

**Environmental Assessment Regulations**  
made under Section 49 of the  
*Environment Act*  
S.N.S. 1994-95, c. 1  
**O.I.C. 95-220 (March 21, 1995), N.S. Reg. 26/95**  
as amended up to O.I.C. 2009-386 (September 15, 2009), N.S. Reg. 277/2009

**Citation**

**1** These regulations may be cited as the “Environmental Assessment Regulations”.

**Definitions for the Act and these regulations**

**2 (1)** In these regulations,

- (a) “Act” means the *Environment Act*;
- (b) “day” means a calendar day, except for December 23rd to January 2nd, which are counted as 1 day;
- (c) “contaminated material” means a solid or semi-solid mixture that may contain stone, soil, ash, grit, surface coating, sediment, sludge or other matter containing a contaminant resulting from the release of a substance;
- (d) “environmental health” means those aspects of human health that are or can be affected by contaminants or changes in the environment;
- (e) “mineral” means a mineral as defined in the *Mineral Resources Act*;
- (f) “mitigate” means, with respect to an undertaking, to eliminate, reduce, or control the adverse effects or the significant environmental effects of an undertaking, and may include restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means;
- (g) “oil refinery” means a facility used for manufacturing hydrocarbon products from condensate, crude oil, synthetic crude oil or other hydrocarbon feedstock;
- (h) “paper product” means a product made from pulp;
- (i) “petrochemical manufacturing plant” means a plant that manufactures organic chemical substances produced from petroleum-based materials, but does not include any of the following:
  - (i) an oil refinery,
  - (ii) a natural gas processing plant,
  - (iii) a plant that only blends or packages petrochemicals;

- (j) “pit” means a ground disturbance or excavation made for the purpose of removing aggregate from the environment without using explosives;
  - (k) “pulp” means processed cellulose fibres that are derived from wood or other plant material;
  - (l) “significant” means, with respect to an environmental effect, an adverse effect that occurs or could occur as a result of any of the following:
    - (i) the magnitude of the effect,
    - (ii) the geographic extent of the effect,
    - (iii) the duration of the effect,
    - (iv) the frequency of the effect,
    - (v) the degree of reversibility of the effect,
    - (vi) the possibility of occurrence of the effect;
  - (m) “smelter” means a pyrometallurgical industrial facility that recovers a metal or metals from mineral concentrates by heating the concentrates to a point where melting and a chemical change occurs and that produces more than 1 tonne per day of product;
  - (n) “quarry” means a ground disturbance or excavation made for the purpose of removing aggregate from the environment with the use of explosives.
- (2) In the Act and these regulations,
- (a) “commence work” means, with respect to an undertaking, to begin construction or site preparation activity for an undertaking or any part of an undertaking;
  - (b) “extension” means, with respect to an undertaking, an increase in the size, volume or other dimension of the undertaking that may cause adverse effects or significant environmental effects if not properly mitigated;
  - (c) “modification” means, with respect to an undertaking, a change to the undertaking that may cause adverse effects or significant environmental effects if not properly mitigated, and includes all of the following:
    - (i) an expansion of the same process,
    - (ii) a change in products used or produced,
    - (iii) replacement of equipment with different technology other than that presently in use.

**Section 2 replaced: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Application of the regulations**

- 3 (1)** Undertakings and classes of undertakings listed in Schedule “A” to these regulations are designated as undertakings or classes of undertakings, as the case may be, to which Part IV of the Act applies.
- (2)** The Act and these regulations may apply to a modification, extension, abandonment, demolition or rehabilitation of an undertaking listed in Schedule “A” which was established either before or after March 17, 1995.

### **Exemptions**

- 4 (1)** These regulations and Part IV of the Act do not apply to any of the following:

- (a) routine maintenance or repair of existing facilities;
- (b) policies, plans or programs developed after March 17, 1995, which will not directly or indirectly cause an adverse effect or a significant environmental effect;

- (ba) a pit or quarry operated as described in subsection (2);

**Clause 4(1)(ba) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (c) an undertaking that was registered pursuant to Section 149 of the Revised Statutes of Nova Scotia, 1989, the Environmental Assessment Act, and regulations made thereunder.

- (2)** The Department of Transportation and Infrastructure Renewal shall ensure that a pit or quarry established solely to provide fill or aggregate for road building or maintenance contracts with the Department of Transportation and Infrastructure Renewal is operated in accordance with all applicable guidelines and regulations under the Act.

**Subsection 4(2) added: O.I.C. 2008-414, N.S. Regs. 348/2008.**

**Section 4 renumbered 4(1): O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Administrator**

- 5** The Minister may appoint an Administrator to administer these regulations.

**Section 6 repealed: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Alternate dispute resolution**

- 7 (1)** An undertaking may be referred to an alternate dispute resolution procedure in accordance with the provisions of the Act and regulations where the Minister believes an alternate dispute resolution technique is appropriate for the resolution of a dispute or an issue.

**Subsection 7(1) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (2) Where an undertaking is referred to an alternate dispute resolution procedure, the Minister may
  - (a) require the results of the alternate dispute resolution procedure to be reported to the Minister by a time to be specified in the referral; or
  - (b) adjust the time limits in these regulations to accommodate the alternate dispute resolution procedure.
- (3) Where time limits are adjusted in accordance with subsection (2), the Minister or the Administrator shall notify the proponent in writing.

**Section 8 repealed: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Registration**

**9 (1)** The registration of an undertaking required by clause 33(a) of the Act must occur before a proponent proceeds with the final design of an undertaking.

**Subsection 9(1) replaced: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (1A) To register an undertaking, a proponent must submit all of the following to the Department:
  - (a) all applicable fees prescribed under the Act;
  - (b) a registration document in the format provided by the Administrator that includes all of the following:
    - (i) the name of the proposed undertaking,
    - (ii) the location of the proposed undertaking,
    - (iii) the name, address and identification of the proponent,
    - (iv) a list of contact persons for the proposed undertaking and their contact information,
    - (v) the name and signature of the Chief Executive Officer or a person with signing authority, if the proponent is a corporation;
    - (vi) details of the nature and sensitivity of the area surrounding the proposed undertaking,
    - (vii) the purpose and need for the proposed undertaking,
    - (viii) the proposed construction and operation schedules for the undertaking,

- (ix) a description of the proposed undertaking,
- (x) environmental baseline information,
- (xi) a list of the licences, certificates, permits, approvals and other forms of authorization that will be required for the proposed undertaking,
- (xii) all sources of any public funding for the proposed undertaking,
- (xiii) all steps taken by the proponent to identify the concerns of the public and aboriginal people about the adverse effects or the environmental effects of the proposed undertaking,
- (xiv) a list of all concerns expressed by the public and aboriginal people about the adverse effects or the environmental effects of the proposed undertaking,
- (xv) all steps taken or proposed to be taken by the proponent to address concerns of the public and aboriginal people identified under subclause (xiv).

**Subsection 9(1A) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (2) To assist in the assessment of the undertaking, the proponent may provide information in addition to that required under subsection (1).
- (3) The proponent may be required by the Administrator to provide additional copies of information included with a registration.
- (4) The date of registration for an undertaking is 7 days after the applicable fees are paid and all information specified in subsection (1) has been received by the Department.

**Subsection 9(4) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Notification**

**10 (1)** Within 7 days following the registration date of a Class I undertaking, the proponent shall publish a notice in 1 newspaper having general circulation in the locality in which the undertaking is to be located and in 1 newspaper having province-wide circulation.

**Subsection 10(1) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

**(1A)** Within 14 days of the registration date of a Class II undertaking, the Administrator shall publish a notice in the manner provided in Section 29 stating that the undertaking has been registered, and that the public may submit comments on the proposed terms of reference for the environmental assessment report.

**Subsection 10(1A) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

**(1B)** A notice referred to in subsection (1) or (1A) must state that written comments may be submitted to the Administrator within 30 days following the date of publication of the notice.

**Subsection 10(1B) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (2) Where there is no newspaper having general circulation in the locality in which the undertaking is to be located, the notice shall be posted in the manner provided in subsection 29(2) of these regulations.
- (3) A notice referred to in subsection (1) shall include the following information:
  - (a) the name and address of the proponent;
  - (b) the proposed location of the proposed undertaking;
  - (c) the nature of the proposed undertaking;
  - (d) the registration date pursuant to the Act and regulations;

**Clause 10(3)(d) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (e) the proposed commencement date and project schedule where applicable; and
  - (f) locations where registration information may be viewed by the public.
- (4) Copies of the published notice shall be filed with the Administrator within 7 days after the date of publication of the notice.

**Subsection 10(4) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Class I and Class II undertakings**

- 11 (1)** With respect to a Class I undertaking listed in Schedule “A” or an undertaking which the Minister determines to be a Class I undertaking, the environmental assessment process
- (a) shall include registration;
  - (b) may include a focus report, terms of reference, and an environmental-assessment report;
  - (c) may include alternate dispute resolution; and
  - (d) may include referral to the Board where an environmental-assessment report is required.
- (2)** With respect to a Class II undertaking listed in Schedule “A” or an undertaking which the Minister determines to be a Class II undertaking, the environmental assessment process
- (a) shall include registration, terms of reference, and an environmental-assessment report;
  - (b) may include alternate dispute resolution; and

- (c) shall include referral to the Board.
- (3)** If the Minister is of the opinion that any of the following is an undertaking, the Minister must classify the undertaking as either Class I or Class II and must advise the proponent in writing of the classification and, if not already registered, the requirement to register the undertaking in accordance with the Act and regulations:
  - (a) a policy, plan or program;
  - (b) a modification, extension, abandonment, demolition or rehabilitation of an undertaking.

**Subsection 11(3) replaced: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Factors relevant to the Minister's decision**

**12** All of the following information shall be considered by the Minister in formulating a decision under subsection 34(1) of the Act:

**Section 12 amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (a) the location of the proposed undertaking and the nature and sensitivity of the surrounding area;
- (b) the size, scope and complexity of the proposed undertaking;  
**Clause 12(b) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**
- (c) concerns expressed by the public and aboriginal people about the adverse effects or the environmental effects of the proposed undertaking;  
**Clause 12(c) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**
- (d) steps taken by the proponent to address environmental concerns expressed by the public and aboriginal people;  
**Clause 12(d) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**
- (da) 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;  
**Clause 12(da) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**
- (e) 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;  
**Clause 12(e) replaced: O.I.C. 2008-414, N.S. Reg. 348/2008.**
- (f) project schedules where applicable;
- (g) planned or existing land use in the area of the undertaking;
- (h) other undertakings in the area;

- (ha) whether compliance with licences, certificates, permits, approvals or other documents of authorization required by law will mitigate the environmental effects;

**Clause 12(ha) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (i) such other information as the Minister may require.

**Minister's decision upon registration of Class I undertaking**

**13 (1)** No later than 50 days following the date of registration, the Minister shall advise the proponent in writing of the decision under subsection 34(2) of the Act

- (a) that the registration information is insufficient to allow the Minister to make a decision and additional information is required;
- (b) that 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;
- (c) that a review of the information indicates that the adverse effects or significant environmental effects which may be caused by the undertaking are limited and that a focus report is required;
- (d) that a review of the information indicates that there may be adverse effects or significant environmental effects caused by the undertaking and an environmental-assessment report is required; or
- (e) that 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.

**Subsection 13(1) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

**(2)** Where additional information is required pursuant to clause (1)(a), the proponent

- (a) shall submit the required information as an addendum to the original registration information and Section 12 applies; and

**Clause 13(2)(a) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (b) except as provided in subsection (3), shall submit the required information no later than 1 year after the date the proponent is advised under clause 13(1)(a);

**Clause 13(2)(b) replaced: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (c) if the Minister considers it necessary to fulfill the notification requirements of clause 33(b) of the Act, may be required by the Minister to publish a notice in the same manner as the original notice under Section 10 announcing the release of the additional information to the public and stating that written comments may be submitted about the additional information to the Department.

**Clause 13(2)(c) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**



- (3) If the Minister considers that the time period prescribed in clause 13(2)(b) is insufficient, the Minister may extend the time for filing of the information and shall advise the proponent in writing.

**Subsection 13(3) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (4) If additional information is submitted under clause (1)(a), the Minister shall, within 50 days, advise the proponent in writing of the decision under subsection 34(2) of the Act.

**Subsection 13(4) added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

**Section 14 repealed: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Focus report**

- 15 (1)** Where a focus report is required under clause 34(1)(b) of the Act, the Administrator shall provide the proponent with written terms of reference for the preparation of the focus report within 25 days following the decision made by the Minister.

**Subsection 15(1) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (2) Within 1 year following the date that the Administrator provides the written terms of reference under subsection (1), the proponent shall prepare the focus report and shall provide
  - (a) the focus report in printed form and in such other format [as] requested by the Administrator; and
  - (b) the number of copies of the focus report required by the Administrator.
- (3) Where, in the opinion of the Minister, the time period prescribed in subsection (2) is insufficient, the Minister may extend the time for preparation of the focus report and shall advise the proponent in writing.
- (4) If the supply of copies of the focus report required pursuant to subsection (2) is exhausted during the assessment process, the proponent shall, if requested by the Administrator, provide additional copies of the focus report within 7 days following the request by the Administrator.

### **Public comment on focus report**

- 16 (1)** Within 14 days following receipt of the copies referred to in Section 15, the Administrator shall publish, in the manner provided in Section 29, a notice to announce the release of the focus report to the public and shall state that written comments may be submitted to the Administrator within 30 days following the date of publication of the notice.

**Subsection 16(1) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (2) Where, in the opinion of the Minister, the 30 day review period is insufficient, the Minister may extend the review period and shall advise the proponent in writing.

### **Review of focus report**

- 17 (1) The Administrator shall, within 25 days following the final date for public comments, submit to the Minister a summary of comments provided by provincial, federal and municipal departments and agencies and the public together with a recommendation respecting the approval or rejection of the undertaking.
- (2) Where, in the opinion of the Minister, the time period prescribed in subsection (1) is insufficient, the Minister may extend the review period and shall advise the proponent in writing.

### **Minister's decision on focus report**

- 18 Within 14 days following the date of the summary and recommendation provided under Section 17, [the] Minister shall advise the proponent in writing of the decision
  - (a) that a review of the focus report indicates that, within the limits of the focus report terms of reference, 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;
  - (b) that a review of the focus report indicates that there may be adverse effects or significant environmental effects which may be caused by the undertaking and an environmental-assessment report is required; or
  - (c) that a review of the focus report 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.

**Section 18 amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Terms of reference**

- 19 (1) Where an environmental-assessment report is required, the Administrator shall prepare terms of reference for the preparation of the environmental-assessment report which shall include, but not be limited to, the following information:
  - (a) a description of the proposed undertaking;
  - (b) the reason for the undertaking;
  - (c) other methods of carrying out the undertaking;
  - (d) a description of alternatives to the undertaking;

- (e) a description of the environment that might reasonably be affected by the undertaking;
- (f) the environmental effects of the undertaking, including identifying any effects on species at risk, species of conservation concern and their habitats;

**Clause 19(1)(f) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (g) an evaluation of advantages and disadvantages to the environment of the undertaking;
  - (h) measures that may be taken to prevent, mitigate or remedy negative environmental effects and maximize the positive environmental effects on the environment;
  - (i) a discussion of adverse effects or significant environmental effects which cannot or will not be avoided or mitigated through the application of environmental control technology;
  - (j) a program to monitor environmental effects produced by the undertaking during its construction, operation and abandonment stages;
  - (k) a program of public information to explain the undertaking;
  - (l) information obtained under subsection (2) which the Administrator considers relevant.
- (2)** The terms of reference specified under subsection (1) shall be prepared taking into consideration comments from
- (a) the public;
  - (b) departments of Government;
  - (c) the Government of Canada and its agencies;
  - (d) municipalities in the vicinity of the undertaking or in which the undertaking is located;
  - (e) any affected aboriginal people or cultural community; and

**Clause 19(2)(e) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (f) neighbouring jurisdictions to Nova Scotia in the vicinity of the undertaking.

**Subsections 19(3)-(4) repealed: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (5)** Within 5 days following the expiry of the period specified in Section 19A, the Administrator shall

- (a) advise the proponent of any comments received in response to invitations under Section 19A, and

**Clause 19(5)(a) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (b) advise the proponent that the proponent has 21 days to respond in writing to the comments.

**Subsection 19(5) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (6) Within 14 days following the final date for written response from the proponent, the Administrator shall provide the proponent with final written terms of reference for the environmental-assessment report.

### **Notice of terms of reference**

**19A(1)** To give the public and proponent an opportunity to comment under clause 36(b) of the Act, the Administrator must publish a notice of the proposed terms of reference in the manner set out in Section 29 no later than 14 days after the date the proponent is advised of the need for an environmental-assessment report for their Class I undertaking.

- (2) A notice of proposed terms of reference must state that the public may submit comments on the proposed terms of reference to the Department within 30 days following the date of publication of the notice.

**Section 19A added: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Environmental-assessment report**

**20 (1)** Within 2 years following the date of the final written terms of reference, the proponent shall provide

- (a) the final draft of the environmental-assessment report in printed form and in such other format requested by the Administrator; and

**Clause 20(1)(a) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (b) the number of copies of the final draft of the environmental-assessment report required by the Administrator.

**Clause 20(1)(b) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (2) Where required studies would cause the preparation of the environmental-assessment report to exceed the 2 year period prescribed in subsection (1), the Minister may extend the time period by 1 year and shall advise the proponent in writing.

### **Review of environmental-assessment report**

**21 (1)** The proponent may submit a preliminary draft of the environmental-assessment report to the Administrator.

- (2) The Administrator shall examine any preliminary draft or the final draft of the environmental-assessment report to determine whether it addresses the items specified in the terms of reference.
- (3) Within 14 days following receipt of the final draft of the environmental-assessment report, the Administrator shall advise the proponent in writing that
  - (a) the final draft of the environmental-assessment report does not address the items specified in the terms of reference or is deficient in any respect and additional information is required to complete the final draft of the environmental-assessment report; or
  - (b) the final draft of the environmental-assessment report addresses the items specified in the terms of reference and is accepted.

**Subsection 21(3) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (4) The proponent shall submit the additional information required under clause (3)(a) and the procedures and requirements of subsections (1), (2) and (3) apply.

#### **Environmental-assessment report accepted**

- 22 (1)** Where the proponent is advised in writing that the final draft of the environmental-assessment report is accepted under clause 21(3)(b), the proponent shall provide
- (a) the environmental-assessment report in printed form and in such other format requested by the Administrator; and
  - (b) the number of copies of the environmental-assessment report required by the Administrator.
- (2) Copies of the environmental-assessment report required by subsection (1) shall be submitted within 14 days following the date of the acceptance by the Administrator of the final draft of the environmental-assessment report under clause 21(3)(b) unless the time limit has been extended in writing by the Administrator.

**Subsection 22(2) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (3) If the supply of copies of the environmental-assessment report required pursuant to subsection (1) is exhausted, the proponent shall, if requested by the Minister or the Administrator, provide additional copies of the environmental-assessment report no later than 14 days after the date they are requested to the Administrator.

**Subsection 22(3) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

#### **Public consultation on environmental-assessment reports**

- 23 (1)** For an environmental-assessment report for a Class I undertaking that is not referred to the Board, the Administrator shall, no later than 12 days after receiving copies of the final draft of the report, publish a notice in the manner set out in Section 29 announcing the release of the environmental-assessment report to the public and shall

state in the notice that the public may submit written comments to the Administrator within 48 days following the date of publication of the notice.

- (2) If the Minister considers the time period for submitting comments under subsection (1) to be insufficient, the Minister may extend the deadline and shall advise the proponent in writing of the decision.
- (3) For an environmental-assessment report for a Class I undertaking that is referred to the Board or for an environmental-assessment report for a Class II undertaking, public notice and consultation shall be in accordance with the *Environmental Assessment Board Regulations*.

**Section 23 replaced: O.I.C. 2008-414, N.S. Reg. 348/2008.**

#### **Referral to board**

- 24 (1)** Within 10 days following receipt of the copies referred to in subsection 22(2) with respect to a Class I undertaking, the Minister may refer the environmental-assessment report to the Board.
- (2) Within 10 days following receipt of the copies referred to in subsection 22(2) with respect to a Class II undertaking, the Minister shall refer the environmental-assessment report to the Board.

#### **Administrator's summary of comments/recommendation**

- 25 (1)** For a Class I undertaking not referred to the Board, the Administrator shall within 25 days following the final date for public comments on the environmental-assessment report, submit to the Minister a summary of comments provided by provincial, federal and municipal departments and agencies and the public together with recommendations respecting the approval or rejection of the undertaking.
- (2) Where, in the opinion of the Minister, the time period prescribed in subsection (1) is insufficient, the Minister may extend the time period and shall advise the proponent in writing.

#### **Ministerial decision**

- 26 (1)** Within 21 days following receipt by the Minister of
- (a) a summary of comments or recommendations respecting the undertaking by the Administrator;
  - (b) the results of an alternate dispute resolution where an undertaking is referred to an alternate dispute resolution procedure; or
  - (c) a report and recommendation by the Board where an environmental-assessment report is referred to the Board;

whichever occurs later, the Minister shall make a decision in accordance with Section 40 of the Act.

**Subsection 26(1) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

**Subsection 26(2) repealed: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Commence work on approved undertaking**

**27 (1)** Where an undertaking is approved by the Minister under Section 40 of the Act, the proponent shall within 2 years of the approval commence work on the undertaking.

**Subsection 27(1) amended: O.I.C. 2008-414, N.S. Reg. 348/2008.**

- (2)** The Minister may extend the time period provided in subsection (1) in writing if a request is made by the proponent in writing and the Minister considers the request to be valid and reasonable.

**Section 28 repealed: O.I.C. 2008-414, N.S. Reg. 348/2008.**

### **Notice**

**29 (1)** Where the Minister or the Administrator is required by the Act or these regulations to publish a notice, the notice shall be published in the Royal Gazette, in 1 newspaper having general circulation in the locality in which the undertaking concerned is to be located and in 1 newspaper with Province-wide circulation.

- (2)** If there is no newspaper having general circulation in the locality in which the undertaking concerned is to be located, the notice shall be posted in at least 2 of the following locations in the locality:

- (a) a municipal building;
- (b) a post office;
- (c) a public building.

**Subsection 29(2) replaced: O.I.C. 2008-414, N.S. Reg. 348/2008.**

**Sections 30-31 repealed: O.I.C. 2008-414, N.S. Reg. 348/2008.**

## **Schedule A Designated Class I and Class II Undertakings**

### **Class I Undertakings**

The following are designated as Class I undertakings under the Act:

**A. Industrial facilities**

1. A storage facility that has a total storage capacity of over 5000 m<sup>3</sup> and is intended to hold liquid or gaseous substances, such as hydrocarbons or chemicals other than water.
2. A facility for manufacturing wood products that are pressure treated with chemical products.
3. A facility that produces fish meal.
4. A rendering plant.
5. An onshore pipeline that is 5 km or longer, other than a pipeline that carries any of the following:
  - (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
  - (a) produces no more than 15,000 L of hydrocarbon products per day; and
  - (b) uses a feedstock that meets all of the following criteria:
    - (i) it contains no more than 1% sulphur or sulphur compounds by weight;
    - (ii) it does not contain halogenated compounds.

**Item 8 added: O.I.C. 2009-386, N.S. Reg. 277/2009.**

**B. Mining**

1. A facility that extracts or processes any of the following:
  - (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 one of the following:
- (a) ordinary stone;
  - (b) building or construction stone;
  - (c) sand;
  - (d) gravel;
  - (e) ordinary soil.

### **C. Transportation**

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.

### **D. Energy**

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:
  - (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**

1. A facility for storing, processing, treating or disposing of waste dangerous goods that were not produced at that facility, other than facilities operated by, or on behalf of, a municipality or Provincial agency for waste dangerous goods collected only from residential premises.
2. A facility for treating, processing or disposing of contaminated materials that is located at a site other than where the contaminated materials originated.

**F. Other**

1. An undertaking that involves transferring water between drainage basins, if the drainage area containing the water to be diverted is larger than 1 km<sup>2</sup>.
2. An undertaking that disrupts a total of 2 ha or more of any wetland.

### **Class II Undertakings**

The following are designated as Class II undertakings under the Act:

**A. Industrial facilities**

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.

**Item 6 amended: O.I.C. 2009-386, N.S. Reg. 277/2009.**

7. A non-ferrous or ferrous metal smelter.
8. A lead acid battery plant.
9. A ferro-alloy plant.

**B. Energy**

1. An energy generating facility, other than an emergency generator, that meets any one of the following:
  - (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 2500 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 m<sup>3</sup> or more than the mean volume of the natural water body source for which it is a reservoir.

**C Waste Management**

1. A facility for incinerating municipal solid waste.

**Schedule A replaced: O.I.C. 2008-414, N.S. Reg. 348/2008.**