

# Certificate Extension Policy

VERSION 1.0



APRIL 24, 2020



ISSUED BY:

\_\_\_\_\_  
KEVIN JARDINE, CHIEF EXECUTIVE ASSESSMENT OFFICER  
ENVIRONMENTAL ASSESSMENT OFFICE

**Version Control History**

Version #	Date (YYYY-MM-DD)	Modification	Approved by
Version 1.0	2020-04-22	Original document	<div style="text-align: center;">  </div> <hr/> <p>Scott Bailey, Assistant Deputy Minister Operations Division Environmental Assessment Office</p> <div style="text-align: center;">  </div> <hr/> <p>Amy Avila, Executive Director Strategic Services and Compliance Environmental Assessment Office</p>

# Table of Contents

ABBREVIATIONS AND DEFINITIONS .....	4
DEFINITIONS .....	4
INTRODUCTION.....	5
PURPOSE AND BACKGROUND.....	5
FIGURE 1: EXTENSION APPLICATION PROCEDURES .....	6
Step 1 – Initial discussion .....	7
Step 2 – Engagement .....	7
Step 3 – Application Development and Submission.....	7
Steps 4-5 – Further information and supplementary materials (if required).....	8
Steps 6-7 – Application Received and Distributed .....	8
Steps 8-10 – Review of application and draft extension report .....	9
Steps 11 – Report finalized and decision.....	9

## ABBREVIATIONS AND DEFINITIONS

**the Act** Environmental Assessment Act (2018)

**CEAO** Chief Executive Assessment Officer

**EA** Environmental Assessment

**EAC** Environmental Assessment Certificate

**EAO** Environmental Assessment Office

**Holder** Certificate Holder

**TAC** Technical Advisory Committee

**WG** Working Group

**VC** Valued Component

## DEFINITIONS

### Certificate Holder

Holder of an environmental assessment certificate

### Technical Reviewer

Members of appropriate regulatory agencies, other governments agencies, parties represented on the original Working Group (WG) or Technical Advisory Committee (TAC) from a project assessment, as appropriate. The WG or TAC is the forum for the detailed, independent technical review of the proponent's documents and technical studies relating to an environmental assessment certificate application.

### Valued Component

Components of the biophysical and human environment that are considered by the public, Indigenous nations, the proponent, government agencies, or scientists and other technical specialists involved in the environmental assessment process to have scientific, ecological, economic, social, cultural, archeological, historical, or other importance.

## INTRODUCTION

This document provides guidance for carrying out the process leading to a decision with respect to whether to issue an extension to the substantial start deadline for a certificate pursuant to the [Environmental Assessment Act \(2018\)](#) (the Act), specifically [Section 31](#). The primary users of this guidance will be Holders of environmental assessment certificates, (EAC), Environmental Assessment Office (EAO) staff, Indigenous nations and Technical Reviewers. However, other participants from a provincial environmental assessment (EA) for a project, including the public, may also use this guidance document to understand the roles, responsibilities, and process requirements for an extension application. This Certificate Extension Policy is intended to be read and interpreted in conjunction with the Act.

This document is intended to help participants and the public better understand British Columbia's environmental assessment process. It is not advice, and does not replace the *Environmental Assessment Act*, or its regulations, or bind any decision-maker. If you need advice concerning the BC environmental assessment process, please seek professional assistance.

## PURPOSE AND BACKGROUND

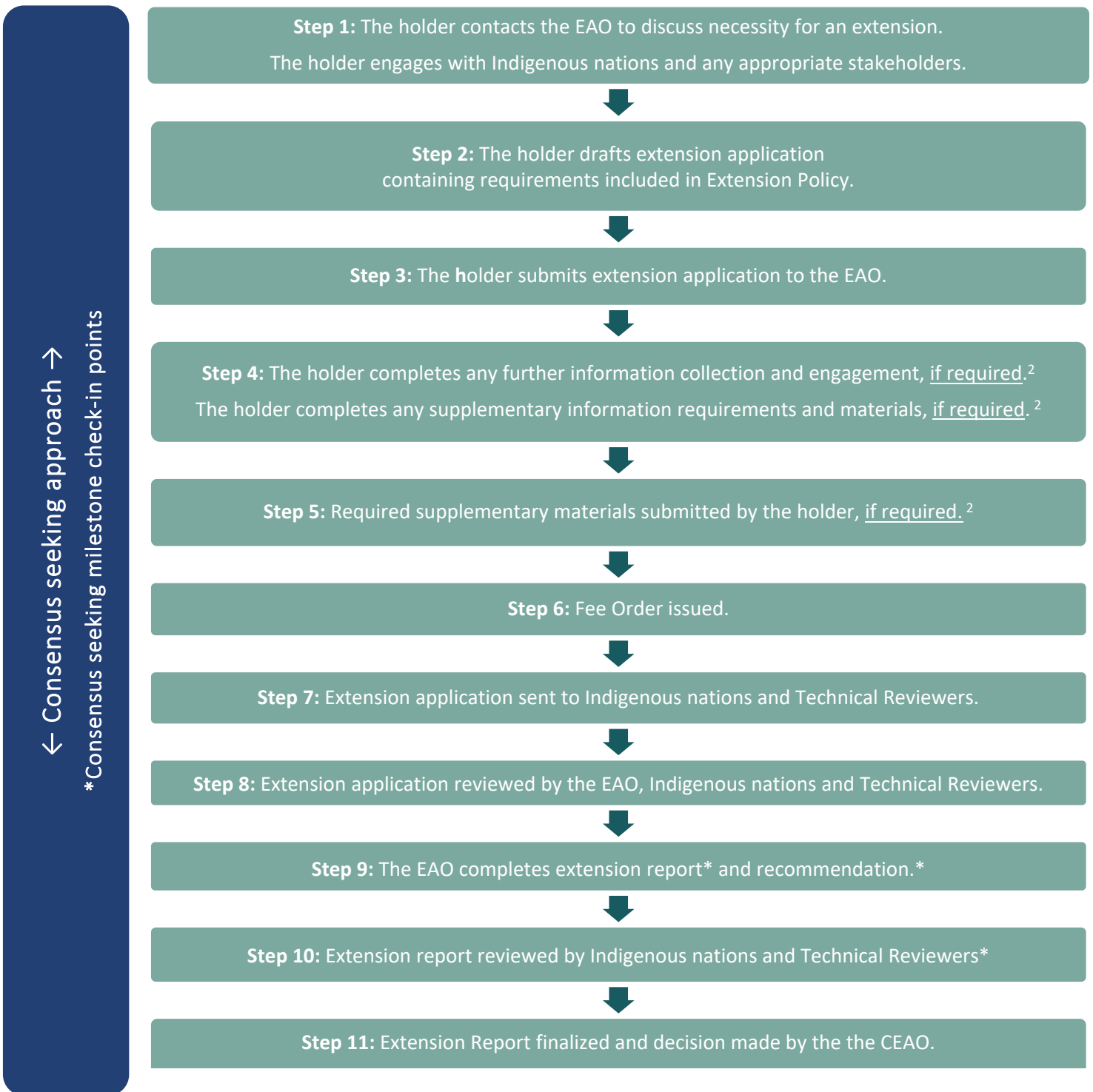
Under [Section 31](#) of the Act, a Holder of an EAC can apply to the Chief Executive Assessment Office (CEAO) of the EAO for an extension to the deadline by which the project must be substantially started. The CEAO, on one occasion only, can extend the deadline by not more than five years. The CEAO also has the ability to add new conditions to the EAC at the time an extension is granted.

Certificate extensions cannot be granted after the expiry of a certificate. If a certificate extension is granted, the project must be substantially started by the new deadline or the certificate expires pursuant to [Section 31\(6\)](#) of the Act.

In the case of an expired certificate, any conditions related to reclamation or decommission remain in effect, and new conditions related to reclamation or decommissioning may be added pursuant to [Section 31\(8\)](#) of the Act.

Pursuant to [Section 31\(5\)](#) of the Act, before making a decision with respect to an extension, the EAO must seek to achieve consensus with participating Indigenous nations.

**FIGURE 1: EXTENSION APPLICATION PROCEDURES**



<sup>2</sup>If required (depending on the completeness of the initial application in Step 3), the Holder will conduct further information collection and engagement and submit any supplementary materials.

## Step 1 – Initial discussion

Before submitting a certificate extension application, the EAO recommends that the Holder contact the appropriate [Sector Lead at EAO](#) for an initial discussion about status of the project and the extension process. As a result of that conversation, it will be determined if a certificate extension application is necessary and for how many years the extension may be needed. The Holder and the EAO may discuss whether there will be sufficient time to consider and process an application before the substantial start deadline. An initial application (Step 3) should be submitted at least nine months prior to the certificate expiry date in order to allow the application to be considered.

*Section 38* of the Act allows the minister or chief executive assessment officer to impose a time limit for doing anything under the Act. If it's considered appropriate in the circumstances, a time limit can be imposed regarding the submission of an extension application.

## Step 2 – Engagement

Before submitting an application, the Holder should engage about the extension with Indigenous nations that participated in the EA of the project and any appropriate stakeholders or agency representatives.

## Step 3 – Application Development and Submission

The application from the Holder must include:

- Certificate #, Project Name, Name of Holder
- Why does the Holder wish to extend the EAC and why is project development delayed?
- What was the length of time of the original EAC and why?
- What work has the Holder done to advance the project?
- What plans, including timelines, does the Holder have for advancing the project if the EAC is extended?
- What are the details of Indigenous nation, stakeholder and other agency engagement on the proposed extension. With who has the Holder engaged, what did they hear and what response have they given?
- Has new information come to light since the original EAC was granted that could change the conclusions reached in the EAO's assessment of the project? This could include:
  - new scientific and technical information (for example, a new dataset in respect of a key valued component (VC) of interest or a new best management practice);
  - physical changes to the airshed, watershed, landscape, or equivalent;
  - previously unknown or undetected effects (for example, a VC that was not a key concern during the initial EA has had a substantial change in condition that makes it a key concern presently); or
  - new information regarding Indigenous interests.

The application should be submitted to the CEO. The EAO will conduct an initial review of the application to determine if any further information, engagement or supplementary materials are required.

## Steps 4-5 – Further information and supplementary materials (if required)

If required (depending on the completeness of the initial application in Step 3), the Holder will conduct further information collection and engagement and submit any supplementary materials.

## Steps 6-7 – Application Received and Distributed

Once all application materials for a certificate extension are received, they will be posted to the [EAO's project website](#). The EAO will circulate the extension application to Indigenous nations and Technical Reviewers for comment.

The timeline of the review for these parties is at the discretion of the EAO Project Lead and is generally between three to five weeks.

The EAO Project Lead will notify EAO Compliance and Enforcement of the application to discuss any challenges with clarity, measurability and enforceability of the existing certificate.

### Consensus Seeking:

The Act provides in [Section 31\(5\)](#) that before making a decision on an extension application, the EAO must seek to achieve, with respect to that decision, consensus with participating Indigenous nations.

Consensus is achieved when an action is supported by a participating Indigenous nation and the EAO; or at least is not objected to by a participating Indigenous nation. Consensus is an outcome that can be achieved by engaging in meaningful, collaborative activities that support the sharing and analysis of information to inform decision-making.

As with other aspects of EA under the Act, the EAO will seek consensus with participating Indigenous nations throughout the process leading to the extension decision. This will include consensus-seeking on the recommendations in the extension report within the scope of the extension application.

Consensus seeking activities should begin at least by the time of the initial discussion between the Holder and the EAO and consensus-seeking activities would occur throughout the process leading to the decision.

Capacity funding for Indigenous nations will be assessed by the EAO on a case by case basis. The amount of funding provided will be reflective of the anticipated involvement of the Indigenous nation in the review of the extension application compared to other EA processes.

An invoice and fee order will be issued, typically within 30 days of receipt of the application. If fees are outstanding, the EAO may, amongst other things, refuse to consider the application further.

### Fees:

Typically, within 30 days of receipt of an extension application, a fee order and an invoice will be issued to the Holder. The fee for an extension application is \$25,000. The fee order will be posted on the [EAO's website](#) soon after it is issued. See the [Fee Guideline](#) document on the EAO's website for further information.



## Steps 8-10 – Review of application and draft extension report

Depending on the level of interest or concern expressed by reviewers, the EAO will act on one of the following options:

1. Where reviewers do not raise any significant concerns, the EAO will consider comments received and prepare an extension report for the CEAO.
2. Where reviewers express significant interest or concern, the EAO will prepare a draft extension report regarding the extension application and circulate it to the Holder, Indigenous nations and those Technical Reviewers who have provided comments on the extension application or otherwise indicated an interest in continuing to be a part of the review. Reviewers will be given a period to provide comments on the draft report, typically two to three weeks. The EAO will consider comments received and seek to resolve issues as required while revising the report as appropriate. The extension report will address the consensus or lack of consensus achieved. Where appropriate, the Holder will be given an opportunity to respond.

The EAO will determine whether additional conditions are appropriate. This will take into consideration, amongst other things, potential new significant adverse effects, relevant new statutes, regulations, case law, policy, practices or guidelines that have arisen since the granting of the EAC. Additional conditions will require an amendment to the EAC and may be added to the EAC by the CEAO, under [Section 31\(4\)\(a\)](#)<sup>1</sup> of the Act. Where additional studies or input are required to develop appropriate conditions, and cannot be completed prior to the EAC deadline, the EAO may consider recommending conditions to be developed after an extension application is approved, if it is approved under [Section 32\(5\)\(d\)](#) of the Act.

Recommended conditions will be discussed in the extension report.

Any amendment procedures will commonly take place concurrently with the extension application process.

## Steps 11 – Report finalized and decision

The EAO will refer the extension report, including any recommended conditions, to the CEAO. Based on the information provided, the CEAO will determine whether to grant a certificate extension and, if so, whether additional or revised conditions are required via a certificate amendment.

If an extension is approved by the CEAO, the EAO will advise the Holder and other potentially affected parties of the decision.

Relevant materials throughout the extension application process will be posted on the [EAO's project website](#), including the extension report, letter and extension order.

---

<sup>1</sup> The Holder may also apply for an amendment to add new conditions to the certificate.