

## PURPOSE

This bulletin provides proponents and Holders with an overview on:

- How to determine if your project needs an Environmental Assessment Certificate (Certificate) or Exemption Order (Exemption Order) under the *Environmental Assessment Act, 2018* (the Act)<sup>1</sup>;
- Sections 6 and 8 of the Act and why provincial permits cannot be obtained before a Certificate or Exemption Order is issued for a reviewable project;
- How to demonstrate your permit application is consistent with your Certificate or Exemption Order and the information to provide to other agencies when applying for a permit or approval for a major project; and,
- Where you can find more information on the EAO and its policies and procedures.

## INTRODUCTION

Major projects often require multiple authorizations from different agencies. It is the responsibility of the Holder to ensure:

- The project is developed consistent with the Certificate or Exemption Order; and,
- Any applications for subsequent permits or approvals are consistent with the Certificate or Exemption Order.

If you have a Certificate or Exemption Order, taking the steps below can ensure compliance with your Certificate or Exemption Order and help agencies process your application.

## DOES MY PROJECT REQUIRE A CERTIFICATE OR EXEMPTION ORDER?

Section 6 of the Act states that, despite any other enactment a Certificate or Exemption Order must be obtained before a reviewable project can be undertaken or constructed, operated, modified, dismantled or abandoned.

### Is my project reviewable?

To determine if your project requires a Certificate or Exemption Order, consult the Reviewable Projects Regulation<sup>2</sup> (Regulation). The Regulation lists the types of projects in B.C. that must obtain a Certificate or Exemption Order before they can be constructed. In addition to Section 6 of the Act, the Minister may also designate a project as a reviewable project under Section 11 of the Act and the Chief Executive Assessment Officer (CEAO) may designate a project as reviewable under Section 12 of the Act.

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<sup>1</sup> The *Environmental Assessment Act* is available on BC Laws at: <http://www.bclaws.ca/civix/document/id/complete/statreg/18051>

<sup>2</sup> The Reviewable Projects Regulation is available on BC Laws at:  
[http://www.bclaws.ca/civix/document/id/complete/statreg/243\\_2019](http://www.bclaws.ca/civix/document/id/complete/statreg/243_2019)

If your project is included in the Regulation, it is best practice to contact the sector lead listed on the EAO's website to determine next steps<sup>3</sup>. Some projects that trigger the Regulation may be candidates for an exemption process rather than a full Environmental Assessment (EA) process.

If your first point of contact is with another provincial agency, they may ask if:

- The project is a reviewable project; and,
- An application for a Certificate or Exemption Order has been submitted.

## Notifications

Even if your project is not a reviewable project, you may need to submit a Project Notification under Section 10 of the Act. For more information on Project Notifications, see the Section 10 – Project Notification Policy on the EAO's 2018 Guidance documents webpage available here: [https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act/project\\_notification\\_policy\\_v10.pdf](https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act/project_notification_policy_v10.pdf)

## HOLDER RESPONSIBILITIES

Holders are responsible for ensuring that:

- Subsequent permits and authorizations are consistent with the Certificate or Exemption Order; and
- They obtain amendments to the Certificate or Exemption Order if they want to do something with their project that is not authorized by the Certificate or Exemption Order.

## Subsequent permitting

Section 8 of the Act prohibits permitting officials in British Columbia from:

- Issuing permits or other authorizations for a person to carry out a reviewable project until a Certificate or Exemption Order has been obtained; or,
- Issuing any permit or authorization that is not consistent with the Certificate or Exemption Order issued by the EAO.

This means that a Certificate or Exemption Order **must first be obtained** before you obtain any subsequent permits or authorizations required for the project. However, it is important to note that you can apply for subsequent permits and authorizations during the EA. These permits and the timing of their review are identified during Early Engagement and included in the Regulatory Coordination Plan developed during Process Planning.

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<sup>3</sup> Sector leads and contact information are available on the EAO's website here:

<https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/contact-us>

For more information on the Regulatory Coordination Plan and the Process Planning phase see the Process Planning Policy on the EAO's guidance documents website here: [https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act/process\\_planning\\_policy\\_v1\\_-\\_april\\_2020.pdf](https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act/process_planning_policy_v1_-_april_2020.pdf)

Section 8 of the Act also means that permitting officials in B.C. cannot issue an approval to undertake or construct, modify or operate the facilities of a reviewable project unless those activities are authorized by a Certificate or Exemption Order. For a permit or other authorization to be in accordance with Section 8, there must be a Certificate or Exemption Order in place that authorizes what is being sought by the approval. This means that although you can apply for subsequent permits and authorizations during the EA, they cannot be issued until a Certificate or Exemption Order has been obtained. Any application for permits and approvals must be consistent with the Certificate or Exemption Order. Agencies may ask for confirmation that your application is consistent with the Certificate or Exemption Order and you can provide agencies with the Certificate or Exemption Order so the agency can:

- Ensure that it can issue the permit or approval; and,
- Confirm with the EAO that the permit or approval is consistent with the Certificate or Exemption Order.

Note: Section 8 does not apply to permits or authorizations issued by federal agencies.

## Section 32 – Amendments

If you would like to do something concerning your project that is not authorized by the Certificate or Exemption Order, you must seek an amendment. You are encouraged to contact the EAO as early as possible once you have determined that you require an amendment. This will facilitate, in many circumstances, a concurrent review process amongst the EAO and the agencies responsible for issuing permits or other authorizations to avoid duplication of effort and minimize delays. You can apply for an amendment to a Certificate or an Exemption Order under Section 32 of the Act.

Certificates and Exemption Orders may also be amended if an agency issuing an approval for the project under another enactment recommends an amendment. For further information on amendments, see the Certificate Amendments Policy on the EAO's guidance documents website here: <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act-guidance-materials>.

## ADDITIONAL RESOURCES

Further detailed resources on the 2018 Act, including policies and procedures related to the EA process, are available on the EAO's 2018 Guidance documents webpage available at this link:

<https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act-guidance-materials>

Resources on compliance and enforcement are available on the EAOs Compliance and Enforcement webpage available at this link: <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/compliance-and-enforcement>