprehensiveness

- » The EAO will deliver a comprehensive assessment report at the conclusion of each environmental assessment that considers the proposed project's potential significant adverse environmental, economic, social, heritage and health effects.

Efficiency

- » The EAO will promote the efficient use of resources by all participants at all stages.



SERVICE STANDARDS

The EAO has established the following service standards for proponents, First Nations and the public generally.

Proponents

Timeliness

- » The EAO will manage the pre-application and application review stages to support a timely and effective assessment process.
- » The EAO will respect the right of proponents to decide whether or not to seek a suspension of the 180-day application review period (recognizing that the EAO itself can suspend the time limit in specified circumstances).

Consultations with First Nations

- » The EAO will clearly indicate its expectations of proponents in relation to First Nations and the Crown's duty to consult. This may include directing proponents to:
 - involve First Nations in relevant studies;
 - incorporate community and traditional knowledge into baseline studies;
 - identify First Nation interests that may be affected by a proposed project; and,



- identify and develop measures to prevent, avoid or mitigate any potential significant adverse effects on First Nations' interests.
- » The EAO encourages proponents to explore benefit-sharing agreements with First Nations where the parties consider that to be in their mutual interest. The EAO will consider any information it receives regarding such agreements when assessing the impacts of a proposed project. However, such agreements are not considered preconditions to the completion of the review process or to a decision by the Ministers.

Early identification of potential concerns and challenges

- » The environmental assessment will identify and evaluate potential effects of a proposed project as early in the process as possible, allowing time for adjustments to be made before design decisions are finalized.

Minimizing duplication and overlap with federal reviews

- » Where federal and provincial reviews are both undertaken for the same project, the EAO will seek to harmonize reviews in keeping with the *Canada-British Columbia Agreement on Environmental Assessment Cooperation*.



- » The EAO is committed to exploring options to have only one jurisdiction undertake a review in appropriate circumstances. This may include agreements under section 27 of the Act to accept the reviews of other jurisdictions as equivalent, or exploring options for delegation to the Province of certain aspects of federal reviews.

First Nations

- » The EAO is committed to working constructively with First Nations to ensure that the Crown fulfills its duties of consultation and accommodation.

The EAO is guided by the following principles:

Respect

- » The EAO's relationship with First Nations is based on respect for the asserted and established Aboriginal rights, Aboriginal title, and treaty rights of First Nations.
- » First Nations have a right to be consulted in accordance with principles established by the Supreme Court of Canada in *Haida v. British Columbia (Minister of Forests)* and related case law.

Capacity

- » The EAO provides a limited amount of funding to assist First Nations to participate in the review process, particularly those aspects of the review process where the EAO is engaged in direct discussion with First Nations.



- » The EAO encourages proponents to provide First Nations with additional capacity funding to participate in other aspects of the environmental assessment, such as engagement with the proponent during studies and information gathering.

Government-to-government dialogue

- » The EAO will provide First Nations with an opportunity to be consulted on a government-to-government basis. This is in addition to the invitation to participate as members of the working group.
- » The EAO will consult First Nations on draft assessment reports, and will afford First Nations an opportunity to have their views on draft assessment reports included in the package of materials sent to the Ministers when a project is referred for a decision.

Dealing with differences

- » If differences arise between the EAO and First Nations concerning the nature and extent of consultation or accommodation required, or whether the Crown’s duties have been met, the EAO will seek to resolve them consensually. In any case where that is not possible, the EAO will provide a clear explanation of its position.

The Public

Opportunities for involvement

During the pre-application stage, the public can be involved by:

- » providing input on what issues the environmental assessment should examine;



- » participating in public meetings, open houses, and other public forums arranged by the proponent or the EAO; and,
- » following the process through the EAO's website at www.eao.gov.bc.ca.

During the application review stage, further opportunities for public involvement include:

- » participating in public meetings, open houses, and other public forums arranged by the proponent and/or the EAO; and,
- » reviewing the application and submitting comments on the proponent's studies, analyses and conclusions.

Consideration of views

The EAO's assessment report documents all interested parties' views. The assessment report is referred to the Ministers at the end of the assessment and is considered by the Ministers when deciding whether to issue an environmental assessment certificate.

Access to information

The EAO maintains an online Project Information Centre to provide public access to project information.

Information on the review process and the documentation required for a particular project, including the proponent's application for an environmental assessment certificate, can be accessed through the EAO's website at www.eao.gov.bc.ca.



QUESTIONS OR COMMENTS

If you have any questions or comments about the process, or our services, or are seeking additional information, please contact us at:

Environmental Assessment Office

PO Box 9426 Stn Prov Govt
Victoria BC V8W 9V1

Phone: 250 356-7441

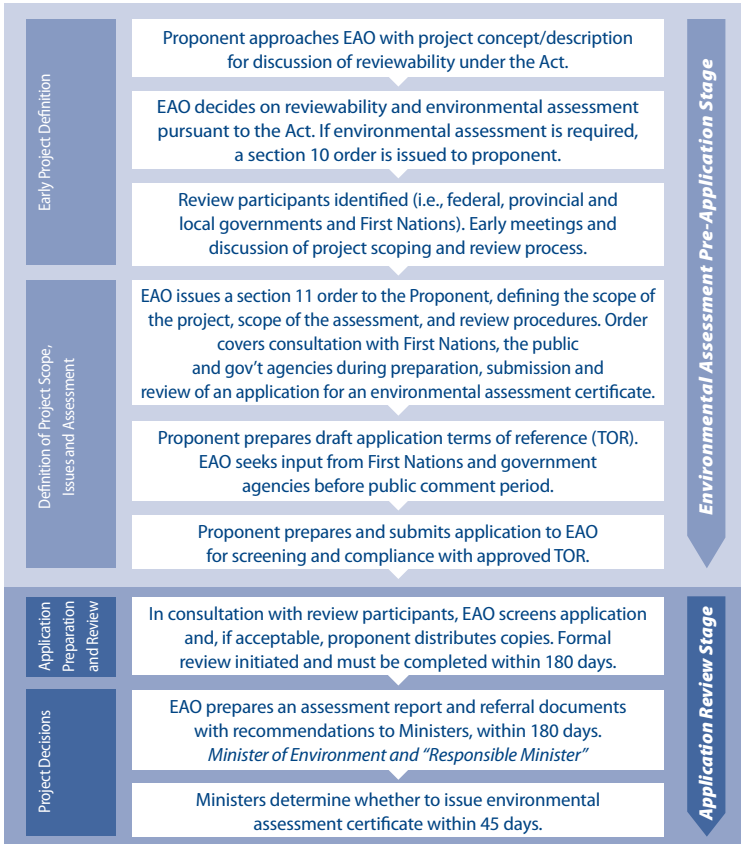
Fax: 250 356-7440

Email: eaoinfo@gov.bc.ca

www.eao.gov.bc.ca



ENVIRONMENTAL ASSESSMENT PROCESS CHART





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www.eao.gov.bc.ca



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