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Environmental Assessment Act

ENVIRONMENTAL ASSESSMENT FEE REGULATION

Contents

Part 1 — Definition
1 Definition

Part 2 — Preliminary Fees
2 Fee for certificate exemption
3 Fee for assessment determination

Part 3 — Application Fees
4 Fee for environmental assessment certificate
5 Time and fee for deadline extension
6 Fee for amendment to environmental assessment certificate

Part 4 — Enforcement Fees
7 Fee for inspection
8 Fee for compliance report review

Part 5 — Orders
9 Orders to pay fees

Part 1 — Definition

Definition

1 In this regulation, **"Act"** means the *Environmental Assessment Act*.

Part 2 — Preliminary Fees

Fee for certificate exemption

2 On making an order under section 10 (1) (b) of the Act, the executive director may make an order requiring the payment of a fee of $10 000.

Fee for assessment determination

3 (1) An order requiring the payment of a fee of $75 000 may be made by

(a) the executive director, on making an order under section 11 of the Act, or

(b) the minister, on making an order under section 14 of the Act.

(2) The executive director or the minister, as applicable, may reduce the fee that must be paid under subsection (1) to $45 000 if satisfied that the matter warrants this, having regard to all of the following:

(a) the size and scope of the reviewable project, including consideration of

(i) both on-site and off-site facilities and activities, and

(ii) the extent to which the reviewable project involves the use of new technologies or methods that are experimental or unusual, or are otherwise not proven or well understood;

(b) the location of the reviewable project, including identification of

(i) the municipalities and regional districts in which the reviewable project or associated facilities and activities are located,

(ii) the treaty first nations, if any, who have treaty rights that may be adversely affected by the reviewable project, including with whom consultation is required under section 29.1 of the Act, and

(iii) the first nations, if any, who have asserted or proven aboriginal rights that may be adversely affected by the reviewable project;

(c) the current condition of the land base on which the reviewable project will be located;

(d) the potential for significant adverse environmental, economic, social, heritage or health effects that may be posed by the reviewable project, considered both specifically and cumulatively.

(3) The executive director or the minister, as applicable, may reduce the fee that must be paid under subsection (1) to $25 000 if satisfied of both of the following:

(a) that the nature and scope of the reviewable project is significantly less complex than the majority of projects;

(b) that the making of a determination under section 11 or 14 of the Act, as applicable, has incurred significantly fewer costs than the majority of projects usually incur.

Part 3 — Application Fees

Fee for environmental assessment certificate

4 (1) On receiving an application under section 16 (1) or (6) of the Act for an environmental assessment certificate, the executive director or the minister, as applicable, may make an order requiring the payment of a fee as follows:

(a) $112 500, if the proponent was subject to an order under section 11 or 14 of the Act before this section came into effect and no fee has been paid under section 3 of this regulation;

(b) $75 000, if the proponent was required to pay a fee of $75 000 under section 3 (1) of this regulation;

(c) $45 000, if the proponent was required to pay a fee of $45 000 under section 3 (2) of this regulation;

(d) $25 000, if the proponent was required to pay a fee of $25 000 under section 3 (3) of this regulation.

(2) If an application under section 16 (1) or (6) of the Act is resubmitted, an order may be made under subsection (1) in respect of the original application or the resubmission, but not both.

(3) The executive director or the minister, as applicable, may reduce the fee that must be paid under subsection (1) (a) of this section to

(a) $67 500, if satisfied that the matter warrants this having regard to all of the matters described in section 3 (2), or

(b) $37 500, if satisfied that the matter warrants this having regard to all of the matters described in section 3 (3).

Time and fee for deadline extension

5 (1) The holder of an environmental assessment certificate who intends to make an application under section 18 (2) of the Act for an extension of the deadline specified in the certificate must make the application no later than 9 months before the deadline expires.

(2) Despite subsection (1), the executive director may accept an application made less than 9 months before the deadline expires if satisfied that sufficient time remains to appropriately review the application.

(3) On receiving an application under section 18 (2) of the Act, the executive director may make an order requiring the payment of a fee of $10 000.

(4) The executive director may reduce the fee that must be paid under subsection (3) to $2 000 if satisfied that the matter warrants this, having regard to all of the following:

(a) the reasons given by the holder respecting why the holder wishes an extension of the deadline;

(b) the extent to which the reviewable project has been started, if at all;

(c) the factors, if any, that contributed to a delay of the reviewable project;

(d) any change in circumstances since the certificate was granted, including with respect to the matters described in section 3 (2), whether or not a fee reduction was granted under that section.

Fee for amendment to environmental assessment certificate

6 (1) On receiving an application under section 19 (1) of the Act to amend an environmental assessment certificate, the executive director may make an order requiring the payment of a fee of $10 000.

(2) The executive director may reduce the fee that must be paid under subsection (1) to $2 000 if satisfied that the amendment is minor, being merely technical or administrative in nature.

(3) Subject to subsection (4) of this section, the executive director may increase the fee that must be paid under subsection (1) of this section to $50 000 if satisfied that the amendment is complex, having regard to all of the following:

(a) the nature and scope of the amendment being sought;

(b) anything described in section 3 (2) that is relevant to the amendment being sought;

(c) the reasons given by the holder respecting why the holder wishes an amendment to the certificate.

(4) An increase under subsection (3) must not be made unless

(a) the holder is first given written notice of the intended increase and a reasonable opportunity to respond, in writing, and

(b) the executive director is satisfied that the determination of whether the amendment should be granted would likely incur significantly greater costs than $10 000.

Part 4 — Enforcement Fees

Fee for inspection

7 (1) In this section, **"inspection time"** includes time spent conducting the following activities for the purpose of assessing compliance with the Act, the regulations made under the Act, or the conditions of an environmental assessment certificate:

(a) planning an inspection;

(b) travelling to and from, and entering and inspecting, a site;

(c) reviewing information with respect to the construction, operation, modification, dismantling or abandonment of a physical work, including information already in the possession of, or readily available to, the executive director;

(d) preparing reports or other records following an activity described in paragraph (b) or (c).

(2) Subject to subsection (3), on completion of an inspection under section 33 of the Act, the executive director may make an order requiring the payment of a fee as follows:

(a) $1 700 for an inspection requiring at least 30 hours but less than 60 hours of inspection time;

(b) $4 500 for an inspection requiring at least 60 hours but less than 90 hours of inspection time;

(c) $6 500 for an inspection requiring 90 hours or more of inspection time.

(3) If an inspector is not required to travel for the purposes of an inspection under section 33 of the Act, the executive director may make, on completion of the inspection and regardless of how much inspection time is required, an order requiring the payment of a fee of $2 000.

Fee for compliance report review

8 (1) This section applies if a condition of an environmental assessment certificate requires that one or more reports be submitted to the executive director providing information with respect to the compliance of the certificate holder with other conditions of the certificate.

(2) On receiving and reviewing a report described in subsection (1), the executive director may make an order requiring the payment of a fee of $75.

Part 5 — Orders

Orders to pay fees

9 (1) An order made under this regulation must be directed to the following persons:

(a) in the case of an order made under any of sections 2 to 4, the proponent of the reviewable project;

(b) in the case of an order made under section 5 or 6, the holder of the environmental assessment certificate;

(c) in the case of an order made under section 7 or 8,

(i) the holder of the environmental assessment certificate, or

(ii) if no environmental assessment certificate has been issued in respect of a reviewable project, the person responsible for the reviewable project.

(2) A person who is subject to an order made under this regulation must comply with the order within the time stated in the order.

(3) If a person fails to comply with an order within the time stated in the order, the executive director or the minister, as applicable, may do one or more of the following:

(a) extend the time for compliance, if satisfied that it is reasonable to do so having regard to the extent of and the reason for the delay;

(b) if the order was made in respect of an application, deem the application to have been withdrawn and refuse to consider the application further;

(c) if the order was not made in respect of an application, refuse to consider a subsequent application made under the Act or to otherwise deal further with the person in respect of a reviewable project until the outstanding fee and all interest owing on it is paid;

(d) take any action permitted under the Act in respect of the failure to comply with an order.

[Provisions relevant to the enactment of this regulation: *Environmental Assessment Act*, S.B.C. 2002, c. 43, section 50 (2) (a) and (b) and (3)]

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