

# Environmental Assessment Certificate Policy -Abridged

December 2016



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## ACRONYMS

AIR	Application Information Requirements
CEMP	Construction Environmental Management Plan
CPD	Certified Project Description
EA	Environmental Assessment
EAC	Environmental Assessment Certificate
EAO	Environmental Assessment Office
EM	Environmental Monitor
IEM	Independent Environmental Monitor
LNG	Liquefied Natural Gas
MOU	Memorandum of Understanding
OEMP	Operational Environmental Management Plan
OGC	Oil and Gas Commission
TOC	Table of Conditions

## ENVIRONMENTAL ASSESSMENT CERTIFICATE POLICY

### INTRODUCTION

The certificate/order is one of several mechanisms for regulating major project development in British Columbia (BC). It describes the permissible infrastructure and activities of a project as well as mitigation measures required to prevent or reduce potential adverse environmental, economic, social, health and heritage effects to an acceptable level.

The Holder must design, build, operate and, if applicable, decommission the project in accordance with the certificate or order, which includes the Certified Project Description (CPD or Schedule A) and the Table of Conditions (TOC or Schedule B). The mitigation measures incorporated into the certificate or order are required to avoid or mitigate potential adverse effects.

For each certificate, the Environmental Assessment Office (EAO) determines the appropriate content to recommend to Ministers for inclusion in the certificate, based on input from the working group, permitting authorities, Aboriginal groups, proponents, public comment periods and EAO's Compliance and Enforcement (C&E) team. The EAO determines the appropriate content for each order<sup>1</sup>.

EAO will require the proponent to contribute to the drafting of the certificate; at a minimum the CPD maps to ensure accuracy. As part of its Environmental Assessment (EA) application, the proponent is typically required to provide a draft of the preliminary mitigation measures, which informs the development of the TOC and the CPD<sup>2</sup>. EAO may require the proponent to further assist with the development of the certificate, for example by providing figures or draft text for the CPD or drafting mitigation measures for incorporation into draft conditions. If the proponent assists in developing the certificate, the CPD and TOC must be submitted in a word document. Maps must be submitted in a pdf file that is unsecured for the purposes of copy/paste, markup and print functions.

This policy explains how the EAO determines what mitigation measures will be included in a certificate and how such mitigation measures will be incorporated. This policy is intended for use by EAO staff and proponents or certificate holders, in the case of certificate amendment requests.

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<sup>1</sup> For more information on Exemption Orders see "Requesting a Certificate Exemption under Section 10(1)(b)" available on the EAO's Guidance documents webpage at: <http://www.eao.gov.bc.ca/guidance.html>

<sup>2</sup> For more information see the Application Information Requirements Template on the EAO's Guidance Documents webpage at: <http://www.eao.gov.bc.ca/guidance.html>

The provisions of this policy and the Environmental Assessment Certificate (EAC) template<sup>3</sup> will apply to amendments. The nature and scope of the amendment will determine the applicable provisions of the policy and template. For example, if a Holder wishes to amend a certificate for a non-material change that is administrative in scope, it may be possible that none or only some of the EAC template conditions will apply. In contrast, if a Holder applies for an amendment that is material in scope and varies the boundaries or operational aspects of the project, it is possible that most of the EAC template conditions will apply to the project and form part of the amended Certificate, should the application for an amendment be granted.

## PURPOSE

This is an abridged version of the Environmental Assessment Certificate (EAC) Policy intended to provide a high-level overview of the key concepts in the EAC policy for informational purposes only. For any parties involved in the preparation of an EAC, please see the full version of the policy available on the EAO's Guidance Documents webpage located here:

<http://www.eao.gov.bc.ca/guidance.html> .

### Why a clear certificate or exemption order is important

A clear and unambiguous certificate/order is essential for effective permitting, project development, and operations and compliance oversight because:

- › conditions that are challenging to interpret cause confusion about project requirements for certificate/order holders and regulatory authorities;
- › measurable and enforceable conditions ensure clarity of requirements for everyone;
- › the EAO must be able to enforce the mitigation measures developed during the EA and post-certificate/order requirements; and,
- › if an activity or project component within the scope of the project is not described in the certificate, the certificate holder must consult EAO to determine whether an amendment is required<sup>4</sup>.

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<sup>3</sup> For a copy of the Environmental Assessment Certificate template see the EAO's Guidance Documents webpage at: <http://www.eao.gov.bc.ca/guidance.html>

<sup>4</sup> For more information on amendments please see "Seeking an Amendment to an Environmental Assessment Certificate – Guidance for Certificate Holders" available on the EAO's Guidance Documents Webpage.: <http://www.eao.gov.bc.ca/guidance.html> .

- › If an activity or project component within the scope of the project is not described in the order, the holder of the order must consult the EAO to determine whether they require a certificate.

## OVERVIEW OF CERTIFICATE AND ORDER STRUCTURE

Every certificate/order includes at least three components:

- › Certificate/order body, which includes standard project information and, in the case of a certificate, duration of the certificate;
- › CPD, which describes “what” the project is and “where” it is to be undertaken (Schedule A);
- › TOC, which describes “how” the project is to be undertaken and includes all legally binding conditions (Schedule B); and,
- › Other documents are not usually included, although they can be attached as schedules if additional documents are necessary.

### 1 - Certificate body

#### 1.1 - Standard Project Information

The main body of the EAC includes standard project information. The EAC template specifies the project information that must be provided.

#### 1.2 - Duration of EAC

The EAC must specify a deadline (three to five years), by which time the Holder must demonstrate that their project is substantially started. Typically, the deadline is set to five years after the issuance of a certificate, though a shorter duration may be warranted in rare circumstances.

Holders may apply for a one time extension of up to five years. If a project is not substantially started by the new deadline, the EAC expires<sup>5</sup>.

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<sup>5</sup> For further information on certificate extensions and expiry, see “[Requesting a Certificate Extension](#)” and “[Guide to Substantially Started Determinations](#).” on the EAO’s Guidance documents webpage at: <http://www.eao.gov.bc.ca/guidance.html>

## 2 - Certified Project Description (Schedule A)

The CPD specifies the physical elements that the Ministers are authorizing or which are included in the order. The CPD:

- › defines the physical components of the project and their attributes which may include extent, size, number, location and other specific restrictions; and,
- › captures the mitigation by design achieved through the EA application and EA process.

## 3 - Table of Conditions (Schedule B)

The TOC specifies the legally binding conditions that are necessary to address potential adverse effects. Key considerations when drafting include that conditions:

- › must be carefully written to ensure enforceability of mitigation measures to address adverse effects; and,
- › are based on mitigation measures identified in the EA application and during the EA process to prevent or reduce potential adverse environmental, economic, social, heritage or health effects and adverse effects to Aboriginal interests.

The EAC template<sup>6</sup> assists with drafting the TOC components outlined below. All components of the EAC template will be included, unless deviation is required for the specifics of a particular project.

There are three general types of conditions:

- › Template conditions: applicable to all certificates;
- › Project specific individual conditions: project specific mitigation measures or sector-specific conditions; and,
- › Project specific management plan conditions: used to group mitigation measures to address a common objective or valued component.

These are explained in more detail in the “Table of Conditions” section of the full EAC Policy

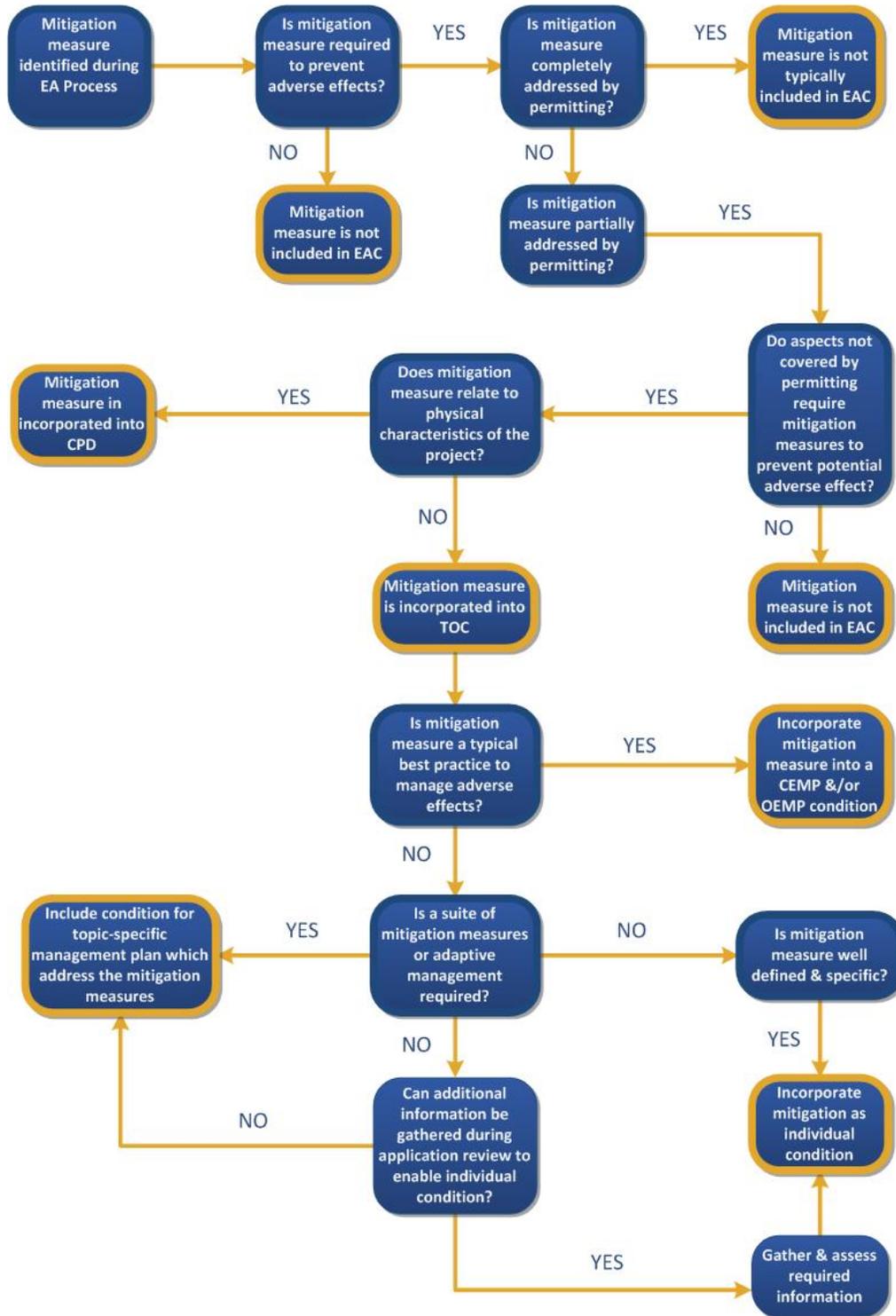
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<sup>6</sup> A copy of the EAC template is available on the EAO’s Guidance Documents webpage available at: <http://www.eao.gov.bc.ca/guidance.html>

## INCORPORATING MITIGATION MEASURES INTO THE CERTIFICATE

The process of determining those mitigation measures and other requirements that will be incorporated into the certificate /order involves a number of considerations as presented in Figure 1 and further explained below.

Figure 1. Decision process for incorporation of mitigation measures



#### 4 - Evaluating if a Mitigation Measure is Required

The certificate/order development process begins by evaluating whether a mitigation measure identified during the application process is required to mitigate potential adverse effects. Conditions should be directed at:

- › addressing the risk of adverse effects on valued components that are not sufficiently addressed in permitting and the regulatory framework (more on this below);
- › responding to matters of public interest; and,
- › minimizing impacts to and accommodating Aboriginal interests.

#### 5 - Assessing the Interaction with Agencies Issuing Subsequent Permits<sup>7</sup>

Mitigation measures assessed during the EA process can be addressed:

- › by the certificate/order only;
- › partially by permitting and partially by the certificate or order; or,
- › fully addressed by permitting and therefore not generally included in the certificate / order.

##### *Situations Addressed by both EAO and Permitting*

EAO must evaluate whether other regulatory processes address relevant spatial and temporal aspects of the mitigation required, in light of the predicted effects involved. A mitigation measure should be included in the certificate/order when:

- › the potential adverse effect is so significant that multiple regulatory assurances are required given the scale of effect and the project;
- › permitting or other regulatory frameworks do not fully address the effects and required spatial and temporal scope of the mitigation measures (i.e. in some cases permitting may not address ancillary structures or access roads as part of the overall project); and,
- › application requirements for an authorization issued under the permitting regime do not require consultation (i.e. when the municipal wastewater effluent system is designed to achieve mitigation but no consultation is required under the applicable regulation if subsequent changes to the design are made).

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<sup>7</sup> The information on permitting in this policy applies to permits issued for a project after a certificate/order is obtained. For information on investigative use licenses, issued before a certificate/order is obtained, see the EAO's Guidance Documents webpage.

## 6 - Project Maps

Project maps are an essential tool used by C&E officers to ensure that the physical elements of a project are consistent with the Project as assessed under the *EAA* and approved by Ministers or included in the order. Project maps are a required component of the CPD that identify the spatial elements of an approved project. In contrast to some maps in the EA application where the intent is to represent a feasible vision of a comprehensive final project, the maps in the CPD identify the boundaries and allowable spatial flexibility for the physical components of a project consistent with the EA conducted for the Project. Project maps may also be used by subsequent permitting authorities to inform permitting decisions.

In general, there are two types of project maps to define the spatial boundaries of a project: overview and detailed. CPD maps are regulatory documents and therefore should not have proponent or consultant logos or phrases such as ‘not for legal purposes’, ‘draft’ or other similar disclaimers.

### 6.1- Overview Map

The primary purpose of the overview or index map is to delineate the entire project on one map. The project overview map provides geographic context and outlines the general regional and/or local area in which the project will be undertaken.

When developing the project overview map, proponents are to meet the following specifications:

- › Select a scale that shows all of a project: typically 1:100,000 to 1:150,000 for centralized projects (i.e. mine site, LNG plant or airport), and up to 1:1,500,000 or 1:1,250,000 scale for linear projects (i.e. pipeline or transmission line);
- › Delineate the maximum spatial extent of project components, polygons and corridors; and,
- › Show UTM grid systems.

### 6.2- Detailed Maps

One or more detailed maps are included to show finer scale details of authorized project components. For a project that is geographically extensive, a series of detailed maps may be required, and referenced to the overview map.

When developing detailed maps, proponents are to meet the following specifications:

- › Delineate the areas, including polygons or corridors within which project components can or cannot be constructed. The maps must explicitly outline the authorized areas for all project components;
- › Scale should typically be 1:20,000 or finer;

- › Base maps must:
  - be in color;
  - use a topographic base map (in some cases orthographic or hydrographic maps may be also appropriate); and,
  - display geographic features (i.e. lakes, rivers, streams, wetlands, etc.) and existing infrastructure (i.e. roads, railways, transmission lines, pipelines, etc.).
- › Delineate the spatial extent of project components and polygons/corridors for project components;
- › Clearly define and label all project components such as certified corridors (i.e. pipeline, transmission line, roads) and/or certified areas (i.e. camp, powerhouse, mill, temporary work space);
- › Clearly display specific areas where some or all project development is not permitted (i.e. area of environmental sensitivity such as a stream, wetland, or a buffered area to protect a cultural feature such as a petroglyph or sacred/ceremonial place);
- › Display new permanent or temporary roads and other linear features that may be constructed (either as specific locations or as certified corridors where the linear features may be built); and,
- › Show UTM grid lines.

Table 1 – Required mapping information checklist

**Required Mapping Information:**

- › Background data consistent with topography and physical features shown on 1:20,000 Terrain Resource Inventory Mapping [(TRIM) maps]
- › If relevant for the CPD, Crown and private land from Tantalus Cadastre (1:20,000)
- › Socio-political boundaries: International, Provincial and Territory boundaries, Indian Reserve and parks (if not present in TRIM)
- › Legally protected wildlife habitat (i.e. Ungulate Winter Range)
- › Waterbodies
- › BC Geological Survey map sheet numbers (detailed maps only)
- › Define data sources

Table 2 - Map legend checklist

**Legend:**

All items listed in the legend are clear and do not require reference to supplementary text to be understood (i.e. the map can “stand alone”).

- › Scale bar
- › Universal Transverse Mercator (UTM) coordinates
- › BCGS map sheet numbers (detailed maps only)
- › North arrow
- › Inset (BC locator map) or Index map to clarify location
- › Date of map production
- › List of data sources
- › Legend which clearly describes the data layers
- › UTM grid
- › Name of Entity producing the map but not the company logo (i.e. Produced by:)
- › Any disclaimers

## GLOSSARY

**Aboriginal interests** – A term used in this document to refer to asserted or proven Aboriginal Rights, including Aboriginal Title, and Treaty rights that require consultation and, if appropriate, Accommodation.

**Amendment** – A change in the Environmental Assessment Certificate when a Certificate Holder proposes to change ownership or an aspect of the certificate, (e.g. design, location, construction, operation or decommissioning of the project). Note that some older certificates allow for non-material changes to be made to certificates, outside of the formal amendment process.

**Certificate holder** - A person or an organization that has been issued an environmental assessment certificate, including a corporate entity, the government of Canada, the government of British Columbia, a municipality or regional district, another province, another jurisdiction, or an Aboriginal group.

**Certified project description** – A legally-binding description of the project, including all of the project components and their locations with any required constraints. The document describes “what” is being certified by an environmental assessment certificate or exempted from requiring certification by an exemption order (i.e., the components of the project). By comparison, conditions describe “how” the project will be implemented. The holder must design, build, operate and decommission (if applicable) the project in accordance with both the certified project description and conditions. Most certificates issued after June 2012 have certified project descriptions.

**Conditions** - Certificate conditions describe “how” the project will be implemented. Conditions are legally-binding requirements that are set out in an environmental assessment certificate, and to which the certificate holder must adhere throughout the life of the project. Some of the conditions are procedural requirements common to all certified projects; others are project-specific and intended to prevent or reduce adverse impacts to the five pillars (environment, economy, social, heritage and health) and/or Aboriginal interests. Conditions were formerly called commitments; some older environmental assessment certificates use this term.

**Environmental Assessment Certificate** - A certificate issued to a proponent when the Minister of Environment and one other Minister approve a reviewable project. The environmental assessment certificate allows the project to proceed to permitting and other authorizations. The certificate sets out legally-binding requirements to which the certificate holder must adhere throughout the life of the project.

**Environmental monitor** – An environmental monitor on environmental assessment projects is typically a qualified professional that assists the holder in identifying and mitigating the

adverse effects of the project and maintaining compliance with the certificate. The environmental monitor is retained by the holder to observe, record and report on the implementation of the requirements in the environmental assessment certificate. The environmental monitor reports directly to the certificate holder.

**Exemption order** – a legal order under section 10(1)(b) of the Environmental Assessment Act that allows a Reviewable Project to proceed without an environmental assessment provided the project is constructed, operated and decommissioned in accordance with the exemption order.

**Independent environmental monitor** - Similar to an environmental monitor, an independent environmental monitor is an environmental specialist, typically a Qualified Professional, who is retained by a certificate holder as required by the environmental assessment certificates. An independent environmental monitor verifies compliance with the environmental assessment certificate and reports findings directly to government.

**Management plan** – A document that groups mitigation measures that address a common objective or valued component. The two main types of management plans are: construction/operational environmental management plans which address adverse effects common to all projects; and project-specific management plans which address adverse effects to a particular valued component or topic.

**Proponent** - A person or an organization that proposes a reviewable project, including a corporate entity, the government of Canada, the government of British Columbia, a municipality or regional district, another province, another jurisdiction, or an Aboriginal group.

**Qualified Professional** - An applied scientist or technologist specializing in a relevant applied science or technology including, but not necessarily limited to, agrology, forestry, biology, engineering, geomorphology, geology, hydrology, hydrogeology, or landscape architecture. A qualified professional must be registered in British Columbia with the appropriate professional organization, and acting under that association's Code of Ethics and subject to disciplinary action by that association. He or she must also be someone who, through demonstrated suitable education, experience, accreditation and knowledge relevant to the particular matter, may be reasonably relied on to provide advice within his or her area of expertise.

**Table of Conditions** - A list of legally-binding requirements called 'conditions' that are set out in an environmental assessment certificate or exemption order, and to which the certificate holder must adhere throughout the life of a project. The three main types of conditions are: template conditions applicable to all certificates, individual conditions used when the mitigation is known and well-defined, and management plan conditions used to group mitigation measures to address a common objective or topic.