

# Time Limits and Extensions of Time Limits Policy

APPROPRIATE USES OF SECTIONS 38 AND 45  
OF THE *ENVIRONMENTAL ASSESSMENT ACT*

VERSION 1.0



ISSUED BY: \_\_\_\_\_

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**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

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## ACRONYMS AND ABBREVIATIONS

**Act**     *Environmental Assessment Act, (2018)*

**CAC**     Community Advisory Committee

**CEAO**   Chief Executive Assessment Officer

**EA**     Environmental Assessment

**EAC**     Environmental Assessment Certificate

**EAO**     Environmental Assessment Office

**EPIC**   EAO's Project Information Centre

**TAC**     Technical Advisory Committee

## DEFINITIONS

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

**Environmental Assessment or EA:** A decision-making tool to help identify and evaluate the effects associated with the construction, operation and decommissioning of a proposed project to inform provincial decision-makers approval (or not) of a project, whether it can proceed to permitting, and what additional conditions should be imposed on it.

**Community Advisory Committee or CAC:** A group of interested members of the public with the information to identify issues and provide advice related to the project's effects on the community during an Assessment.

**Environmental Assessment Certificate or 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.

**Exemption Order:** Despite being a reviewable project, a project may meet criteria to be recommended for exemption from the EA process. Upon this recommendation, the Minister may issue an Exemption Order, which is a legally binding authorization that states what facilities and activities can occur without the need for an EA.

**Holder:** The holder of an EAC or Exemption Order.

**Proponent:** The legal entity that owns a project that does not have an EAC or Exemption Order.

**Technical Advisory Committee or TAC:** The forum for the detailed, independent, technical review of all the Proponent's or Holder's documents and technical studies.

## INTRODUCTION

The purpose of this document is to describe when it is appropriate for the EAO to apply [Section 38](#) of the [Environmental Assessment Act \(2018\)](#) (the Act) to extend or impose time limits and how it will do so.

Suspensions under [Section 45](#) of the Act, which authorizes the suspension of an Assessment process due to an inquiry or investigation external to the EAO, are also discussed.

Sections 38 and 45 do not apply to projects undergoing an EA under the [Environmental Assessment Act \(2002\)](#).

The primary users of this guidance will be Proponents, Holders and EAO staff. However, other participants in an Assessment, including Indigenous nations, members of a TAC or CAC and the public may also use this Policy to understand the roles, responsibilities, and process requirements of considering and imposing a time limit or suspension, or making a time limit extension order.

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

### Statutory Authorities

Section 38 of the Act authorizes the Minister or CEO to extend or impose a time limit for doing anything under the Act and to impose conditions in making an extension or imposing a time limit.

Section 45 of the Act authorizes the Minister to suspend an Assessment pending the outcome of another investigation, inquiry hearing or other process that is material to the Assessment.

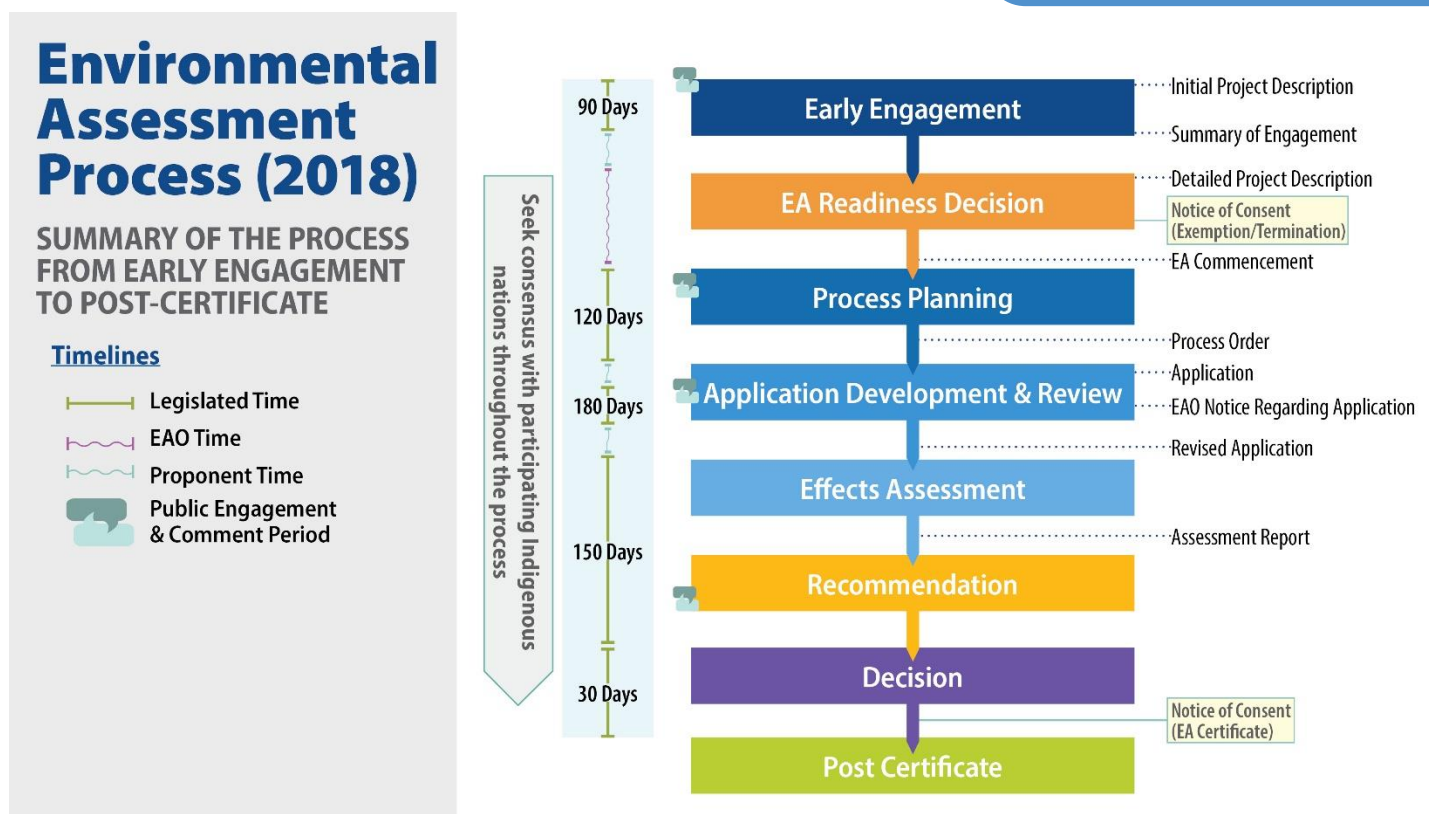


Figure 1: Summary of the B.C. EA Process from Early Engagement to Post Certificate

## TIME LIMITS: SECTION 38

[Section 38](#) of the Act authorizes the Minister or CEAO to extend a time limit or to impose a time limit for doing anything under the Act. They may also impose conditions when doing so. Section 38 explicitly does not apply to the duration of an EAC, which is governed by [Section 31](#).

There are no minimum or maximum time periods for an extension of a time limit. A request for an extension of a time limit can only be initiated by the EAO, a Proponent, or a participating Indigenous nation. A request can be initiated by contacting the EAO Project Lead<sup>1</sup> in writing with reasons for the request. The request will be posted on [EPIC](#).

### Extension of Time Limits

#### Relevant Sections of the EA Act

Sections of the Act in respect of which an extension may be sought include:

##### [S.10\(4\)](#):

- Within 60 days of receiving a project notification the CEAO must submit the notification to the Minister for consideration under Section 11 or provide the Proponent with a notice.

##### [S.11\(5\)](#):

- The Minister must, within 30 days of receiving an application to designate a project as reviewable, designate the eligible project as a reviewable project or decline to make that designation.

##### [S.13\(5\)](#):

- Within 90 days of making a decision on the Initial Project Description, the CEAO must provide a notice to the Proponent setting out a summary of public comments received and setting out the Indigenous nations that are participating Indigenous nations.

##### [S.14\(1\)](#):

- Within 80 days of the publication of the initial project description an Indigenous nation may provide notice to the CEAO that it intends to participate in the Assessment of the project.

##### [S.19](#):

- Within 120 days of the CEAO publishing a notice under Section 18(2) (Readiness Decision) the CEAO must issue a process order.

##### [S.27\(2\)](#):

- Within 180 days of receiving an application for an EAC, the CEAO must publish the application for 30 days, invite public comment and provide the Proponent with a notice.

##### [S.29](#):

- The revised application for an EAC must be referred to Ministers for a decision no later than 150 days after having accepted it.

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<sup>1</sup> Contact information for the Project Lead can be found on the project's page on [EPIC](#).

- Within 30 days of receiving a referral the Ministers must issue or refuse to issue an EAC.
- If an offer to meet with a participating Indigenous nation is accepted within three days of the offer being made, the Ministers must provide notice to the project Proponent and attend the meeting.

**S.41(4):**

- If an Indigenous nation indicates interest in entering into an agreement regarding any aspect of an Assessment, the CEAO must, within six months of receiving that indication, enter into discussions with the Indigenous nation if the CEAO is satisfied that it is appropriate to do so.

**S.50(3):**

- If an Indigenous nation indicates their interest in negotiating a compliance and enforcement agreement, the CEAO must enter into those discussions within six months, unless the CEAO considers that there are insufficient resources to enter those discussions at the time.

**S.57(3):**

- If the Minister issues an order cancelling, terminating or amending an EAC under Section 57 without having provided the Holder of the EAC an opportunity to be heard, the Minister must provide that opportunity if the Holder makes a request in writing within 15 days of the order.

**Section 39 of the Act**

Section 39 of the Act authorizes the Minister or CEAO to consider terminating an assessment if a Proponent does not submit key documents within prescribed time limits. Time limit extensions for this section are not required as termination is not mandatory if the time limit is not met.

**Reasons for an Extension of a Time Limit**

Section 38 does not set out the reasons for which an extension may be granted. However, the Act has outlined timelines in specific sections and as such the normal course should be to act in accordance with them. Timeline extensions are not the normal course and will only be considered where circumstances warrant a timeline extension. When making a timeline extension the Minister or CEAO will typically articulate a rationale for providing such an extension in the circumstances.

The following provides some examples of when an extension of a time may be granted:

- The EAO, a Proponent, a Holder or an Indigenous nation needs more time to complete a task to prepare information or resolve outstanding issues;
- The Proponent or Holder requests a delay to prepare information or resolve outstanding issues (this is the most common reason for an extension);
- The EAO requires more time to review or complete materials and/or to undertake consensus-seeking activities with Indigenous nations when unforeseen circumstances have occurred;
- The EAO requires more time to fulfil consultation requirements with Indigenous nations; for example, when reviewing an application to designate a project as reviewable or if dispute resolution has been triggered; and,
- Ministers require more time to reach a decision on an application for an EAC.

**Steps for Issuing an Extension of a Time Limit**

1. The EAO will engage with the Proponent or Holder regarding the need and reasons for the extension of a time limit.

2. The EAO will engage the TAC, any CAC and Indigenous nations, as appropriate, regarding the need and reasons for the extension of a time limit.
3. A letter will be sent to the Proponent or Holder from the decision-maker which includes the following information:
  - The time limit that is being extended, why and to what date;
  - Any conditions that must be adhered to as part of the extension; and,
  - Additional information on next steps after the end of the extended period may be included in the letter. For example, EAO staff may need to review materials for completeness, engage with the TAC or Indigenous nations, or have follow-up information requests.

**Sections 41(4) and 50(3)**

The steps for issuing a time limit extension for Section 41(4) or 50(3) of the Act may look different to what is described in this Policy depending on the circumstances of the extension and if it relates to an individual Assessment.

The letter will be posted on [EPIC](#) and the TAC, any CAC and Indigenous nations will be notified.

3. Once the end of the extended period is reached, the decision-maker may send a letter to the Proponent or Holder indicating the status of the process to be completed by the deadline and the status of any conditions. The letter will be posted on [EPIC](#).

**Retroactive Extensions of a Prescribed Time Limit**

A time limit extension order may be made even if the respective time limit has already expired. This may be appropriate depending on the circumstances of the project.

**Imposed Time Limit**

A time limit may be imposed by the Minister or CEAO for doing anything under the Act. Examples are:

- The EAO requires a Proponent to submit a report or analysis within a set time frame; or,
- The EAO requires a Proponent to engage the public, an Indigenous nation, the TAC or CAC, or other person or body within a set time frame.

**Steps for Imposing a Time Limit**

1. The EAO will engage, as appropriate, with the Proponent or Holder, the TAC, any CAC and Indigenous nations regarding the need to impose a time limit.
2. A letter will be sent to the Proponent or Holder from the decision-maker which includes the following information:
  - What action, which may include providing a specific deliverable, is being requested of the Proponent or Holder, why and by what deadline;
  - Any conditions that must be adhered to as part of the time limit; and,
  - Additional information on next steps after the deliverable is completed may be included in the letter. For example, EAO staff may need to review materials for completeness, engage with the TAC or Indigenous nations, or have follow-up information requests.
3. Where required, the Proponent or Holder will be given the opportunity to comment on the action requested and the conditions to be adhered to.



4. The letter will be posted on [EPIC](#) and the TAC, any CAC and Indigenous nations will be notified.
5. Once the deadline is reached, the decision-maker may send a letter to the Proponent or Holder indicating the status of the items to be completed by the deadline and the status of any conditions. The letter will be posted on [EPIC](#).

## SUSPENSION OF ASSESSMENT PROCESS PENDING OTHER INQUIRIES: SECTION 45

[Section 45](#) of the Act enables the Minister to issue an order suspending an Assessment process under the Act pending the outcome of an investigation, inquiry, hearing, assessment under [Section 35](#) or [Section 73](#), or other process, being carried out by any level of government or Indigenous nation (including an assessment being conducted by the Impact Assessment Agency of Canada). As part of this, the Minister may suspend a time limit in an Assessment until the Assessment resumes.

A suspension is permitted up to the point of making an EAC decision under [Section 29\(4\)](#) or up to the point of making a decision under [Section 32\(3\)](#) in respect of an application to amend an EAC.

A proceeding before a court is not one of those processes covered by Section 45.

### Steps for Issuing a Suspension

1. The Minister will issue an order to the Proponent or Holder that includes why the time limit is being suspended and until when (for example, a set date or until a process has completed).
2. Where required, the Proponent or Holder will be given the opportunity to comment before the suspension is made. Once the suspension has ended, the decision-maker may send a letter to the Proponent or Holder indicating this and confirming the status of any time limit that was suspended. The letter will be posted on [EPIC](#).

### Examples of Suspension Orders

The following are examples of orders under [Section 30\(1\)](#) of the [Environmental Assessment Act \(2002\)](#) suspending the time limits for a decision by Ministers.

#### Vancouver Airport Fuel Delivery Project

In this example, the EA of the proposed Vancouver Airport Fuel Delivery Project was suspended in 2013 while the BC government developed policies for both land based and marine spills. The pending implementation of these policies was seen to potentially have a material impact on the outcome of the EA, and Section 30(1) was used to suspend the Assessment until these government policies were finalized.

#### Morrison Copper/Gold Mine Project

In response to the August 2014 breach of the tailings dam at the Mount Polley Mine near Likely, BC, the BC government appointed an Independent Expert Engineering Investigation and Review Panel to establish the causes of the dam breach and make recommendations.

At that point in time, the Application for the Morrison Copper/Gold Mine Project was under review. Because the findings of the panel had the potential to materially impact the decision, the Minister of Environment suspended the Assessment until the panel completed its work.