

Policy for the Termination or Withdrawal of an Assessment

VERSION 1.0

NOVEMBER 19, 2021

ISSUED BY:



ELENORE AREND
CHIEF EXECUTIVE ASSESSMENT OFFICER AND
ASSOCIATE DEPUTY MINISTER
ENVIRONMENTAL ASSESSMENT OFFICE



EAO

Environmental
Assessment Office

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.

Version Control History

<u>Version #</u>	<u>Date</u>	<u>Modification</u>	<u>Approved by</u>
1.0	2021-11-19	n/a	Elenore Arend, Chief Executive Assessment Officer and Associate Deputy Minister Environmental Assessment Office

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DEFINITIONS

Assessment: An assessment under the Act of a reviewable project's potential effects that is conducted in relation to an application for an Environmental Assessment Certificate (EAC), or an assessment of an application for an amendment of an EAC.

Environmental Assessment Certificate (EAC): A legally binding authorization that identifies a project's facilities and activities, and how the project must be carried out from start to finish. EACs also state how mitigation measures to avoid, minimize, restore, or offset a project's effects must be implemented. The Holder of the EAC must design, build, operate and, if applicable, decommission the project as described.

Holder: The holder of an EAC or Exemption Order.

Proponent: The legal entity that owns a project.

Policy for the Withdrawal or Termination of an Assessment

INTRODUCTION

This document provides guidance for carrying out a withdrawal or termination of an Assessment under the [Environmental Assessment Act \(2018\)](#) (the Act). The termination process is carried out pursuant to [Section 39](#) of the Act while withdrawals are a voluntary process established via policy. The primary users of this document will be Proponents of proposed projects (Proponent), Holders of Environmental Assessment Certificates (EACs) and Exemption Orders (Holders) and Environmental Assessment Office (EAO) staff. Other participants in Assessments, including Indigenous nations and the public, may also use this policy to understand the roles, responsibilities, and process requirements for the withdrawal or termination of an Assessment. Project-specific procedures will be determined based on the circumstances of individual projects.

This Policy is intended to be read and interpreted in conjunction with the Act, specifically Section 39, as well as any other existing agreements between the EAO and an Indigenous nation (see the [Agreements](#) page on the EAO's website.)

BACKGROUND

Withdrawal from an Assessment

The Act does not establish legislative procedures for withdrawing from an assessment process as requested by a Proponent or Holder. This document sets out the process for doing so, should a Proponent or Holder choose.

Termination of an Assessment

If a Proponent or Holder fails to do what is required within the applicable time limits, the EAO may consider terminating the Assessment.

The Act sets out time limits for Assessment processes which were developed to seek to ensure that Assessments are completed within appropriate timeframes, use current information, and support transparency and public confidence. Decisions to terminate an Assessment are not a reflection of a project or its potential effects.

Orders under the Act may also impose time limits.

The minister or CEO may terminate an Assessment under the Act in any of the following circumstances:

- a. One year has elapsed since the notice under [Section 13\(5\)](#) was provided and the Proponent has not submitted a detailed project description under [Section 15](#).
- b. Three years have elapsed since a Proponent was required to provide information by an order made under [Section 19](#) or [24](#) (process order) and the Proponent has not provided the information.
- c. One year has elapsed since the notice under [Section 27\(2\)\(b\)](#) was provided and the Proponent has not submitted a revised application under [Section 27\(3\)](#).
- d. The Proponent otherwise fails to do something required under the Act by the time required.

The decision to terminate an Assessment is discretionary and will be informed by the individual circumstances of each Assessment. Proponents and Holders will be provided an opportunity to provide their views on a potential termination should this decision be considered by the EAO. The process described in this document does not limit the ability of the decision-maker to terminate an Assessment for any of the reasons described in the Act. Assessments will continue until:

- They are voluntarily withdrawn from by the Proponent or Holder;
- They are terminated by the EAO; or,
- A final decision is made on the Assessment.

See [Figure 1](#) for an overview of the EA phases and associated timelines.

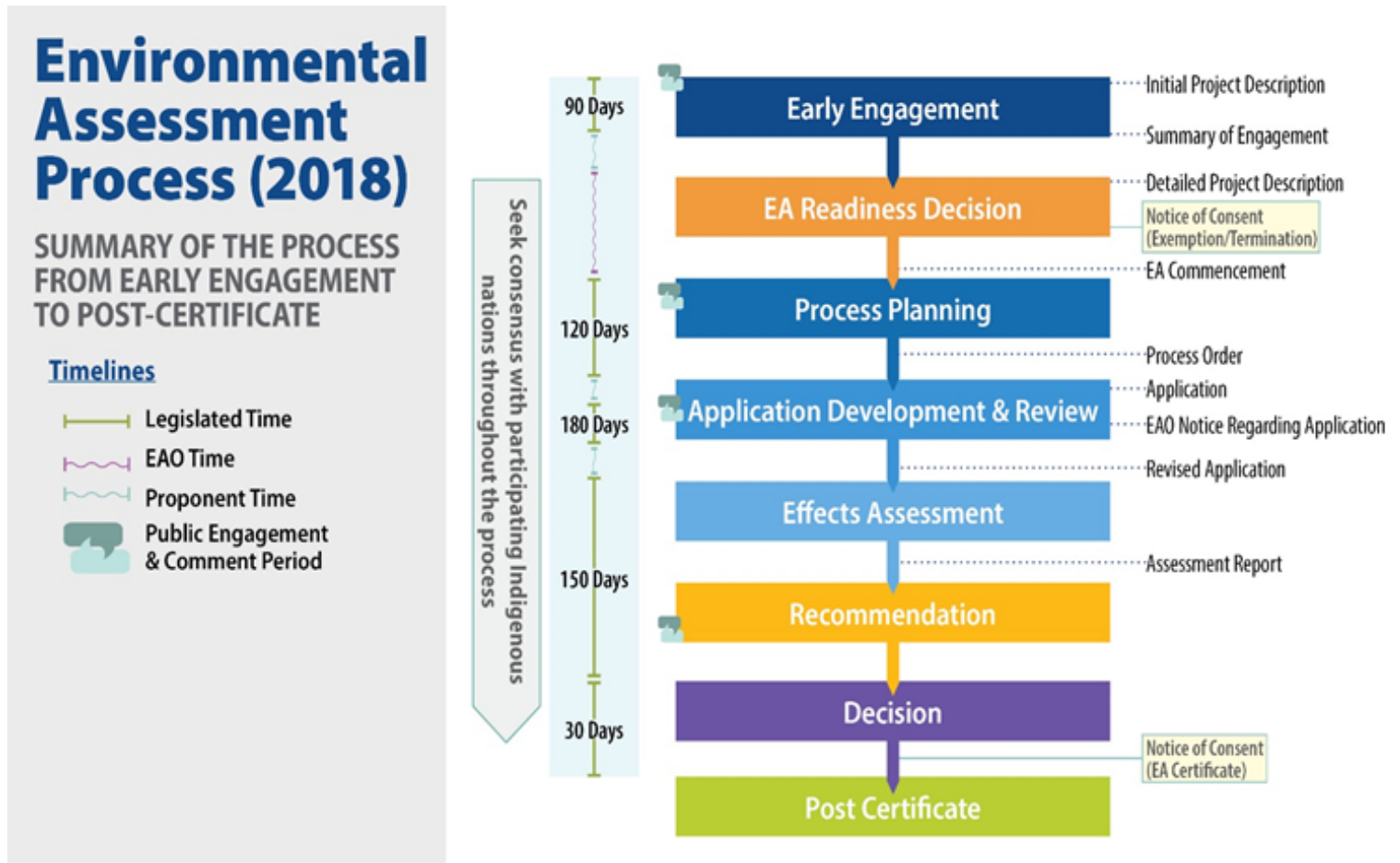


Figure 1. Overview of the EA process.

FEES

There are no fees associated with withdrawal or termination procedures. However, withdrawal from a review process does not remove the obligation to pay fees when a fee order has been issued, as outlined in the [Fee Guidelines](#).

WITHDRAWAL FROM AN ASSESSMENT

If a Proponent or Holder decides that it no longer wishes to continue at any stage of an Assessment, it may withdraw the project from the assessment process. The Proponent or Holder should contact the EAO Project Lead for the project to discuss the plan to withdraw from the Assessment (see the project page on [EPIC](#)). The EAO will require a letter from the

Proponent or Holder stating that it wishes to withdraw the project from the Assessment.¹ The EAO will then confirm in writing to the Proponent or Holder that it has withdrawn the project. Any Technical Advisory Committee (TAC), any Community Advisory Committee (CAC) and Indigenous nations who were engaged in the Assessment will be notified and any relevant communications and materials will be posted on [EPIC](#).

If a Proponent or Holder withdraws a project from an Assessment and the Proponent or Holder wishes to proceed with the Assessment in future, the Proponent or Holder will be required to initiate a new Assessment and pay fees as per the EAO Fee Guideline on the EAO's website. The EAO will work with the Proponent or Holder to determine what work may still be relevant and could be carried over to the new Assessment.

TERMINATION PROCESS

The process below is discretionary and will be taken depending on the individual circumstances of an Assessment, and not necessarily on each occasion where a time limit has elapsed because the required information has not been provided or other required action has not been taken. Failure to meet a time limit does not automatically trigger the termination of an Assessment.

Upcoming Time Limit

The EAO Project Lead for an Assessment may contact the Proponent or Holder that has an upcoming time limit to discuss the required information or other action and the plan to provide it to the EAO. If the information is received before the time limit has passed, no further consideration of termination is necessary. It is the Proponent or Holder's responsibility to meet any required time limits.

Time Limit Has Elapsed

If a time limit has elapsed and the required information has not been provided, or other required action hasn't been taken, the EAO may contact the Proponent or Holder requesting a plan to submit the information or complete an action within a time determined by the EAO (typically 30 days). Depending on the circumstances, the EAO may ask the Proponent or Holder if it prefers to withdraw from the Assessment process. An acceptable plan will include information on the Proponent or Holder's planned activities and proposed timelines to provide the information or complete the action.

The EAO may provide any submitted plans for review, to any TAC, any CAC, and Indigenous nations, as appropriate, and will consider any comments received.

If the Proponent or Holder submits a plan that the EAO finds acceptable, there will be no further termination considerations until the information is not submitted, or action not taken as identified in the plan. The EAO will communicate its approval to the Proponent or Holder and may add further requirements to the plan. Any TAC, any CAC and Indigenous nations will be notified of relevant updates regarding the Assessment timeline.

If the Proponent or Holder submits a plan that the EAO finds unacceptable, the EAO will work with the Proponent or Holder so it is clear what is necessary to produce an acceptable plan within an appropriate timeline (typically 30 days). If subsequent plan(s) submitted by the Proponent or Holder are unacceptable and required materials are not submitted or actions not taken, the EAO will consider recommending a termination of the Assessment. Depending on the circumstances, the EAO may ask the Proponent or Holder if it wishes to withdraw from the Assessment. If the EAO

¹ The letter must be from a person whom the EAO considers has the authority to notify the EAO of the intent to withdraw. For more information please see the [EAO's Certificate Transfer Policy](#) on the EAO's website.

chooses to not move to recommending a termination, the EAO will explain to the Proponent or Holder and any other parties that have been engaged the rationale for that decision.

In all circumstances, any relevant communications and materials will be posted on EAO's Project Information Center (EPIC).

Termination Recommendation and Decision

If the EAO plans to recommend to the decision-maker that the Assessment be terminated, it will notify the Proponent or Holder, which will be provided an opportunity to submit any further information relevant to the recommendation.

The EAO will notify any TAC, any CAC, and Indigenous nations about its intention to recommend that the statutory decision maker terminate the Assessment and these groups may be provided an opportunity to submit any information they consider relevant to the recommendation. The Proponent or Holder will have an opportunity to respond to any information submitted.

The EAO will prepare a document for the decision-maker that summarizes all the relevant information received and includes a recommendation on whether or not to terminate the Assessment. The EAO may provide the draft document to the Proponent or Holder, any TAC, any CAC, and Indigenous nations for review.

The EAO will notify the Proponent or Holder, any TAC, any CAC and Indigenous nations of the decision.

In all circumstances, relevant communications and materials will be posted on EPIC.

INITIATING A NEW ASSESSMENT

In the event that an Assessment is terminated and the Proponent or Holder wishes to proceed with the Assessment in future, the Proponent or Holder will be required to initiate a new Assessment and pay fees as per the [EAO Fee Guideline](#) on the EAO's website.

The EAO will work with the Proponent or Holder to determine what work completed in the terminated Assessment may still be relevant and could be carried over to the new Assessment.