



Overview of the *Impact Assessment Act*

Level 1 Training

Outline

- **Module 1 – Introduction**
- **Module 2 – Overview of the *Impact Assessment Act* and Regulations**
- **Module 3 – Cooperation and Participation**
- **Module 4 – Impact Assessment Process**
- **Module 5 – Other Relevant Provisions**
 - **Transitional Provisions**
 - **Federal Lands**
 - **Regional and Strategic Assessments**

Module 1 - Introduction



What is an Impact Assessment

It is a planning and decision-making tool used to assess:

- positive and negative environmental, economic, health, and social effects of proposed projects
- impacts to Indigenous groups and rights of Indigenous peoples

The *Impact Assessment Act* outlines a process for assessing the impacts of major projects and projects carried out on federal lands or outside of Canada.

The **Impact Assessment Agency of Canada** is responsible for conducting impact assessments under the *Impact Assessment Act*

Purposes of the *Impact Assessment Act*

- To foster **sustainability**, ensure respect of Government's commitments with respect to the **rights of Indigenous peoples**
- To include environmental, social, health and economic factors within the **scope of assessments**
- To establish a **fair, predictable** and **efficient** impact assessment process that enhances Canada's **competitiveness** and promotes **innovation**
- To consider **positive** and **adverse effects**
- To include early, inclusive and meaningful **public engagement**
- To promote nation-to-nation, Inuit-Crown, and government-to-government **partnerships with Indigenous peoples**
- To ensure **decisions** are based on **science, Indigenous knowledge** and other sources of **evidence**
- To assess **cumulative effects** within a region

Module 2 – Overview of the *Impact Assessment Act* and Regulations



The *Impact Assessment Act*

The *Impact Assessment Act*:

- Lays out the impact assessment process and timelines
- Identifies factors that must be taken into account during the impact assessment and decision-making
- Provides tools to support cooperation and coordination with other jurisdictions
- Enables the Agency to support participant engagement through funding programs
- Requires transparency through information made publicly available on the Registry
- Provides tools and authorities to ensure compliance

Projects Subject to the Act

- Designated projects are described in the *Physical Activities Regulations* (Project List)
- Minister may designate any project not described in regulations, based on factors set in the legislation
- Non-designated projects on federal lands and outside Canada are assessed by federal authorities before decisions are made

Project Examples

Major projects within the following sectors or groups can be found on the Project List:

- Renewable energy
- Oil and gas
- Linear and transportation-related
- Marine and freshwater
- Mining
- Nuclear
- Hazardous waste
- Federal lands and protected areas



Regulations

Designated Projects

Physical Activities Regulations

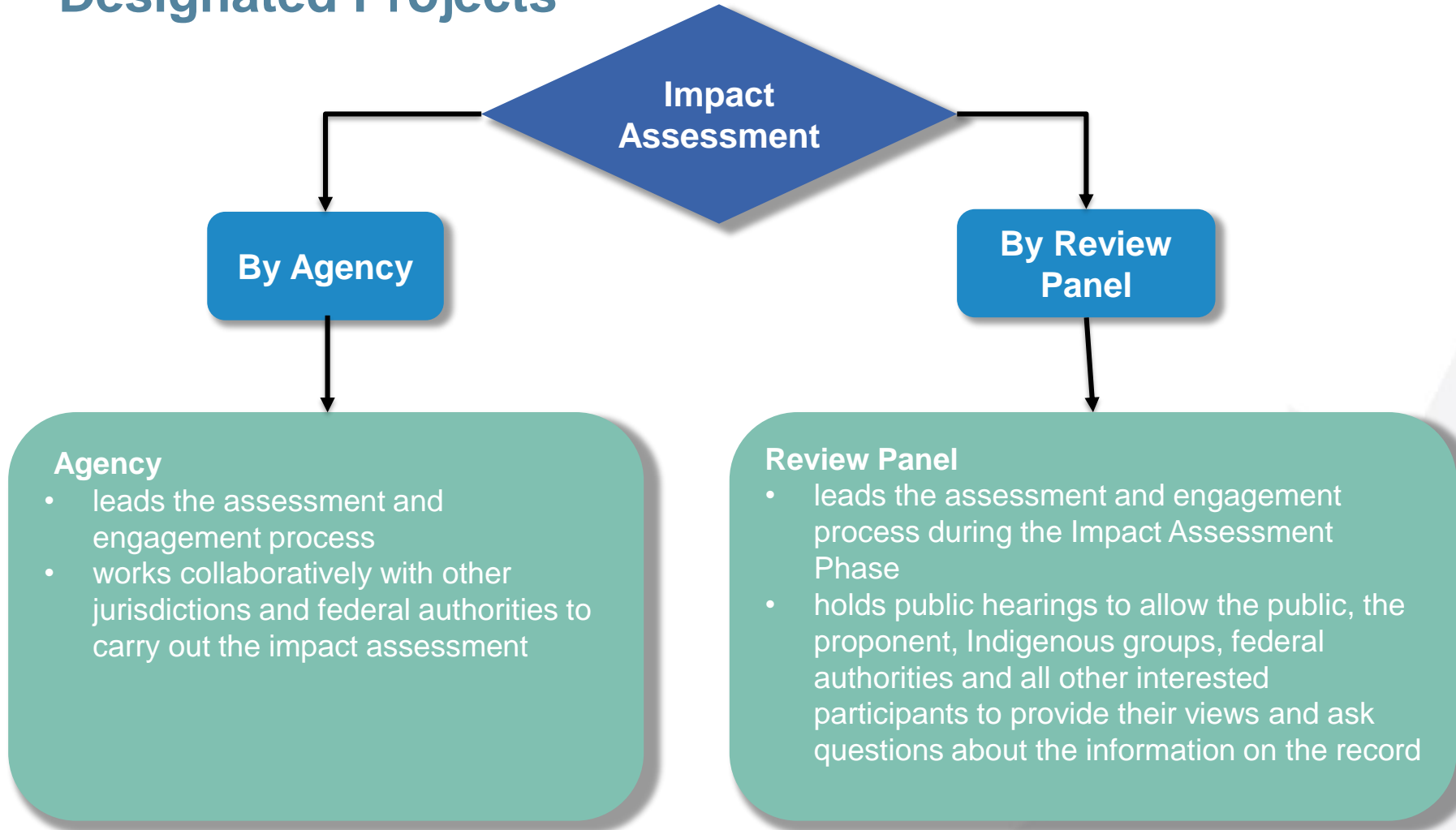
- Describes designated projects (Project List)
- The Project List focuses federal impact assessments on projects that have the most potential for adverse environmental effects in areas of federal jurisdiction

Information and Management of Time Limits Regulations

- Outlines the information that the proponent must provide to support early planning
- Outlines the documents the Agency must provide to guide the impact assessment
- Provides the circumstances in which the Agency may suspend the legislated timelines

Types of Impact Assessment

Designated Projects



Prohibitions

Designated Projects

ss.7(1)

A proponent is prohibited from carrying out a **designated project**, in whole or in part, if it may cause effects that are within federal jurisdiction **unless**:

- No impact assessment is required
- Proponent complies with the conditions of the decision statement; or
- Agency permits the proponent to carry out an act or thing, subject to any conditions in order to provide the necessary information required for a possible impact assessment

Federal authorities are prohibited from making any decision that would enable a **designated project** to be carried out **unless**:

- **no impact assessment is required**; or
- **the effects** of the designated project **are in the public interest**

Module 3 – Cooperation and Participation



Participants Involved in the Impact Assessment Process


 Proponent

 Indigenous Groups

 Public

 Federal Jurisdictions

 Other Jurisdictions

 Impact Assessment Agency of Canada

 Minister

 Governor in Council

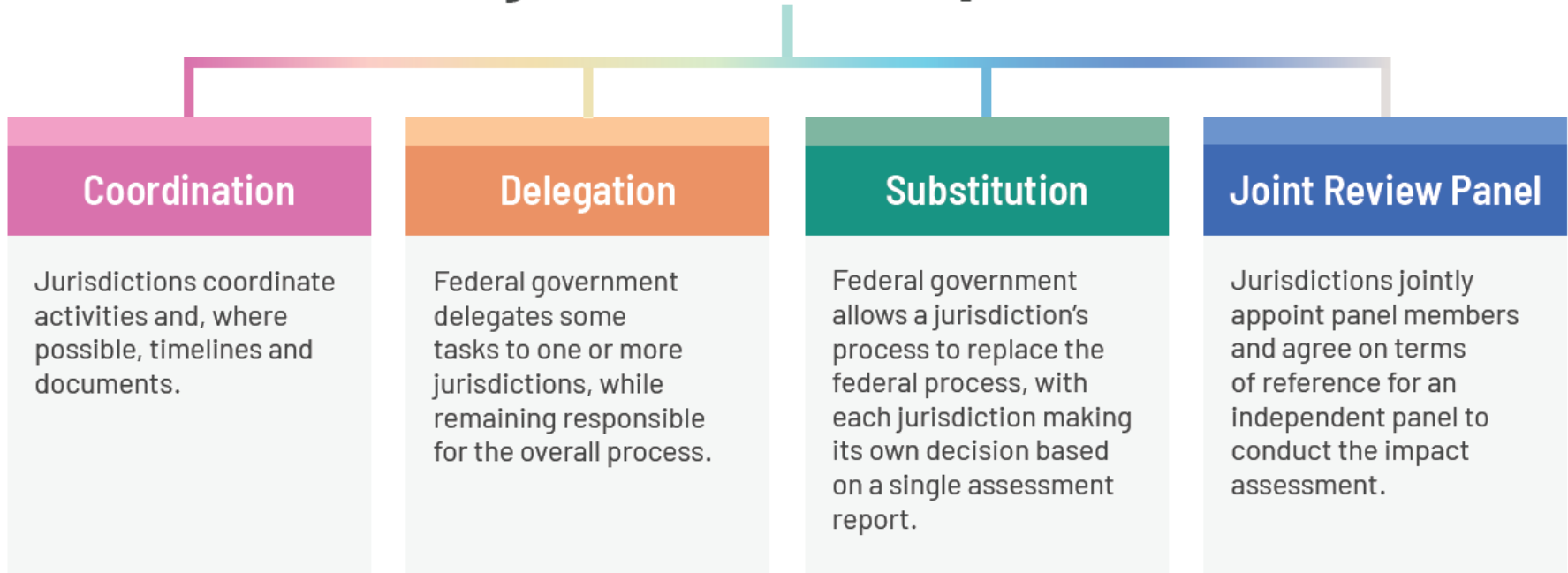
 Review Panel

Cooperation with other Jurisdictions

“One project, one assessment”

By working with other jurisdictions in impact assessments, we can reduce duplication and increase efficiency and certainty.

Ways We Can Cooperate



Cooperation with Jurisdictions

Cooperation agreements with jurisdictions to ensure coordinated assessments

Par.114(1)(c)

Tools to improve efficiency and effectiveness: delegation, substitution and joint review panels

s.29

ss.31(1)

ss.39(1)

Benefits

“one project, one assessment”

EFFICIENCY

Reduced duplication, shared activities, joint documentation

RIGOUR

Meets the requirements of all jurisdictions

CLARITY

Clear, predictable process, leading to a common understanding of the evidence and potential impacts



Participation of Indigenous Peoples

Agency coordinates engagement and consultation for all federal assessments (par.155(b))

Must take into account Indigenous-led assessments and Indigenous knowledge, rights and culture (ss.22(1))

Indigenous governments have greater opportunities to exercise powers and duties under the Act (par.114(1)(d) and (e)).

Objectives: Rights of Indigenous peoples are respected; greater opportunities and support for capacity to participate in impact assessments

Adverse impacts on rights must be considered in key decisions (ss. 9(2), ss.16(2), ss.63(d))



Public Participation and Transparency

Objectives:

- greater public trust in impact assessment and decision-making
- timely opportunities for meaningful public participation



- **Meaningful public participation** opportunities available during early planning and impact assessment (s.27) and (par.51(1)c)
- **Meaningful public participation** based on principles that are defined in the [Interim Context](#): Public Participation under the Impact Assessment Act
- Enhanced **Canadian Impact Assessment Registry** to provide greater access to information, including rationale for decisions (s.104-108)
- **Participant funding program** to include broader eligible activities (s.75)

Module 4 – Impact Assessment Process

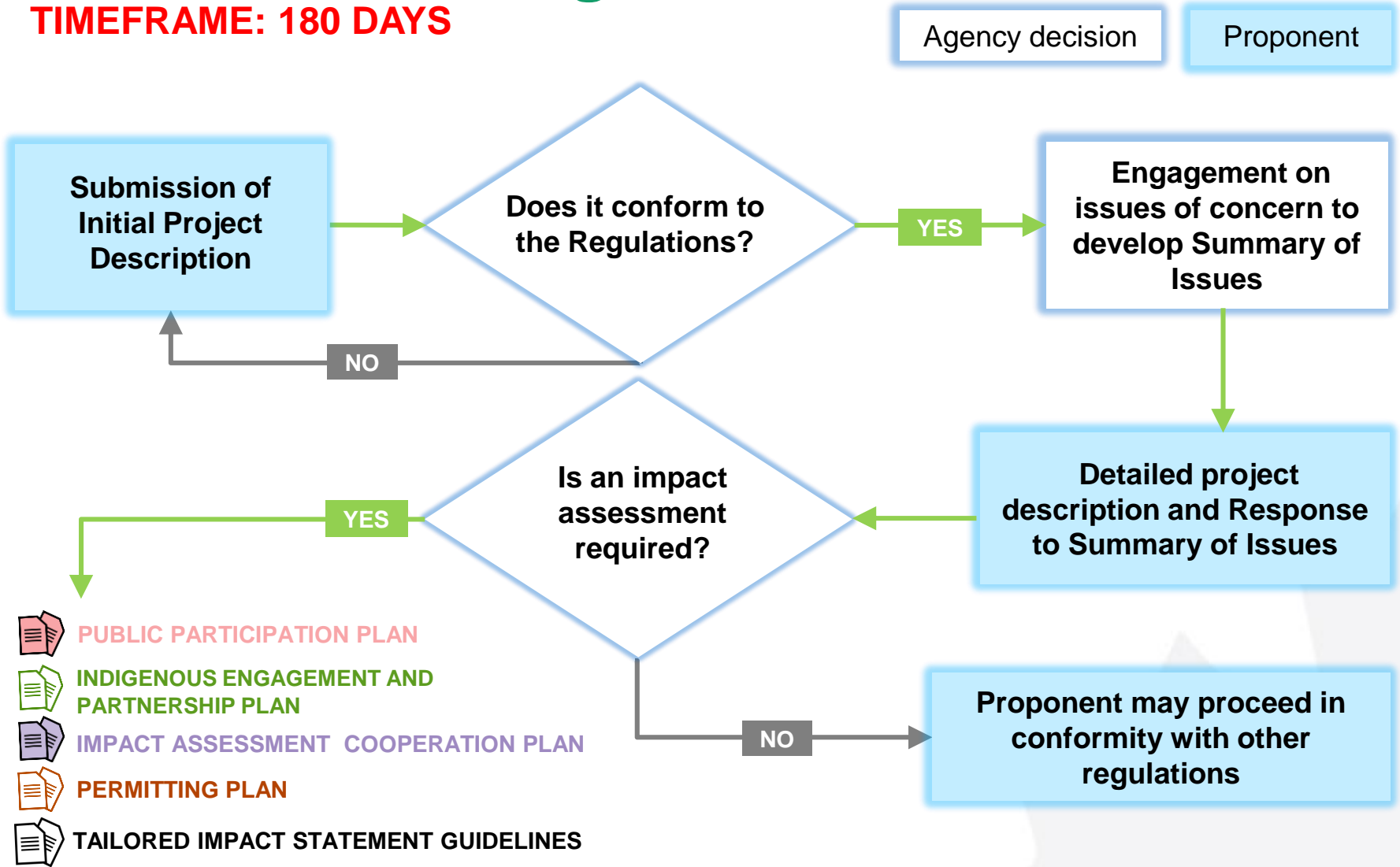


Impact Assessment Process Overview



Phase 1: Planning

TIMEFRAME: 180 DAYS

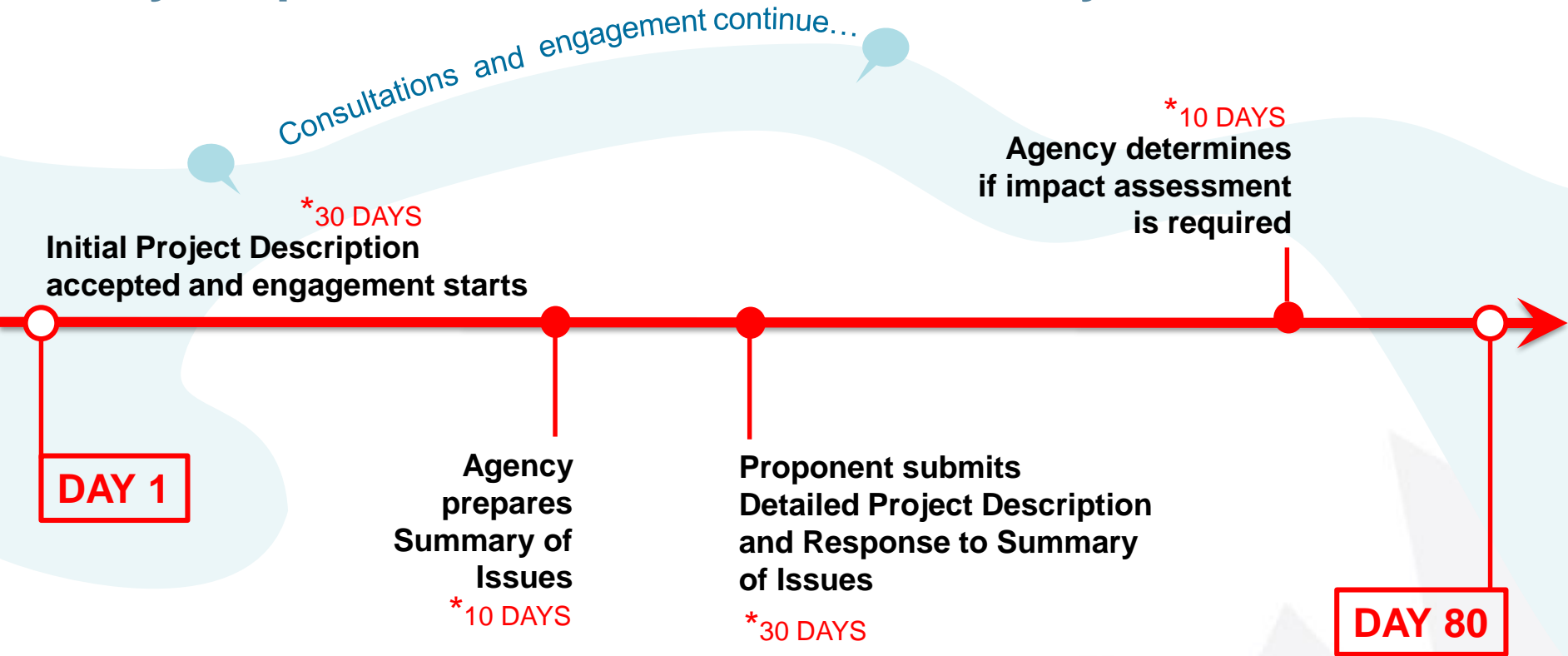


Agency decision

Proponent

Phase 1: Planning

Key Steps and Timelines for First 80 Days



*SERVICE STANDARD

KEY DOCS

INITIAL PROJECT DESCRIPTION

SUMMARY OF ISSUES

DETAILED PROJECT DESCRIPTION

RESPONSE TO SUMMARY OF ISSUES



Phase 1: Planning

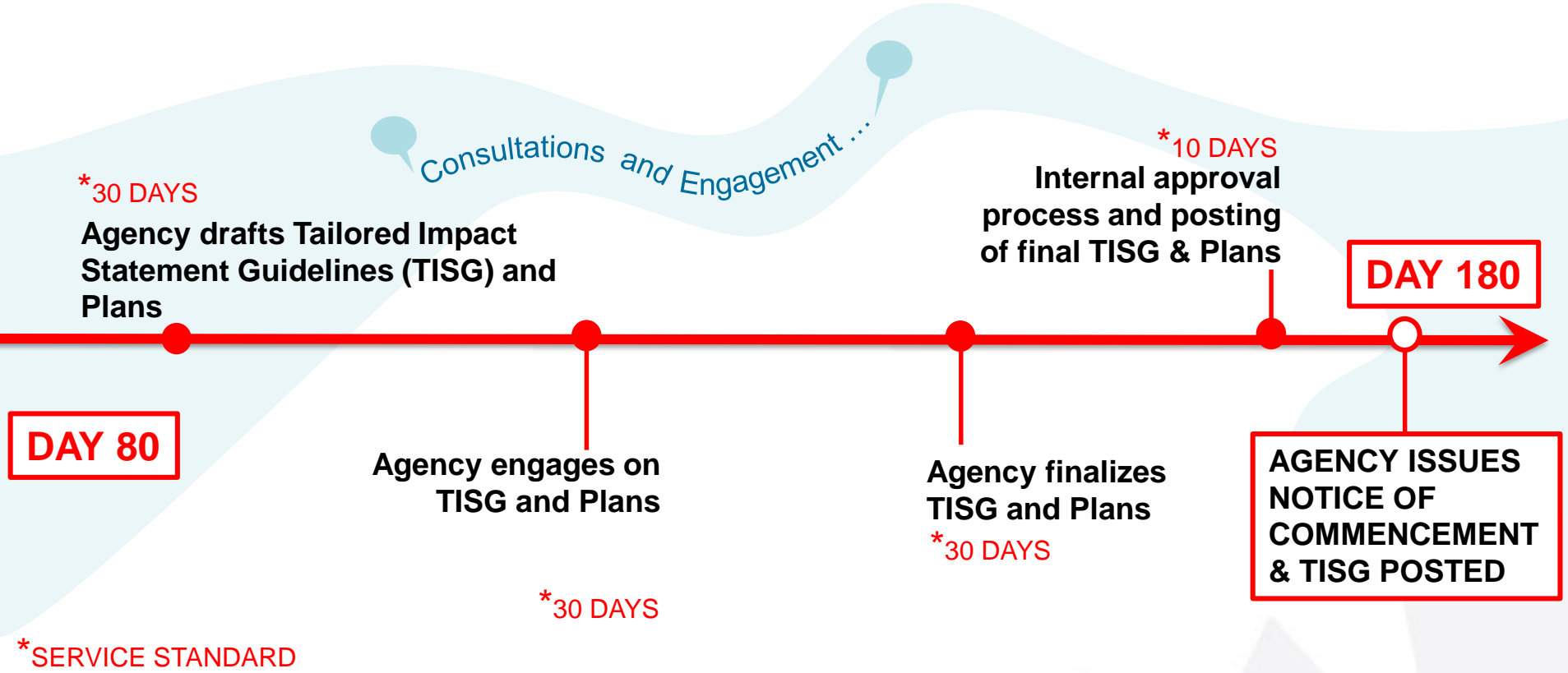
The first 80 days

Purpose

- To introduce proposed projects into the impact assessment process
- To engage with Indigenous peoples and the public to identify issues and concerns, including potential impacts to Indigenous rights, related to proposed projects
- To produce a Detailed Project Description and to respond to identified issues and concerns
 - Proponents may alter the project description to respond to issues and concerns or to alter project design
 - This early planning opportunity can help avoid key issues coming up later in the assessment process
- To determine whether an impact assessment is required

Phase 1: Planning

Key Steps and Timelines For Next 100 Days



KEY DOCUMENTS

- IMPACT ASSESSMENT COOPERATION PLAN
- INDIGENOUS ENGAGEMENT PARTNERSHIP PLAN
- PERMITTING PLAN
- PUBLIC PARTICIPATION PLAN



TAILORED IMPACT STATEMENT GUIDELINES

Phase 1: Planning

The remaining 100 days

Purpose

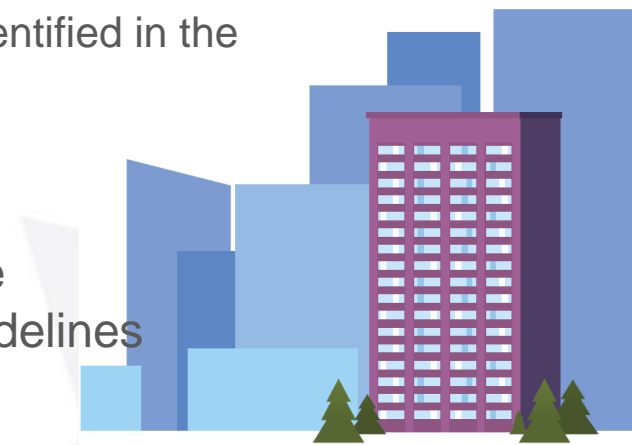
- To identify opportunities and plan for collaboration/cooperation with other jurisdictions
 - Impact Assessment Cooperation Plan
- To provide clarity and certainty around meaningful participation and consultation throughout the impact assessment process
 - Public Partnership Plan
 - Indigenous Engagement and Partnership Plan
- To provide clarity to proponents on anticipated regulatory needs for the project to proceed
 - Permitting Plan
- To tailor guidelines that will clearly identify studies and information requirements for the Impact Statement developed by the proponent
 - Tailored Impact Statement Guidelines

Phase 1: Tailored Impact Statement Guidelines and Scope of Factors to be considered

The **Tailored Impact Statement Guidelines** outline all information and studies the Agency determines necessary to conduct the impact assessment

- The Agency will consult with Federal Authorities, other participants and experts
- The Guidelines form the basis of the proponent's Impact Statement preparation
- The Impact Statement must meet the requirements identified in the Guidelines

The Agency determines the **scope** of the **impact assessment factors** to be taken into account in the Impact Statement and outlines the scope in the Guidelines



Phase 1: Factors to be Considered in an Impact Assessment

Subsection 22(1)

(a)	Changes to the environment or to health, social or economic conditions (including malfunctions, accidents and cumulative effects)
(b)	Mitigation measures
(c)	Impacts on any Indigenous group and on the rights of Indigenous peoples
(d)	The purpose and need for the project
(e)	Alternative means of carrying out the project
(f)	Alternatives to the designated project
(g)	Indigenous knowledge provided with respect to the designated project
(h)	The extent to which the designated project contributes to sustainability
(i)	The extent to which the effects of the designated project hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change
(j)	Any change to the designated project that may be caused by the environment
(k)	The requirements of the follow-up program in respect of the designated project

Phase 1: Factors to be Considered in an Impact Assessment (continued)

Subsection 22(1)	
(l)	Considerations related to Indigenous cultures raised with respect to the designated project
(m)	Community knowledge provided with respect to the designated project
(n)	Comments received from the public
(o)	Comments from a jurisdiction that are received in the course of consultations conducted under section 21
(p)	Any relevant assessment referred to in section 92, 93 or 95
(q)	Any assessment conducted by or on behalf of an Indigenous governing body
(r)	Any study or plan that is conducted or prepared by a jurisdiction — or an Indigenous governing body — that is in respect of a region related to the designated project
(s)	The intersection of sex and gender with other identity factors
(t)	Any other matter relevant to the impact assessment that the Agency or the Minister requires to be taken into account

Phase 1: Guidance on Planning Phase Documents

The Practitioner's Guide to Federal Impact Assessments under the *Impact Assessment Act* contains documents and templates to guide practitioners in the development of Planning Phase documents:

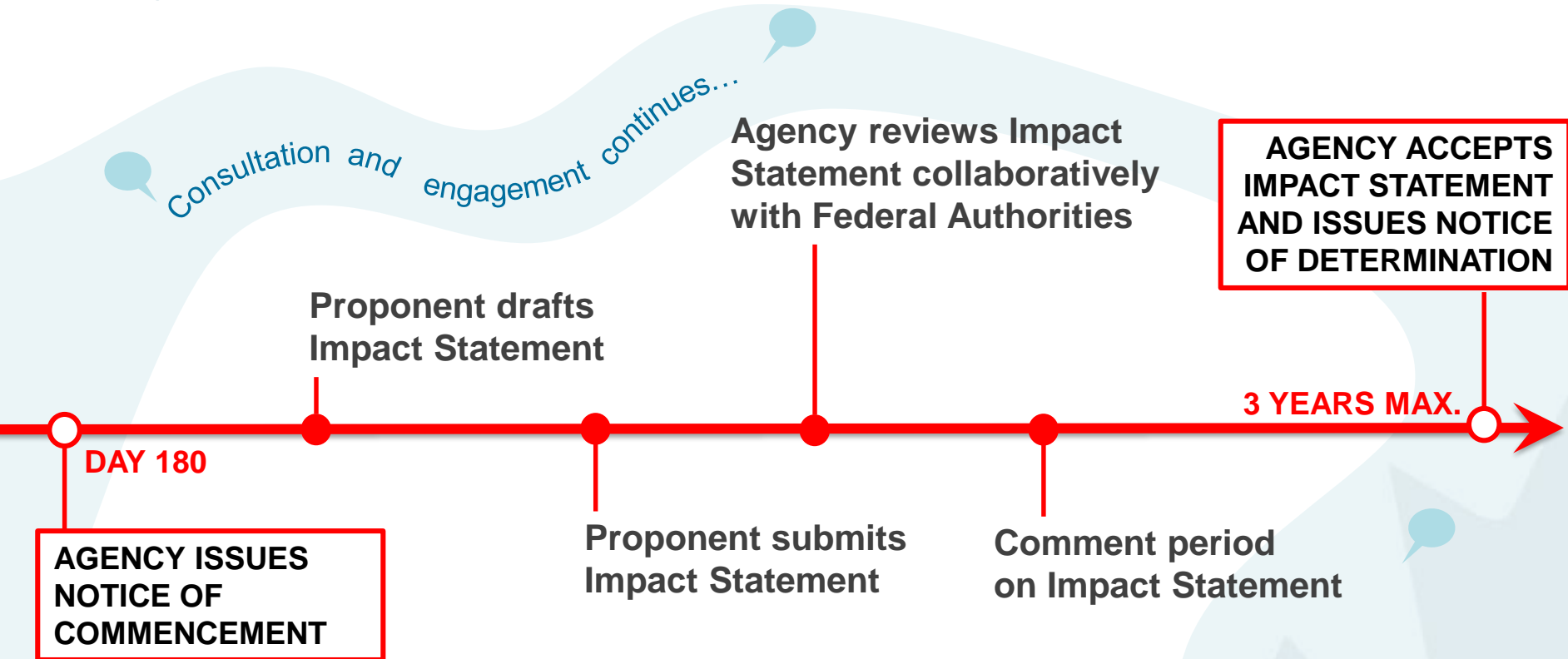
Overview document	Template
Cooperation Plan	Cooperation Plan Template
Permitting Plan	Permitting Plan Template
Public Participation Plan	Public Participation Plan Template
Indigenous Engagement and Partnership Plan	Indigenous Engagement and Partnership Plan Template
(Not applicable)	Tailored Impact Statement Guidelines Templates

Phase 1: Objectives of Products

Initial Project Description	High-level description of the proposed project
Summary of Issues	List of issues provided by the Agency following engagement and cooperation discussions
Response to the Summary of Issues	Notice prepared by the proponent outlining how they plan to address the issues described in the Summary of Issues
Detailed Project Description	Document containing updated information about the designated project and information about the possible environmental, social, health and economic effects of the project
Public Participation Plan	Document outlining how the public would be engaged throughout the impact assessment process
Indigenous Engagement and Partnership Plan	Document describing how Indigenous groups would be engaged throughout the impact assessment process
Impact Assessment Cooperation Plan	Document describing how the Agency will work with other jurisdictions throughout the impact assessment process
Permitting Plan	Document outlining the anticipated permits, licenses and authorizations required for the designated project
Tailored Impact Assessment Guidelines	Document outlining the information required in the proponent's Impact Statement
Notice of Commencement	Notice issued by the Agency before the end of the 180-day time limit that sets out the information and studies necessary to conduct the impact assessment

Phase 2: Impact Statement

Key Steps and Timelines



KEY DOCUMENTS



IMPACT STATEMENT

Phase 2: Impact Statement Process

Purpose

To outline and evaluate impacts of a project (Proponent)



- **Proponent** prepares its **Impact Statement** based on the Tailored Impact Statement Guidelines
 - These guidelines are the result of **scoping** that took place in the Planning Phase
 - They describe the necessary information and studies that are required in the proponent's Impact Statement
- **Proponent** gathers information through studies and by engaging with **Indigenous groups** and the **public** to inform the **Impact Statement**
- **Proponent** seeks advice from the **Agency** and federal authorities, as necessary, to better reflect the guideline requirements in the Impact Statement



Phase 2: Impact Statement

Determining if Information Requirements are Met

The Agency determines whether the information requirements set out in the Tailored Impact Statement Guidelines have been met, informed by contributions from:

- Federal authorities
- Other jurisdictions
- Indigenous groups
- Public or other participants

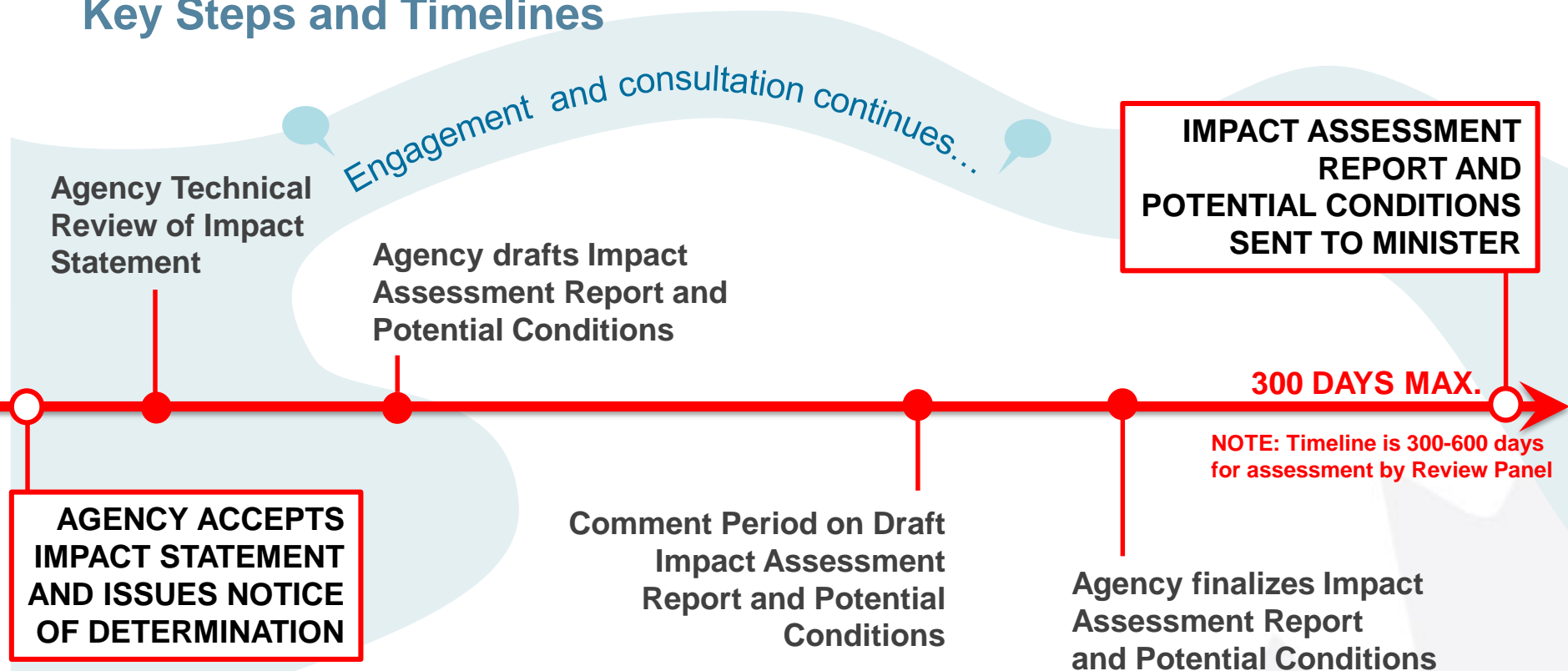
Where information requirements have not been met, the Agency will request this information from the proponent

No new information beyond what was required in the Guidelines can be requested without strong rationale

The Agency accepts the Impact Statement and posts a Notice of Determination once they are satisfied that it meets requirements detailed in the Guidelines

Phase 3: Impact Assessment

Key Steps and Timelines



KEY DOCUMENTS

POTENTIAL CONDITIONS
CONSULTATION REPORT



FINAL IMPACT
ASSESSMENT REPORT

Phase 3: Impact Assessment

Impact assessments

- Consider sustainability, the positive and negative environmental, health, social and economic impacts of designated projects, including gender based analysis plus
- Take into account a number of factors that include a consideration of Indigenous rights, knowledge and culture
- Are conducted by either the Agency or a review panel

ss.22(1)

ss.22(1)

s.25

ss.51(1)

Phase 3: Impact Assessment Process

Purpose

To outline and evaluate impacts of a project (Agency), including

- Analysis of the Proponent's Impact Statement
 - Technical review of the Impact Statement
- Preparation of a draft Impact Assessment Report and draft potential conditions
 - Engagement with public and Indigenous groups to seek their views
 - Consultation with Indigenous groups
 - Potentially, co-development of parts of Impact Assessment Report and potential conditions with Indigenous groups
- Finalized Impact Assessment Report and potential conditions that are sent to the Minister to inform the public interest decision

Phase 3: Impact Assessment Report

Document that supports the Minister's public interest determination

ss.60(1)

The report must include:

- Analysis of positive and adverse effects that may be caused by the project, taking into account all impact assessment factors
- Adverse effects within federal jurisdiction or that are “direct or incidental” (result from federal decisions) and the extent to which those effects are significant
- How the Agency / Review Panel took into account and used any Indigenous knowledge provided
- Summary of any comments received from the public
- Recommendations with respect to any mitigation measures and follow-up program, including Agency / Review Panel's rationale and conclusions

ss.22(1)

Phase 3: Impact Assessment

Assessments by Review Panel

- **Within 45 days of the notice of commencement**, the Minister may refer an impact assessment to a review panel if he/she considers it is in the public interest
- The review panel **holds hearings** open to the public and prepares the **Impact Assessment Report**
- All impact assessments of designated projects regulated by the **Canada Energy Regulator** and **Canadian Nuclear Safety Commission** are referred to an integrated review panel. This panel process meets the requirements of the respective regulators' Acts and the *Impact Assessment Act*, resulting in one report (including proposed conditions)

ss.36(1)

par.51(1)(c)

s.43

ss.51(2)(3)

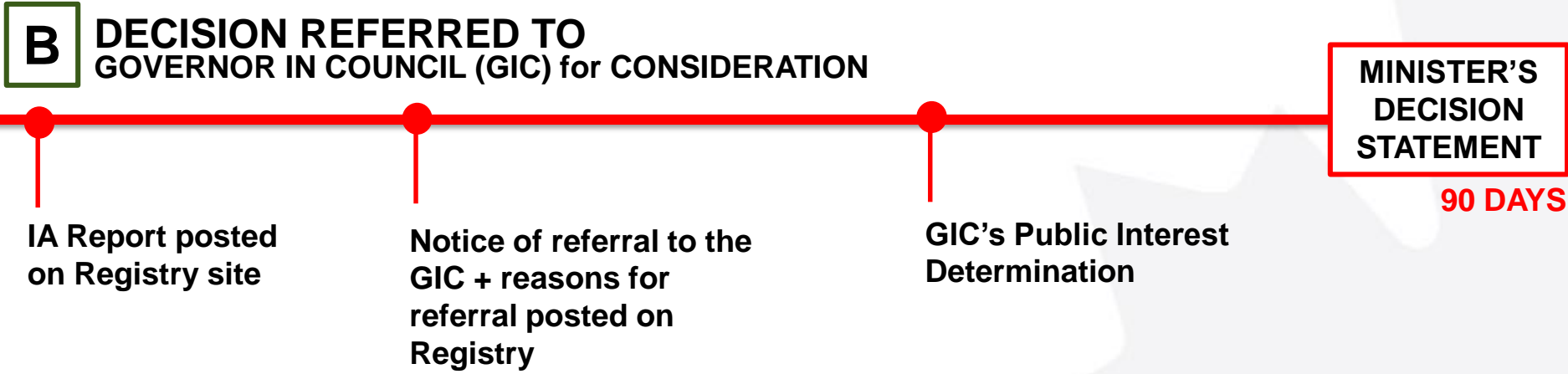
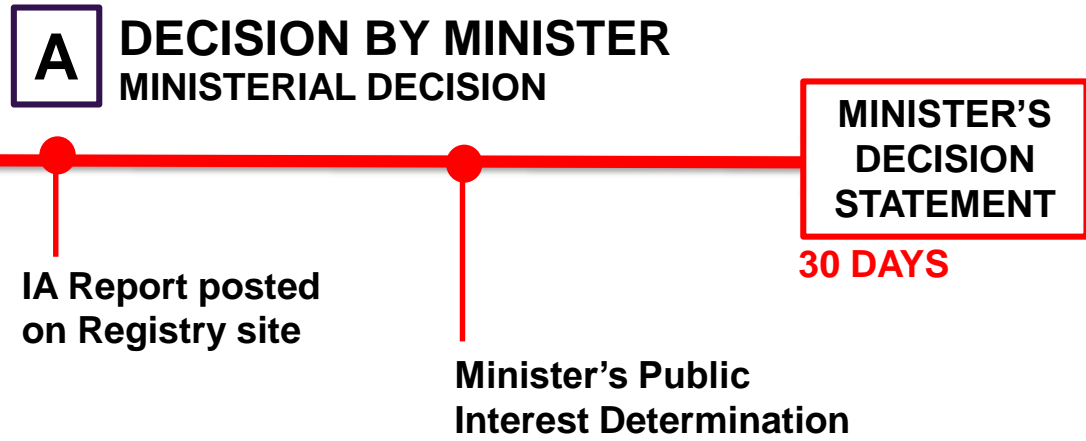
ss.37(1)

Timeline: up to 600 days from establishment of review panel

Phase 4: Decision-Making

Key Steps and Timelines (Impact Assessment by Agency)

ss. 60 (1)
s. 62
ss. 65 (3)



Phase 4: Decision-Making

Purpose

Determination by the Minister, or by Governor in Council (Cabinet) on whether the adverse effects, and adverse direct or incidental effects, are in the public interest

par. 60(1)a

s.62

s.63

Public interest determination is based on the Impact Assessment Report and a consideration of the following factors:

- Project's contribution to sustainability
- Extent to which adverse effects within federal jurisdiction and the adverse direct or incidental effects are significant
- Associated mitigation measures
- Impacts on Indigenous groups and adverse impacts on rights
- Extent that project's effects hinder or contribute to Canada's environmental obligations and climate change commitments

Phase 4: Decision-Making (cont.)

- Decision statement issued by the Minister to the proponent must include:
 - public interest determination
 - reasons for the determination
 - enforceable conditions
 - expiry date
 - project description
- For greater flexibility and adaptive management, the Minister can amend decision statements

s.65

ss.68(1)



Phase 5: Post Decision

Key Steps and Timelines

Proponent

- Seeks regulatory approvals, as required
- Begins project within time limits identified in the Decision Statement
- Implements follow-up program
- Complies with conditions associated with Decision Statement

Variable
Timeline

MINISTER
ISSUES
DECISION
STATEMENT

Agency

- Posts follow-up documentation on Registry
- May establish monitoring committees
- Promotes, educates, monitors, and facilitates compliance

Phase 5: Post Decision (cont.)

Follow-up and Monitoring

Purpose

- To verify the accuracy of predictions laid out in the Impact Assessment Report
- To verify the effectiveness of the mitigation measures
- To provide opportunities for Indigenous peoples and the public to participate in monitoring
- To encourage continuous improvements to impact assessments

Phase 5: Post Decision (cont.)

Amendments to Decision Statement

- A new authority is provided to the Minister to amend a decision statement
- The Minister may:
 - Add or remove a condition or amend a condition, or
 - Modify the designated project's description
- The determination of public interest cannot be changed
- A notice of the intended amendment and an invitation for public comment must be posted on the Registry
- After considering comments received, the final amendment and reasons for it must be posted on the Registry

s. 68

s. 68(1)

Phase 5: Post Decision Compliance and Enforcement

Purpose

s. 155 (f)

- To promote, educate, monitor, and facilitate compliance with the *Impact Assessment Act* and conditions set out in decision statements
- To undertake compliance and enforcement activities to prevent non-compliance and adverse environmental effects
- To promote a consistent and transparent approach to compliance with, and enforcement of, the *Impact Assessment Act*

Ability to establish Environmental Monitoring Committees to help provide additional confidence in the science and evidence used

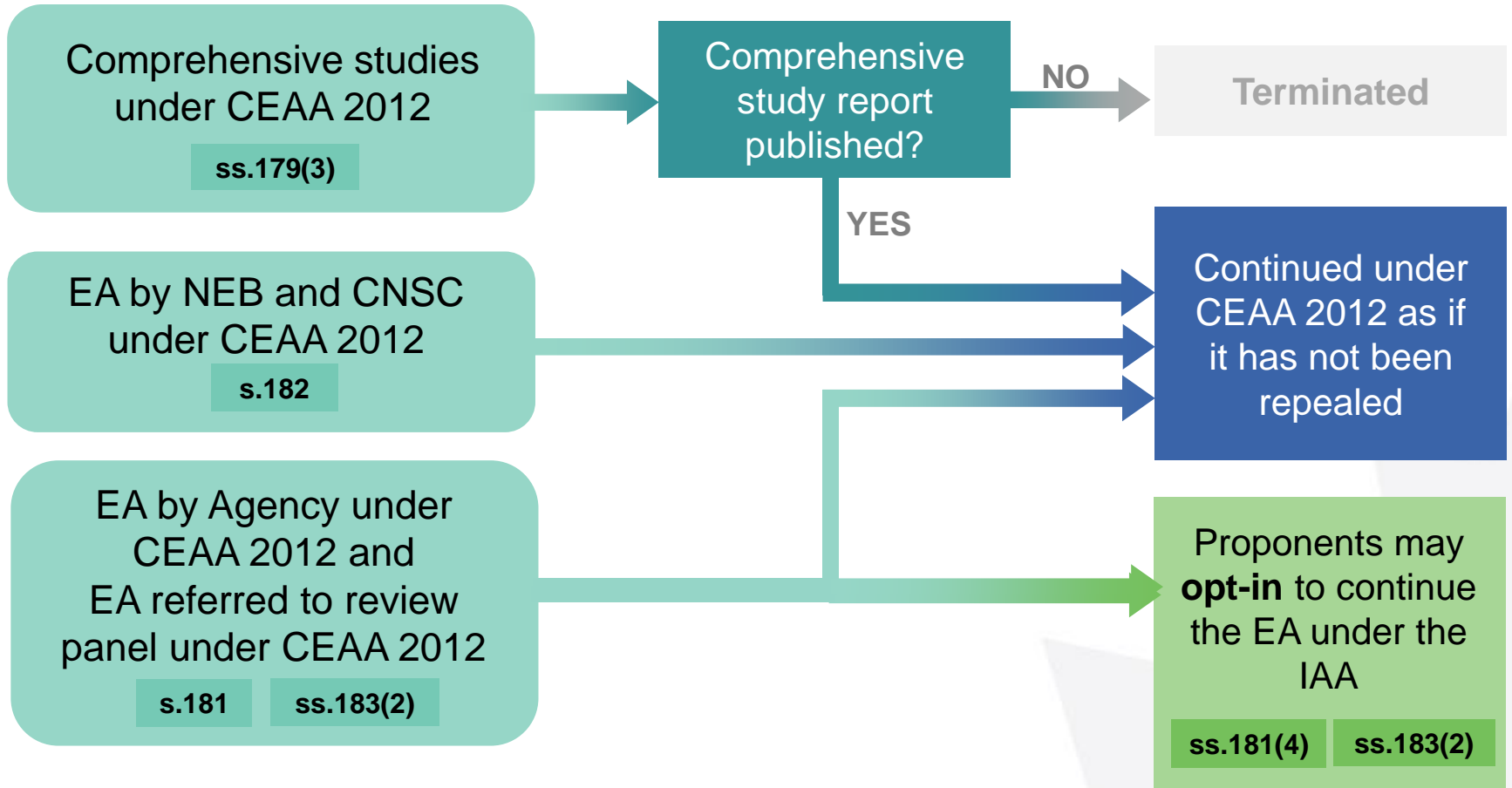
Provisions to verify compliance, issue orders and correct non-compliance

- Designated enforcement officers and analysts
- A new penalty scheme with increased fines

Module 5 – Other Relevant Provisions



Transitional Provisions



Federal Lands

s. 81-91

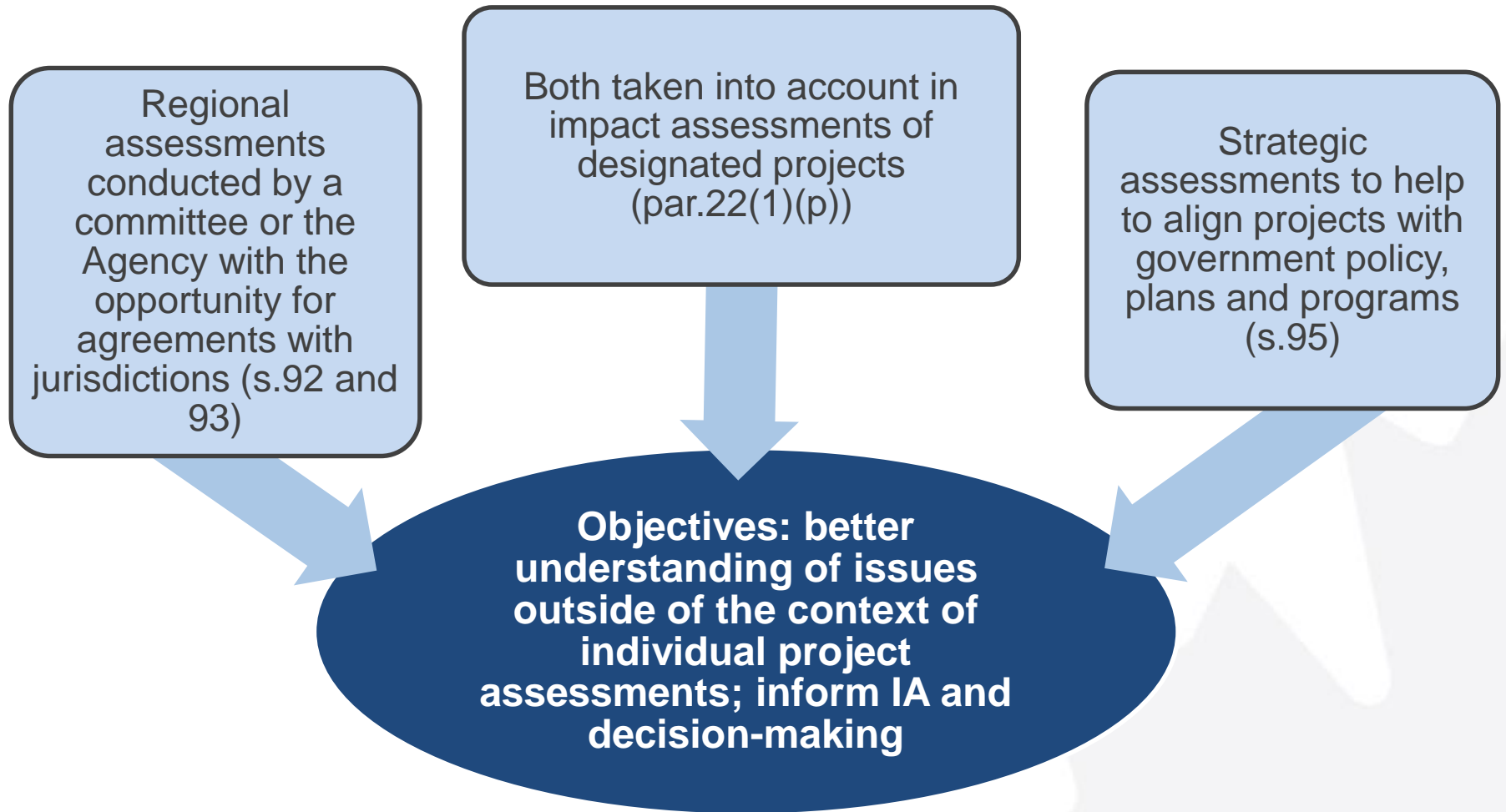
Authorities, including federal authorities, must not carry out projects on **federal lands** or **outside Canada** if they are likely to cause significant adverse environmental effects

- The determination of whether a project is likely to cause significant adverse environmental effects must be based on the following factors:
 - adverse impacts on the rights of the Indigenous peoples of Canada
 - Indigenous knowledge provided with respect to the project
 - community knowledge provided with respect to the project
 - comments received from the public under subsection 86(1)
 - mitigation measures that are technically and economically feasible

If the project is outside Canada, the authority's determination need not include a consideration of the factors set out in paragraphs (1)(a) and (b).

- Classes of projects that would not be subject to the *Impact Assessment Act* provisions for projects on federal lands and outside Canada is proposed to be included in a Ministerial Order

Regional and Strategic Assessments



Conclusion



What you learned!

This document provides a brief introduction to the *Impact Assessment Act* and the process for federal impact assessments in Canada.

- Impact assessment is a planning and decision-making tool
- Participant engagement opportunities are available throughout the process

There are 5 phases:

1. **Planning:** Documents developed in the Planning Phase specify information requirements and engagement opportunities throughout the impact assessment process
2. **Impact Statement:** The proponent outlines and evaluates potential impacts of a designated project
3. **Impact Assessment:** The Agency outlines and evaluates potential impacts of a designated project
4. **Decision-making:** Public interest decisions made by the Minister or Governor in Council are based on information in the Impact Assessment Report and the public interest factors
5. **Post Decision:** Compliance is verified through a follow-up program and activities to promote, educate, monitor, and facilitate compliance with the *Impact Assessment Act* and Decision Statement

Further Reference Documents

This document provides a brief introduction to the *Impact Assessment Act* and the process for federal impact assessments in Canada.

- Further guidance is provided in the *Practitioner's Guide to Federal Impact Assessments under the Impact Assessment Act*: <https://www.canada.ca/en/environmental-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act.html>
- The full text of the *Impact Assessment Act*: <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-69/royal-assent>
- Canadian Impact Assessment Registry: <https://www.ceaa-acee.gc.ca/050/evaluations/Index?culture=en-CA>
- *Physical Activities Regulations*: <http://canadagazette.gc.ca/rp-pr/p2/2019/2019-08-21/pdf/g2-15317.pdf> (SOR 2019-285)
- *Information and Management of Time Limit Regulations*: <http://canadagazette.gc.ca/rp-pr/p2/2019/2019-08-21/pdf/g2-15317.pdf> (SOR 2019-283)

Thank you!



ANNEX



Key Definitions

Designated project

Designated project is clearly defined in section 2 of the *Impact Assessment Act*.

In general, it includes one or more physical activities that

(a) are carried out in Canada **or** on federal lands; and

(b) are designated by the *Physical Activities Regulations* **or** by a ministerial order.

It also includes any physical activity that is incidental to those physical activities.

Effects

unless the context requires otherwise, means changes to the environment or to health, social or economic conditions and the positive and negative consequences of these changes.

Environment

the components of the Earth, and includes

(a) land, water and air, including all layers of the atmosphere;

(b) all organic and inorganic matter and living organisms; and

(c) the interacting natural systems that include components referred to in paragraphs

(a) and (b).

Key Definitions (cont.)

Effects within federal jurisdiction

Effects within federal jurisdiction are clearly defined in section 2 of the *Impact Assessment Act*. In general, they are effects related to a physical activity or a designated project that change:

- (a) environmental components within the legislative authority of Parliament such as fish, other aquatic species or migratory birds;
- (b) the environment on federal lands, in another province or outside Canada;
- (c) the environment in a way that impacts Indigenous peoples of Canada through impacts to their physical and cultural heritage, their current use of lands and resources for traditional purposes, or any structure, site or thing that is of historical, archaeological, paleontological or architectural significance;
- (d) the health, social or economic conditions of the Indigenous peoples of Canada; and
- (e) a health, social or economic matter that is within the legislative authority of Parliament

Impact assessment

impact assessment means an assessment of the effects of a designated project that is conducted in accordance with this Act.

Sustainability

the ability to protect the environment, contribute to the social and economic well-being of the people of Canada and preserve their health in a manner that benefits present and future generations.