
A Proponent's Guide to **Environmental Assessment**

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1. INTRODUCTION

1.1 Purpose of this Guide

The Environmental Assessment Branch (EA Branch) has prepared this guide as a reference for proponents prior to registration for environmental assessment. The purpose of this guide is to explain in a clear and concise manner how environmental assessment in Nova Scotia is carried out.

This guide is not a substitute to the *Environment Act* or regulations (Appendix A). Proponents planning an undertaking in Nova Scotia should obtain copies of the Act and regulations and contact the EA Branch before beginning an environmental assessment. Where the process and time frames given in this document differ from the regulations, the regulations shall prevail.

Updated versions of this guide will be available on the EA Branch website at www.gov.ns.ca/enla/ess/ea.

1.2 Background

Formal environmental assessment originated in Nova Scotia on July 14, 1989 when the *Environmental Assessment Act* and regulations were created. Prior to this date, environmental regulation was carried out through licenses under the *Environmental Protection Act*.

On January 1, 1995 the *Environmental Assessment Act* was consolidated with 15 other Acts to create what is now known as the *Environment Act*. Environmental assessment is found in Part IV of the *Environment Act* and is set out in the *Environmental Assessment Regulations* and the *Environmental Assessment Board Regulations*.

1.3 What is Environmental Assessment?

Environmental assessment is a tool through which the environmental effects of a proposed undertaking are predicted and evaluated, and a subsequent decision is made on the acceptability of the undertaking.

The purpose of environmental assessment is to promote sustainable development by protecting and conserving the environment. Environmental assessment promotes better project planning by identifying and assessing possible adverse effects on the environment before a new undertaking begins. This is accomplished by involving government agencies, non-government organizations (NGOs), First Nations, local residents and the general public throughout the review of a proposed development. In

addition, in certain circumstances, special consultations may be held with First Nations.

By identifying and addressing environmental effects at the earliest stages of project development, environmental assessment may help proponents save time and money.

1.4 What Environmental Assessment is not

When discussing environmental assessment, it is important not to confuse it with another common practice called environmental site assessment. Where environmental assessment is used to determine if there will be any adverse environmental impacts before a project begins, an environmental site assessment determines whether a particular property may be contaminated as a result of previous land uses. This type of assessment is usually requested by lending agencies (banks, etc.), sellers, and buyers of property to assess the environmental liability associated with a property.

It should also be noted that the federal government has an environmental assessment process that differs from Nova Scotia's. The two have similar aims but each has different activities which trigger an environmental assessment. For example, federal environmental assessment may be triggered by funding sources or land ownership, while environmental assessment in Nova Scotia is triggered by a list of project types called undertakings.

1.5 What is an Undertaking?

An undertaking can be described as a proposed development which may cause significant environmental effects. A list of these undertakings is included in Schedule "A" of the *Environmental Assessment Regulations* (Table 3-1).

Environmental assessment of these undertakings, as described in this document, is used to promote good project planning and therefore minimize impacts that developments cause to the environment. Please refer to the glossary for the complete definition of undertaking.

When can I begin work on an undertaking?

Work can begin on an undertaking only when the Minister grants environmental assessment approval, and the proponent obtains all other necessary approvals, permits or authorizations required by municipal, provincial and federal acts, regulations, by-laws, guidelines, policies or standards.

1.6 Benefits of Environmental Assessment

Environmental Assessment has many benefits, including:

- promotes sustainable development by protecting and conserving the environment. Environmental assessment helps balance environmental protection with economic development.
- promotes better project planning by identifying and addressing environmental effects at the earliest stages of project development, which can save proponents of projects time and money and result in an improved project. Staff of the EA Branch work with industry from the early stages of project development
- helps build trust and confidence in developments because it is an established process with formal opportunities for public involvement in the decision making.
- helps educate proponents on how their developments affect the environment so that better projects are developed now and in the future

1.7 For More Information

If you would like further information, please visit the Environmental Assessment Branch website at www.gov.ns.ca/enla/ess/ea, or contact the Environmental Assessment Branch by phone at (902) 424-3230, by fax at (902) 424-0503, by email at EA@gov.ns.ca, or by mail at the following address:

Environmental Assessment Branch
Nova Scotia Environment and Labour
PO Box 697
Halifax, Nova Scotia
B3J 2T8

2. ADMINISTRATION

2.1 Environmental Assessment Branch

The EA Branch promotes good project planning and sustainable development through the coordination and administration of environmental assessment in Nova Scotia as set out in the *Environmental Assessment Regulations*.

The EA Branch continually interacts with industry, various interest groups, First Nations, government departments and the general public to ensure that environmental assessment is open, transparent, accountable and effective. The EA Branch also works to harmonize environmental assessment in Nova Scotia with other jurisdictions when necessary.

At the initial stages of project development, the EA Branch works with proponents in identifying and addressing environmental concerns. After considering all of the information compiled through a public review, the EA Branch makes recommendations to the Minister regarding the proposed project. For those developments that are granted environmental assessment approval, the EA Branch develops and carries out a follow-up procedure with the proponent.

2.2 Government Review

A number of government departments and agencies are contacted on a project by project basis when a project is registered for environmental assessment. These departments and agencies review the environmental assessment information and provide the EA Branch with comments. The government departments and agencies contacted will depend upon the project issues and location, and may include the following:

Provincial Government Departments and Agencies:

- Department of Environment and Labour
- Department of Natural Resources
- Department of Agriculture and Fisheries
- Department of Transportation and Public Works
- Service Nova Scotia and Municipal Relations
- Department of Health
- Department of Energy
- Nova Scotia Utility and Review Board
- Nova Scotia Museum

Federal Government Departments:

- Environment Canada
- Canadian Environmental Assessment Agency
- Fisheries and Oceans Canada

Local Municipal Office

2.3 Disclosure and Confidentiality

All information submitted by the proponent for environmental assessment is subject to the *Freedom of Information and Protection of Privacy Act*. Under this Act, a proponent can request that any personal and confidential business information be kept confidential. It is the proponent's responsibility to make a claim to the Administrator stating why the information should be withheld from the public. Information accepted to be confidential will not be disclosed to the public. However, when confidentiality is denied by the Administrator, the proponent can either allow the information to be disclosed or the proponent can withdraw the registered undertaking.

Who else can review environmental assessment information?

Any member of the general public, various interest groups and First Nations can review environmental assessment information and submit comments.

Are the comments submitted during the environmental assessment publically available?

Yes. All comments received during an environmental assessment will be kept on file at the Department of Environment and Labour Library in Halifax.

2.4 Federal Environmental Assessment

An undertaking required to complete a provincial environmental assessment may also require a federal environmental assessment. Federal environmental assessment is legislated under the *Canadian Environmental Assessment Act* (Appendix A), which is administered by the Canadian Environmental Assessment Agency (the "Agency"). The Agency is independent from all other federal departments and reports directly to the Federal Minister of Environment.

The proponent should contact the Agency (Appendix B) early in the planning stages of the undertaking to determine if a federal environmental assessment is required.

2.5 Environmental Assessment Harmonization

In many cases an undertaking may require both a provincial and federal environmental assessment. In these cases the EA Branch will coordinate or harmonize its review with that jurisdiction, where possible and practical. Formal harmonization has been agreed to with the signing of the Canada-Wide Accord on Environmental Harmonization and the Sub-Agreement on Environmental Assessment between the Government of Canada, the Territories and Provinces, excluding Quebec. The aim of these agreements is to achieve 'one project - one assessment', to enhance environmental protection, promote sustainable development and achieve greater effectiveness, efficiency, accountability, predictability and clarity of environmental management for issues of Canada-wide interest.

The legislative process for a harmonized environmental assessment can vary from the information explained in this guide in order to ensure that the requirements of all parties are fulfilled. The proponent will be notified of the changes prior to registration.

Even where formal harmonization is not possible, the EA Branch works to coordinate elements of the environmental assessment, including document preparation and logistics.

3. PRE-REGISTRATION

3.1 Developments that Require Environmental Assessment

Developments required to undergo an environmental assessment are listed in the *Environmental Assessment Regulations* (Table 3-1). These developments are called undertakings and are divided into two classes, Class 1 and Class 2.

Class 1 undertakings are usually smaller in scale and may or may not cause significant environmental impacts or be of sufficient concern to the public. A public review of a proponent's initial submission, called a registration document, is required, after which the Minister will decide if a more detailed review and/or public hearing is required. Examples of these types of developments include mines, certain highways and waste dangerous goods handling facilities.

Class 2 undertakings are typically larger in scale and are considered to have the potential to cause significant environmental impacts and concern to the public. These undertakings require an environmental assessment report (EA report) and formal public review which may include public hearings. Examples of these types of developments include solid waste incinerators, petrochemical facilities and pulp and paper plants.

The Minister has the authority to apply an environmental assessment to a policy, plan or program, or a modification, extension, abandonment, demolition or rehabilitation to those undertakings listed in Table 3-1, and any other undertaking not listed as Class 1 or Class 2.

Do I have to register my existing facility or operation?

Registration under Part IV of the *Environment Act* is not required of existing facilities and operations if they were registered under the 1989 *Environmental Assessment Act* and regulations.

Any modification, extension, abandonment, demolition or rehabilitation of an existing undertaking listed in Schedule "A" of the *Environmental Assessment Regulations* which was established either before or after March 17, 1995 may require registration for environmental assessment. The Act and regulations do not apply to routine maintenance or repair of existing facilities or operations.

Table 3-1: Schedule "A"

Category	Class 1
A. Industrial Facilities	<ol style="list-style-type: none"> 1. A facility engaged in the production, wholesale storage or wholesale distribution of dangerous goods. 2. A storage facility with a total capacity of over 5000 m³ intended to hold liquid or gaseous substances including, but not limited to, hydrocarbons or chemicals, but excluding water. 3. A facility for the manufacture of wood products that are pressure treated with chemical products. 4. A facility engaged in producing fish meal. 5. A rendering plant. 6. An onshore pipeline 5 km or more in length excluding a pipeline of any length carrying natural gas with a maximum operating pressure below 500 psig (3450kPa), water, steam or domestic wastewater.
B. Mining	<ol style="list-style-type: none"> 1. A facility engaged in the extraction or processing of metallic and non-metallic minerals, coal, peat moss, gypsum, limestone, bituminous shale or oil shale. 2. (1) Subject to subsection (2), a pit or quarry in excess of 4 ha in area primarily engaged in the extraction of ordinary stone, building or construction stone, sand, gravel or ordinary soil. (2) (a) The Nova Scotia Department of Transportation and Communications shall ensure that all pits and quarries established solely to provide fill or aggregate for road building or maintenance contracts with the Nova Scotia Department of Transportation and Communications are operated in accordance with all applicable guidelines and regulations. (b) Pits and quarries described by and operated in accordance with clause (2)(a) are not subject to the requirements of this regulation.
C. Transportation	<ol style="list-style-type: none"> 1. The construction of a common and public highway or associated structures which is more than 2 km and less than 10 km in length and is designed for 4 or more lanes of traffic.
D. Energy	<ol style="list-style-type: none"> 1. A transformer station having an energy capacity greater than 230 kilovolts. 2. An electric generating facility which has a production rating of 2 megawatts or more derived from wind energy.
E. Waste Management	<ol style="list-style-type: none"> 1. A permanent commercial facility for the handling of waste dangerous goods.
F. Other	<ol style="list-style-type: none"> 1. A project which involves the transfer of water between drainage basins where the drainage area to be diverted is greater than 1 km². 2. An enterprise, activity, project, structure or work which disrupts a total of 2 ha or more of any wetland. 3. Such other undertaking as the Minister may from time to time determine.

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Category	Class 2
A. Industrial Facilities	<ol style="list-style-type: none"> 1. A facility for the manufacture, processing or reprocessing of radioactive materials. 2. A heavy water plant, pulp mill, paper mill, pulp and paper mill, petrochemical plant, cement plant, oil refinery, metal smelter, lead and battery plant, ferro-alloy plant or non-ferrous metal smelter.
B. Transportation	<ol style="list-style-type: none"> 1. The construction of a common or public highway, or associated structures, which is 10 km or more in length and is designed for 4 or more lanes of traffic.
C. Energy	<ol style="list-style-type: none"> 1. An electric generating facility with a production rating of 10 megawatts or more, including a hydroelectric generating facility when the cumulative power generation capacity on any single river system equals or exceeds 10 megawatts but excluding an electric generating facility of any production rating which uses wind energy as its sole power source. 2. A water reservoir where the designed storage capacity exceeds the mean volume of the natural water body by 10,000,000 m³ or more. 3. A corridor for one or more electric power transmission lines with a cumulative voltage rating which equals or exceeds 345 kilovolts.
D. Waste Management	<ol style="list-style-type: none"> 1. A facility for the incineration of municipal solid waste.
E. Other	<ol style="list-style-type: none"> 1. Such other undertakings as the Minister may from time to time determine.

3.2 Undertakings Exempt from Environmental Assessment

Registration is not required for the following:

- Nova Scotia Department of Transportation and Public Works (TPW) pits and quarries used solely to provide fill or aggregate for road building and maintenance contracts with TPW;
- routine maintenance or repair of existing facilities;
- policies, plans or programs developed after March 17, 1995, which will not directly or indirectly cause an adverse effect or significant environmental effect; or
- an undertaking that was registered before the *Environmental Assessment Act* (1989) and regulations became law.

3.3 'One Window' Process for Mine Developments

The 'One Window' process was developed by the Nova Scotia Government to streamline the review process for government and proponents of mining developments. The process allows the proponent to meet with the Department of Natural Resources and the Department of Environment and Labour during the project planning stage to discuss the undertaking and what both departments require from the proponent, including other approvals.

Proponents planning a mining development should refer to "*A User's Guide to the 'One Window' Process for Mine Development Approvals*" link on our website, or contact the Chairperson of the 'One Window' Standing Committee (Appendix B).

3.4 Public Involvement

Proponents are not required to involve the public during the pre-registration stage, but the Minister does consider concerns expressed by the public about the adverse effects or the environmental effects of the proposed undertaking, and the steps taken by the proponent to address those concerns when making a decision. Proponents can choose to involve the public early in the project planning stage to inform them about the development. By doing so, the public can make their concerns known to the proponent who can then address them through planning decisions.

It is up to the proponent to decide to involve the public and how they will be involved. Methods used in the past include organizing open house events, distributing newsletters, conducting door-to-door surveys, advertising in newspapers and establishing 1-800 numbers. The method used should suit the type of project and particular community in which it is being conducted.

When deciding who to contact and involve, the proponent should consider identifying and contacting the local community residents and leaders; various local interest groups; First Nation representatives; government representatives (municipal, provincial and federal); and other stakeholders who may have an interest in the proposed project.

It is important for the proponent to document contact with the public, including what issues were raised and how they were addressed. This information should be included in the registration document.

3.5 Submitting a Draft Registration Document

Submitting a draft registration document allows the EA Branch and selected government departments to provide preliminary comment on the draft document. The proponent can make changes based on those comments prior to registering the undertaking for environmental assessment. Any proponent that chooses to submit a draft registration document should refer to Section 4 of this guide for the registration document requirements.

It should be noted that the review of the draft proposal represents only a preliminary examination of the proposed undertaking and does not preclude further examination and commentary during the final review of the undertaking once it is officially registered under Part IV of the *Environment Act* and regulations made pursuant to Part IV.

The EA Branch has developed guidance documents to assist proponents in the preparation of registration documents for sector specific undertakings. Please contact the EA Branch or visit the EA Branch website to find out if a guidance document exists for your undertaking.

Can I review previous environmental assessments?

Yes. Hard copies of many previous environmental assessments can be reviewed at the Nova Scotia Environment and Labour Library (www.gov.ns.ca/enla/ess/libr/). Please contact the Librarian to make an appointment (Appendix B).

Hard copies of all previous environmental assessments can be obtained from the Environmental Registry if needed (www.gov.ns.ca/enla/ess/er/). Please contact the Environmental Registry Coordinator for further information (Appendix B).

4. REGISTRATION

4.1 Preparing the Registration Document for a Class 1 Undertaking

When preparing a registration document for a Class 1 undertaking, the proponent must ensure that certain project description information is included in the document. The undertaking will not be officially registered until the proponent submits all the required information. Under Section 9 (1) of the *Environmental Assessment Regulations*, a registration document must include the following information:

- the name of the undertaking;
- the location of the undertaking;
- the name, address and identification of the proponent including the name of the Chief Executive Officer and contact persons;
- the nature of the undertaking;
- the purpose and need of the undertaking;
- the proposed construction and operation schedules;
- a description of the undertaking;
- a list of approvals which will be required and other forms of authorization; and
- the sources of any public funding.

For a Class 1 undertaking, the information included in the registration document will need to be sufficient for the Minister to make a decision on the undertaking. Under Section 12 of the *Environmental Assessment Regulations*, the Minister must consider the following information when making a decision:

- the location of the proposed undertaking and the nature and sensitivity of the surrounding area;
- the size and scope of the proposed undertaking;
- concerns expressed by the public about the adverse effects or the environmental effects of the proposed undertaking;
- steps taken by the proponent to address environmental concerns expressed by the public;
- potential and known adverse effects or environmental effects of the technology to be used in the proposed undertaking;
- project schedules where applicable;
- planned or existing land use in the area of the undertaking;
- other undertakings in the area; and
- such other information as the Minister may require.

It is at the discretion of the proponent to provide additional information beyond the minimum requirements specified in Section 9 (1) of the regulations. The proponent should contact the EA Branch or visit the EA Branch website to obtain the General Registration Guide and to see if a "sector-specific" guide exists for your undertaking.

The proponent should identify the current conditions of the existing environment and distinguish those aspects that have value to all stakeholders. These environmental features are commonly called the Valued Environmental Components (VECs). The proponent should also include the predicted environmental effects and adverse effects that may be influenced by the undertaking and the proposed measures that will be used to mitigate and monitor those effects.

Are there any fees to register a development for environmental assessment?

Yes, as of April 2002 fees are applied to all undertakings required to register for environmental assessment. Please contact the EA Branch or visit our web site for the fee schedule.

When addressing the environmental effects in the document, the proponent should consider any positive and negative environmental effects that the undertaking may cause and any change to the undertaking that may be caused by the environment. This includes those changes which occur inside or outside Nova Scotia.

Information should be provided on the effects of the proposed project on groundwater, surface water, flora, fauna, aquatic habitat and any other aspect of the environment. Also the document should include any effects on environmental health, such as any contaminants that may effect human health that will be released into the atmosphere, water or land.

A discussion of the effects to the socio-economic conditions of the area should be detailed in the document. Examples of these could include employment, transportation, recreation and tourism.

Information on the effects to the physical and cultural heritage of the project area should be a component of the registration. This could include any structure, site or thing that may have historical, archaeological, paleontological or architectural significance.

Addressing adverse effects will entail evaluating any effects that impairs or damages the environment, including an adverse effect respecting the health of humans or the reasonable enjoyment of life or property.

Can I withdraw my registration at anytime?

Yes. A registration can be withdrawn at anytime prior to the Minister's Decision.

The registration document should describe all measures that will be used to avoid or mitigate any negative effects and maximize any positive effects of an undertaking. Mitigation includes the elimination, reduction or control of the adverse effects or the significant environmental effects of an undertaking. Mitigation may include restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means.

All proposed compliance monitoring programs that will be used throughout the life of the undertaking should be incorporated into the registration document. Monitoring programs should be designed to determine the effectiveness of the proposed mitigation measures.

The proponent should also discuss plans for the remediation of the affected environment during the closure or decommissioning phase of the undertaking.

4.2 Preparing the Registration Document for a Class 2 Undertaking

When preparing a registration document for a Class 2 undertaking, the proponent must ensure that the project description information listed under Section 9 (1) of the *Environmental Assessment Regulations* is included in the document. Please refer to Section 4.1 of this guide for the list of required information. The undertaking will not be officially registered until the proponent submits all the required information.

The registration document does not have to be limited to the information required under Section 9 (1). The registration document will be used by the public, various interest groups, First Nations and government departments when commenting on the proposed terms of reference. It is the proponent's decision whether to provide additional information in the registration document beyond the minimum requirements.

What happens if I miss the time frames set out in the regulations?

Unless an extension is granted by the Minister or the Administrator, failure to meet the time frames of the regulations is an offense and renders the registered development null and void.

When is an environmental assessment referred to the Environmental Assessment Board?

An environmental assessment will be referred to the Environmental Assessment Board for all Class 2 undertakings. Class 1 undertakings that require an EA report may be referred to the Board only if the Minister decides it is required.

5. CLASS 1 UNDERTAKINGS

5.1 Registration

An environmental assessment of a Class 1 undertaking begins the day after the proponent submits the required number of hard copies (25 - 35 depending on the project type) of the registration document to the EA Branch (Figure 5-1). An acceptable electronic copy of the document will also be required to be published on the EA Branch website (check with the EA Branch for requirements).

Copies of the document will be distributed to the government reviewers, some interest groups and First Nations (depending on the project) for comments. Public access to the document will also be provided.

How long does it typically take to complete an environmental assessment for a Class 1 undertaking?

This type of environmental assessment typically takes 25 calendar days of process time to complete. However, that time may be extended if the Minister decides that more information, a focus report or an EA report is required from the proponent.

The amount of time it takes the proponent to prepare the registration document will depend on the complexity of the undertaking and the amount of information the proponent has already available.

The proponent must establish two public viewing locations within the vicinity of the undertaking and provide the EA Branch with the contact names, and mailing and street addresses for these locations. Typical public viewing locations include a local town office, library, corner store or other public location. Each of the public viewing locations must be supplied with a hard copy of the registration document by the proponent.

The proponent must publish an advertisement notifying the public of the registration and inviting the public to submit written comments to the EA Branch. The notice must be published in two newspapers, one with circulation in the vicinity of the undertaking and one with province-wide circulation. If there is no newspaper in the vicinity of the undertaking, the advertisement must be posted in a municipal building, post office or other public building in the area. An electronic copy of the notice will be required to be published on the EA Branch website (check with the EA Branch for requirements).

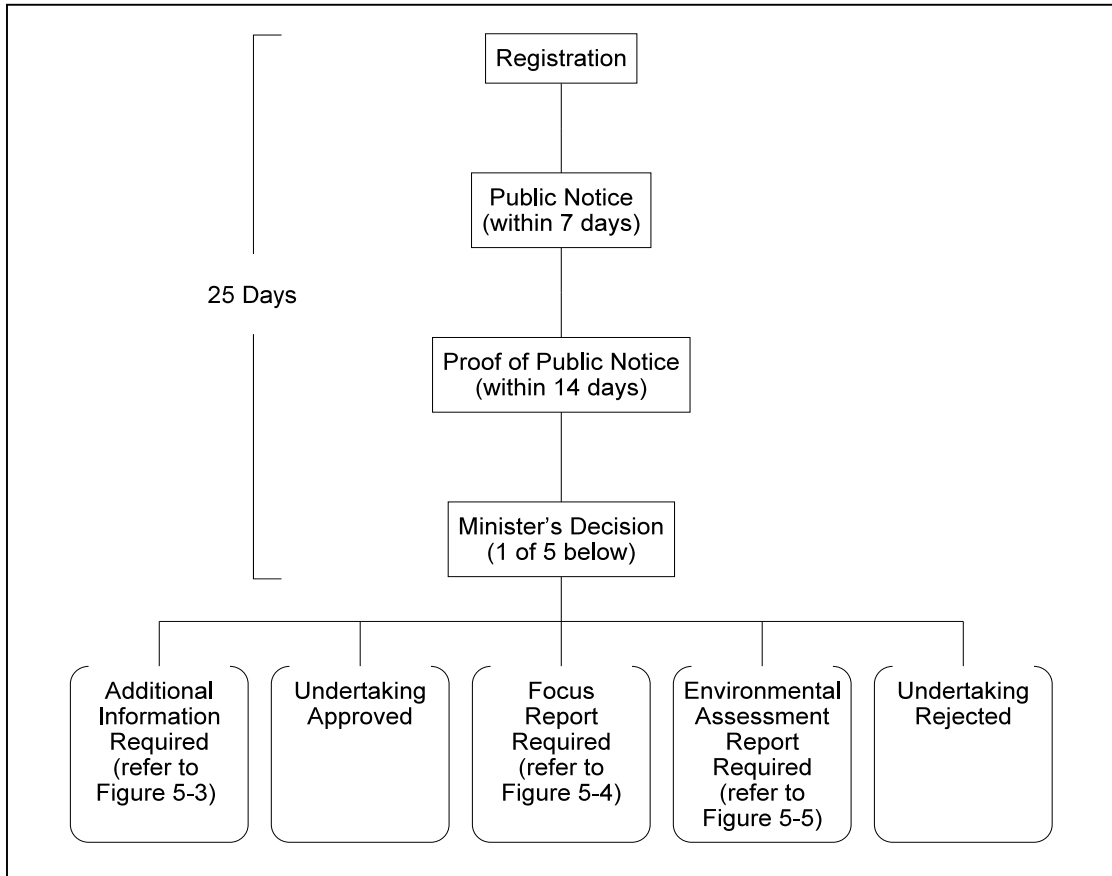


Figure 5-1: Steps Required During an Environmental Assessment - Class 1

The proponent must provide the EA Branch with the complete newspaper page showing the notice, date and name of the newspaper. Figure 5-2 is an example of the content and size requirements for the public notice. At a minimum, the notice must include the following:

- the name and address of the proponent;
- the proposed location of the proposed undertaking;
- the nature of the proposed undertaking;
- the date of registration pursuant to the Act and regulations;
- the proposed commencement date and project schedule where applicable; and
- the locations where registration information may be viewed by the public.

How long is the public review period for the registration document of a Class 1 undertaking?

The public review period for the registration document usually lasts 10-14 calendar days.

All comments received during the review period are available for public review in the Environment and Labour Library.

Following the review period, the EA Branch will carefully consider all the information submitted during the review. The EA Branch will then provide the Minister with a report summarizing the issues and comments and make a recommendation for the Minister's consideration.

What happens if a conflict occurs during an environmental assessment?

At any stage of the environmental assessment, an undertaking may be referred to an alternate dispute resolution (ADR) procedure where the Minister believes an ADR technique is appropriate for the resolution of a dispute or an issue. The Minister may adjust the time limits in the regulations to accommodate the ADR.

NOTICE

**Registration of Undertaking
for Environmental Assessment
ENVIRONMENT ACT**

This is to advise that on (**DATE of REGISTRATION**), (**COMPANY**) registered a (**PROJECT NAME**) for environmental assessment, in accordance with Part IV of the Environment Act.

The purpose of the proposed undertaking is to (**BRIEF 2 - 3 SENTENCE DESCRIPTION, INCLUDING PROPOSED LOCATION, PROPOSED COMMENCEMENT DATE AND PROJECT SCHEDULE WHERE APPLICABLE**)

Copies of the environmental assessment registration information may be examined at the following locations:

- **1st Public viewing location provided by the Proponent (e.g. local town office)**
- **2nd Public viewing location provided by the Proponent (e.g. local library, corner store or other public location)**
- Clean Nova Scotia, 126 Portland Street Dartmouth, NS
- Ecology Action Centre, Suite 31, 1568 Argyle St., Halifax, NS
- Nova Scotia Department of Environment & Labour, **Regional Office**
- Nova Scotia Department of Environment & Labour, 5th Floor Library, 5151 Terminal Road, Halifax, NS
- EA website (when available) at www.gov.ns.ca/enla/ess/ea

The public is invited to submit written comments to:
Environmental Assessment Branch
Nova Scotia Department of Environment & Labour
P.O. Box 697, Halifax, NS, B3J 2T8

on or before (**deadline date for public comments provided by NSDEL**) or contact the department by phone at (902) 424-3230, by fax at (902) 424-0503, or by e-mail at EA@gov.ns.ca.

All comments received will be placed in the public file located in the library on the fifth floor of the Nova Scotia Department of Environment & Labour, Halifax Office, 5151 Terminal Road.

Published by: (**COMPANY NAME AND ADDRESS**)

Figure 5-2: Sample of a Public Notice

5.2 The Minister's Decision

The Minister must provide the proponent with a decision in writing. The Minister has the following decision options: a) additional information required; b) undertaking is approved; c) undertaking is rejected; d) focus report required; or e) environmental assessment report required.

Can I appeal an environmental assessment decision?

Under Section 138 of the *Environment Act*, a decision of the Minister to approve or reject an undertaking for environmental assessment cannot be appealed.

Additional Information Required

The Minister may decide that additional information is required when the registration information is insufficient to allow the Minister to make a decision.

Once the information is submitted by the proponent, the Minister may or may not require a public review of the information.

The Minister can make one of the following decisions: a) additional information required; b) undertaking is approved; c) focus report required; d) environmental assessment report required; or e) undertaking is rejected (Figure 5-3).

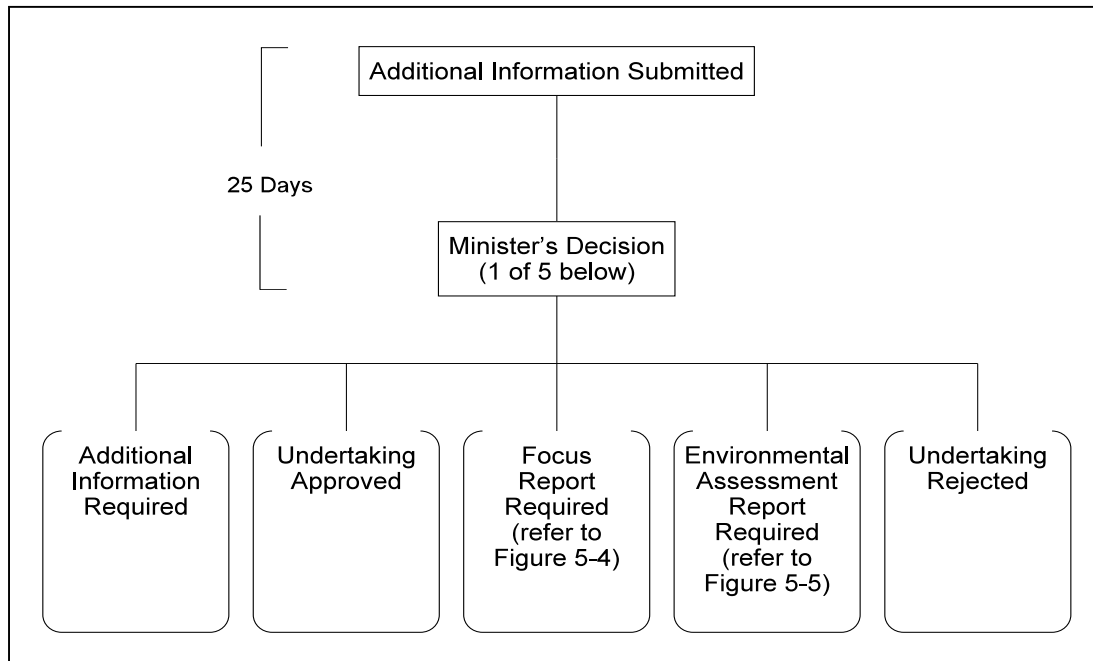


Figure 5-3: Additional Information Required

Approval

The Minister may grant an approval when a review of the information indicates that there are no adverse effects or significant environmental effects which may be caused by the undertaking or that such effects are mitigable. The undertaking will be approved subject to specified terms and conditions and any other approvals required by statute or regulation. It is the responsibility of the proponent to identify and obtain all such approvals before commencing work on the undertaking.

Environmental assessment approval is based upon the review of the conceptual design, environmental baseline information, impact predictions and any mitigation presented in the registration information. Any changes to the information in the registration document may require the proponent to re-register the undertaking for environmental assessment. Please refer to Section 9 of this guide for more information about other approvals that may be required of the proponent.

Rejected

The Minister may reject an undertaking when a review of the information indicates that there is a likelihood that the undertaking will cause adverse effects or significant environmental effects which are unacceptable.

If an undertaking is rejected, the proponent cannot proceed any further with the undertaking as proposed. The undertaking would have to be appropriately revised by the proponent before it could be registered again for environmental assessment.

Focus Report Required

The Minister may decide that a focus report is required when a review of the registration information indicates that one or more specific aspects of the proposed project are unresolved, and those aspects may cause significant environmental effects or adverse effects (Figure 5-4).

The EA Branch will provide the proponent with terms of reference for the focus report. The proponent has up to one year to submit the required number of hard copies and an electronic copy of the focus report following receipt of the terms of reference. The EA Branch will notify the public of the release of the focus report for review and distribute the report to the review committee.

How long is the public review period when a focus report is required?

There will be a 30 day public review period once the focus report has been released to the public.

Following the review period, the EA Branch will provide the Minister with a report and recommendation to be considered when making a decision. The Minister must decide one of the following: a) undertaking is approved; b) environmental assessment report required (refer to Figure 5-5); or c) undertaking is rejected.

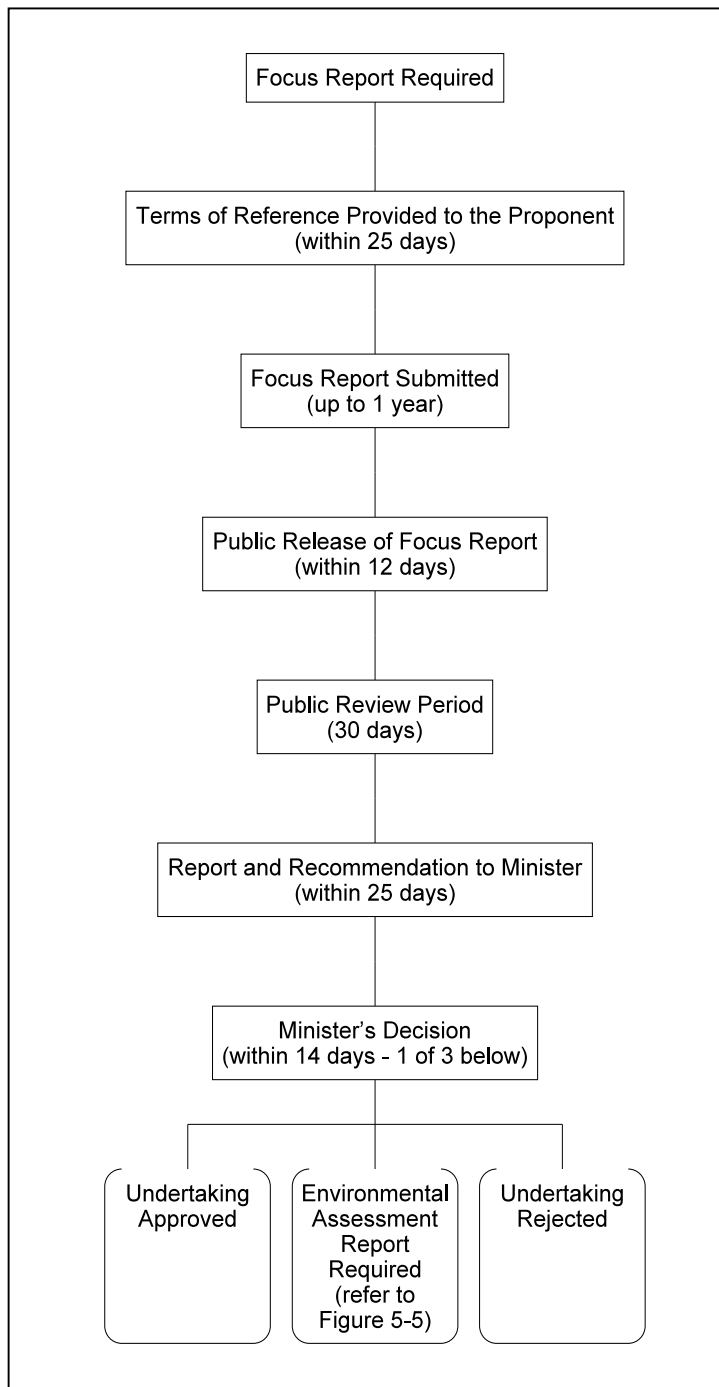


Figure 5-4: Focus Report Required

Environmental Assessment Report Required

The Minister may decide that an EA report is required when a review of the registration information indicates that several aspects of the proposed project are unresolved, and those aspects may cause significant environmental effects or adverse effects (Figure 5-5).

The EA Branch will prepare and release a proposed terms of reference for public review along with the registration document. The proponent will have an opportunity to reply to any comments submitted by the public, interest groups, First Nations and the government reviewers prior to receiving the final terms of reference from the EA Branch.

Following receipt of the final terms of reference, the proponent will have up to two years to prepare and submit the report to the EA Branch. When the EA report has been submitted, an initial review will be carried out by the EA Branch to ensure that the terms of reference have been met. If the EA report does not meet the terms of reference, the proponent will be required to include further information before the EA report can be accepted.

How long is the public review period for the proposed terms of reference and the registration document?

There will be a 40 day public review period once the proposed terms of reference and registration document has been released to the public.

Once the EA report has been accepted by the EA Branch and the required number of hard copies and an electronic copy has been submitted, the Minister has the option to refer the EA report to the Environmental Assessment Board (EA Board) for review.

EA Report not Referred to the EA Board

If the EA report is not referred to the Board, the EA Branch must notify the public of the review period for the report. Comments submitted by members of the public, various interest groups, First Nations and the review committee will be summarized by the Administrator together with a report and recommendation for the Minister's consideration.

The Minister must decide one of the following: a) undertaking is approved with conditions; b) undertaking is approved without conditions; or c) undertaking is rejected.

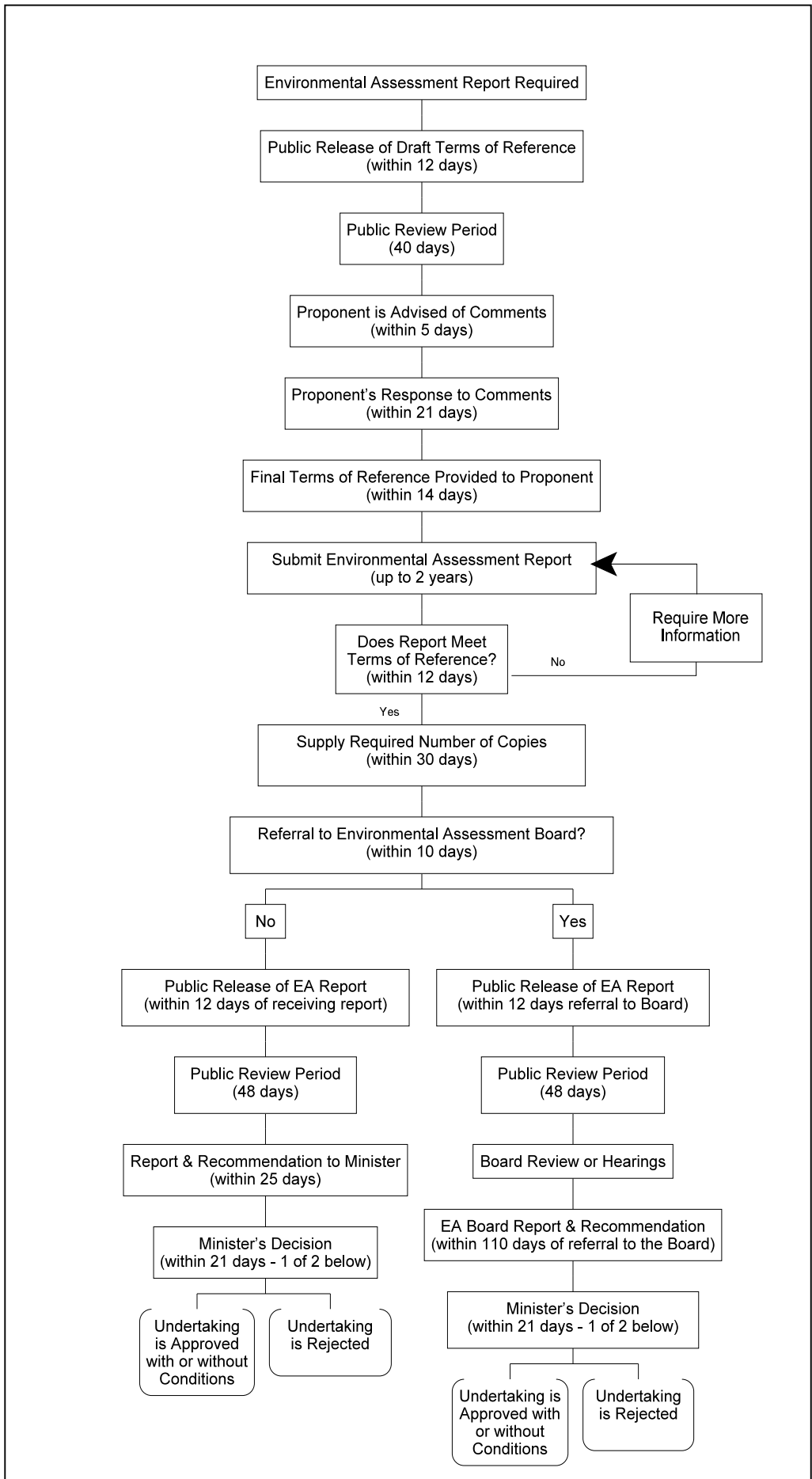


Figure 5-5: Environmental Assessment Report Required

EA Report is Referred to the EA Board

If the EA report is referred to the EA Board, the Board will notify the public of the report, and conduct a public review. Comments received from members of the public, various interest groups, First Nations and government departments will be considered by the Board when making a recommendation to the Minister for a decision.

The EA Board has the option to conduct public hearings following the public review. The purpose of the hearings are to:

- receive submissions and comments from any interested party
- ask questions and seek answers respecting the environmental effects of an undertaking
- provide information which will assist the hearing panel in the preparation of its report and recommendations to the Minister

Public hearings are conducted in a structured manner to provide the public with an opportunity to express their concerns in a non-judicial, informal and non-adversarial format. The length of the hearing will depend on the complexity of the issues and the number of submissions received.

In advance of any hearing, the Hearing Panel may request one or more meetings with the proponent to visit the site of the undertaking. The Panel may also conduct a pre-session conference to explain the rules of procedure for the hearing, identify participants and witnesses, define the issues, estimate the length of the hearing and any other matter that may be considered appropriate.

Hearings are conducted in public and usually follow an established pattern. All evidence given during the hearing must be done under oath or affirmation.

The proponent will begin by presenting the undertaking and addressing any issues that were raised in the EA report. Interested people will have an opportunity to address questions to the proponent during the hearings.

How long is the public review period for an EA report?

Whether the EA report is or is not referred to the EA Board, there will be a 48 day public review period once the EA report has been released to the public.

If the EA report is referred to the EA Board, and there are public hearings, the hearings must be completed within the 110 day time frame that the Board has to submit a report and recommendation to the Minister.

Following the proponent's initial presentation, other participants will be able to voice their concerns and provide information to the Panel. The proponent will have an opportunity to cross examine those participants following their presentations. Before the hearing is finished, the proponent will have the option to make a final presentation to the Hearing Panel in response to the matters raised at the hearing.

Following receipt of any written arguments, the EA Board must submit a report and recommendation to the Minister for consideration when making a decision.

The Minister must decide one of the following: a) undertaking is approved with conditions; b) undertaking is approved without conditions; or c) undertaking is rejected.

6. CLASS 2 UNDERTAKINGS

6.1 Registration

An environmental assessment for a Class 2 undertaking begins the day after the proponent submits the required number of hard copies and an acceptable electronic copy of the registration document to the EA Branch (Figure 6-1). As stated in Section 9 (1) of the *Environmental Assessment Regulations*, the proponent is required to include project description information in the registration document.

6.2 Terms of Reference

The EA Branch will prepare and release a proposed terms of reference for public review, accompanied by the registration document. The proponent will have an opportunity to reply to any comments submitted by the public, interest groups, First Nations and the review committee prior to receiving the final terms of reference from the EA Branch.

How long does it typically take to complete an environmental assessment for a Class 2 undertaking?

This type of environmental assessment typically takes 275 calendar days (8 - 9 months) of process time to complete, including the 110 days the EA Board has to conduct a public review or hearings.

The proponent has up to two years outside of the review time to prepare the EA report.

How long is the public review period for the proposed terms of reference and the registration document?

There will be a 40 day public review period for the proposed terms of reference

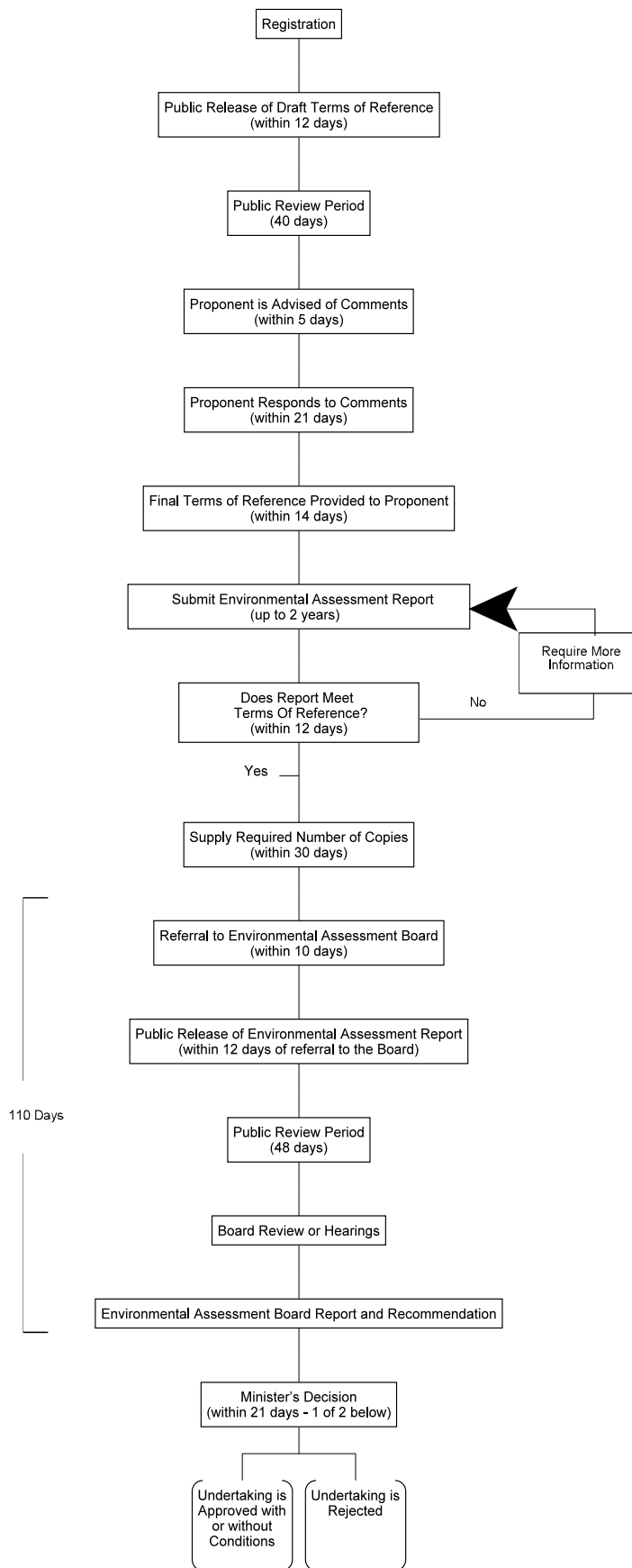


Figure 6-1: Steps Required During an Environmental Assessment - Class 2

6.3 Environmental Assessment Report

Following receipt of the final terms of reference, the proponent has up to two years to prepare and submit the EA report to the EA Branch. An initial review of the report will be carried out by the EA Branch to ensure that the terms of reference have been met. If the EA report information is not sufficient, the proponent will be required to include further information before the report can be accepted. Once the report is accepted by the EA Branch, the proponent must submit the required number of hard copies and an electronic copy of the report before it can be referred to the EA Board.

6.4 Environmental Assessment Board

Once the EA report is referred to the EA Board, the Board must notify the public of the report and conduct a public review. All comments received during the public review period will be considered by the Board when making a recommendation to the Minister for a decision.

Instead of providing the Minister with a recommendation following the review period, the Board may decide to conduct a public hearing made up of a Hearing Panel to:

- receive submissions and comments from any interested party
- ask questions and seek answers respecting the environmental effects of an undertaking
- provide information which will assist the hearing panel in the preparation of its report and recommendations to the Minister

How long is the public review period for an EA report?

There will be a 48 day public review period once the EA report has been released to the public.

If the EA Board decides to conduct public hearings, the hearings must be completed within the 110 day period which the Board has to submit a report and recommendation to the Minister.

Please refer to page 23 of this guide for information on the public hearing procedures.

6.5 The Minister's Decision

The Minister must decide one of the following: a) undertaking is approved with conditions; b) undertaking is approved without conditions; or c) undertaking is rejected.

Approval with Conditions

A review of the information indicates that there are no adverse effects or significant environmental effects which may be caused by the undertaking or that such effects are mitigable and the undertaking is approved subject to specified terms and conditions and any other approvals required by statute or regulation. It is the responsibility of the proponent to identify and obtain all such approvals before commencing work on the undertaking.

Environmental assessment approval is based upon the review of the conceptual design, environmental baseline information, impact predictions and any mitigation presented in the registration information. Any changes to the information in the registration document and EA report may require the proponent to re-register the undertaking for environmental assessment. Please refer to Section 7 of this guide for more information about other approvals required of the proponent.

Approval without Conditions

The undertaking is approved as proposed in the EA report subject to any other approvals required by statute or regulation. It is the responsibility of the proponent to identify and obtain all such approvals before commencing work on the undertaking.

Environmental assessment approval is based upon the review of the conceptual design, environmental baseline information, impact predictions and any mitigation presented in the registration information. Any changes to the information in the registration document and EA report may require the proponent to re-register the undertaking for environmental assessment. Please refer to Section 7 of this guide for more information about other approvals required of the proponent.

Rejected

A review of the information indicates that there is a likelihood that the undertaking will cause adverse effects or significant environmental effects which are unacceptable and the undertaking is rejected. The Minister will provide written reasons stating why the undertaking is rejected.

If an undertaking is rejected, the proponent cannot proceed any further with the undertaking as proposed. The undertaking would have to be appropriately revised by the proponent before it could be registered again for environmental assessment.

7 OTHER APPROVALS REQUIRED

Environmental assessment approvals from the Minister are subject to obtaining all other necessary approvals, permits or authorizations required by municipal, provincial and federal acts, regulations, by-laws, guidelines, policies or standards before commencing work on the undertaking. It is the responsibility of the proponent to identify and obtain all such approvals, permits or authorizations before commencing work on the undertaking.

Environmental assessment approvals are based upon the review of the conceptual design, environmental baseline information, impact predictions and mitigation presented in the registration information. Proposals by proponents for expansion or modification of any aspect of the project from that proposed in the registration document must be submitted to the EA Branch for review and may require an environmental assessment.

Other approvals required under the *Environment Act* are listed under the *Activities Designation Regulations* (Appendix A). These approvals are broken down into the following six divisions:

- water approvals;
- pesticide approvals;
- municipal waste approvals;
- dangerous goods/waste dangerous goods/salvage yard approvals;
- industrial approvals; and
- other approvals.

The proponent is responsible for contacting the appropriate NSDEL Monitoring and Compliance Division Office (Appendix C) early to determine what approvals will be required. Failure to obtain necessary approvals before commencing work can result in a charged offence under the *Environment Act*.

APPENDIX A ENVIRONMENTAL ASSESSMENT LEGISLATION

Nova Scotia Legislation:

- Environment Act, S.N.S. 1994-95, c.1
(www.gov.ns.ca/legi/legc/statutes/environ1.htm)
- Environmental Assessment Regulations, N.S. Reg. 71/2000
(www.gov.ns.ca/just/regulations/REGS/envassmt.htm)
- Environmental Assessment Board Regulations, N.S. Reg. 27/95
(www.gov.ns.ca/just/regulations/REGS/env2795.htm)
- Activity Designation Regulations, N.S. Reg. 47/95
(www.gov.ns.ca/just/regulations/regs/env4795.htm)

To obtain any of the above mentioned, please contact Service Nova Scotia and Municipal Relations by phone at (902) 424-7580, toll free at 1-800-526-6575, by fax at (902) 424-5599, by email at publications@gov.ns.ca or by mail at the following address:

Service Nova Scotia and Municipal Relations
PO Box 637
Halifax, NS
B3J 2T3

Or visit the EA Branch website at <http://www.gov.ns.ca/enla/ess/ea/>.

Federal Legislation:

- Canadian Environmental Assessment Act and Regulations

To obtain the above mentioned legislation, please contact:

Phone: (819) 994-2578
Fax: (819) 953-2891
Website: www.ceaa.gc.ca

APPENDIX B CONTACT INFORMATION

Environmental Assessment Branch

Nova Scotia Environment and Labour
PO Box 697
Halifax, Nova Scotia
B3J 2T8
Phone: (902) 424-3230
Fax: (902) 424-0503

Environmental Registry Coordinator

Nova Scotia Environment and Labour
PO Box 697
Halifax, Nova Scotia
B3J 2T8
Phone: (902) 424-2549
Fax: (902) 424-3571

Library

Nova Scotia Environment and Labour
5151 Terminal Road, 5th Floor
Halifax, Nova Scotia
Phone: (902) 424-2372
Fax: (902) 424-0503
Email: NSDOELibrary@gov.ns.ca

One Window Committee Chairperson

Manager - Mining Engineering
Department of Natural Resources
1701 Hollis Street
Halifax, NS
Phone: (902) 424-8153

Canadian Environmental Assessment Agency - Atlantic Region

1801 Hollis Street, Suite 200
Halifax, NS B3J 3N4
Phone: (902) 426-0564
Fax: (902) 426-6550

**APPENDIX C
NOVA SCOTIA DEPARTMENT OF
ENVIRONMENT & LABOUR ADDRESSES**

Main Office:

5151 Terminal Road, 5th Floor
Halifax, NS

Mailing Address:

PO Box 697
Halifax, NS B3J 2T8
Phone: (902) 424-3230
Fax: (902) 424-0503

Eastern Region

295 Charlotte Street
Sydney, NS

Mailing Address:

PO Box 714
Sydney, NS B1P 6H7
Phone: (902) 563-2100
Fax: (902) 563-0502

**Monitoring and Compliance Division
Offices:**

Central Region

1595 Bedford Highway
Mezzanine Level, Suite 224
Bedford, NS B4A 3Y4
Phone: (902) 424-7773
Fax: (902) 424-0597

Northern Region

44 Inglis Street, 2nd Floor
Truro, NS

Mailing Address:

PO Box 824
Truro, NS B2N 5G6
Phone: (902) 893-5880
Fax: (902) 893-0282

Western Region

136 Exhibition Street
Kentville, NS B4N 4E5
Phone: (902) 679-6088
Fax: (902) 679-6186

APPENDIX D GLOSSARY

Please refer to the Environment Act, Environmental Assessment Regulations and the Environmental Assessment Board Regulations for complete definitions.

Administrator

A person appointed by the Minister for the purposes of the Act, and includes an acting Administrator.

Adverse Effect

An effect that impairs or damages the environment, including an adverse effect respecting the health of humans or the reasonable enjoyment of life or property.

Commence Work

To begin construction or site preparation activity for an undertaking or any part thereof.

Confidential Business Information

Includes a trade secret and know-how, but does not include information about the environmental effects or associated mitigation measures of a proposed undertaking.

Day

A calendar day.

Environment

The components of the earth and includes

- (i) air, land and water;
- (ii) the layers of the atmosphere;
- (iii) organic and inorganic matter and living organisms;
- (iv) the interacting systems that include components referred to in subclauses (i) to (iii); and
- (v) for the purposes of Part IV, the socio-economic, environmental health, cultural and other items referred to in the definition of environmental effect.

Environmental Assessment

A process by which the environmental effects of an undertaking are predicted and evaluated and a subsequent decision is made on the acceptability of the undertaking.

Environmental Assessment Report

A report that presents the results of an environmental assessment.

Environmental Effect

In respect of an undertaking,

- (i) any change, whether positive or negative, that the undertaking may cause in the environment, including any effect on socio-economic conditions, on environmental health, physical and cultural heritage or on any structure, site or thing including those of historical, archaeological, paleontological or architectural significance; and
- (ii) any change to the undertaking that may be caused by the environment, whether the change occurs inside or outside the Province.

Extension

An increase in size, volume or other dimension of an undertaking such that the increase may cause adverse effects or significant environmental effects if not properly mitigated.

Focus Report

A report that presents the results of an environmental assessment of a limited range of adverse effects that may be caused by the undertaking.

Hearing

A public hearing or review before the hearing panel.

Hearing Panel

A committee of the Board appointed pursuant to clause 43(a) of the Act to conduct a hearing relating to the environmental assessment of an undertaking.

Intervenor

A person with an interest in or affected by the subject matter of a hearing who has registered with the Administrator in accordance with the Environmental Assessment Board regulations.

Minister

The Minister of Environment & Labour.

Mitigation

With respect to an undertaking, the elimination, reduction or control of the adverse effects or the significant environmental effects of the undertaking, and may include restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means.

Modification

A change to an undertaking that may cause adverse effects or significant environmental effects if not properly mitigated and includes, but is not limited to, the expansion of the

same process, addition of product lines and replacement of equipment with different technology other than that presently in use.

Proponent

A person who,

- (i) carries out or proposes to carry out an undertaking;
- (ii) is the owner or person having care, management or control of an undertaking.

Significant

With respect to an environmental effect, an adverse impact in the context of its magnitude, geographic extent, duration, frequency, degree of reversibility, possibility of occurrence or any combination of the foregoing.

Terms of Reference

An outline of the information that must be included in a focus report and environmental assessment report.

Undertaking

An enterprise, activity, project, structure, work or proposal and may include, in the opinion of the Minister, a policy, plan or program that has an adverse effect or an environmental effect and may include, in the opinion of the Minister, a modification, extension, abandonment, demolition or rehabilitation as the case may be, of an undertaking.

Wetland

Lands commonly referred to as marshes, swamps, fens, bogs, and shallow water areas that are saturated with water long enough to promote wetland or aquatic processes which are indicated by poorly drained soil, vegetation and various kinds of biological activity which are adapted to a wet environment.