Guide to Compliance Self-Reports

VERSION 1.0

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1.0   PURPOSE

Environmental Assessment Certificates (certificates) and Exemption Orders (orders) issued under section 17(1)(b) of the Environmental Assessment Act (Act) have requirements for Holders to submit compliance self-reports. This document provides guidance to holders on:

- The information requirements for compliance self-reports;
- How compliance self-reports are reviewed and publicly posted; and,
- How to submit compliance self-reports to the EAO.

2.0   INTRODUCTION

Certificates/orders regulate major project development in British Columbia. The certificate/order sets out the permissible infrastructure and activities of a project as well as mitigation measures required to prevent or reduce adverse effects.

3.0   COMPLIANCE SELF-REPORTS

Compliance self-reports are one of several regulatory tools used by the EAO to verify the compliance of a Holder with their certificate/order. Typically, certificates/orders require Holders to disclose the actions they have taken to achieve compliance with conditions through the submission of self-reports at various points in the project life cycle. The frequency of the compliance self-report is set out in the certificate/order for each project. Typically, five reporting timelines are considered for inclusion in a certificate/order:

- X number of days prior to the Holder's planned date to start construction;
- Regular intervals during construction;
- X number of days before the Holder's planned date to start of operations;
- Regular intervals during operations; and,
- X number of days before and after decommissioning (if applicable).

Reporting timelines are typically less frequent in the case of orders.

Compliance self-reports are legally required. Failure to submit a completed compliance self-report by the date specified in the certificate/order is a non-compliance. EAO posts compliance information for certificates/orders on its website and may include reports on a Holders compliance history for submitting compliance self-reports.

3.1.   Compliance self-report content

Compliance self-reports address all of the conditions in a certificate/order. The amount of information for each condition included in a self-report varies and depends on the phase of the project and actions taken by the Holder to achieve compliance. In addition to reporting compliance status, the information provided in a compliance self-report gives EAO and the public an understanding of the work completed on a major project.

3.2.   Personal Information

Compliance self-reports are posted on the EAO's website. Self-reports should not include personal information, such as name, address or phone number for any individual consulted for a condition. This type of sensitive personal information is

subject to the Freedom of Information and Protection of Privacy Act. EAO will contact you for this information if it is needed.

3.3.   Creating a Compliance Self-Report

To create a self-report, follow these steps:

- transfer all conditions from schedule B of the certificate/order into an excel spreadsheet;

- add three additional columns to the right of the condition's column;

- Title the additional three columns as:
    - "Activity to fulfill condition requirements;"
    - "Condition Status: complete, ongoing or to be initiated;" and,
    - "Holder's Assessment of Compliance Status."

See Appendix A for the compliance self-report template.

3.3.1.   Activity to Fulfill Condition Requirements

In this column include the following:

- Any actions taken to date related to the condition;

- In the case of non-compliance, any actions taken to resolve the non-compliance; and,

- A high-level description of any planned actions related to this condition yet to take place.

Including information about confirmed or potential non-compliances with conditions is a requirement of the compliance self-report and must be disclosed in the report.

3.3.2.   Condition Status: complete, ongoing or to be initiated

Record whether you consider the condition to be complete, ongoing, or to be initiated. Consider the following when determining which label to use in this column:

- Is more work required to fulfill this condition?

- Will this condition be triggered again in a future phase of the project?

- Does the condition include a component for long term monitoring to determine whether the predicted impact has been appropriately mitigated?

If the answer to any of these questions is yes, then consider recording the condition as 'ongoing' or 'to be initiated'. If the answer to all of these questions is no, then consider whether it would be appropriate to record the condition as 'complete.'

3.3.3.   Holder's Assessment of Compliance Status

In this column, select the most appropriate compliance self-report label for the condition. There are four options:

- Future phase (FP): Use this label for a condition that applies to a future phase and work that has not yet started.

- o   For example, a condition may be specific to the operations phase of a project. If the project is currently in construction and not yet in operations, 'future phase' may be an appropriate compliance label providing there are no requirements that must be completed in construction in order to achieve compliance in operations.
- o   When using this label, fully consider all work required for a condition. For example, if the condition is primarily for operations but consultation for the condition must occur prior to operations during the construction phase, this label may not be appropriate.
- In compliance (IC): Use this label for a condition where the work triggered by the condition is ongoing or complete and compliance with the requirements of the condition is proven up to the point in time that the report is submitted.
  - o   For example, a condition requires that a Holder to monitor various fish species before, during and after construction. If the Holder has completed all required monitoring up to the point in time when the self-report is due, then "In Compliance" may be the appropriate compliance label.
- Out of compliance (OC): Use this label for a condition where the project is currently out of compliance with requirements.
  - o   Using the example above, 'out of compliance' may be the appropriate label if monitoring was completed, but the Holder was unable to complete the post-construction monitoring for one species in the required timing window due to equipment failure.
  - o   In addition to noting this issue in the self-report, notify EAO C&E of the non-compliance and planned actions to address it by sending an e-mail to *eao.compliance@gov.bc.ca*. Take any additional actions for non-compliances as required by the certificate/order.
- Ongoing compliance concerns (OCC): Use this label for a condition if you are having challenges achieving compliance; you are unsure whether your actions are achieving compliance, or you anticipate you will not be able to achieve compliance.
  - o   For example, a condition may require consultation or work with another party. If the other party is not able to, or chooses not to meet with the Holder, 'ongoing: compliance concerns' may be the appropriate label.
  - o   If this label is used, the Holder should notify EAO C&E of the compliance concern and planned actions to address it by sending an e-mail to *eao.compliance@gov.bc.ca*.

3.4.   Submitting compliance self-reports

Attach a cover letter to the self-report that summarizes:

- Any non-compliances identified in the self-report; and,
- Any actions taken by the Holder to resolve the non-compliance and any actions that are planned to resolve the non-compliance.

Self-reports must be submitted in a PDF file to the EAO by an e-mail sent to *eao.compliance@gov.bc.ca*.

4.0   FALSE OR MISLEADING INFORMATION

Holders must ensure that compliance self-reports do not contain false or misleading information. It is an offense under Section 62(2)(c) of the Act to provide false or misleading information to the EAO.

5.0   POSTING & REVIEW OF SELF-REPORTS

5.1.   Review of compliance self-reports

EAO staff will do an initial review of all compliance self-reports. The initial review of the report:

- Ensures the format matches the template in Appendix A and is suitable for posting on the public website; and,
- Determines whether follow up is required for noted non-compliances or compliance concerns.

If the format does not match the template, we will send the report back to the Holder for reformatting prior to posting. Self-reports submitted in the correct format will be posted to the public website within 7 days[1].

After a self-report is accepted, a C&E Officer may do a detailed review. Self-reports may be selected for detailed review at any time and are often selected for the following reasons:

- In preparation for an on-site inspection;
- During an administrative inspection; or
- In response to a complaint received about a project.

5.2.   Public posting of compliance self-reports

Compliance self-reports are posted publicly on the project information webpage maintained for each certificate/order on EAO's website.

Not all compliance self-reports are reviewed by EAO C&E for accuracy prior to posting. EAO C&E is not necessarily in agreement with the information submitted in each compliance self-report that is posted.

Is it the Holder's responsibility to be in compliance with the legally binding requirements of the Act, its regulations, and their certificate/order at all times.

6.0   QUESTIONS

If you have any questions about compliance self-reports or would like additional information about the review and posting process, please contact us by sending an e-mail to: *eaoinfo@gov.bc.ca* .

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[1] Self-reports are posted on the project page on the EAO's electronic project information center (EPIC). EPIC is available at: *https://www.projects.eao.gov.bc.ca/*

7.0   APPENDIX A

Format for Compliance Self-Reports:

Project Name and Environmental Assessment Certificate/Exemption Order number:
Date of Compliance self-report: in yyyy/mm/dd
Report timeframe (e.g, pre-construction, construction, operations, etc):
Compliance self-report prepared by: (insert name of the company and individual responsible for preparing the compliance self-report, including professional designation if applicable)

Condition #	Condition	Activity to fulfill condition requirements	Condition status: complete, ongoing, or to be initiated	Holder's Assessment of Compliance status
(insert condition number as shown on certificate/exemption order, if applicable)	(insert condition included in the certificate/exemption order)	In this column include: • Any actions taken to date related to the condition; • In the case of non-compliance any actions taken to resolve the non-compliance; and, • A high-level description of any planned actions related to this condition that have yet to take place • Do not include personal information, such as name, address or phone number for any individual consulted for a condition. EAO will contact you for this information if it is needed.	Enter 'complete' 'ongoing' or 'to be initiated' to indicate whether the work required to meet the condition has been completed, is ongoing, or has yet to be initiated	Enter the most appropriate compliance self-report label for the condition

8.0   GLOSSARY

Certified project description – A legally-binding description of the project, including all of the project components and their locations with any required constraints. The document describes "what" is being certified by a certificate (i.e., the components of the project). By comparison, conditions describe "how" the project will be implemented. The Holder must design, build, operate and decommission (if applicable) the project in accordance with both the certified project description and conditions. Most certificates issued after June 2012 have certified project descriptions.

Conditions - Conditions describe "how" the project will be implemented. Conditions are legally-binding requirements that are set out in a certificate/order, and to which the Holder must adhere throughout the life of the project. Some of the conditions are procedural requirements common to all projects; others are project-specific and intended to prevent or reduce adverse effects to the five pillars (environment, economy, social, cultural and health) and/or Indigenous interests. Conditions were formerly called commitments; some older certificates use this term.

Environmental Assessment Certificate - A certificate issued to a proponent when the Minister of Environment and Climate Change Strategy and one other Minister approve a reviewable project. The certificate allows the project to proceed to permitting and other authorizations. The certificate sets out legally-binding requirements to which the Holder must adhere throughout the life of the project.

Exemption order – a legal order under section 17(1)(b) of the Act that allows a Reviewable Project to proceed without an environmental assessment provided the project is constructed, operated and decommissioned in accordance with the exemption order.

Holder - A person or an organization that has been issued an environmental assessment certificate or an exemption order, including a corporate entity, the government of Canada, the government of British Columbia, a municipality or regional district, another province, another jurisdiction, or an Aboriginal group.

Proponent - A person or an organization that proposes a reviewable project, including a corporate entity, the government of Canada, the government of British Columbia, a municipality or regional district, another province, another jurisdiction, or an Aboriginal group.

Table of Conditions - A list of legally-binding requirements called 'conditions' that are set out in an environmental assessment certificate/exemption order, and to which the Holder must adhere throughout the life of a project. The three main types of conditions are: template conditions applicable to all certificates, individual conditions used when the mitigation is known and well-defined, and management plan conditions used to group mitigation measures to address a common objective or topic.