

Section 10 – Project Notification Policy

VERSION 1.0

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ISSUED BY:

KEVIN JARDINE, ASSOCIATE DEPUTY MINISTER
ENVIRONMENTAL ASSESSMENT OFFICE



EAO

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1.0 INTRODUCTION

This document provides guidance with respect to the application of [section 10](#) of the [Environmental Assessment Act, 2018](#) (the Act) respecting Project Notification. The notification to be provided by proponents under section 10, enables the EAO to track projects that should potentially require an environmental assessment (EA) before proceeding despite being below the reviewability threshold in the [Reviewable Projects Regulation \(RPR\)](#). Where appropriate, the EAO will bring these projects to the Minister of Environment & Climate Change Strategy's attention so they can determine whether the project should undergo an assessment.

This document provides guidance for submitting a project notification, the typical review process conducted by the EAO, and the information required by the Chief Executive Assessment Officer (CEAO) under section 10(2)b. The goal of the RPR is to have projects with the potential for significant adverse effects undergo an EA, while projects with a low likelihood of causing significant adverse effects are regulated through the appropriate regulatory and permitting processes. The review of project notifications is not intended to be a complex or onerous process, but a check on whether projects that do not meet the thresholds in the RPR should nonetheless go through the EA process due to their potential to cause significant adverse effects.

- › The decision on whether to refer a project to the Minister for decision is discretionary. Not every project will be so referred.
- › Project Notification can be a useful mechanism for collecting data on projects that do not meet the thresholds in the RPR for the purpose of reviewing the appropriateness of those thresholds.

2.0 LEGISLATIVE DISCRETION

Under [section 10\(1\)](#) of the Act, notification is required for new¹ project proposals within the prescribed categories under section 5 of the [Reviewable Projects Regulation](#) that meets the following criteria ([Table 1](#)):

Section 5 (Project Notification) of the Reviewable Project Regulation comes into force on [April 1st 2020](#).

Table 1 Notification thresholds in section 5 of the Reviewable Project Regulation.

Notification Category (RPR Section)	Notification threshold for New Projects*
Federally Reviewable (section 5(1)a)	Reviewable under the federal Impact Assessment Act and not wholly located on federal land or a reserve.
Design or effects thresholds (section 5(1)b)	A project that would meet the project design or effects thresholds if those thresholds were reduced by 15% – For example, the threshold for a new mineral mine is a facility with a production capacity of greater than 75,000 tonnes/year of ore. A facility that proposes to produce greater than 63,750 tonnes/year but less than 75,000 would be required to notify the EAO.
Workforce (section 5(1)c)	A project that would result, at the peak of construction or operations, in the employment by the proponent of 250 or more employees or contractors who work more than 30 hours per week on an annual basis at the project facilities.

¹ The notification thresholds in the RPR apply to new projects except for the Greenhouse Gas threshold which applies to modifications of existing projects.

Notification Category (RPR Section)	Notification threshold for New Projects*
Greenhouse Gases (section 5(1)d) (section 5(3) & 5(4))	A project that emits 125,000 tonnes per year or more of one or more greenhouse gases directly from project facilities determined in accordance with Part 3 of Greenhouse Gas Emission Reporting Regulation . *A modification to an existing project that emits 125,000 tonnes per-year or more is required to notify the EAO, <i>only for the first time an expansion of a given project exceeds this threshold</i> .
Transmission Line (section 5(1)e)	A transmission line greater than 230 kV <u>and</u> greater than 40 km in length
Linear clearance (section 5(1)f(i)) (section 5(2))	Projects that include the clearance of 40km or more of land is to be developed for an electrical transmission line, transmission pipeline, railway, public highway or resource road, if the land is <u>not</u> alongside and contiguous to an area of land previously developed for one of <u>those purposes</u> . This threshold applies to project categories that are <u>not</u> primarily linear in nature (e.g. mines) but have linear elements <u>associated</u> with the project (e.g. a road required to access a proposed mine). This threshold does not apply to project categories that are primarily linear in nature, as their project design thresholds are already based on a measure of linear disturbance (e.g. electrical transmission lines, transmission pipelines, public highways, and railways).
Land clearance (section 5(1)f(ii)) (section 5(2))	Projects that include the clearance of 450 ha or more of clearance, unless the clearance has been authorized by the minister, or delegate, under the Resort Timber Administration Act . This threshold does <u>not</u> apply to project categories that are primarily linear in nature, as their project design thresholds are already based on a measure of area disturbance (e.g. electrical transmission lines, transmission pipelines, public highways, and railways).

The proponent of the project (i.e. the party proposing the project) that meets the notification thresholds must not undertake or carry out activities referred to in the notification until they receive a determination that no further review is required or any review of the project that is required has been completed ([section 10\(3\)](#)).

2.1. Prescribed Period

As of April 1st, 2020, proponents of applicable projects are obligated to notify the EAO no later than **15 days** after applying for the applicable approvals listed in the table in the [Reviewable Project Transition Regulation](#).

If, before April 1st, 2020, a proponent has made all applications for applicable approvals set out in the table of the transition regulation, but no approvals have been obtained by April 1st, 2020, the prescribed period is 90 days after the date this section comes into force (June 29th, 2020).

Proponents are encouraged to notify as early as possible to provide certainty around whether the project will require an EA. The timing of notification relevant to other permitting requirements will be dependent on sector but should generally be after the proponent has done sufficient exploratory work and feasibility studies to know the project is proceeding.

If the proponent of an applicable project fails to submit a project notification under section 10(1) or carries out activities before a decision by the CEAO contrary to section 10(3), it will be out of compliance with the Act and may be subject to enforcement action.

2.2. Project Notification Information

A project notification must include the information required by the Chief Executive Assessment Officer (CEAO) under [section 10\(2\)\(b\) of the Act](#). The required information can be found in section [4.0 Information Requirements for Project Notification](#) of this policy.

2.3. Review Process

Once a proponent has submitted a Project Notification to the EAO, the Chief Executive Assessment Officer (CEAO) has **60 days** to:

1. Refer the project notification to the Minister for consideration under [section 11](#) (to designate the project as reviewable);
2. Require further review of the notification, including any procedures or consultation that must be carried out by the proponent and instructions for submitting a revised notification under section 10(5) before a decision can be made; or
3. Determine that no further review of the project notification is required. The project may then proceed to permitting with other agencies.

If further review is required under [section 10\(4\)b](#), the CEAO would include directions for further procedures and consultations that must be carried out by the proponent and instructions for submitting a revised project notification after carrying out any required tasks.

2.4. Section 11 – Factors considered by the Minister

If a project notification is referred by the CEAO to the Minister for consideration to designate the project as reviewable under [section 11](#), the Minister must consider:

- › whether the project could have effects on an Indigenous nation and the rights recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- › whether the potential effects of the eligible project will be equivalent to or greater than the potential effects of projects in the prescribed category that are reviewable projects;
- › whether an assessment of the project is consistent with the sustainability and reconciliation purposes of the EAO ([section 2](#) of the Act).

If the Minister designates the project as reviewable under [section 11](#), the proponent must not undertake or carry out the activity that is reviewable (construct, operate, modify, dismantle or abandon all or part of the facilities) unless the proponent first obtains an environmental assessment certificate under [section 6](#) of the Act. If designated, the project may proceed to the Early Engagement phase of the EA process. For projects designated under section 11, the option to exempt the project from requiring a certificate during the Readiness Decision is not available under [section 16\(3\)](#) of the Act.

3.0 PROJECT NOTIFICATION REVIEW PROCESS

Figure 1 below provides an overview of the review process conducted by the EAO for project notifications.

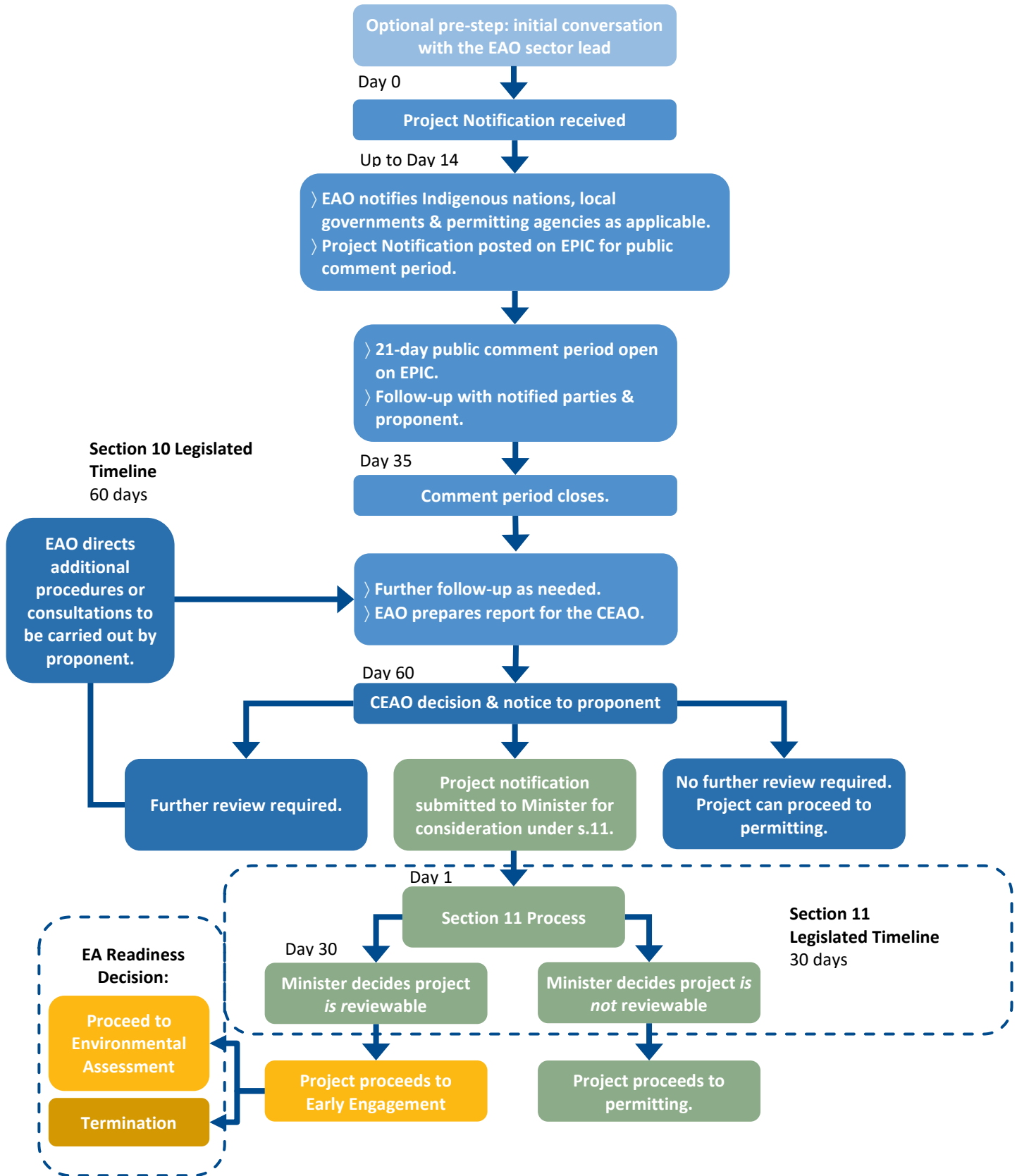


Figure 1 Review process for project notifications submitted under section 10 of the Environmental Assessment Act (2018).

3.1. Step 1: Optional pre-step

The EAO suggests that proponents of a project that triggers a notification threshold contact the appropriate [sector lead](#) at the EAO for an initial discussion about the proposed project and notification. These conversations could help ensure the quality of the information in the notification for a timely review.

Proponents should direct inquiries about options for submitting a Project Notification to: EAO.Notifications@gov.bc.ca.

3.2. Step 2: Project Notification Received

Once a Project Notification is received, the EAO will undertake engagement with Indigenous nations and other parties as required, including the public, local governments², provincial and federal government agencies. The EAO will notify any Indigenous nations via email whose territories directly overlap with the proposed project footprint that a project notification has been received for a project in their territory.

The notification will be posted on [EPIC](#) under Project Notifications within **14 days** of receipt.

3.3. Step 3: Review

After the Project Notification is posted on EPIC, a **21-day** public comment period will occur. During this time, the EAO will conduct information gathering, engage with Indigenous nations, local governments, and permitting agencies, and engage with the proponent as necessary.

3.4. Step 4: Report

Once the comment period closes, the EAO will conduct any necessary follow-up activities notified parties, as well as the proponent, as needed. After completing the relevant activities, the EAO will prepare a Project Notification Report, documenting the review process and its conclusions, for the Chief Executive Assessment Officer (CEAO).

When considering whether to refer to Minister or not, the CEAO will consider the factors the Minister must consider when making a designation decision under [section 11\(4\)](#):

- › whether the project could have effects on an Indigenous nation and the rights recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- › whether the potential effects of the eligible project will be equivalent to or greater than the potential effects of projects in the prescribed category that are reviewable projects;
- › whether an assessment of the project is consistent with the sustainability and reconciliation purposes of the EAO ([section 2](#) of the Act).

² Local governments includes both municipalities and regional districts.

3.5. Step 5: Decision

Within **60 days** of receiving the notification, the CEAO must do one of the following and provide notice to the proponent:

- › Submit the project notification to the Minister for consideration under section 11 for designations as a reviewable project; or
- › Determine that further review under this section is required and direct the proponent to carry out additional procedures or consultations required before submitting a revised project notification; or
- › Determine that no further review is required.

3.6. Step 6: Post-decision Notification

The EAO's Project Notification Report, including the decision, will be communicated in writing to:

- › the proponent,
- › any Indigenous nations notified as part of the review,
- › notified local governments, and
- › any relevant permitting agencies.

The report will be posted to [EPIC](#) under Project Notifications.

If the CEAO requires further review under section 10(4)(b), an interim report will be posted providing directions for further procedures and consultations that must be carried out by the proponent and instructions for submitting a revised project notification after carrying out any required tasks.

3.7. Step 7: Minister's Decision (if applicable)

If the CEAO submits the notification to the Minister for section 11 consideration, the Minister has **30 days** to make a decision on designation.

If the Minister designates the project as reviewable under [section 11](#), the proponent must not undertake or carry out the activity that is reviewable (construct, operate, modify, dismantle or abandon all or part of the facilities) unless the proponent first obtains an environmental assessment certificate under [section 6](#) of the Act. If designated, the project may proceed to the Early Engagement phase of the EA process. For projects designated under section 11, the option to exempt the project from requiring a certificate during the Readiness Decision is not available under [section 16\(3\)](#) of the Act.

4.0 INFORMATION REQUIREMENTS FOR PROJECT NOTIFICATION

4.1. Proponent Information and Contacts

- Proponent name;
- Mailing address, phone number, email and website URL;
- Primary contact for the notification including name, phone number, and email.

4.2. Project Information

- Project name;
- Project industrial type and sub-type;
- Project location within the province and region;
 - Provide a one-sentence description of the location of project being proposed.
 - Latitude and longitude.
- A description of the proposed project's location in a local and regional context, including proximity to communities or locations of interest to the public, government, or Indigenous nations, and designated or protected areas such as parks or wildlife habitat areas;
- Proposed on- and off-site facilities;
- A brief description of proposed associated activities including those activities related to processing, transportation and/or shipping of materials to/from the site;
- A description of any other project(s) that are needed for the proposed project to proceed and be feasible (e.g. a pipeline would be needed for an oil and gas facility to proceed);
- A description of the work that has been conducted to arrive at the proposed project;
- Duration of project – length of each phase (e.g. construction, operation, decommissioning and closure).

4.3. Authorizations

- List any existing permits or tenure in place;
- List required permits, licenses, tenures or other authorizations and their status if they've been applied for.

4.4. Notification Threshold Information

Notification Threshold (section of RPR)	Information Requirements
Federally Reviewable (section 5(1)a)	<ul style="list-style-type: none"> • Federal category of physical activity under the Physical Activities Regulation. • Federal threshold of physical activity under the Physical Activities Regulation. • Description of the extent to which the project activities and components are off federal lands and/or reserve land.
Design thresholds (section 5(1)b)	<ul style="list-style-type: none"> • Input a design value, in the applicable units of measurement, relevant to the design threshold that triggered notification (e.g. for a mine project listed in Part 3 of the RPR, input the production capacity in tonnes/year; for energy projects in Part 4 of the RPR, use rated nameplate capacity, length, design capacity, input capacity or Sulphur thresholds depending on project sub-type; etc.).

Notification Threshold (section of RPR)	Information Requirements
Workforce (section 5(1)c)	<ul style="list-style-type: none"> • Number of employees or contractors who would work more than 30 hours/week on an annual basis. • Description of where the workforce will be drawn from; • Description of where the workforce accommodations would be located and proximity to nearest communities; • Description of the form of accommodations proposed to house the workforce (e.g. construction camp).
Greenhouse Gases (section 5(1)d & 5(3))	<ul style="list-style-type: none"> • Estimated amount of GHG emissions (tonnes/year measured in carbon dioxide equivalents). • Brief description of the primary source(s) of GHG emissions.
Transmission Line (section 5(1)e)	<ul style="list-style-type: none"> • Transmission line kilovoltage (kV); • Transmission line length (kilometers).
Linear clearance (section 5(1)f(i))	<ul style="list-style-type: none"> • Length of clearance (kilometers). • Usage of the cleared land.
Land clearance (section 5(1)f(ii))	<ul style="list-style-type: none"> • Total land clearance (hectares) • Usage of the cleared land.

4.5. Maps and Shapefiles³

- The following information must be included on maps:
 - On- and off-site project components;
 - Indigenous traditional territories and/or consultation areas, Treaty and/or Title lands, and Reserve lands;
 - Local and Indigenous communities;
 - International, provincial, and territorial boundaries, where applicable;
 - Parks and protected areas; and
 - Legally protected wildlife habitat.
- The following shapefiles and .kmz for the project must be provided:
 - Project footprint;
 - Known or proposed project components; and
 - Project access route.

The scale selected for each map should allow the information to be presented clearly and legibly when printed on 8.5x11 or 11x17-inch paper.

Map must include NTS Map number, latitude and longitude references, titles, a north arrow and relevant legends.

³ Information that has been identified as confidential by Indigenous nations or the public should not be shown on maps or described in text in such a way that compromises its confidentiality. Refer to the Indigenous Knowledge Guide for information on Indigenous knowledge consent, policies, and protocols

Shapefiles must meet the following specifications:

- ESRI format and include four file types: .shp, .shx, .dbf, and .prj;
- BC Albers North American Datum of 1983 (NAD83) projection;
- Shapefile polygons and their corresponding polygons on all maps must be identical in shape, extent, and location;
- All spatial features (.shp and .shx) must be represented as polygons, not as points or line features;
- File names must be named in a way that clearly describes the contents;
- To avoid having ArcGIS generate random errors, follow these best practices:
 - avoid starting names by number,
 - add an underscore instead of a space or dash, and
 - do not include a symbol outside of the underscore.

4.6. Optional Supporting Materials

- Project Description
- Other supporting documents