



Environmental
Assessment Office

Requesting a Certificate Exemption Under Section 10(1)(b)

April 2016



TABLE OF CONTENTS

Table of Contents	2
Introduction	3
Fees	3
The Process	4
Figure 1 – Overview of Certificate Exemption Process.....	4
Process Steps and Considerations	5
Step 1	5
Step 2	5
Step 3	6
Step 4	6
Contact Information for the Environmental Assessment Office	8

INTRODUCTION

Under the [Environmental Assessment Act](#), the Executive Director of the Environmental Assessment Office may determine that an environmental assessment certificate is not required for a proposed project that would otherwise be reviewable under the [Reviewable Projects Regulation](#). An environmental assessment certificate may not be required if the Executive Director considers that a project will not have significant adverse effects taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the project.

Under Section 10(1)(b) of the *Environmental Assessment Act*, if the executive director considers that a reviewable project will not have a significant adverse environmental, economic, social, heritage or health effect, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the project, the executive director may determine that (i) an environmental assessment certificate is not required for the project, and (ii) the proponent may proceed with the project without an assessment.

If it is determined that a certificate is not required, the Executive Director will issue a legal order under section 10(1)(b) of the *Environmental Assessment Act*. The proponent may then proceed without an assessment provided that the project is constructed, operated and decommissioned in accordance with the order.

If it is determined that a certificate is required:

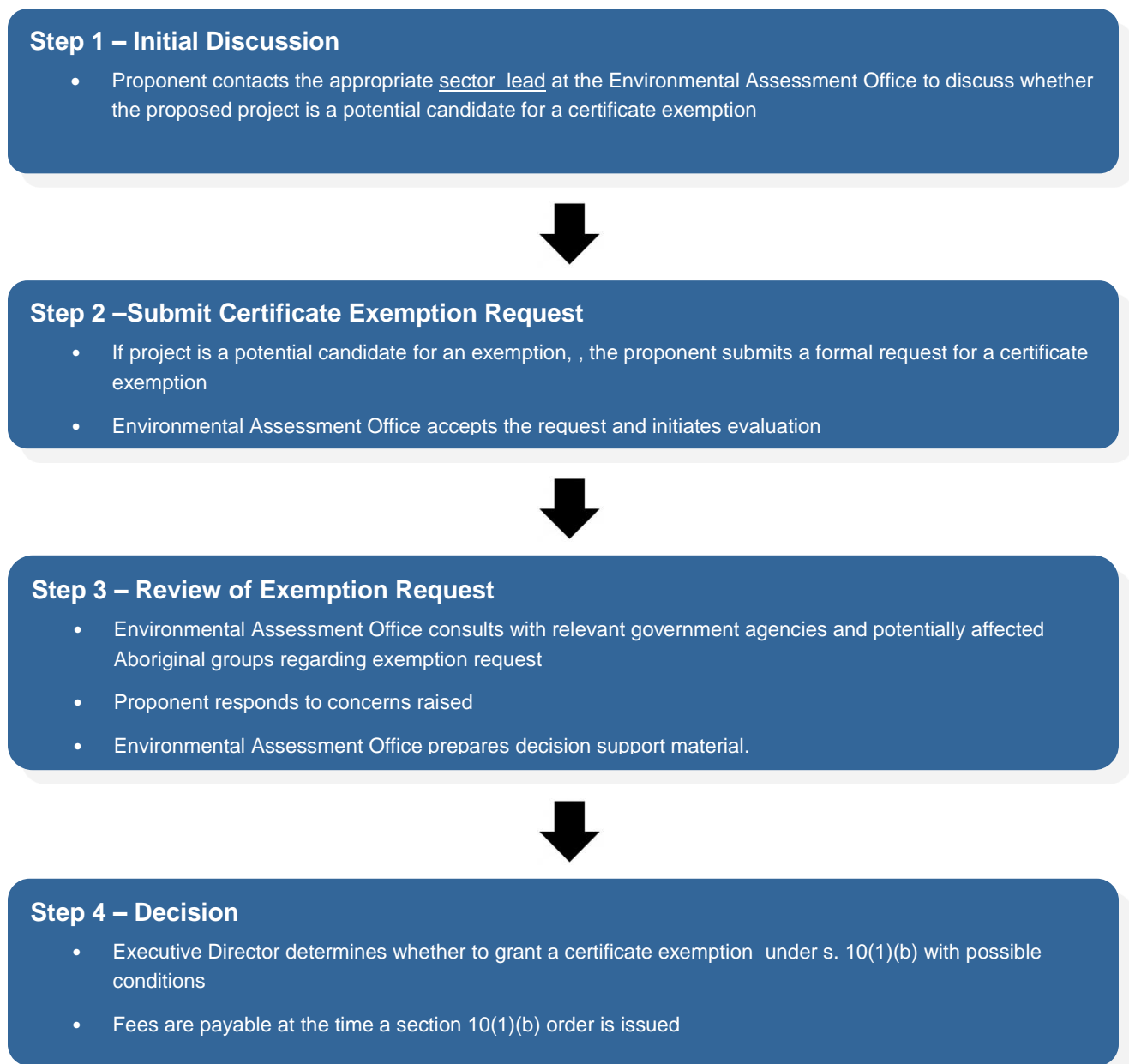
- an order will be issued under section 10(1)(a) or 10(1)(c) of the *Environmental Assessment Act*; and
- EAO will work with the proponent to support the transition from the exemption to the environmental assessment process.

FEES

The fee for a certificate exemption is \$10,000. For more information on fees, see the [fees overview](#) page on the Environmental Assessment Office website.

THE PROCESS

FIGURE 1 – OVERVIEW OF CERTIFICATE EXEMPTION PROCESS



PROCESS STEPS AND CONSIDERATIONS

STEP 1

Before submitting a request for a certificate exemption, the proponent (i.e. the party proposing the development) should contact the appropriate [sector lead](#) at the Environmental Assessment Office for an initial discussion about the proposed project and whether it is a potential candidate for a certificate exemption.

Prior to initiating discussions with the Environmental Assessment Office, proponents are encouraged to engage with Aboriginal groups and potentially affected communities and stakeholders in order to understand and mitigate potential concerns.

To determine if a proposed project is a potential candidate for an exemption, the Environmental Assessment Office considers factors such as:

- Are plans for the proposed project developed in sufficient detail that the potential for significant adverse impacts can be determined?
- Does the understanding of the potential for significant adverse effects rely on substantial field work, detailed modelling, or other technical analysis?
- Will the proposed project rely largely on existing infrastructure and facilities?
- Is there (or has there been) a pre-existing activity at the proposed project location that is conducive to ongoing activity, e.g. brownfield development?
- Are there relevant conclusions from past regulatory processes; or is there a subsequent regulatory process that ensures appropriate mitigation measures will be required? What efforts has the proponent made to consult with Aboriginal groups? What issues have Aboriginal groups identified and what measures has the proponent proposed to mitigate these issues?
- What level of public consultation has the proponent undertaken? To what extent has the proponent resolved issues or concerns identified by the public?

STEP 2

If the project is a potential candidate for an exemption request, the proponent submits a formal request to the Environmental Assessment Office. The request must include a description of the proposed project in enough detail that the potential effects can be determined. The proponent should follow the Environmental Assessment Office's [Guidelines for Preparing a Project Description](#) and include any additional information required for consideration of an exemption request (to be discussed with the Environmental Assessment Office). The request must provide sufficient evidence that there is no potential for significant adverse effects and clearly explain the methodology used to reach conclusions.

After the request is submitted, the project lead will provide the proponent with a letter outlining the process for considering the request, the proponent's obligations, and expected timelines for key steps. The proponent's request and project description will be posted on the electronic project information center on the Environmental Assessment Office website.

STEP 3

The Environmental Assessment Office will consult with relevant government agencies (provincial, federal and local levels) and potentially affected Aboriginal groups regarding the exemption request and the potential for adverse effects. The review period will vary depending on the complexity of the proposed project. Where the project lead decides it is appropriate, the Environmental Assessment Office will solicit public comments on the exemption request.

The Environmental Assessment Office will provide questions or comments received from agencies and Aboriginal groups to the proponent. The proponent will be asked to: respond to the concerns raised; discuss potential measures to avoid, mitigate or otherwise address potential effects; and seek to resolve the concerns. The Environmental Assessment Office will determine the adequacy of the proponent's responses and identify any gaps or outstanding issues. The proponent's responses will be shared with relevant government agencies and potentially affected Aboriginal groups.

The Environmental Assessment Office will work with agencies and Aboriginal groups to determine if specific conditions or mitigation measures are needed to address issues or concerns if the Executive Director decides to grant a certificate exemption. EAO will prepare a Summary of Evaluation report.

STEP 4

The Executive Director will review the Summary of Evaluation. Based on this report and other relevant information, the Executive Director will determine whether to issue a section 10(1)(b) order and, if so, whether conditions are required.

In determining whether to approve the request, the Executive Director must consider:

- The potential for any significant adverse environmental, social, health, heritage and economic effects from the proposed project and proposed measures to avoid, manage or compensate for those effects;
- Any potential effects from the proposed project on asserted or established Aboriginal rights, including title or Treaty rights, based on consultation conducted with potentially affected Aboriginal groups, and any accommodation, where required.

The Executive Director may consider other factors such as:

- Baseline conditions of valued components that would be impacted by the proposed project;
- Whether proposed mitigation measures will rely on proven technologies/solutions;
- The level of confidence in the conclusions of potential effects, including the effectiveness of mitigation measures;
- Whether the combination of this proposed project with other projects in the area would trigger the need for a cumulative effects analysis;
- Relevant conclusions from past environmental assessments and permitting processes;
- The scope and nature of comments received from other provincial agencies, the federal government and/or local governments regarding the potential impacts of the proposed project;
- The scope and nature of comments received from potentially affected First Nations regarding potential impacts to their asserted or proven Aboriginal rights and title or Treaty rights; and
- Whether subsequent authorizations will require mitigation measures.

These factors will generally be addressed in the report.

If the Executive Director determines that an environmental assessment certificate is not required, the Environmental Assessment Office will issue an order. The Environmental Assessment Office will advise the proponent and other potentially affected parties of the decision. The order and any relevant supplementary information will be posted on the Environmental Assessment Office website. At the time the order is issued, the Environmental Assessment Office will also issue an invoice to the proponent for the required fee.

If an exemption with conditions is granted, any required compliance and/or monitoring reports submitted by the proponent will be posted to the Environmental Assessment Office website.

CONTACT INFORMATION FOR THE ENVIRONMENTAL ASSESSMENT OFFICE

If you have any questions about the certificate exemption process or would like additional information about the environmental assessment process, please contact us at:

Environmental Assessment Office

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