

Complaint Guidance

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EAO

Environmental
Assessment Office

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1.0 PURPOSE

This document provides guidance for individuals on how to make a complaint about a project covered by the *Environmental Assessment Act* (Act).

This document is a companion to the EAO's Compliance and Enforcement Policy and Procedures¹.

2.0 INTRODUCTION

Projects included in the Reviewable Projects Regulation under the Act require an Environmental Assessment Certificate (certificate) or an Exemption Order (order) under Section 17(1)(b) of the Act before proceeding with construction and operation.

The Holder must design, build, operate and, if applicable, decommission the project in accordance with the certificate or order.

The Environmental Assessment Office (EAO) Compliance and Enforcement (C&E) branch is responsible for compliance oversight of certificates and order and reviewable projects that have not yet obtained a certificate or order.

In this document the term Environmental Assessment (EA) project is used to refer to all reviewable projects including those with or without a certificate or order.

3.0 COMPLAINTS

EAO Compliance and Enforcement (C&E) Officers (Officers) routinely respond to complaints received from Indigenous nations, members of the public, non-government organizations and other government agencies such as the Oil and Gas Commission, the Ministry of Energy and Mines, the Ministry of Forests, Land, and Natural Resource Operations, the Conservation Officer Service, and the Canadian Environmental Assessment Agency.

3.1. How to Make a Complaint

Anyone who observes an activity they believe may be a non-compliance for a given EA project can make a complaint to EAO C&E. EAO C&E evaluates and responds to all complaints and advises complainants of how their complaint was addressed.

You (the complainant) can contact EAO C&E by e-mail by sending an e-mail to eaocompliance@gov.bc.ca. Please include "COMPLAINT" in the subject line of the e-mail and the name of the EA Project, if known.

3.2. Complaint Information

When you make a complaint, please provide as much of the information listed below as possible. The more detailed information provided in the complaint, the easier it will be for the Officer to follow-up on the complaint and the faster it can be resolved.

- What is the name of the EA project that the alleged non-compliance is connected to?

¹ For a copy of the Compliance and Enforcement Policy and Procedures, see the EAO's Compliance and Enforcement webpage at: <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/compliance-and-enforcement>

- What did or did not happen to make you think a non-compliance occurred? For example, did sediment from a road wash into a fish bearing stream or was an EA project supposed to send you a report by a specific date and failed to do so?
- When did the alleged non-compliance occur? If possible, write down the exact date and time of the alleged non-compliance.
- Did anyone else witness the alleged non-compliance? The names of witnesses and their contact information are often helpful when reviewing complaints.
- Where did the alleged non-compliance occur? A detailed description of the location is helpful when reviewing complaints. For example, include the stream name, physical address or global positioning system (GPS) coordinates if possible.
- Did you take photographs or video of the alleged non-compliance that can be shared with Officers?
- Do you have any other records or information documenting the alleged non-compliance you think may be helpful? For example, license plates or machine numbers.
- How can we contact you? Providing contact information will allow Officers to contact you if they need to confirm details at a later date or to ask further questions. Complainants can ask to remain confidential or be anonymous.
 - If you wish to remain confidential, the Officer will need to know your identity to be able to contact you for any further details or information. Your identity will not be supplied to the party you are making a complaint about or be included in any formal reports as a result of the complaint. Officers will be able to contact you with the findings of the complaint review.
 - If you choose to remain anonymous, do not divulge your name or contact information. Officers will not be able to contact you for further details or information and they will not be able to contact you with the findings of the complaint review.

3.3. Complaint Review Process

During a complaint review, Officers will:

3.3.1. Document and confirm the nature of the complaint

The Officer will document and review the complaint and:

- Confirm whether the complaint relates to an EA project. If the complaint does not relate to an EA project the Officer may:
 - Assist the complainant with finding a contact person at the appropriate agency to review the complaint; or,
 - Forward the complaint to the appropriate agency and notify the complainant.
- Determine if the complaint is specific to an EA requirement, or if other regulatory requirements have been breached. If necessary, Officers will work with additional agencies to determine which agency will lead the complaint review.

3.3.2. Gather and review information

If there are sufficient grounds for an Officer to determine that a non-compliance may have occurred, the Officer may gather additional information related to the complaint. This may include:

- Conducting field or administrative inspections or investigations;
- Requesting information from the EA project; or,
- Requesting additional information from the complainant.

If an Officer becomes aware of a possible violation of other regulatory requirements, the Officer may record and report that information to the appropriate agency.

3.3.3. Provide an opportunity to respond

If a complaint review indicates that an alleged non-compliance has occurred, Officers will provide the EA project with an opportunity to respond to the findings in accordance with the principles of administrative fairness². The opportunity to respond ensures there are no factual errors in the EAO's analysis of the information related to the complaint.

3.3.4. Proceed with enforcement, if appropriate

If a non-compliance is confirmed, the Officer will determine if an enforcement response is appropriate.

If enforcement is appropriate, the EAO may consider issuing:

- A warning through an inspection report;
- A Section 3: Minister's Order to Prevent, Cease or Remedy;
- A Section 60 administrative monetary penalty; or,
- A Section 56: Suspension, Cancellation or Amendment of Certificate.

If enforcement is not appropriate, the Officer may document and notify the EA Project of the non-compliance and require them to correct it rather than issue enforcement action. For more information on how the EAO responds to non-compliances see the EAO's Compliance and Enforcement Policy and Procedures.

3.3.5. Follow up with the complainant

After the complaint review is complete, the Officer will follow up with complainant to identify how the complaint was addressed.

² Administrative fairness means the following: The duty to act in good faith and without bias in making a statutory decision, to give each party an opportunity to know the case against them and provide a response, and for only the person who hears the case to decide it.

Transparency and accountability are important considerations during the course of a complaint review. Therefore, during the review process Officers will make all efforts to share with you any information that can be shared with respect to the complaint.

However, for reasons of administrative fairness, Officers will not at any time:

- Release information which could compromise or impede the complaint review; or,
- Publicly release or discuss the findings until the EA project has been given an opportunity to respond and the results have been finalized.

If a complaint results in an inspection, the final inspection report will be posted on the EAO's website.

Please note that some complaints are resolved quickly within a few days, while others can be highly technical in nature and take much longer to resolve. If this is the case with your complaint, the Officer will provide you with brief, high-level updates on the status of your complaint during the complaint review process in accordance with the information above.

Inspection Reports and Enforcement Actions

The EAO publicly posts all finalized inspection reports and enforcement actions for each EA project on the EAO Project Information and Collaboration webpage (EPIC). EPIC is available at:
<https://projects.eao.gov.bc.ca/>

4.0 QUESTIONS

If you have any questions about complaints or EAO C&E, please e-mail eao.compliance@gov.bc.ca.