

Affidavit No. 1
sworn on October 26, 2021

No. S206189
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36

AND

IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, S.B.C. 2002, c. 57

AND

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 1057863
B.C. LTD., NORTHERN RESOURCES NOVA SCOTIA CORPORATION, NORTHERN PULP
NOVA SCOTIA CORPORATION, NORTHERN TIMBER NOVA SCOTIA CORPORATION,
3253527 NOVA SCOTIA LIMITED, 3243722 NOVA SCOTIA LIMITED and NORTHERN PULP
NS GP ULC

PETITIONERS

AFFIDAVIT OF PETER ORAM

I, Peter Oram, of Halifax, Nova Scotia make oath and swear that:

1. I am a Professional Geologist by training and have worked for over 32 years in the field of environmental consulting in Nova Scotia and throughout the Atlantic Provinces. In this field of work, I have been involved in the process of applying for environmental assessment approvals and industrial approvals for new and modified projects under the Nova Scotia *Environment Act*. I would estimate that I have been the consultant for project proponents seeking environmental assessment approvals for over 50 new or modified projects in Nova Scotia.
2. I attach as **Exhibit "A"** a true copy of my curriculum vitae, which accurately summarizes my credentials and work history.
3. I have been asked by Robert G. Grant of counsel to the Province of Nova Scotia to provide my opinion on certain aspects of the environmental assessment process in Nova Scotia as it applies to the proposal of Northern Pulp Nova Scotia Corporation ("**Northern Pulp**") for approval of an advanced Replacement Effluent Treatment Facility ("**ETF**") and Mill transformation (the "**Project**").

4. I have not been involved in any way in connection with the Project and my prior knowledge of it was restricted to public news reports. I was retained to provide environmental consulting in connection with the environmental assessment of the Boat Harbour Remediation undertaken by Nova Scotia Lands. In that capacity, I did meet on one occasion with representatives of Northern Pulp to learn from them about the previously proposed replacement ETF project.
5. I have reviewed Affidavit No. 9 of Bruce Chapman sworn April 13, 2021 and Affidavit No. 10 of Bruce Chapman sworn October 18, 2021 ("**Chapman Affidavit No. 10**"), as that evidence relates to the description of the Project and the environmental assessment of the Project;

Opinion Topics

6. In particular, I was asked for my opinion on the following topics:
 - (a) a comparison of the activities required for Class I and Class II Environmental Assessment ("**EA**")¹ processes and how the designation of the Project as a Class II undertaking affected the steps that Northern Pulp could have taken in the stay period from April 22 to October 31;
 - (b) the significance of registration of the undertaking to the EA process and the time lines for advancing the process;
 - (c) factors which may affect the timeline projected by Northern Pulp in Chapman Affidavit No. 10 for achieving the issuance by the Minister of Environment (the "**Minister**") responsible for Nova Scotia Environment and Climate Change (NSECC) of the Terms of Reference ("**TOR**") for the EA;
 - (d) the purpose of the TOR in the EA process and whether it is reasonable to expect the TOR to provide "a reasonable path forward for completion of the EA process with clearly defined environmental limits that the Project will be required to meet", as stated in paragraph 29 of Chapman Affidavit No. 10.

Class I versus Class II Undertakings

7. Mr. Chapman states in paragraph 25 of Chapman Affidavit No. 10 that the Minister confirmed on July 16, 2021 that the Project required a Class II EA.
8. The principal statutory and regulatory provisions governing EAs under the Nova Scotia *Environment Act* are contained in Part IV of the *Environment Act*, S.N.S. 1994-95, c. 1 and the *Environmental Assessment Regulations*, N.S. Reg 221/2018.
9. NSECC has also prepared *A Proponent's Guide to Environmental Assessment* (the "**Guide**"), a true copy of which is attached as **Exhibit "C"**. This document is a helpful summary of the EA processes for Class I and Class II undertakings.
10. In addition to the steps outlined in the Guide it is typical for a proponent along with its environmental consultants to meet with representatives of the EA Branch of NSECC to

¹ A List of Acronyms used in this Affidavit is attached as **Exhibit "B"**.

discuss the project in the early stages to understand the types of information and studies that will likely be required as part of the EA for the proposed undertaking.

11. The EA approval process for Class I and Class II undertakings are the same with the following exceptions:
 - (a) For Class I undertakings it is *discretionary* for the Minister to require a focus report, terms of reference and an EA report whereas for Class II undertakings terms of reference and an EA report are *mandatory*.
 - (b) For Class II undertakings it is *mandatory* for the Minister to refer the EA report to a review panel for a public hearing or review and the submission of a report and recommendations to the Minister on whether to approve the undertaking with or without conditions or reject the undertaking;
 - (c) For Class I undertakings, the Minister has the discretion to refer or not to refer the EA report to a review panel for a report and recommendations to the Minister on whether to approve the undertaking with or without conditions or reject the undertaking.
12. The EA approval processes for Class I and Class II undertakings both begin with the registration of the undertaking with the Minister. Section 12 of the *Environmental Assessment Regulations* sets out the information required in the registration document. This is summarized in section 4.1 of the Guide Exhibit B beginning at page 15. The registration requirements are the same for both classes of undertakings.
13. Upon review of the registration documents for a Class I undertaking, the Minister has an array of options available including: determining that additional information is required, the undertaking is approved, a focus report is required, an EA Report is required or the undertaking is rejected. These options are set out in section 34 of the *Environment Act* and are illustrated in the flow chart at page 20 of the Guide Exhibit C.
14. It appears from Bruce Chapman's Affidavit Number 9 that Northern Pulp in April 2021 assumed that the Project would be classified as a Class I undertaking and that the EA process for the Project could be completed by filing an EA registration document ("EARD" or "**registration document**") that would enable the Minister to decide whether or not to approve the Project. Such an assumption indicates to me that Northern Pulp contemplated filing an EARD that built upon the previous EA studies and requirements for the earlier proposed effluent treatment facility so that it anticipated and provided all the information and the EA studies that would be required for the Minister to make the decision.
15. In view of the complexity of the Project and the degree of public interest in it, the assumption by Northern Pulp that as a Class I undertaking the EARD would provide all the studies and information that needed to be addressed in the EA was an optimistic one. In my view, it would have been reasonable to plan for both the contingency that the Project would be considered a Class II undertaking and the contingency that even if it were a Class I undertaking, the Minister would issue Terms of Reference and would require a further EA report.
16. In my view, the decision of the Minister to designate the Project as a Class II undertaking should have been foreseen as a reasonable possibility. This decision meant that the EA for the Project would require both an EA Report and reference to a review panel. It also

meant that the submission of an EARD that contained the anticipated EA studies and information would not be enough to enable the Minister to make the decision whether or not to approve the Project.

17. If the objective of Northern Pulp were to advance the EA process to the stage of receiving the Terms of Reference (TOR) as early as could reasonably be achieved, then it should have started the EA process by filing the EARD for the Project as soon as it could have. Doing this would have engaged the time lines under the *Environment Act* and *Environmental Assessment Regulations* for NSECC to produce the TOR.
18. The EARD to be filed under this approach could be a shorter form document which would not attempt to anticipate and include all the information which would be included in an EA report. Instead it would include the project description. In my view the Project Description attached as Exhibit D to Chapman Affidavit No. 10, which was submitted to the Minister for a decision on whether it would be a Class I or II undertaking with some additions would be sufficient for use as the EARD for the Project.
19. I am informed by Paul Bradley, CPA of Deloitte who has been advising the Province of Nova Scotia in connection with this proceeding, that the total budgeted spending for EA for the period of May through October was \$6,208,400 exclusive of HST as reflected in the Monitor Report No. 6, Appendix. (In that Schedule, they include HST so the amount shows as \$7,139,660). Mr. Bradley also informed me that the actual spending per the last Monitor update to September 15, 2021 is \$55,478.
20. I have reviewed the Gantt chart attached as Exhibit B to Chapman Affidavit No. 10. The activities set out in lines 53 to 70 for Completion of EA Studies may reasonably be anticipated as required for the EA Report as a Class II undertaking. While it may be reasonable to defer some activities pending the receipt of the TOR, there are some activities that will most certainly be required, which have long lead times and which are likely on the critical path to completion of the EA Report. I would draw particular attention to the Receiving Water Study which has a 48 week duration and which in April 2021 was projected to begin that month and be completed at the end of March 2022.

Significance of Registration to Timelines for the EA Process

21. The registration of the Project under the *Environment Act* as an undertaking is effectively the initiation of the EA process and immediately triggers the first of a series of deadlines for action on the part of the Minister.
22. The first such deadline is the Minister's decision regarding whether or not additional information is required. This has to be made within 50 days of registration under section 34(2) of the *Environment Act* and section 13 of the *Environmental Assessment Regulations*.
23. Once the Minister determines that there is no further information required in the registration document, the Minister is required for Class II undertakings to develop draft TOR for the EA Report. There is not a regulated time line for doing this for Class II undertakings but the 14 days allowed for Class I undertakings requiring an EA report is reasonable.
24. From the date of issuance of the draft TOR by the Minister, time is allotted for public review of the TOR, review of comments from the public by the proponent and an opportunity to

respond by the proponent. The public comments and the response by the proponent are to be considered by the Minister before providing to the proponent the Final TOR for the EA report to be completed. Figure 5-5 at page 5 of the *Guide* Exhibit B summarizes these steps as taking 70 days.

25. If the proponent's objective is to learn the requirements of the TOR for an undertaking as soon as possible, the sooner the undertaking is registered, the sooner the TOR will be known. Delay in registration of an undertaking will necessarily delay the achievement of the earliest date by which TOR may be issued.

Factors which may delay the issuance of the TOR

26. As I have indicated above, the issuance of the TOR for an EA Report is dependent upon the Minister first being satisfied that the registration document contains all the information that is required. If it does not, the issuance of the TOR may be further delayed by the failure of a proponent to respond in a timely manner to the requests by the Minister for further information.

Purpose of the TOR

27. The purpose of the TOR is to determine the work that needs to be undertaken and the information that needs to be provided in order to complete an EA for the proposed undertaking. Under section 2(s) of the *Environment Act*, "environmental assessment" is defined as a "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".
28. "Environmental effect" is defined in section 2(v) of the *Environment Act* as follows:
 - (v) "*environmental effect*" means, in respect of an undertaking,
 - (i) any change, whether negative or positive, 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.
29. The *Environment Act* contains a broad definition of "environment" in section 2(r) as including not only the components of the earth such as air, land, water and organic and inorganic matter and living organisms, but also for the purposes of EAs the socio-economic, environmental health, cultural and other items referred to in the definition of environmental effect.
30. The purpose of the TOR is to determine the work and information that need to be undertaken and provided in order to complete an EA for the proposed undertaking. The most commonly used and accepted means to do this is to identify the Valued Environmental Components ("VEC") of a proposed undertaking. Given the broad

definitions of “environment” and “environmental effect” in the *Environment Act* this also must include socio-economic components of the environment that are valued. The TOR typically will address the VECs that need to be considered and addressed in the EA Report so it may be determined what if any effect the undertaking will have upon them and what types of specific mitigation may be available to contain those effects to acceptable levels.

31. The purpose of an EA Report is to enable the Minister to make a decision whether to reject or approve the undertaking. The rejection of an undertaking is because of the likelihood it will cause adverse effects or environmental effects that cannot be mitigated. The Minister is required to give reasons for the decision on whether to reject, approve or approve with conditions any undertaking, including Class II undertakings referred to a review panel. (section 39(3) of the *Environment Act*.)
32. A properly prepared EA Report will identify the likelihood of the project causing adverse effects or environmental effects that cannot be mitigated. The conducting of the studies and preparation of the EA Report may be an iterative process that involves studying the local environment and predicting the environmental or adverse effects of the undertaking as defined in the registration document. In the event the studies and work on the EA Report reveal some adverse effects, mitigative measures in the design or components of the undertaking are considered in order to reduce the effects to acceptable levels. It is, however, the proponent who identifies the components of the undertaking including the environmental targets it can achieve through design and its proposed mitigation.
33. In paragraph 29 of Chapman Affidavit No. 10, Mr. Chapman states that Northern Pulp’s anticipated date for the Minister’s decision on the EA Approval for the Project is contingent upon the TOR providing “a reasonable path forward for completion of the EA process with clearly defined environmental limits that the Project will be required to meet”.
34. In my experience, the TOR does not provide clarity on what levels of air emissions or effluent content would be deemed acceptable for the receiving environment. The work and study undertaken in the EA will examine the VECs for the surrounding environment and will consider the effects, if any, that the undertaking will have upon the environment. The EA Report will assist the Review Panel and the Minister who will also review public comment and input from the EA Branch at NSECC to identify the likelihood of the project causing adverse effects or environmental effects that cannot be mitigated. The EA Report is a research document that provides information for the review panel in the case of a Class II undertaking to make recommendations to the Minister and upon which the Minister may found a decision on whether the effects of the project are acceptable or not and whether the project may proceed as proposed, upon further conditions or not at all.
35. Even where there are already other statutory or regulatory or quasi-regulatory standards in place for a particular type of undertaking, the EA process must examine the environmental effects of the proposed undertaking including perspectives of the public and First Nations. For instance, in considering a municipal waste water treatment facility proposed for a particular location, an EA would not take as a given that so long as the facility meets the requirements of the *Wastewater Systems Effluent Regulations* made under the *Fisheries Act*, the environmental effects of the undertaking are acceptable. I would expect that the EA Report would have to consider VECs associated with the surrounding environment and the uses to which it is put. Whether or not such a facility is acceptable within a certain distance from a sensitive marshland habitat or a popular beach

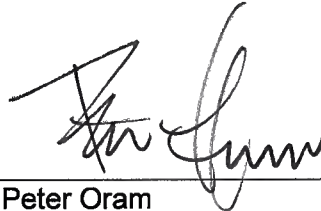
would need to be examined and consideration would need to be given in the EA Report to whether more stringent standards are required than those contained in the regulations.

36. Similarly, it may be relevant whether “best in class” standards for emissions or effluent quality are being proposed for an undertaking but even assuming the best in class standards meet regulatory limits that would not alter the requirement that the EA process examine whether the proposed undertaking is likely to have unacceptable environmental effects.
37. While I have been retained on behalf of the Province of Nova Scotia, I am providing an objective opinion for the assistance of the court. I have not communicated with representatives of the EA branch of NSECC regarding this assignment as they may be advising the Minister with respect to the Project.
38. I have included everything that I regard as relevant to my expressed opinion and I have drawn attention to anything that could reasonably have led to a different conclusion.
39. This Affidavit is sworn in support of the Province of Nova Scotia’s response to the Petitioners’ application under the *Companies’ Creditors Arrangement Act* (Canada) c. C-36, as amended.

SWORN TO at Halifax, in the Province of Nova Scotia, the 26th day of October, 2021 before me:



Robert G. Grant, Q.C.
A Barrister of the Supreme Court of Nova Scotia



Peter Oram

No. S206189
Vancouver Registry

This is Exhibit "A" referred to in the Affidavit
of Peter Oram, sworn before me this
26th day of October, 2021



Robert G. Grant, Q.C.
A Barrister of the Supreme Court of Nova Scotia



Peter Oram, P.Geo.

Senior Environmental Specialist



Qualified: B.A. Double Major Geology/Geography, minor Biology, Mount Allison University, 1987

Connected: Registered Geologist – NS, Core Member Prospectors and Developers Association of Canada, Board Member and Past President of Mining Association of Nova Scotia, Biodiversity Council of Nova Scotia Member

Professional Summary: Mr. Oram has been employed by GHD since 2005. He has 30 years of progressively more complex and involved roles as project manager for environmental projects for a variety of private and government clients in Canada and the US. Peter plays a key role in mining projects throughout the firm and a central role in mine permitting, environmental assessment and environmental site assessment projects primarily in Atlantic Canada. Peter was Principal in Charge of the Halifax office in Nova Scotia from 2005 to 2014 and is a past Executive Committee member for the firm. Peter has lectured at Dalhousie University in the Environmental Science and Mining Engineering Departments and is routinely involved in the development and review of legislation associated with mine and aggregate operations in Nova Scotia and beyond.

Client Services Manager

**Public Works and Government Services
Canada | Defense Construction Canada |
Nova Scotia Transportation and Infrastructure
Renewal | 2005 - present**

Client services manager for several large Standing Offer Agreements (SOA) for federal and provincial agencies for broad range of services including environmental assessments, site assessments, remedial programs, auditing, dredging programs, groundwater and surface water monitoring, building materials surveys and other projects to support operations at the client's facilities. Total annual values of contracts are in the 1.5 M CDN range and represent roughly 100 projects per year. Peter was the assigned CSM for the following SOAs:

- Defence Construction Canada (DCC) Standing Offer Agreements for Contaminated Site Assessment at Department of National Defence (DND) – Maritime Forces Atlantic (MARLANT) sites in Nova Scotia. (2010 - 2013)
- Nova Scotia PWGSC RISO for Environmental Services involving over 500 Phased ESAs (2006 - present)
- Client Services Manager, Additional Phase I and II Site Assessment and Preliminary Quantitative Risk Assessment, CFB Halifax, 12 Wing Shearwater Running Track, MARLANT (2010 - 2011)
- Client Services Manager, Additional Site Assessment, Site Characterization and Remedial Action Plan Development, Future Transport, Electrical and Mechanical Engineering (TEME) Complex, CFB Halifax, Willow Park, MARLANT (2010 - 2011)
- Client Services Manager, Post-Remediation Groundwater Monitoring, Former Petroleum Storage

and Handling Area, McNab's Island, NS. This project was completed for Public Works and Government Services Canada (PWGSC) on behalf of Parks Canada (2010)

Environmental Site Assessment

**Project Coordinator/Field Supervisor
Over 700 environmental projects throughout
Nova Scotia, New Brunswick, Newfoundland &
Labrador, and Prince Edward Island |
At federally owned facilities, petroleum bulk
plant facilities, petroleum retail outlets,
maintenance garages, marine wharf facilities,
and lighthouses (both remote and land based)**

The projects completed at these sites included historical reviews, Phased ESAs, development and costing of remedial alternatives, implementation of remediation programs, transport and fate of contaminant studies, emergency spill response, human health and ecological risk assessments (quantitative and qualitative), environmental/closure audits and geophysical survey design and implementation. Typical project responsibilities included historical reviews, soil, sediment, groundwater, surface water and air sampling (using a wide variety of sampling methods including test pits, boreholes, monitor wells and soil vapour wells), site interviews, historical land use review, regulatory reviews, site infrastructure inspection, on site supervision during remediation and removal of petroleum storage tank/equipment removal, site decommissioning, plume delineation, compaction testing, data compilation and interpretation, and report preparation.



Environmental Impact Assessment/Mining

Project Director

Moose River Gold Mine Permitting | DDV Gold now Atlantic Gold | 2004 - present

This project is a 4000 tonne per day surface gold operation beginning construction in Q1 2016. Project duties included design and management of baseline environmental data gathering programs for surface water, groundwater and habitat, preparation of permit application documents (Environmental Approval, Mining Permit, Industrial Permit and Development Permit), liaison with provincial "One Window Committee" members and other provincial and federal regulators, land owner liaison, public information sessions, and preparation of claims assessment reports. Ongoing projects components include management of drill program and environmental monitoring programs and First Nations discussions.

Project Director

Gays River Lead | Zinc Mine Re-Development Permitting | Selwyn Resources Inc. | 2008 - 2012

Project Director for Gays River Lead/Zinc Mine Re-Development involving management of project components such as monitoring plan development, regulator liaison, First Nations involvement, public information sessions, mine dewatering program development, archaeological investigations reclamation plan development and regulatory compliance reporting and compliance monitoring programs.

Project Director

Miller's Creek Gypsum Mine Extension Environmental Assessment | CGC Inc. | 2003 - 2012

Project Director for Millers Creek Gypsum Mine Development involving environmental baseline studies and overall permitting management of all environmental baseline programs, public consultation, regulator liaison, landowner discussions for water supply replacement plans, and preparation of environmental assessment reports. The project was for a 50-year mine extension of over 400 hectares in size and 2 million tonnes per year and was successfully permitted. GHD has an ongoing role in mine reclamation plan development and management of over 1,000 acres of lands in varying stages of reclamation. GHD manages all regulatory compliance aspects such as meetings, reporting, and liaison with regulators and the community.

Environmental Group Lead

CFB Gagetown Sediment and Erosion Control Study for Department of National Defense Canada | 2003 - 2006

Environmental Group Leader for a large scale (over 100,000-hectare site's sediment and erosion control study program at CFB Gagetown. Role involved the development of the data collection program, coordination of specialist sub consultants and staff, facilitation of

workshops, reporting of field data, analysis of field data in a sediment and erosion control context, hydrogeology/hydrology assessments and final reporting and presentation of data to DND and DCC audiences including those at base level and NDHQ.

Other related areas of interest

Recognized (Certifications/Trainings)

- OSHA 40-hour 1992 and subsequent refreshers
- Atlantic Risk Based Corrective Action Course 1999
- CEAA 2012 Framework Course
- Erosion and Sediment Control on Construction Sites 2015

Awards

- Presidents Citation for "Outstanding contribution to mining industry, community and Province" Mining Society of Nova Scotia 2014

Papers Presented and Published in Conference Proceedings

- Oram, P.G., 1998 "Community Involvement and Non-Renewable Resource Extraction – A Canadian Example, Murchyville Gypsum Mine, Tusket Mining Inc.", Proceedings from United Nations Revolving Fund for Natural Resources Exploration, Environmentally Sound Mining Activities Workshop, New York, NY
- Presenter – Prospectors and Developers Association of Canada Annual Meeting "Community involvement in the Murchyville Gypsum Project", 1998

Publications and Seminars

- Lecturer – Dalhousie University Continuing Education Department – 1998 to Present for "Environmental Regulations for Managers" and the "Management of Environmental Site Assessments"
- Lecturer – Dalhousie and Saint Mary's Universities Environmental Sciences Faculty – Environmental Impact Assessment - Lecturer

Patents

- Mercury Recovery Process, US Patent #5 855 691
- Mercury Recovery Process, EU Patent 99202648.4-2313

Presentations

- Community Involvement in Mining Projects " PDAC 1995 Toronto Ontario
- Mine Permitting 101 – Mining Matters Conference 1999 Halifax Nova Scotia
- Traditional Knowledge Studies – A Proponents Guide" Mi'kmaq Workshop 2011 Halifax Nova Scotia
- The Good and the Bad – Mine Permitting in Nova Scotia – Mining Society of Nova Scotia Conference 2014 Fox Harbour Nova Scotia



- CGC – "Mine Rehabilitation Done Right" Mining Society of Nova Scotia 2018

Work history

2005 – present	GHD (formerly Conestoga-Rovers & Associates), Dartmouth, NS
1996 – 2005	MGI Limited, Dartmouth, NS (purchased by CRA in 2005)
1993 – 1996	Porter Dillon Limited, Halifax, NS
1988 – 1993	Jacques Whitford Environment Limited, Dartmouth, NS
1987 – 1988	Seabright Exploration Inc. Lower Sackville, NS
1986 – 1987	Atlantic Canada Airborne Sensing Inc., Amherst, NS

No. S206189
Vancouver Registry

This is Exhibit "B" referred to in the Affidavit
of Peter Oram, sworn before me this
26th day of October, 2021



Robert G. Grant, Q.C.
A Barrister of the Supreme Court of Nova Scotia

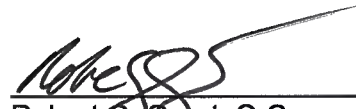
EXHIBIT “B”

Acronyms and Defined Terms

EA	Environmental Assessment
EARD	Environmental Assessment Registration Document
Guide	A Proponent’s Guide to Environmental Assessment
NSECC	Nova Scotia Environment and Climate Change
Project	Northern Pulp’s Proposal for Advanced Replacement ETF and Mill Transformation
Registration Document	EARD or Environmental Assessment Registration Document
TOR	Terms of Reference for an Environmental Assessment Report
VEC	Valued Environmental Component

No. S206189
Vancouver Registry

This is Exhibit "C" referred to in the Affidavit
of Peter Oram, sworn before me this
26th day of October, 2021



Robert G. Grant, Q.C.
A Barrister of the Supreme Court of Nova Scotia

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

February 2001
Revised September 2009
Revised December 2013
Revised April 2014
Revised September 2017
Revised December 2018


NOVA SCOTIA

Environment

Policy Division
Environmental Assessment Branch

TABLE OF CONTENTS

1	INTRODUCTION	1
	1.1 Purpose of this Guide.....	1
	1.2 Background.....	1
	1.3 What is Environmental Assessment?.....	1
	1.4 What is Environmental Assessment not?.....	2
	1.5 What is an Undertaking?.....	2
	1.6 Benefits of Environmental Assessment.....	3
	1.7 For More Information.....	3
2	ADMINISTRATION	4
	2.1 Environmental Assessment Branch.....	4
	2.2 Government Review.....	5
	2.3 Disclosure and Confidentiality.....	5
	2.4 Federal Environmental Assessment.....	6
	2.5 Environmental Assessment Harmonization.....	6
3	PRE-REGISTRATION	7
	3.1 Developments that Require Environmental Assessment.....	7
	3.2 Undertakings Exempt from Environmental Assessment.....	10
	3.3 'One Window' Process.....	11
	3.4 Public Involvement.....	11
4	REGISTRATION	12
	4.1 Preparing the Registration Document for a Class 1 Undertaking..	12
	4.2 Preparing the Registration Document for a Class 2 Undertaking..	14
5	CLASS 1 UNDERTAKINGS	16
	5.1 Registration.....	16
	5.2 The Minister's Decision.....	20
6	CLASS 2 UNDERTAKINGS	28
	6.1 Registration.....	28
	6.2 Terms of Reference.....	28
	6.3 Environmental Assessment Report.....	30
	6.4 Environmental Assessment Review Panel.....	30
	6.5 The Minister's Decision.....	30
7	OTHER APPROVALS REQUIRED	32

TABLE OF CONTENTS (continued)

APPENDICES

APPENDIX A	ENVIRONMENTAL ASSESSMENT LEGISLATION.....	33
APPENDIX B	CONTACT INFORMATION.....	34
APPENDIX C	NOVA SCOTIA ENVIRONMENT ADDRESSES.....	35
APPENDIX D	GLOSSARY.....	36

LIST OF TABLES

Table 3-1	Schedule "A".....	8
-----------	-------------------	---

LIST OF FIGURES

Figure 5-1	Steps Required During an Environmental Assessment - Class 1.	17
Figure 5-2	Sample of a Public Notice.....	19
Figure 5-3	Additional Information Required.....	21
Figure 5-4	Focus Report Required.....	23
Figure 5-5	Environmental Assessment Report Required.....	25
Figure 6-1	Steps Required During an Environmental Assessment - Class 2.	29

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 (EA). The purpose of this guide is to explain in a clear and concise manner how EA in Nova Scotia is carried out.

This guide is not a substitute for 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 EA. 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: <https://www.novascotia.ca/nse/ea/>

1.2 Background

Formal EA 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*. EA is found in Part IV of the *Environment Act* and is set out in the *Environmental Assessment Regulations* and the *Environmental Assessment Review Panel Regulations*.

1.3 What is Environmental Assessment?

EA 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 EA is to promote sustainable development by protecting and conserving the environment. EA 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, 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, EA may help proponents save time and money.

1.4 What Environmental Assessment is not?

When discussing EA, it is important not to confuse it with another common practice called environmental site assessment. Where EA 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 EA process that differs from Nova Scotia's. The two have similar aims but each has different activities which trigger an EA.

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).

EA 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

EA has many benefits, including:

- promotes sustainable development by protecting and conserving the environment. EA 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; and
- 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 EA Branch website at <https://www.novascotia.ca/nse/ea/>, or contact the EA Branch by phone at (902) 424-3600, by fax at (902) 424-6925, by email at EA@novascotia.ca, or by mail at the following address:

Environmental Assessment Branch
Nova Scotia Environment
PO Box 442
Halifax, Nova Scotia
B3J 2P8

2. ADMINISTRATION

2.1 Environmental Assessment Branch

The EA Branch promotes good project planning and sustainable development through the coordination and administration of EA 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 EA is open, transparent, accountable and effective. The EA Branch also works to harmonize EA 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 EA 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 EA. These departments and agencies review the EA 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
- Department of Lands and Forestry
- Department of Agriculture
- Department of Fisheries and Aquaculture
- Department of Transportation and Infrastructure Renewal
- Service Nova Scotia and Municipal Relations
- Department of Health
- Department of Energy and Mines
- Nova Scotia Utility and Review Board
- Nova Scotia Museum

Federal Government Departments:

- Environment and Climate Change Canada
- Canadian Environmental Assessment Agency
- Fisheries and Oceans Canada
- Transport Canada

Local Municipal Office

2.3 Disclosure and Confidentiality

All information submitted by the proponent for EA 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.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

Are the comments submitted during the environmental assessment publicly available?

Yes. All comments received during an environmental assessment will be kept on file with the EA Branch.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

2.4 Federal Environmental Assessment

An undertaking required to complete a provincial EA may also require a federal EA. Federal EA is legislated under the *Canadian Environmental Assessment Act* (Appendix A). The Canadian Environmental Assessment Agency (the "Agency") plays a role in administering the act. 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 EA is required.

2.5 Environmental Assessment Harmonization

In some cases an undertaking may require both a provincial and federal EA. In these cases the EA Branch will coordinate or harmonize its review with the federal government, 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 EA 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 EA 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 EA, including document preparation and logistics.

3. PRE-REGISTRATION

3.1 Developments that Require Environmental Assessment

Developments required to undergo an EA 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 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 plants.

The Minister has the authority to apply an EA to a policy, plan or program, or a modification, extension, abandonment, demolition or rehabilitation to those undertakings listed in Table 3-1, 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
<p>A. Industrial Facilities</p>	<ol style="list-style-type: none"> 1. A storage facility with a total capacity of over 5000 m³ intended to hold liquid or gaseous substances, such as hydrocarbons or chemicals other than water. 2. A facility for the manufacture of wood products that are pressure treated with chemical products. 3. A facility that produces fish meal. 4. A rendering plant. 5. An onshore pipeline 5 km or longer, other than a pipeline that carries any of the following: <ol style="list-style-type: none"> a. natural gas, if the pipeline has a maximum operating pressure below 3450 kPa (500 psig); b. water; c. steam d. domestic wastewater. 6. A natural gas processing plant. 7. A paper product manufacturing plant 8. An oil refinery that: <ol style="list-style-type: none"> a. produces no more than 15,000 L of hydrocarbon products per day; b. uses feedstock that meets all of the following criteria: <ol style="list-style-type: none"> (i) it contains no more than 1% sulphur compounds by weight; (ii) it does not contain halogenated compounds.
<p>B. Mining</p>	<ol style="list-style-type: none"> 1. A facility that extracts or processes any of the following: <ol style="list-style-type: none"> a. metallic or non-metallic minerals; b. coal; c. peat; d. peat moss; e. gypsum; f. limestone; g. bituminous shale; h. oil shale. 2. A pit or quarry, other than a pit or quarry exempted under Section 4 of the regulations for the Department of Transportation and Infrastructure Renewal, that is larger than 4 ha in area for extracting on the following: <ol style="list-style-type: none"> a. ordinary stone; b. building or construction stone; c. sand; d. gravel; e. ordinary soil.
<p>C. Transportation</p>	<ol style="list-style-type: none"> 1. The construction of a new paved highway that is longer than 2 km and is designed for 4 or more lanes of traffic. 2. The construction of a new paved highway that is longer than 10 km and is designed for 2 or more lanes of traffic.

A Proponent's Guide to Environmental Assessment

Category	Class 1
D. Energy	<ol style="list-style-type: none"> 1. A corridor for 1 or more electric power transmission lines that have a cumulative voltage rating equal to or greater than 345 kVA. 2. An energy generating facility, other than an emergency generator, that meets any one of the following: <ol style="list-style-type: none"> a. it has a production rating of at least 2 MW derived from wind, tides or waves, b. it has a production rating of at least 2 MW and no more than 25 MW derived from hydroelectricity, other than run-of-the-river facilities under 10 MW, c. it has a daily fuel input rating of at least 11 000 GJ and no more than 31 000 GJ derived from natural gas, d. it has a daily fuel input rating of at least 250 GJ, and no more than 2500 GJ derived from fossil fuels other than natural gas, e. it has a daily fuel input rating of at least 4000 GJ and no more than 10 000 GJ derived from fuels other than fossil fuels, but excluding solar power.
E. Waste Management	<ol style="list-style-type: none"> 1. A facility for storing, processing, treating or disposing of waste dangerous goods that were not produced at that facility Except all of the following facilities: <ol style="list-style-type: none"> a. a facility operated by, or on behalf of, a municipality or Provincial agency for waste dangerous goods collected only from residential premises, b. a facility in which asbestos waste is stored, if waste dangerous goods are not otherwise processed, treated or disposed of at that facility, c. a facility in which lead acid battery waste is stored, if waste dangerous goods are not otherwise processed, treated or disposed of at that facility 2. A facility for treating, processing or disposing of contaminated materials that is located at a site other than where the contaminated materials originated. 3. A thermal treatment facility as defined in the <i>Solid Waste-Resource Management Regulations</i> made under the Act.
F. Other	<ol style="list-style-type: none"> 1. An undertaking that involves transferring water between drainage basins, if the drainage area containing the water to be diverted is larger than 1 km². 2. An undertaking that disrupts a total of 2 ha or more of any wetland.

Category	Class 2
A. Industrial Facilities	<ol style="list-style-type: none"> 1. A facility for manufacturing, processing or reprocessing radioactive materials. 2. A heavy water plant. 3. A pulp mill. 4. A petrochemical manufacturing plant. 5. A cement plant. 6. An oil refinery other than an oil refinery listed as a Class 1 undertaking. 7. A non-ferrous or ferrous metal smelter. 8. A lead acid battery plant. 9. A ferro-alloy plant.
B. Energy	<ol style="list-style-type: none"> 1. An energy generating facility, other than an emergency generator, that meets any one of the following: <ol style="list-style-type: none"> (a) it has a production rating of more than 25 MW derived from hydroelectricity; (b) it has a daily fuel input rating of more than 31,000 GJ derived from natural gas; (c) it has a daily fuel input rating of more than 2,500 GJ derived from fossil fuels other than natural gas; (d) it has a daily fuel input rating of more than 10,000 GJ from fuels other than fossil fuels, but excluding solar power. 2. A water reservoir that has a storage capacity of 10 000 000 m³ or more than the mean volume of the natural water body source for which it is a reservoir.
C. Waste Management	<ol style="list-style-type: none"> 1. An incinerator as defined in the <i>Solid Waste-Resource Management Regulations</i> made under the Act.

3.2 Undertakings Exempt from Environmental Assessment

Registration is not required for the following:

- Nova Scotia Department of Transportation and Infrastructure Renewal (TIR) pits and quarries used solely to provide fill or aggregate for road building and maintenance contracts with TIR;
- 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

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

Proponents planning these types of developments should contact the respective Chairperson of the 'One Window' Standing Committee (Appendix B).

Proponents planning a mining development should also refer to *Guide to Preparing an EA Registration Document for Mining Developments in Nova Scotia* on our website.

3.4 Public Involvement

The Minister considers 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.

Can I review previous environmental assessments?

Yes. Previous environmental assessments can be reviewed upon request (Appendix B).

Environmental assessments registered since 2000 can also be viewed at the EA branch website at: www.gov.ns.ca/nse.ea.

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 must be included in the registration document.

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 information is included in the document. The undertaking will not be officially registered until the proponent submits all the required information. Under Section 9 (1A) 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, signature, 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;
- environmental baseline information
- all steps taken or proposed by the proponent to identify and address the concerns of the public and aboriginal people
- a list of all concerns regarding the undertaking expressed by the public and aboriginal people
- 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, scope and complexity of the proposed undertaking;
- concerns expressed by the public and aboriginal people 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 and aboriginal people;
- whether environmental baseline information submitted under subclause 9(1A)(b)(x) for the undertaking is sufficient for predicting adverse effects or environmental effects related to the undertaking;

- potential and known adverse effects or environmental effects of the proposed undertaking, including identifying any effects on species at risk, species of conservation concern and their habitats;
- project schedules where applicable;
- planned or existing land use in the area of the undertaking;
- other undertakings in the area;
- whether compliance with licenses, certificates, permits, approvals or other documents of authorization required by law will mitigate the environmental effects; 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 (1A) of the regulations. The proponent should contact the EA Branch or visit the EA Branch website for more information and to see if a "sector-specific" guide exists for your undertaking.

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 website for the fee schedule.

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.

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. It is also important the proponent incorporates climate change considerations in the registration document. In general, all proponents should assess their carbon footprint, review possible options to reduce greenhouse gas emissions, and assess any impacts the project may have on carbon sinks. Similarly, the proponent should also, identify whether or not there are potential hazards from climate change that could affect the project. The document should also include any effects on environmental health, such as any contaminants that may affect 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.

Can I withdraw my registration at anytime?

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

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.

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 information listed under Section 9 (1A) 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 (1A). 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.

When is an environmental assessment referred to the Environmental Assessment Review Panel?

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

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 renders the registered development null.

5. CLASS 1 UNDERTAKINGS

5.1 Registration

Registration of a Class 1 undertaking occurs one week after the proponent submits the required number of hard copies (approximately 5 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 for comments. Public access to the document will also be provided.

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 locations. 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).

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

This type of environmental assessment typically takes 50 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 a proponent to prepare the registration document will depend on the complexity of the undertaking and the amount of information the proponent has already available.

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

The public review period for the registration document lasts 30 calendar days.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

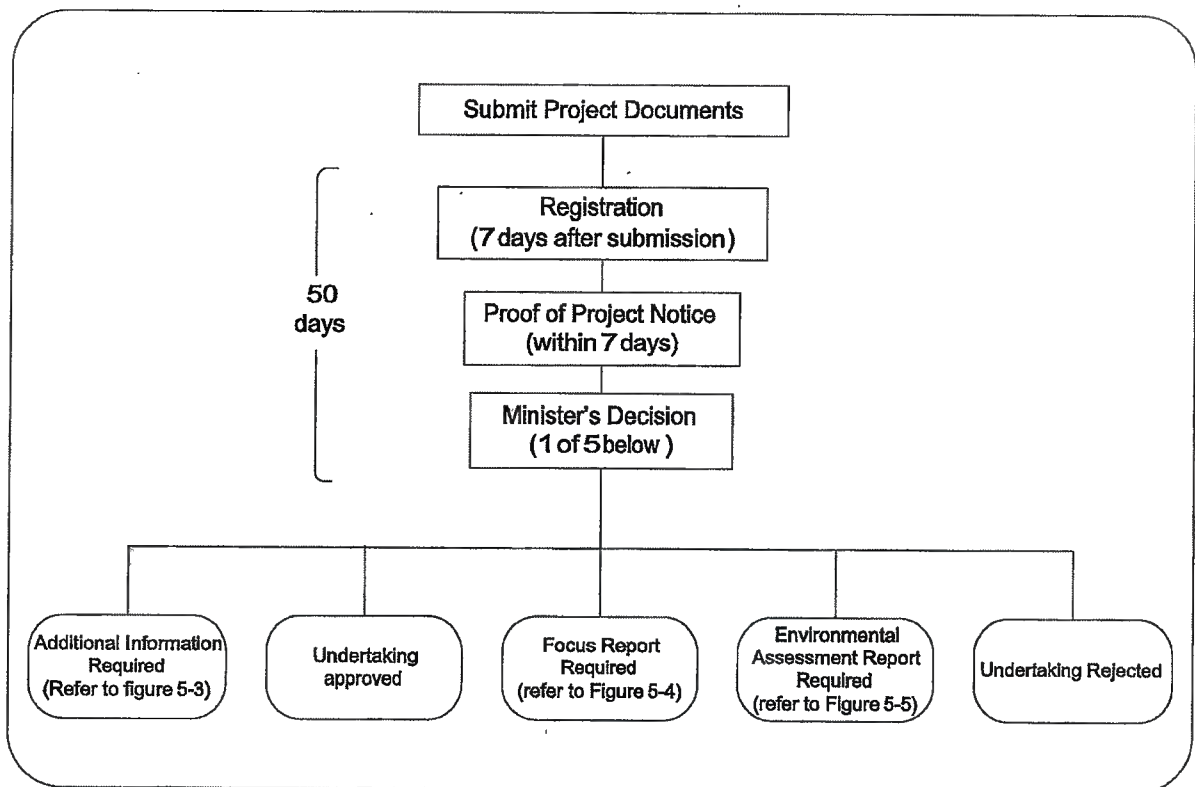


Figure 5-1: Steps Required During an Environmental Assessment - Class 1

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.

It is important that the information provided by the proponent in the notice, is consistent with the proposed undertaking. The notice must provide a clear description of the project.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

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 believed 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 UNDERTAKING, LOCATION, PROPOSED COMMENCEMENT DATE AND PROJECT SCHEDULE WHERE APPLICABLE. IT IS IMPORTANT THAT THE INFORMATION PROVIDED BY THE PROPONENT IN THE NOTICE, IS CONSISTENT WITH THE PROPOSED UNDERTAKING)*.

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)*
- Nova Scotia Environment, Regional Office
- EA website (when available) <https://www.novascotia.ca/nse/ea/>

The public is invited to submit written comments to:

Environmental Assessment Branch
Nova Scotia Environment
P.O. Box 442, Halifax, Nova Scotia B3J 2P8

on or before *(deadline date for public comments provided by NSE)* or contact the Department at (902) 424-3600, (902) 424-6925 (Fax), or e-mail at EA@novascotia.ca.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

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) EA 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. The proponent then has one year to submit the requested information.

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) EA report required; or e) undertaking is rejected (Figure 5-3).

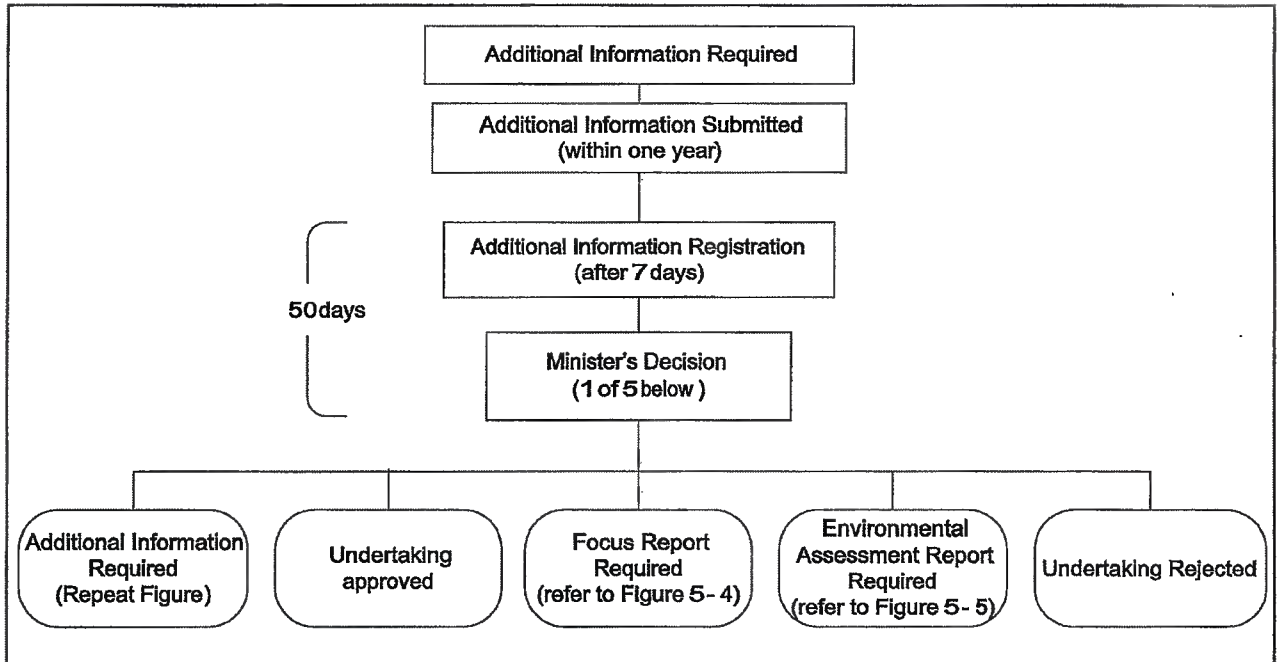


Figure 5-3: Additional Information Required

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.

EA 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 EA. Please refer to Section 7 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 EA.

Focus Report Required

The Minister may decide that a focus report is required when a review of the registration document 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 government reviewers.

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

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.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

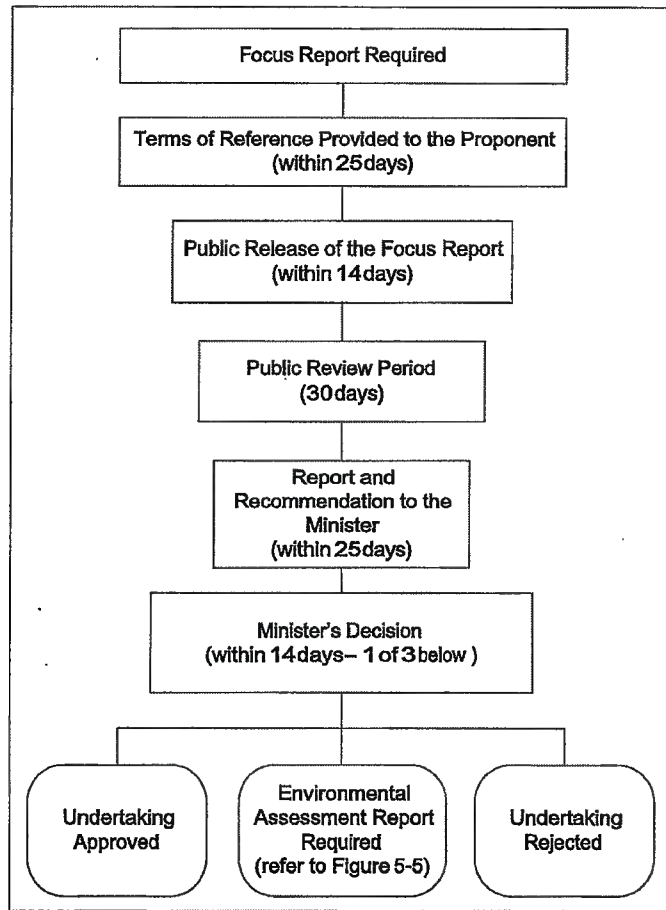


Figure 5-4: Focus Report Required

Environmental Assessment Report Required

The Minister may decide that an EA report is required when a review of the registration document 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.

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 Review Panel (Review Panel) for review.

EA Report is not Referred to the Review Panel

If the EA report is not referred to the Review Panel, 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 government reviewers 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.

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

There will be a 30 day public review period once the draft terms of reference has been released to the public. Members of the public may phone, fax, email or submit written comments to the EA Branch.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

A Proponent's Guide to Environmental Assessment

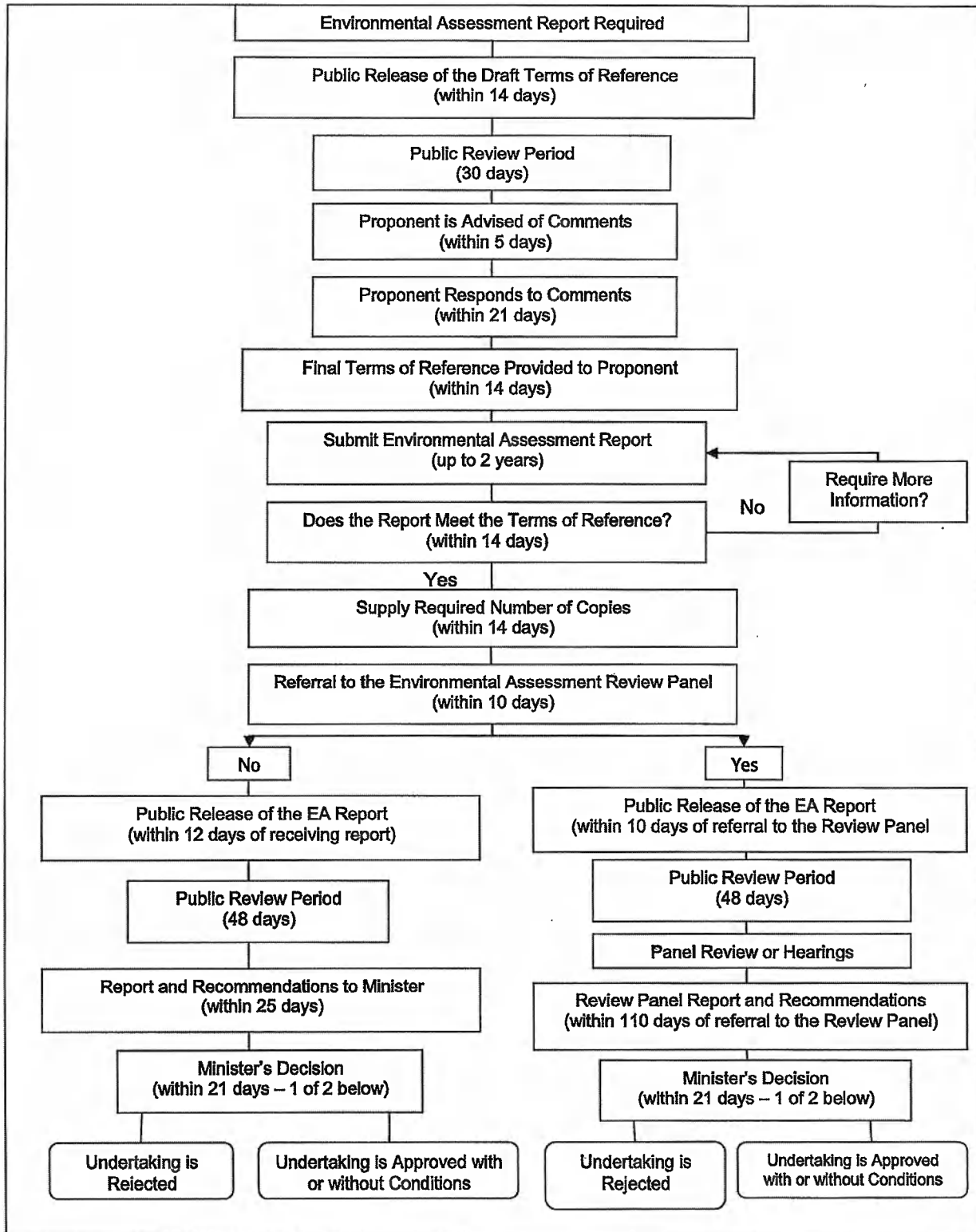


Figure 5 - 5 Environmental Assessment Report Required

If the EA report is referred to the Review Panel, the Review Panel 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 Review Panel when making a recommendation to the Minister for a decision.

The Review Panel has the option to conduct public hearings following the public review. The purpose of the hearings is to:

- receive submissions and comments from any interested party;
- ask questions and seek answers respecting the environmental effects of an undertaking; or
- provide information which will assist the Review 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 Review Panel may request one or more meetings with the proponent to visit the site of the undertaking. The Review Panel may also conduct a pre-session conference to explain the rules of procedure for the hearing, identify participants and witnesses, define the issues, and 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.

Following the proponent's initial presentation, other participants will be able to voice their concerns and provide information to the Review 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 Review Panel in response to the matters raised at the hearing.

Following receipt of any written arguments, the Review Panel must submit a report and recommendation to the Minister for making a decision.

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

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

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

If the EA report is referred to the Review Panel, and there are public hearings, the hearings must be completed within the 110 day time frame, and the Review Panel also must submit a report and recommendation to the Minister within the same time frame.

A Proponent's Guide to Environmental Assessment

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 EA for a Class 2 undertaking begins one week 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 (1A) 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 Panel 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 30 day public review period of the proposed terms of reference and registration document.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

A Proponent's Guide to Environmental Assessment

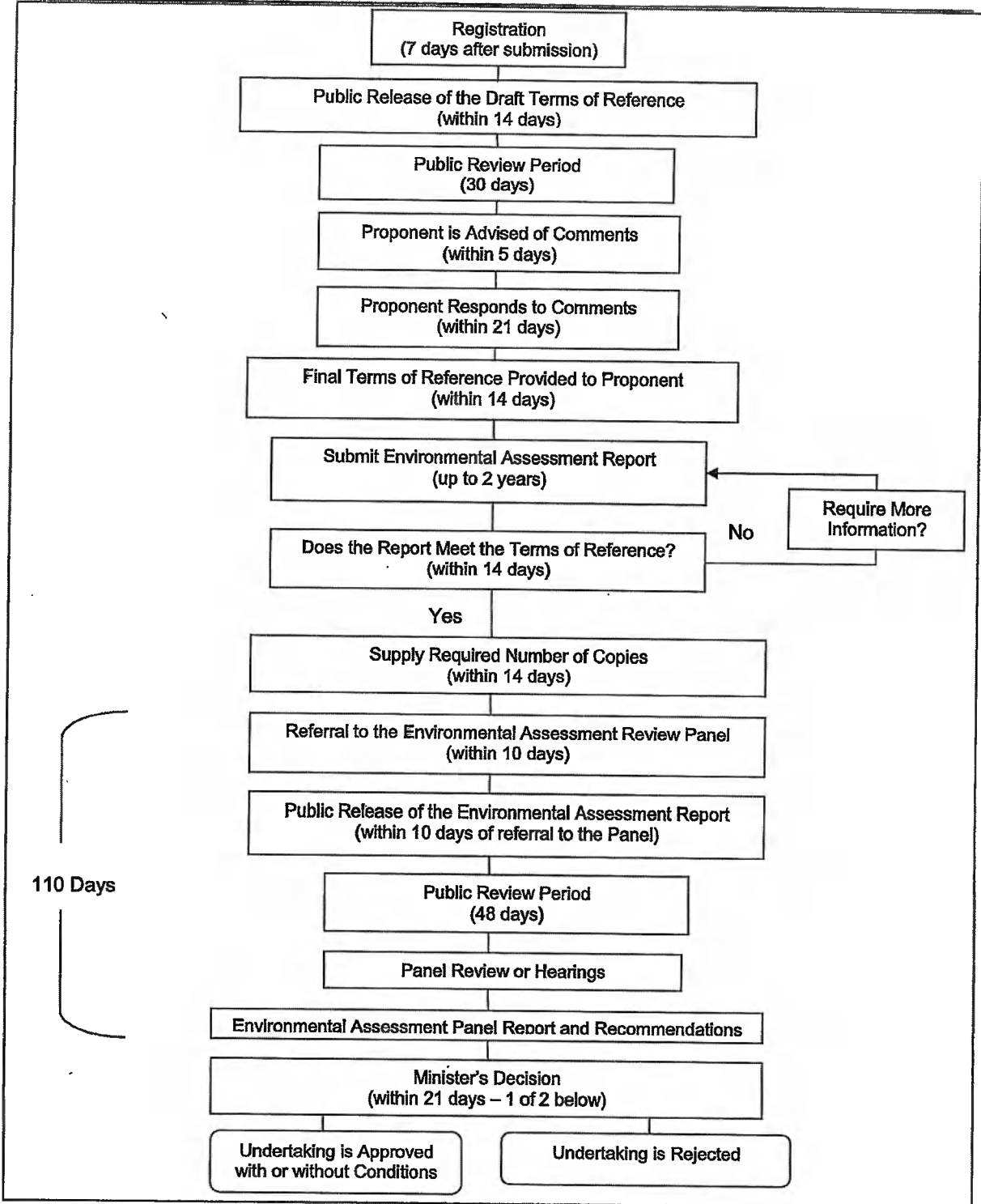


Figure 6-1: Steps Required During an Environmental Assessment - Class 2

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 Panel.

6.4 Environmental Assessment Review Panel

Once the EA report is referred to the Review Panel, the Review Panel 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 Review Panel when making a recommendation to the Minister for a decision.

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

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

Please refer to page 26 of this guide for information on the public hearing procedures.

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.

All comments received from the public consultation will be posted on the department's website for public viewing. In the case of an individual, the address, email and contact information will be removed before being placed on the website. By submitting your comments, you are consenting to the posting of your comments on the department's website.

If the Review Panel decides to conduct public hearings, the hearings must be completed within the 110 day period; and the Review Panel also must submit a report and recommendation to the Minister within the same time period.

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.

EA approval is based upon the review of the conceptual design, environmental baseline information, impact predictions and any mitigation presented in the EA report. Any changes to the information in the registration document and EA report may require the proponent to re-register the undertaking for EA. 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.

EA approval is based upon the review of the conceptual design, environmental baseline information, impact predictions and any mitigation presented in the EA report. Any changes to the information in the registration document and EA report may require the proponent to re-register the undertaking for EA. 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 EA.

7 OTHER APPROVALS REQUIRED

EA 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.

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

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 NSE Inspection, 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, c. 61, 2011
(<http://nslegislature.ca/legc/statutes/environment.pdf>)
- Environmental Assessment Regulations, N.S. Reg. 120/2017
(<http://novascotia.ca/just/regulations/regs/envassmt.htm>)
- Environmental Assessment Review Panel Regulations, N.S. Reg. 19/2013
(<http://novascotia.ca/just/regulations/regs/envreviewpanel.htm>)
- Activity Designation Regulations, N.S. Reg. 120/2016
(<http://novascotia.ca/just/regulations/regs/envactiv.htm>)

Federal Legislation:

To obtain *Canadian Environmental Assessment Act* and its regulations, please contact:

1801 Hollis St., Suite 200
Halifax, NS B3J 3N4
Tel.: 902-426-0564,
Fax: 902-426-6550
Email: ceaa.atlantic@ceaa-acee.gc.ca
Website: <http://www.ceaa-acee.gc.ca/>

**APPENDIX B
CONTACT INFORMATION**

Environmental Assessment Branch

Nova Scotia Environment
PO Box 442
Halifax, Nova Scotia
B3J 2P8
Phone: (902) 424-3600
Fax: (902) 424-6925

Information Access and Privacy Coordinator

Nova Scotia Environment
PO Box 442
Halifax, Nova Scotia
B3J 2P8
Phone: (902) 424-2985

Mining One Window Committee Chairperson

Manager - Mineral Development & Policy
Department of Energy and Mines
1701 Hollis Street
Halifax, NS
Phone: (902) 424-7199

Marine Renewable Energy One Window Committee Chairperson

Director – Sustainable and Renewable Energy
Department of Energy and Mines
1690 Hollis Street
Halifax, NS
Phone: (902) 424-1700

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 ENVIRONMENT ADDRESSES**

Main Office:

1903 Barrington Street
Suite 2085, 2nd Floor
Halifax, NS

Mailing Address:

PO Box 442
Halifax, NS B3J 2P8
Phone: (902) 424-3600
Fax: (902) 424-6925

Inspection, Monitoring and Compliance Division Offices:

Central Region

30 Damascus Road
Suite 115, Bedford Commons
Bedford, NS B4A 0C1
Phone: (902) 424-7773
Fax: (902) 424-0597

Northern Region

36 Inglis Place, 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) 679-6086
Fax: (902) 679-6186

APPENDIX D GLOSSARY

Please refer to the *Environment Act, Environmental Assessment Regulations and Environmental Assessment Review Panel 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 or changes the environment in a manner that negatively affects aspects of human health.

Commence Work

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

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, except for December 23rd to January 2nd which are counted as 1 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 by a review panel under subsection 44(1) of the Act.

Intervenor

A person who has requested a time period to make a presentation at a hearing in accordance with Section 10 of the *Environmental Assessment Review Panel Regulations*.

Minister

The Minister of Environment

Mitigate

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, a change in products used or produced, 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 or activity;

- (ii) is the owner or person having care, management or control of an undertaking or activity.

Review Panel

A panel established by the Minister pursuant to subsection 42(1) of the Environment Act to conduct a review related to the environmental assessment of an undertaking.

Significant

With respect to an environmental effect, an adverse impact that occurs or could occur as a result of any of the following: the magnitude of the effect, the geographic extent of the effect, the duration of the effect, the frequency of the effect, the degree of reversibility of the effect, and/or the possibility of occurrence of the effect.

Terms of Reference

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

Undertaking

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

Wetland

Land commonly referred to as a marsh, swamp, fen or bog that either periodically or permanently has a water table at, near or above the land's surface or that is saturated with water, and sustains aquatic processes as indicated by the presence of poorly drained soils, hydrophytic vegetation and biological activities adapted to wet conditions.