



# Amendments to Environmental Assessment Certificates and Exemption Orders - Guidance for Holders

VERSION 2.0

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ISSUED BY THE ENVIRONMENTAL ASSESSMENT OFFICE



**EAO**

Environmental  
Assessment Office

A stylized illustration of a mountain range in shades of blue and white, with a line of evergreen trees in white and blue at the base. The background is white, and the foreground is a solid blue band.

*This document provides guidance to help environmental assessment participants and the public better understand British Columbia’s environmental assessment process. It is not advice and does not replace requirements of the Environmental Assessment Act (2018) or its regulations or bind any decision-maker.*

*Note that the original version of this document, ‘Environmental Assessment Certificate and Exemption Order Amendment Policy’ has been renamed to ‘Amendments to Environmental Assessment Certificates and Exemption Orders – Guidance for Holders’ but is intended to provide the same level of information.*

### Version Control History

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Version 2.0	2024-01-11	<p>Updated to include: amendment project description and initial contact with the EAO</p> <p>Change made to language related to Indigenous nations / First Nations throughout to align with B.C.’s distinctions-based approach</p> <p>Updated predicted timelines under the new Act</p> <p>Added a frequently asked questions section</p>	Chris Trumpy, Deputy Chief Executive Assessment Officer

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## ACRONYMS AND ABBREVIATIONS

<b>Act</b>	<i>Environmental Assessment Act</i> (2018)
<b>Application</b>	Amendment Application
<b>CAC</b>	Community Advisory Committee
<b>CEAO</b>	Chief Executive Assessment Officer
<b>EA</b>	Environmental Assessment
<b>Certificate</b>	Environmental Assessment Certificate
<b>EAO</b>	Environmental Assessment Office
<b>EPIC</b>	Electronic Project Information Centre
<b>TAC</b>	Technical Advisory Committee

## DEFINITIONS

**Amendment:** An amendment is any modification to an existing Certificate or Exemption Order, including to the Certified Project Description or Table of Conditions, or equivalent documents.

**Amendment Application Information Requirements or AAIR:** Information that must be included in the Amendment Application.

**Amendment Application:** The formal request for a proposed amendment submitted to the CEAO before the Amendment Assessment can begin.

**Amendment Assessment:** An assessment under the *Environmental Assessment Act* (2018; the Act) of a reviewable project's potential effects that is conducted in relation to an Application for an amendment of an environmental assessment certificate.

**Amendment Procedures:** The procedures and methods for the Amendment process, including Assessment of the Amendment. The Amendment Procedures are determined under [Section 32\(2\)](#) of the Act after the submission of the Amendment Project Description.

**Amendment Project Description:** Concise description of the proposed Certificate or Exemption Order changes to begin engagement and planning the amendment process.

**Community Advisory Committee (CAC):** A group of interested members of the public with the information to identify issues and provide advice related to the project's effects on the community during an assessment.

**Environmental Assessment Certificate (Certificate):** A legally binding authorization that identifies a project's facilities and activities, and how the project must be carried out from start to finish. Certificates also state how mitigation measures to avoid, minimize, restore or offset a project's effects must be implemented. The Holder of the Certificate must design, build, operate and, if applicable, decommission the project as described. Once a project has a Certificate, it can continue to other types of required permitting processes prior to construction and operation.

**Exemption Order:** Despite being a reviewable project, a project may meet criteria to be recommended for exemption from the EA process. Upon this recommendation, the Minister may issue an Exemption Order, which is a legally binding authorization that states what facilities and activities can occur without the need for an EA.

**Former Act:** Any Act in force before December 16, 2019, under which a Certificate, or a document now deemed to be a Certificate, was granted.

**Holder:** The holder of a Certificate or Exemption Order.

**Indigenous interests:** Interests related to an Indigenous nation and their rights recognized and affirmed by Section 35 of the *Constitution Act, 1982*, including Treaty rights and Aboriginal rights and title that may be impacted by a proposed amendment of a project Certificate or Exemption Order.

**Public Comment Period:** An opportunity for those affected by or interested in a proposed project amendment to participate in in-person, online events or activities that are meant to inform or collect input from the public.

**Residual Effect:** An effect remaining to a valued component or an Indigenous interest after the implementation of all mitigation measures, including offsetting measures.

**Technical Advisory Committee (TAC):** The forum for the detailed, independent, technical review of all the Holder's documents and technical studies.

**Technical Advisory Committee:** The body advising the EAO about technical issues during an environmental assessment process.

**Valued Components:** Components of the biophysical and human environment that are considered by Indigenous nations, a TAC, any CAC, the public, local governments, provincial federal government agencies, other potentially-affected parties such as tenure holders and the Holder involved in the amendment assessment process to have scientific, ecological, economic, social, health, cultural, archaeological, historical, or other importance.

## 1.0 INTRODUCTION

This document provides guidance for carrying out an assessment for a proposed amendment (Amendment Assessment) pursuant to the [Environmental Assessment Act \(2018\)](#) (the Act), specifically [Section 32](#). This guidance applies to all projects with an Environmental Assessment Certificate (Certificate) or Exemption Order, whether granted under the Act or a former Act.

The primary users of this guidance will be Holders of Certificates or Exemption Orders. However, other participants in an Amendment Assessment, including First Nations, TACs, CACs, or the public, may also use this guidance to understand the roles, responsibilities, and process requirements during an Amendment Assessment. This guidance document is intended to be read and interpreted in conjunction with the Act.

## 2.0 WHEN DOES AN AMENDMENT PROCESS OCCUR

An amendment is required to change anything in an existing Certificate or Exemption Order, including to a Certified or Exempted Project Description or any conditions. A Holder of a Certificate or Exemption Order is responsible for maintaining compliance with the requirements of its Certificate or Exemption Order at all times, and to seek an amendment where it wishes to alter a project in a way that the Certificate or Exemption Order does not authorize.<sup>1</sup>

Under [Section 32\(1\)](#) of the Act, a Holder may apply to the CEO of the EAO for an amendment. This is the most common situation under which amendment processes occur. An application for an amendment (the Amendment Application) is necessary when a Holder proposes to do something with respect to its project that has not been authorized by the Certificate or Exemption Order. Holders should also keep in mind whether changes they made to a project during a permitting process would require amending the Certificate or Exemption Order.

Note that [Section 32\(5\)](#) of the Act states that the CEO may amend a Certificate or Exemption Order without application from the Holder in the following circumstances:

- On the recommendation of another agency issuing a permit related to the project;
- Based on the results of a mitigation effectiveness report or audit;
- After the fifth anniversary of the original issuance of a Certificate under the Act (2018); or
- Upon the Holder's application for an extension of a Certificate.

The Minister may also amend a Certificate or Exemption Order without application from the Holder under certain circumstances under [Section 56\(2\)](#) of the Act. In all cases under [Section 32\(5\)](#) and [Section 56\(2\)](#) of the Act, the EAO would contact the Holder at the beginning of the process.

## 3.0 TYPES OF AMENDMENTS AND FEES

Information requirements and timelines will vary depending on the individual circumstances and type of proposed amendment. The EAO categorizes amendments into three types to provide Amendment Assessment participants with guidance on what potential information requirements, procedures, engagement and timelines could be part of an Amendment Assessment.

Simple amendments (generally administrative in nature) will usually have fewer information requirements and a smaller scope of engagement than a typical or complex amendment. Typical or complex amendments generally include physical

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<sup>1</sup> The Holder must design build, operate and, if applicable, decommission the project in accordance with the Certificate, including the Certified Project Description and Table of Conditions. Failure to comply with the legally binding requirements of the Certificate may be a non-compliance and may result in enforcement action.

and material changes to a project and may require extensive data gathering and substantial First Nation and public engagement as part of the amendment process. For more information on factors contributing to the EAO's determination of the complexity of an Amendment Assessment, see [Table 1](#).

The type of Amendment Assessment also relates to the fee the EAO issues to carry out the assessment of the Amendment Application (see [Fees](#)). The EAO may provide an initial view of the amendment type when an Amendment Project Description is received and prior to the development of the Amendment Procedures. The final determination of complexity and the fee amount is made by the EAO following the receipt of the Amendment Application.

**Table 1. Amendment Types**

Type	Typical Characteristics
<b>Simple</b>	<ul style="list-style-type: none"> <li>No physical change to the project or infrastructure</li> <li>Administrative in nature</li> <li>Proposed change has no potential for effects or interactions with valued components and Section 25(2) matters</li> <li>Proposed change has limited potential for adverse effects to Indigenous interests</li> <li>Proposed change is unlikely to cause significant public interest</li> <li>Examples: update of unit of measurement (but no change to measurement), update to consultative party name, update of a standard condition</li> </ul>
<b>Typical</b>	<ul style="list-style-type: none"> <li>A material but limited change to the project</li> <li>Technical in nature but will result in a change to how project will be implemented</li> <li>Proposed change has potential for effects or interactions with valued components and Section 25(2) matters</li> <li>Proposed change has some potential to adversely affect Indigenous interests</li> <li>The EAO may require public engagement and there is potential for a public comment period on the Amendment Procedures, AAIR and/or Amendment Application</li> <li>Examples: change(s) to project infrastructure, conditions, or mitigation measures that are unlikely to contribute to significant adverse effect(s)</li> </ul>
<b>Complex</b>	<ul style="list-style-type: none"> <li>A material change to the location of project component(s)</li> <li>A material change to the processes and outputs of a facility with potential for significant adverse effects</li> <li>Likely potential for effects or interactions with valued components and Section 25(2) matters</li> <li>Proposed change has potential for adverse effects to Indigenous interests</li> <li>Complex engagement requirements are expected with technical experts from provincial, federal, local or First Nations governments, based on the experience from the original environmental assessment, and any changes that have occurred in the intervening time period</li> <li>Potential for public interest in the change(s) and therefore the EAO may require increased engagement by the proponent, and/or EAO-led public comment period(s) on the Amendment Procedures and AAIR, Amendment Application, and/or the Amendment Assessment Report</li> <li>Potential for the EAO to form a CAC</li> <li>Examples: request to incorporate change of technology with limited operational testing data in British Columbia or North America<sup>2</sup>), substantial expansion of a mine</li> </ul>

<sup>2</sup> For more information, please see the B.C. [Technology Readiness Assessment Interim Technical Guidance](#)

### 3.1 Fees

The EAO charges fees for the review of an Amendment Application. The EAO has set a fee range for Amendment Assessments to recognize the different complexities and government resources required to conduct the assessment. This structure is a general guideline, but actual amounts may vary depending on specific circumstances. The [Environmental Assessment Fees Regulation](#) provides for a range of \$5,000 to \$100,000.

The fee structure is generally:

- \$5,000 fee for Simple Amendments;
- \$25,000 fee for Typical Amendments; and,
- \$100,000 fee for Complex Amendments.

The Holder must pay the fee once the complexity of the Amendment Application is assessed by the EAO and a fee Order is issued. The fee Order is generally issued within 30 days of the receipt of the Amendment Application.

For more information on fees and how to pay, see the EAO's [Fee Guideline](#).

### 3.2 Timelines

The timeline for amendment processes also depends on the complexity of the amendment and is often influenced by the Holder's timely responses to comments, engagement with First Nations prior to submitting the amendment project description, and quality of the amendment application. Because every amendment has unique considerations, the average timelines from initiation to decision can vary.

Estimated review times from submission of the amendment application to referral are:

- For simple amendments, three to six months;
- For typical amendments, six months to one year;
- For complex amendments, one year to four years.

Indicating a timeline by which you would require the amendment is important to allow the EAO project lead to establish a predictable timeline and proposed review schedule in the Amendment Procedures.



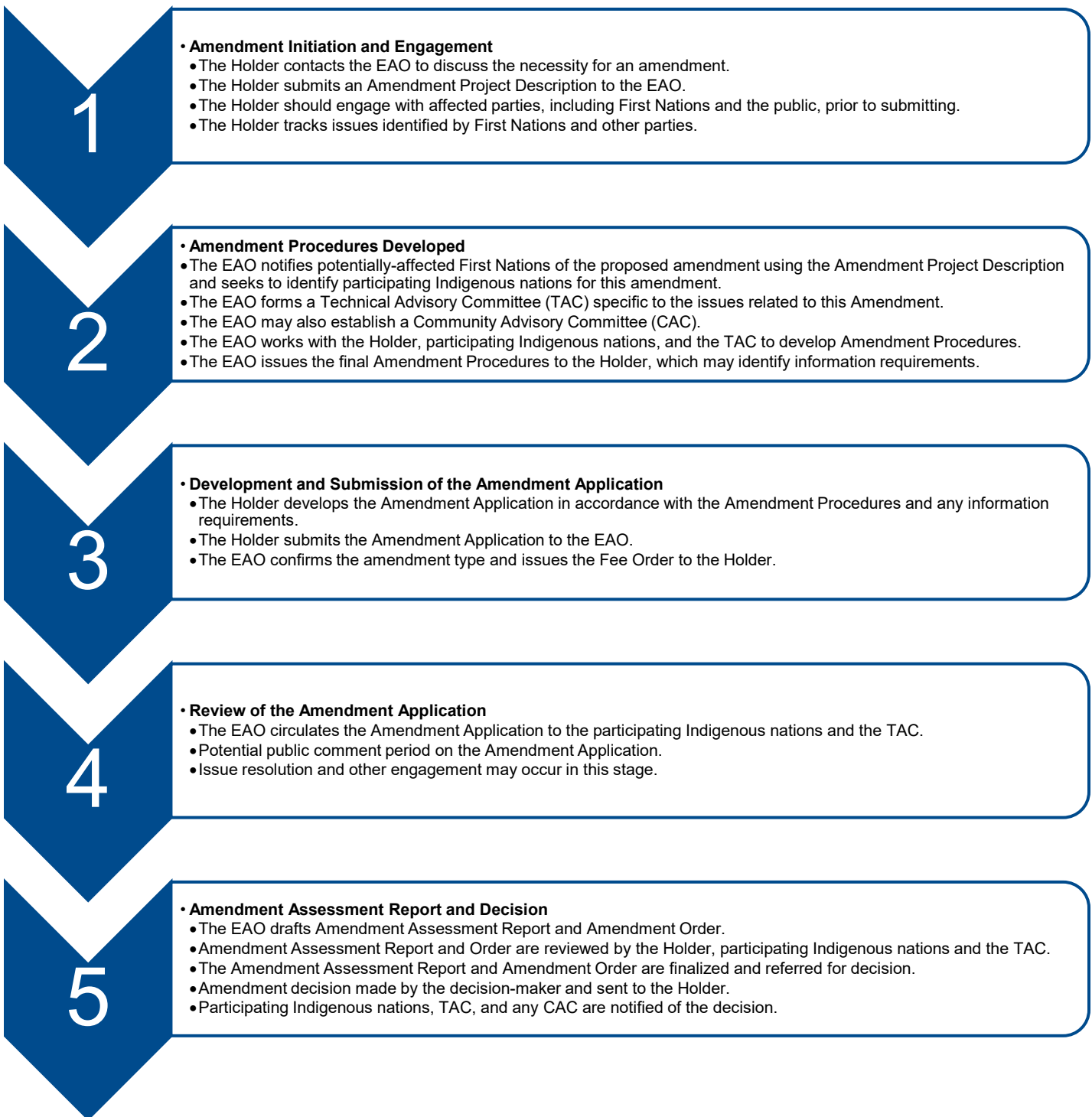


Figure 1. Diagram of the overall amendment process

## 4.0 AMENDMENT ASSESSMENT PROCESS

The amendment process is governed by the Act, and this guidance does not replace requirements of the Act or its regulations or bind any decision-maker. This guidance intends to clarify what are requirements and how the amendment process meets the Act. The specific steps and requirements for each amendment are set out in the Amendment Procedures issued by the EAO project lead for each amendment.

### 4.1 Step 1: Amendment Initiation and Engagement

#### Amendment Initiation

##### Holder initiates potential amendment under Section 32(1)

Prior to entering the amendment process, Holders are encouraged to contact the EAO to advise of their interest in changing their Certificate or Exemption Order. It is recommended that the Holder contact the [Executive Project Director of the relevant sector at the EAO](#) initially.

If a change is identified during a subsequent permitting or authorization process that is not consistent with the Certificate or Exemption Order, Holders are encouraged to contact the EAO as early as possible. In these circumstances, it may be possible to develop a synchronous permitting and amendment review process to avoid duplication of effort and minimize delays. If a project is constructed consistent with a permit or authorization, but is inconsistent with the Certificate or Exemption Order, the project may be out of compliance with the Act and the permits or authorizations may be without effect (see [Section 8](#) of the Act). It is the Holder's responsibility to maintain compliance with its Certificate/Exemption Order.

Note that some older Certificates allow for non-material changes to be made, outside of the formal amendment process.

In these cases, it may still be more efficient for the Holder to seek a formal amendment.

##### The CEAO, Minister, or other Statutory Decision Maker initiates the amendment under Section 32(5) or Section 56(2)

If the EAO is considering making an amendment for any of the reasons described in [Section 32\(5\)](#) or [Section 56\(2\)](#) of the Act, the EAO will inform the Holder and may ask for information relevant to the decision.

[Section 32\(5\)\(a\)](#) of the Act states that the CEAO may amend a Certificate or Exemption Order if a person, board, tribunal or agency that has issued or is considering whether to issue an approval under another enactment respecting the project recommends that the amendment be made. In this case, when preparing an application for a permit for its project, the Holder is responsible for identifying changes and presenting its views on the consistency of its Certificate or Exemption Order with what is being sought in the permit application. There will also commonly be early communication between the permitting agency and the EAO to understand if an amendment to the Certificate or Exemption Order is required. If the permitting procedures would satisfy the requirements of the Amendment Assessment, then it may be appropriate for the agency to make a request under [Section 32\(5\)\(a\)](#). The requirements include consideration of the matters listed in [Section 25](#), consensus-seeking with participating Indigenous nations and in some cases public engagement. The agency will recommend an amendment to the Certificate or Exemption Order to the CEAO and refer to the decision-maker for the permit decision.

#### Amendment Project Description

If an amendment is required, the Holder should begin by submitting an Amendment Project Description to the EAO containing the information identified below. Although a project description is not required by the Act, the EAO requests that Holders provide one so that the EAO has clear and adequate information to commence engagement with relevant parties, can begin formulating a determination regarding the amendment complexity and fees, and can begin discussions regarding the scope and extent of information requirements prior to the Holder's development of the Amendment

Application. Note that this would typically be one to five pages in length for simple and typical amendments (complex amendment project descriptions may be lengthier, although Holders are recommended to be succinct).

- Certificate # or Exemption Order #, project name and name of the Holder;
- Short, descriptive name for the proposed amendment (note: do not include an amendment number; amendments will not be given a number unless issued, since they must be issued in order);
- Concise description of the substance of the proposed Certificate or Exemption Order changes (it is not necessary to include proposed Certificate or Exemption Order wording changes), including a map or figure if helpful to illustrate the proposed change;
- Summary of First Nation, public and/or agency engagement so far respecting the proposed amendment;
- Any additional government<sup>3</sup> approvals that are related to the proposed amendment including any authorizations, permits or licenses (including municipal, provincial, and federal) that are expected to also need an amendment<sup>4</sup>;
- Proposed timeline for submission of the Amendment Application;
- Any timeline(s) for the amendment process;
- If the Holder believes the EAO should consider the proposed changes as a ‘simple’ level amendment (see [Table 1](#) for more information), please provide rationale for why the change is minimal, why there is no change to infrastructure, why there is no possibility of a significant adverse effect, why public interest is unlikely to be affected, and why there is limited need for First Nation or public engagement; and,
- Optional, but recommended to include:
  - A description of potential amendment interactions with any identified Indigenous interests;
  - A table showing the valued components that have the potential to be affected by the proposed amendment and required assessment matters ([Section 25](#) of the Act)<sup>5</sup>, including rationale if the Holder asserts that any valued component or required assessment matter is not relevant to this amendment and would not require additional assessment in the Amendment Application.

## Engagement

Before submitting an Amendment Project Description, the Holder is expected to begin engagement with potentially-affected parties, including First Nations as well as the public, local governments, and other groups such as tenure holders, as relevant to the amendment. Failure to do so will lead to delays in beginning the amendment review process as the EAO will need to begin engagement.

The effects of a proposed amendment on First Nations and their rights as recognized and affirmed by Section 35 of the [Constitution Act, 1982](#) (collectively called ‘Indigenous interests’) must be assessed in every Amendment Application, as per the requirement of [Section 25\(1\)](#). Thus, it is in the Holder’s best interest to begin by contacting those First Nations that could reasonably be expected to be adversely affected by the proposed amendment. The scope of engagement with each First Nation will be informed by the First Nation’s interests and the potential for the matters covered by the amendment to affect those interests and the potential complexity of the proposed amendment. Holders should refer to

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<sup>3</sup> This could include federal, provincial, municipal and First Nation government authorizations, permits, approvals, etc.

<sup>4</sup> Elements of a Regulatory Coordination Plan may be used as part of the Application and Amendment Assessment. See the EAO’s [Process Planning Policy](#) on the EAO’s website for more information.

<sup>5</sup> For more information see the [Effects Assessment Policy](#) on the EAO’s website.

the [EAO's website](#) or contact the EAO or First Nations directly to obtain further information about their interests specific to a project.

The Holder is expected to begin working with identified First Nations to:

- Build an understanding of each First Nation's issues, concerns and interests, and how those interests may be adversely affected by the proposed amendment; and,
- Identify each nation's decision-making processes and information needs in relation to the proposed amendment so those can be included in the Amendment Application.

It may also be helpful for the Holder to begin an issues tracking document (summarizing the documents provided and to whom, any feedback received and how the feedback was addressed) and an engagement log that tracks how and when a First Nation or party being consulted has been contacted. Note that the issues tracking document and engagement log, if required, should be submitted with the Amendment Application.

## 4.2 Step 2: Amendment Procedures

In Step 2, the EAO will invite the potentially-affected First Nations of the opportunity to be participating Indigenous nations for this amendment. The EAO will also form a TAC and potentially a CAC, if there is sufficient public interest.

### Confirmation of Participating Indigenous Nations

Participating Indigenous nations are afforded procedural rights within the environmental assessment process including representation on a TAC, potential for capacity funding<sup>6</sup> and consensus-seeking. These procedural rights also apply to amendments. If consensus is not reached on the determination, then the EAO or the Indigenous nation may trigger dispute resolution under [Section 5](#) of the Act.

### Certificates issued under the Act (2018)

For projects with a Certificate issued under the Act, the list of participating Indigenous nations will usually be the same participating Indigenous nations for the original environmental assessment; however, in some cases, this may vary on the type and potential effects of the amendment and any variation will be noted in the Amendment Procedures.

### Certificates issued under a former Act

For projects with a Certificate issued under a former Act, no participating Indigenous nations were identified. Therefore, the EAO will work collaboratively to understand the interests of potentially-affected First Nations and how the amendment may affect those. Confirmation of the participating Indigenous nations for the amendment and specific requirements regarding engagement with participating Indigenous nations and other First Nations will be defined in the Amendment Procedures.

### Technical Advisory Committee

As described in [Section 21](#) of the Act, for every assessment (including amendments), the EAO must establish a TAC. The EAO will form a TAC which is made up of representatives with the mandates and technical expertise relevant to the Amendment Assessment, including appropriately qualified provincial and federal experts and regulators, participating Indigenous nations and experts from local governments. The EAO may appoint additional experts, as needed<sup>7</sup>. The composition and role of a TAC on an Amendment Assessment will be determined by the EAO project lead and will vary according to the amendment. Roles, responsibilities and the total time commitment required by individual TAC members

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<sup>6</sup> The EAO offers grants to participating Indigenous nations once the complexity of the amendment and the scope of engagement has been determined.

<sup>7</sup> See the [Process Planning Policy](#) for guidance on the use of external experts including considerations for the identification of the need for experts and selection.

will also vary depending on the complexity of the Amendment Assessment and the relevance of the TAC member's area of expertise to the Amendment Assessment.

Participating Indigenous nations may also choose to rely on the advice of the TAC to support their decision-making respecting a project amendment.

Please refer to the [Technical Advisory Committee Guideline](#) on the EAO's website for more information on TACs.

### Community Advisory Committee

As described in [Section 22](#) of the Act, for an assessment, the CEAO must, if the CEAO considers that there is sufficient community interest in a project, establish one or more CACs.

The purpose of a CAC is to advise the EAO on the potential effects of the proposed amendment on the community. CACs provide a venue for interested members of the public who have information that would assist in providing advice on the effects of a proposed amendment on a community, to stay up to date on the progress of the Amendment Assessment and to be informed of opportunities to provide their input and advice. CAC members can provide local knowledge of the community, the environment and the use of the project area.

If established, the format and structure of a CAC will depend on the potential effects of a proposed amendment and previous community interest in the project environmental assessment, amongst other considerations. Any CAC will be formed before the completion of [Step 2](#) and identified in the Amendment Procedures.

Please refer to the [Community Advisory Committee Guidelines](#) on the EAO's website for more information on CACs.

### Amendment Procedures

Following [Section 32\(2\)](#) of the Act, the EAO will work with the Holder, participating Indigenous nations and the TAC to develop Amendment Procedures. The Amendment Procedures formalize and provide clarity on how the Amendment Assessment will be carried out. Depending on the complexity of a proposed amendment, the Amendment Procedures may take the form of a brief, simple table or may be a document similar to a Process Order.

For some typical and most complex amendments, this may also include an Amendment Application Information Requirements (AAIR) and could include a public comment period on the Amendment Procedures, as determined by the EAO project lead. If an AAIR is required, it is initially developed by the Holder, reviewed by the EAO and the TAC, and finalized by the EAO. An AAIR may be issued with or after the Amendment Procedures. See the EAO's [Process Planning Policy](#) on the EAO's website for more information on Process Planning and Process Orders, upon which the concept of Amendment Procedures is based.

Topics that are covered in the Amendment Procedures include:

- Who will be engaged (and by whom) in the development and review of the Amendment Application and the means and timelines by which they will be engaged;
- Who will be engaged in the development and review of the Amendment Assessment Report and draft Amendment Order and the means and timelines by which they will be engaged;
- Confirmation of the participating Indigenous nations involved in this amendment;
- Consensus-seeking activities and processes with the participating Indigenous nations; and
- Roles of each of the Amendment Assessment participants, including the TAC and any CAC.

When developing the Amendment Procedures, the following may also be considered:

- If an AAIR is required, and if so, what is the level of engagement required during the development of the AAIR<sup>8</sup>;
- Clarity of which Valued Components and/or Indigenous interests must be assessed in the Amendment Application;
- The level of public interest in the project, and if public engagement and a public comment period(s) would be appropriate, including if it should be in-person, a webinar, or other form of engagement<sup>9</sup>;
- What ministries should be represented on the TAC, and would sub-committees of the TAC need to be formed to address specific issues;
- Rationale of if a CAC should be formed (see [Community Advisory Committee](#) section) and the role and responsibilities of the CAC;
- The scope of engagement with participating Indigenous nations and what is understood of Indigenous interests and assessment requirements, including their information requirements and decision-making processes;
- If there any existing arrangements with participating Indigenous nations on the conduct of an assessment in their territory;
- The scope and nature of consensus-seeking activities and processes with participating Indigenous nations;
- If the Holder is required to provide further studies, baseline data, plans or other documents for review, including by the TAC, and specify the timelines for their development and review;
- If the Holder needs to take a more active role in public and First Nation engagement and in working with TAC members to resolve issues; and
- If the Holder must maintain an engagement log and/or issues tracking table, summarizing the comments and documents provided, any feedback received and how the feedback was addressed.

At the conclusion of Amendment Procedures development, the EAO will send the final Amendment Procedures to the Holder and post the document and relevant correspondence on [EPIC](#).

The Amendment Procedures can be amended, if necessary, during the Amendment Assessment to ensure that a thorough assessment of the proposed amendment is conducted.

### 4.3 Step 3: Amendment Application Development and Submission

During this step, the Holder will develop the Amendment Application in accordance with the Amendment Procedures and the AAIR (if issued), in accordance with [Section 32\(1\)](#) of the Act. Holders are strongly encouraged to share a draft Amendment Application with participating Indigenous nations prior to submission to the EAO, and to provide adequate review time for this draft, to ensure it includes the specific information needs of each participating Indigenous nation. In some cases, the EAO may also engage with participating Indigenous nations prior to an Amendment Application being submitted. The Holder is expected to also contact other parties who may be affected by the amendment, such as nearby landowners and tenure holders, in advance of submitting an Amendment Application. Having participating Indigenous

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<sup>8</sup> For more complex amendments the Holder may be required to provide develop a summary of the reviews of information from the TAC that have supported the development of the Amendment Application.

<sup>9</sup> A public comment period during this step would likely be on the draft AAIR at the time that is appropriate for the circumstances of the individual Amendment. For more information refer to the EAO's [Public Engagement Guide](#) on the EAO's website;

nations and other review parties feel informed during the development of the Amendment Application is a crucial step to maintaining strong relationships throughout this process and meeting timelines.

At a minimum, an Amendment Application is expected to include:

- Certificate # or Exemption Order #, project name and name of Holder;
- Number of prior amendments, if any, and a concise summary of each one;
- Short, descriptive name for the proposed amendment (note: do not include an amendment number; amendments will not be given a number unless issued, as they must be issued in order);
- A full description of the proposed amendment, including changes to a Certified Project Description (including new maps if needed) and/or Table of Conditions;
- The reason(s) for the proposed amendment;
- A detailed assessment of potential amendment interactions with identified Indigenous interests, developed in consultation with participating Indigenous nations;
- A table showing the valued components that have the potential to be affected by the proposed amendment and required assessment matters ([Section 25](#) of the Act), including rationale if the Holder asserts that any valued component or required assessment matter is not relevant to this amendment<sup>10</sup> (note: if this table was included in the Amendment Project Description or AAIR, it may not be needed again here);
- A detailed assessment of the effect of the amendment on relevant valued components and Indigenous interests assessed in the Amendment Application and proposed mitigation measures to mitigate these effects, and if any changes to the assessment in the original environmental assessment are needed;
- Details of First Nation, public, agency, and any other engagement respecting the proposed amendment (that is, with whom did the Holder engage, what was heard, what responses were provided, and how does the Holder propose to address any issues raised so far); and,
- Any additional government<sup>11</sup> approvals that are related to the proposed amendment including any authorizations, permits or licenses (including municipal, provincial, and federal) that are expected to also need amendment<sup>12</sup>.

### Assessment of Impacts on Participating Indigenous Nations and their Rights

For every Amendment Assessment, consideration of all assessment matters under Section 25 of the Act, unless modified through the Amendment Procedures or sufficient rationale provided, is required. Under [Section 25\(1\)](#) of the Act, the effects of a project on participating Indigenous nations and rights recognized and affirmed by Section 35 of the [Constitution Act, 1982](#) must be assessed in every assessment. The Holder and/or the EAO will work with participating Indigenous nations to develop an understanding of their Indigenous interests that pertain to the proposed amendment which can be informed by Indigenous knowledge. The understanding of interests will inform decisions respecting the conduct of the Amendment Assessment and the interests that will be the focus of consensus-seeking. The assessment of effects to Indigenous interests must include:

- Identification of positive and negative effects of the amendment on Indigenous interests;

<sup>10</sup> For more information see the [Effects Assessment Policy](#) on the EAO's website.

<sup>11</sup> This could include federal, provincial, municipal and First Nation government authorizations, permits, approvals, etc.

<sup>12</sup> Elements of a Regulatory Coordination Plan may be used as part of the Application and Amendment Assessment. See the EAO's [Process Planning Policy](#) on the EAO's website for more information. Note also that if a Certificate Amendment is needed for a change, no related permits or authorizations can be issued until that Certificate Amendment is granted.



- Consideration of any Indigenous knowledge<sup>13</sup> provided by the participating Indigenous nation;
- Identification of mitigation measures and the participating Indigenous nations' perspectives on the effectiveness of mitigation measures; and,
- Characterization of effects to Indigenous interests<sup>14</sup>.

For some amendments, the Holder will be required to complete a summary for each participating Indigenous nation outlining:

- The residual effects on Indigenous interests for the EAO to consider when determining the seriousness of impact to the Indigenous interests; and
- Any major points of agreement or disagreement with each participating Indigenous nation and efforts taken to address any points of disagreement.

Any unique or specific procedures for assessing effects of an amendment on Indigenous interests will be described in the Amendment Procedures. Otherwise, the information found in the EAO's [Effects Assessment Policy](#) applies.

While the Holder's summary must describe the nature of the effects to Indigenous interests, it should not make a conclusion regarding the seriousness of the impact of the proposed amendment on individual Indigenous interests or participating Indigenous nations. This step will be taken by the EAO and done through a consensus-seeking process with participating Indigenous nations.

## 4.4 Step 4: Submission and Review of Amendment Application

### Submission

The Amendment Application document(s) must be sent to the CEO, with a copy to relevant other contacts at the EAO. Smaller-sized Amendment Applications (under 10 MB) may be submitted directly via email while larger sized documents must be submitted via a Holder's SharePoint or a file transfer site, with a cover email to the CEO.

### Fee Determination

Once the Amendment Application has been received by the EAO, the EAO will determine the complexity of the amendment and inform the Holder if the amendment has been determined to be simple, typical, or complex (see [Table 1](#)) and issue a fee order. See the [EAO's Fee Guideline](#) for more information.

### Amendment Application Review

The Amendment Application will then be reviewed by the EAO, participating Indigenous nations and the TAC, according to any procedures and timelines outlined in the Amendment Procedures. Some materials and the Amendment Application may already have been reviewed by the TAC as they were developed, but final versions will be made available for review according to the Amendment Procedures. This phase may include a public comment period on the Amendment Application and a review of the materials by any CAC, as described in the Amendment Procedures.

These reviews may result in information requests issued to the Holder by the EAO informed by advice provided by the TAC, any CAC, and participating Indigenous nations. The Holder is responsible for responding to the information requests within the timelines provided by the EAO.

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<sup>13</sup> For all amendments, a description of any Indigenous Knowledge that was used in developing the Amendment Application and confirmation that appropriate permissions are in place for sharing this information must be included. See [Guide to Indigenous Knowledge](#).

<sup>14</sup> In some cases, Indigenous nations may request a specific framework for understanding effects to their interests. In these circumstances the EAO will work with the nation and Holder to ensure an effective and efficient assessment is undertaken.



## 4.5 Step 5: Amendment Assessment Report and Decision

### Development of the Amendment Assessment Report

The EAO will then draft an Amendment Assessment Report, including proposed changes to the Certificate or Exemption Order, and a recommendation on whether to make an amendment and ends when a referral is made to the decision-maker. These are the materials the decision-maker will use to decide whether to issue the amendment.

In developing the Amendment Assessment Report, the EAO will consider the effects of the proposed project changes, including with respect to the required assessment matters described in [Section 25](#) of the Act, including potential effects to Indigenous interests. The results of the assessment will be reflected in the Amendment Assessment Report. In some cases, the Amendment Assessment Report sections on impacts to participating Indigenous nations and Indigenous interests will be developed collaboratively with the participating Indigenous nations. The EAO also engages members of the TAC, any CAC, and the Holder in the development of the draft Amendment Assessment Report.

The EAO will then share the draft Amendment Assessment Report with the Holder, the TAC and participating Indigenous nations and solicit feedback before finalizing the Amendment Assessment Report (this may not be required for a simple amendment depending on the circumstances of the Amendment Assessment and can be clarified in the Amendment Procedures). For complex amendments, the EAO may also conduct a public comment period on the draft Amendment Assessment Report and will address comments received before the referral to the decision-maker.

### Consensus-seeking

The EAO will seek to achieve consensus with participating Indigenous nations on the draft Amendment Assessment Report, draft Amendment Order, and the recommendation on whether to make the amendment (including any changes to Certificate or Exemption Order conditions). Consensus-seeking at this stage is aimed at resolving any outstanding matters pertaining to Indigenous interests.

### Decision and Notifications

The EAO will then refer the Amendment Assessment Report, the draft Amendment Order with the proposed changes to the Certificate or Exemption Order, and recommendation on whether to make an amendment to the decision-maker who will decide whether to issue the amendment. The time to review the referral package will depend on the complexity of the proposed amendment and will typically be under 30 days.

If the amendment is made, the EAO will:

1. Send a copy of the signed Amendment Order and, if applicable, the Reasons for Decision to the Holder;
2. Post the signed Amendment Order, final Amendment Assessment Report, any issues tracking document, and a notice on the EAO's Activities and Updates page on [EPIC](#); and
3. Notify the TAC, any CAC, and participating Indigenous nations of the decision.

If the amendment is refused, the EAO will:

1. Send a copy of the Reasons for Decision to the Holder;
2. Post the final Amendment Assessment Report and the Reasons for Decision, any issue tracking document, and a notice on the EAO's Activities and Updates page on [EPIC](#); and
3. Notify the TAC, any CAC, and participating Indigenous nations of the decision.

## APPENDIX A: FREQUENTLY ASKED QUESTIONS ABOUT AMENDMENTS

### Do I need an amendment for minor changes?

Yes – *any* change required to a Certificate or Exemption Order, including to a Certified/Exempted Project Description or any conditions, or equivalent documents referred to in a Certificate/Exemption Order or amendment order to a Certificate, would require an amendment.

### What is the connection to the Reviewable Projects Regulation?

Once a Certificate or Exemption Order has been issued for a project, that project is no longer subject to the thresholds or other requirements described in the [Reviewable Projects Regulation](#). The Reviewable Projects Regulation is used to determine if a Project is considered reviewable under the Act; for Projects that have a Certificate or Exemption Order, this determination is already complete. Any changes to the Project that would require a change to the Certificate or Exemption Order must now undergo an amendment process.

### What about transfers of a Certificate or Exemption Order to a new Holder?

Transfers of a Certificate or an Exemption Order to a new Holder are considered a different process to amendments under the Act. Please note, however, that some transfers may trigger the need for an amendment depending on the specific circumstances of the transfer. Please see the [Transfer Policy and Procedures](#) for more information.

Conditions included in Certificates issued under Former Acts regarding the transfer of Certificates have been cancelled under [Section 78\(4\)](#) of the Act. Due to changes to compliance provisions in the Act, conditions for the transfer of “project”, an “interest in a project,” or “a significant interest in a project” are no longer necessary. The CEAO or Minister will typically remove these conditions from Certificates and Exemption Orders when an amendment is made if requested to do so by the Holder in an amendment application or if the CEAO or Minister is making an amendment under [Section 32\(5\)](#) or [Section 56](#) of the Act.

An amendment is not required when transferring an entire Certificate or Exemption Order to a new Holder or where a Holder is changing its name due to a rebranding exercise (Note: the EAO still needs to know how to contact a Holder after a rebranding exercise. The Holder should contact the EAO with this information as per the condition in its Certificate or Exemption Order. See [Appendix B](#) for more information). In this situation, unless requested by the Holder, the Certificate or Exemption Order will not be immediately updated with the Holder’s new name; instead, the EAO will update the Holder’s name the next time an amendment to the Certificate or Exemption Order occurs. If, however, the Holder does request that its new name be reflected on its Certificate or Exemption Order immediately, an Amendment Application will be processed to reflect the change and fees will apply. Please see [Appendix B](#) for the details of an Amendment process in this situation.

### What if my project has a federal certificate?

Projects with a federal certificate that may also need an amendment must contact the Impact Assessment Agency of Canada to understand if an amendment is required. Typically, an [Amendment Project Description](#) is sent with this request.

### Does my amendment application need to include updated baseline studies?

The Amendment Application may need baseline studies if the original Environmental Assessment did not cover this new area, or if the original studies are considered out of date by data/scientific standards. This can be clarified in the Amendment Procedures.

## APPENDIX B: AMENDMENT FOR A CERTIFICATE OR EXEMPTION ORDER HOLDER NAME CHANGE

When the Holder submits an Amendment Application, it should include the following information:

- Certificate #, Exemption Order # (if applicable), project name and current name of Certificate or Exemption Order Holder;
- The previous name of the current Holder(s);
- The new full legal name of the Holder;
- Legal documentation regarding the name change;
- A clear statement that no project assets have been transferred from the current Holder to another entity;
- A description of potential project amendment interactions with any identified Indigenous interests;
- Details of Indigenous nation, public and agency engagement respecting the proposed amendment. That is, with whom did the Holder engage, what did it hear, what responses were provided, and how does the Holder propose to address any issues raised; and,
- Government approvals that are related to the requested amendment including any permits or licenses that are expected to also need amendment.

If the amendment is made, the Amendment Assessment Report will state that:

- The Holder has changed its legal name;
- Consent from the EAO is not required because there has been no change in ownership of the project; and
- The name change order will only proceed after the EAO has received legal documentation providing proof of the name change.