



Environmental
Assessment Office

Guide to Withdrawal and Termination for Proponents

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1.0 INTRODUCTION

In the interest of ensuring high-quality and up-to-date environmental assessments (EA), the Environmental Assessment Office (EAO) annually contacts proponents of inactive projects to confirm whether they intend to proceed with their EA.

The EAO consider projects “inactive” if a proponent has stopped collecting information, holding meetings or preparing documents to advance their project’s EA for six months or more. The EAO also considers other circumstances where long periods of inactivity may be acceptable (e.g. A long-term study is taking place during which no other activity may take place) before contacting a proponent.

Long delays between the time information is requested and the time it is gathered raises the risk that proponents may waste resources collecting information that will ultimately prove to be irrelevant to the EA given a changed context. Experience suggests that the use of dated information can also result in a lower quality EA. Contacting inactive proponents ensures they do not expend effort on resuming an assessment based on process or information requirements that are now out of date. This action is taken for administrative purposes only and is unrelated to the perceived merits or potential environmental effects associated with a project.

In the first instance proponents with inactive projects that are not advancing through the EA process will be asked if they would like to consider voluntarily withdrawing their project. If the proponent does not respond to this request, the EAO will then consider the project withdrawn.

Projects can also be terminated under Section 24(3) of the *British Columbia Environmental Assessment Act* if information requested is not provided within the three-year deadline set out in the [Prescribed Time Limits Regulation](#). Information requirements are usually described in the Application Information Requirements. (AIR) or in some older files, in the Terms of Reference document but can also apply to information requests made during the course of an EA. If this deadline has not been met, then the EAO will contact the proponent and advise them of the intention to terminate the project. This however does not mean the project will be terminated. That depends on the response from the proponent.

Section 24(3) does not apply to information requested by Ministers under Section 17. Any time limits must be specified in a Section 17 Order.

A proponent can also withdraw from the EA process at any time by notifying EAO in writing.

FEES

There are no fees associated with termination and withdrawal procedures. However, if a project is withdrawn or terminated and a new EA is initiated at a later date, EAO’s usual fee schedule would apply for the new EA (See Section 3.0)

2.0 WITHDRAWAL PROCESS

BACKGROUND

The EAO will annually identify projects where a proponent has stopped collecting information, holding meetings or preparing documents to advance an EA, such that no EAO staff time has been required on the file for a period of 26 weeks.

STEP 1

The EAO will send a letter to the proponent which will be posted to the EAO's website on the project page.

STEP 2 – SCENARIO 1: RESPONSE FROM PROPONENT WITH PLAN TO STAY IN EA PROCESS

If a proponent responds to the EAO confirming their intent to continue in their EA process with an acceptable plan then this response will be posted on the EAO's website on the project page. An acceptable plan may include a report on what activity the proponent has been undertaking, how they will get to the point of submitting an application and when they plan to submit an application. The proponent will also be asked to provide regular status updates to the EAO.

The EAO will then send a letter to the proponent stating that the Section 11 and/or TOR/AIR will or may need to be updated once the EA process is restarted. The EAO will consider how consultation requirements and substitution expectations may have changed since those documents were issued. If templates used are out of date, the EAO may consider rescinding those documents and having the proponent create new ones. This letter will be posted on the EAO's website on the project page.

If the plan proposed is unacceptable, the EAO will work with the proponent so they are clear what is necessary to produce an acceptable plan and by what date the EAO would expect to receive one. If an acceptable plan is not received within the timeline, EAO will proceed to Step 2, Scenario 2.

STEP 2 – SCENARIO 2: NO RESPONSE FROM PROPONENT

If there is no response from the proponent, or a response does not address the EAO's request for a follow-up plan, the EAO will send another letter indicating that if the EAO has not had a response by a particular date (usually within 30 days) then the EAO will consider the project withdrawn. The letter will be posted on the EAO's website on the project page.

If there is still no response or a follow-up plan once the deadline has passed, then the EAO will send the proponent a final letter indicating that the project is withdrawn. This letter will be posted on the EAO's

website on the project page.

STEP 2 – SCENARIO 3: PROPONENT AGREES TO WITHDRAW FROM EA PROCESS

If the EAO receives a response from a proponent agreeing to voluntarily withdraw from the EA process, the EAO will request a short letter (suitable for posting to the EAO's website) from the company advising that they wish to withdraw. The letter should be from the company that initiated the project or where that has changed, an explanation should be included of how a different company has come to be the proponent. The letter should be from someone who can be reasonably expected to have authority to advise the EAO of the intent to withdraw. See an [example](#) letter for withdrawn projects on the EAO's website.

The EAO will send the proponent a letter confirming the withdrawal from the EA process and this letter will be also posted on the EAO's website on the project page.

As noted above, the proponent can voluntarily withdraw their project at any time by following Scenario 3 above.

3.0 TERMINATION PROCESS

STEP 1

The EAO monitors those projects where more than three years has elapsed since the Executive Director or Minister has specified the information required from the proponent for an application (i.e. TOR, AIR) or at another time during the assessment and the information has not been provided by the proponent.

STEP 2

The EAO will send a letter to the proponent which will be posted on the EAO's website on the project page. Proponents will have 30 days to respond to the EAO's communication and to provide a plan or other course of action such as voluntarily withdrawing the project.

STEP 3 – SCENARIO 1: RESPONSE FROM PROPONENT WITH PLAN TO STAY IN EA PROCESS

If a proponent responds to the EAO confirming their intent to continue in their EA process, then this response will be posted on the EAO's website on the project page.

The EAO will consider the acceptability of the plan and the conditions in order for the proponent to do so. An acceptable plan may include a report on what activity the proponent has been undertaking, how they will get to the point of submitting an application and when they plan to submit an application.

The EAO may consider rescinding the Section 11 and/or TOR/AIR via letter or having the proponent update them. If templates used are out of date, the EAO may consider rescinding those documents and having the proponent replace them with updated versions. The proponent will also be asked to provide regular status updates to the EAO.

Once these decisions have been made, the EAO will send a letter to the proponent with the EAO's decision and conditions. This letter will be posted on the EAO's website on the project page.

If the plan proposed is unacceptable, the EAO will work with the proponent so they are clear what is necessary to produce an acceptable plan and by what date the EAO would expect to receive one. If an acceptable plan is not received within the timeline, EAO will proceed to Step 3, Scenario 2.

STEP 3 – SCENARIO 2: NO RESPONSE/ RESPONSE ACKNOWLEDGING TERMINATION

If the proponent responds to the EAO acknowledging that a termination will occur, this response will be posted to the EAO's website on the project page.

Where the EAO has not received a response to the first letter from the proponent, the EAO may send a final follow-up communication or proceed with terminating the project.

The letter notifying the proponent of the decision will be posted on the EAO's website on the project page within seven days of being sent.

In the event that an EA is terminated and the proponent wishes to proceed with the project in the future, the proponent will be required to initiate a new EA complete with new Project Description, Section 11 Order and payment of the associated fees as set out in the *Environmental Assessment Fee Regulation*. However, the EAO will work with the proponent to determine what work completed in the terminated EA is still relevant and could be carried over to the new EA.

4.0 ENVIRONMENTAL ASSESSMENT REACTIVATION PROCEDURES

These procedures apply when:

- A Section 11 Order, TOR, or AIR has been issued by EAO for a proposed project OR
- It has been more than three years since the proponent has provided any information to advance the EA process, and the EA may be eligible for termination.
- The proponent wishes to reactivate the EA process. The EAO will work with the proponent to determine what work completed in the terminated EA is still relevant and could be carried over to the new EA.

The approach outlined below is intended to make best use of existing project and EA documentation, while recognizing that updates will be required to bring the EA in line with current methodologies and case law. All projects are to start with the required updates at step 1.

Step	Required updates
1. Project Description	<p>A new project description will replace the old one on the EAO's website, consistent with current project description guidelines. Text, charts, maps and photos from the original project description may be copied and pasted wherever they still accurately reflect the project as currently proposed.</p> <p>The proponent must check whether the updated project is subject to the Canadian Environmental Assessment Act (2012).</p>
2. Section 11 Order	<p>The scope and methods for the EA will be set out in a Section 13 Order, amending or replacing the existing Section 11 Order.</p> <p>The EAO will undertake a strength of claim analysis to identify whether any changes need to be made to the list of Aboriginal groups to be consulted and/or the proposed consultation approach with each Aboriginal group.</p> <p>The scope and methods issued in the Section 13 Order will be consistent with the current template used for newly initiated EAs.</p>

Step	Required updates
<p>3. Fees</p>	<p>For projects with a Section 10 Order only, full fees apply:</p> <ul style="list-style-type: none"> • Two installments of \$75,000. <p>For projects with a Section 11 Order as of April 14, 2014 that remains in place, the transitional fee applies:</p> <ul style="list-style-type: none"> • One installment of \$112,500 <p>For projects with a Section 11 Order (issued at any time) that is repealed and replaced, full fees apply:</p> <ul style="list-style-type: none"> • Two installments of \$75,000. <p>For projects with an accepted application in review, if the proponent continues with the current application:</p> <ul style="list-style-type: none"> • No fees <p>For projects with an accepted application in review, if the proponent withdraws the current application and resubmits a new application, and the current section 11 Order (issued at any time) stays in place:</p> <ul style="list-style-type: none"> • No fees <p>For projects with an accepted application in review, if the proponent withdraws the current application, and the section 11 Order (issued at any time) is repealed, full fees apply:</p> <ul style="list-style-type: none"> • Two installments of \$75,000.
<p>4. Application Information Requirements</p>	<p>If no AIR has been previously issued, the EA will proceed as usual.</p> <p>If an AIR or TOR has been previously issued, a supplementary or replacement AIR will be prepared to complement the existing AIR or TOR.</p> <p>The working group will be convened to review the existing AIR or TOR against current guidelines. Sections that are no longer relevant will be struck out, and methodology/information gaps will be identified.</p> <p>A supplemental AIR will be prepared to address those identified gaps. A public comment period may be required. The EAO will issue the supplemental AIR when we are satisfied that the required information is up to date. Details related to the requirement for a supplemental AIR will be set out in the Section 13 Order.</p>

Step	Required updates
5. Application	If no application has been previously submitted, the EA will proceed as usual. If an application has already been received, a supplementary application addressing requirements outlined in the supplementary AIR must be submitted.