

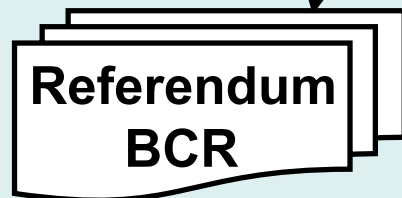


Designation Toolkit

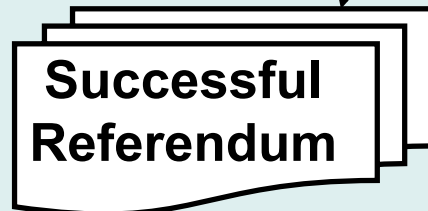
**The Process in less than
75 minutes.**

Designation Process

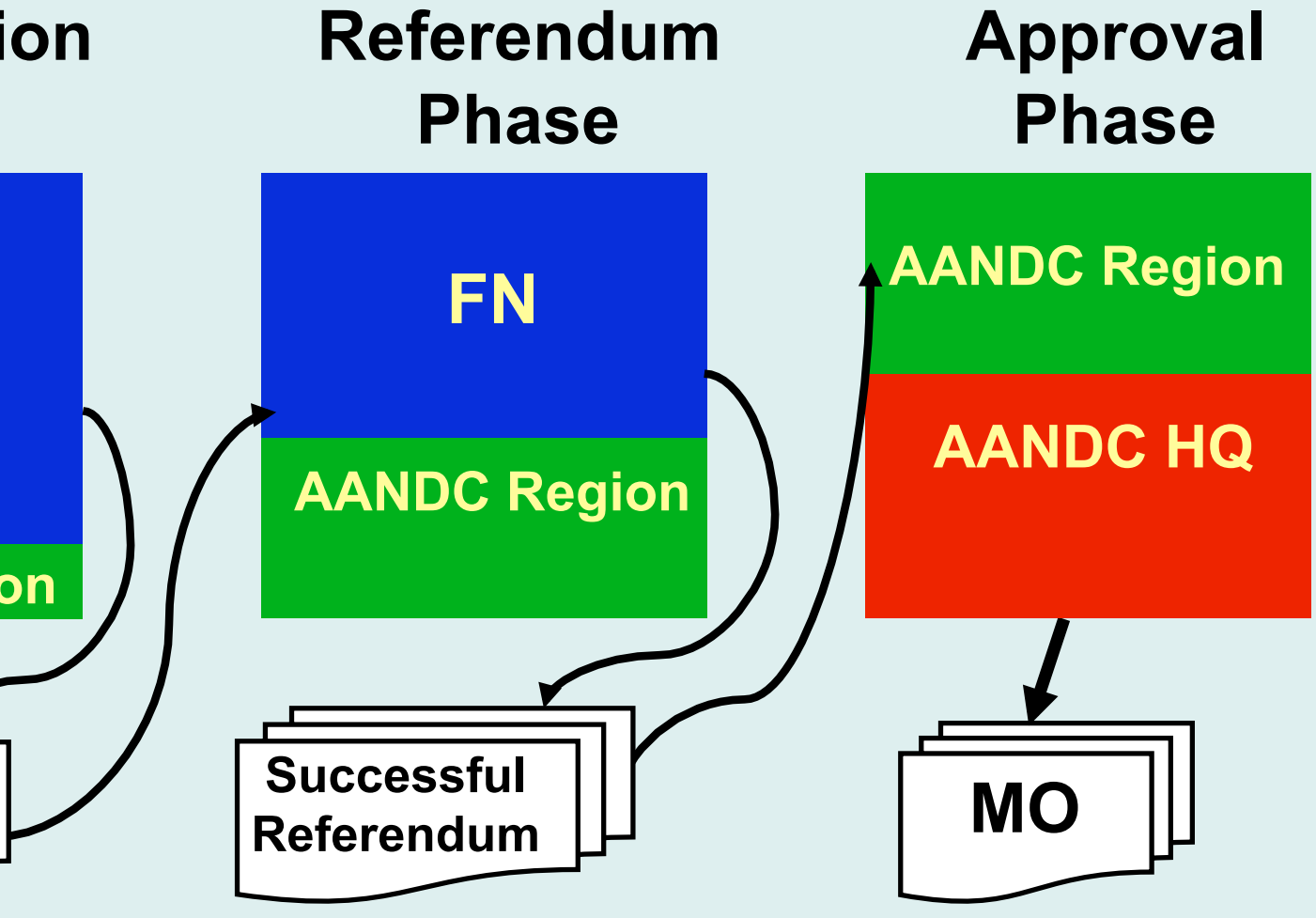
**Preparation
Phase**



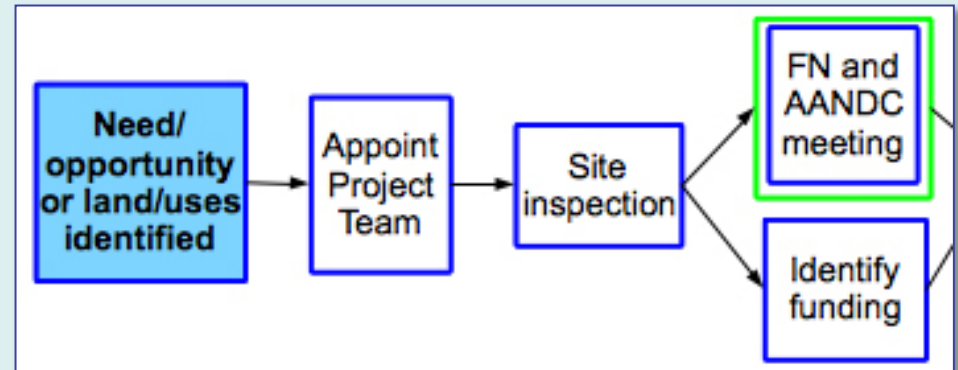
**Referendum
Phase**



**Approval
Phase**

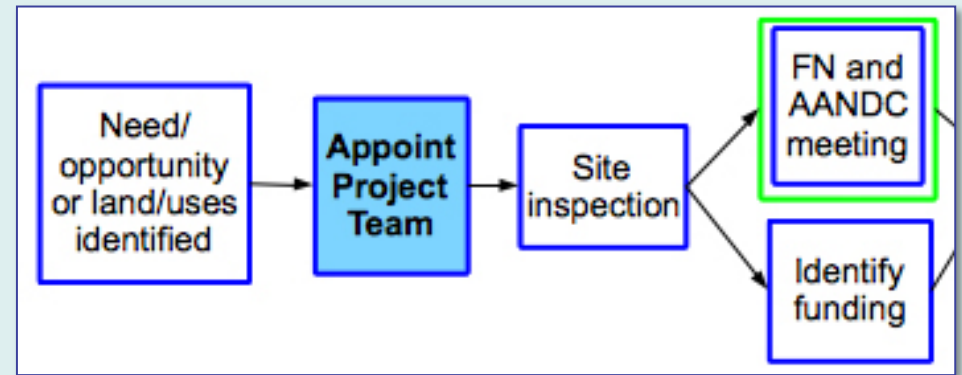


Preparation Phase: Need Identified



- Long-range planning
- Business opportunity
- Proponent with project
- Land will be re-zoned and not available for communal use

Preparation Phase: Project Team



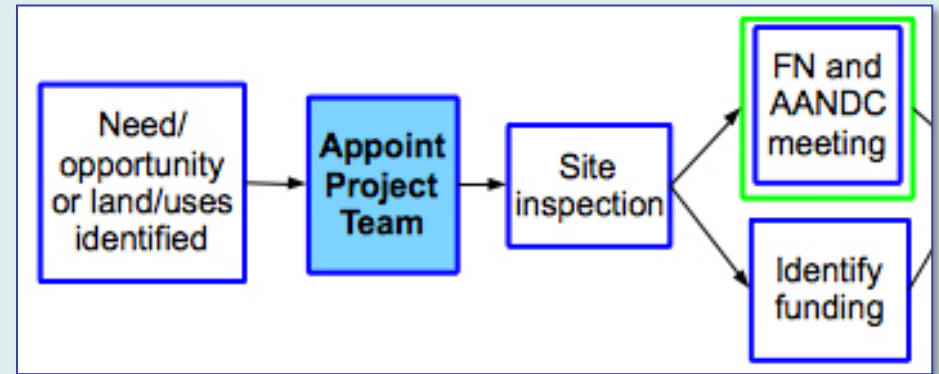
- the Project Manager
- Commitment: Years
- Designation experience?
- Good communicator
- Skills required:
 - Excellent drive and leadership
 - Good organization
 - Excellent at following through

Preparation Phase:

Project Team

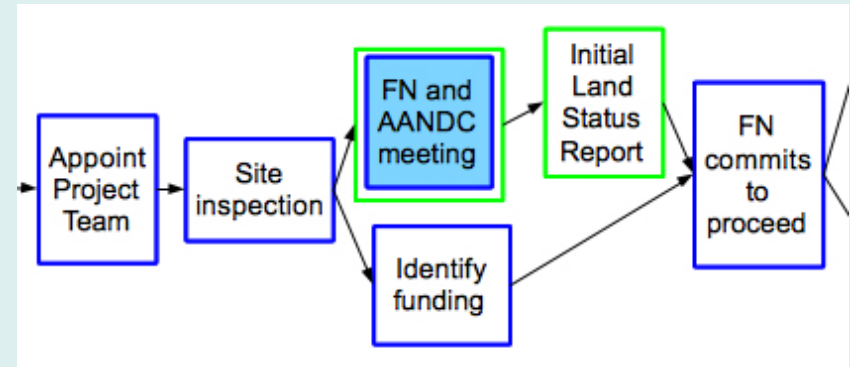
The key people

- One “point person”
- An admin assistant
- A researcher
- Legal counsel
 - Preferably with Designation experience,
 - or FN business,
 - at least land business experience
- A communications specialist
 - Good speaker/writer
 - Good interpersonal skills



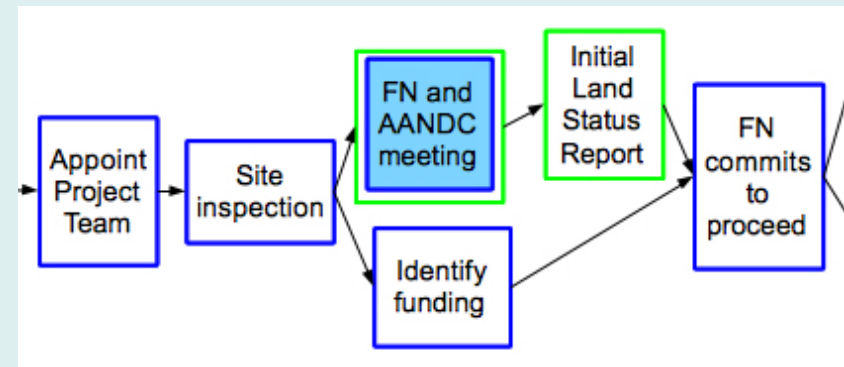
Preparation Phase: FN & AANDC 1st Meeting

- Timing of 1st meeting
- Who should be there? - FN Designation Project Manager
 - AANDC Lands Officer
 - AANDC Community Ec Dev Officer
- Present the objective of the Designation
- Review the process involved
- Identify stakeholders, proponents/partners
- Identify known issues
- Discuss funding requirements
- Make a plan and schedule, with completion date
- Define roles and responsibilities



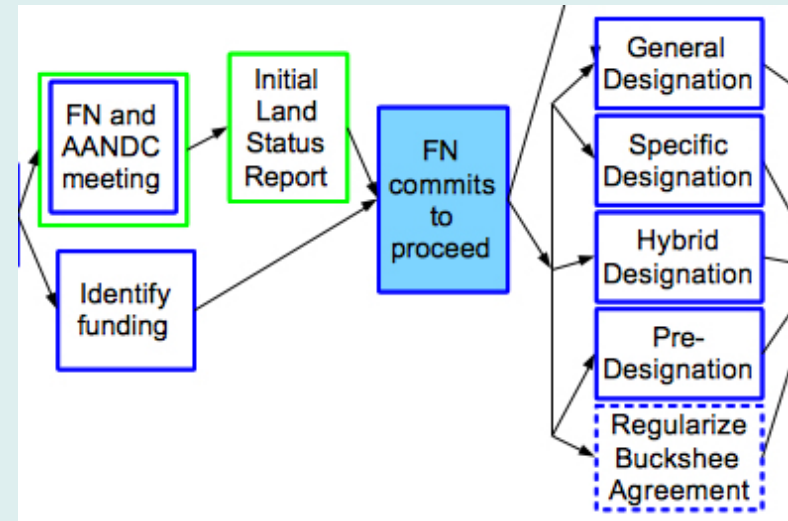
Preparation Phase: FN & AANDC Meetings

- Meeting purpose
- Participants, contact info
- Updates:
 - Goals achieved
 - Issues encountered
- Decisions/agreements
- Assign roles and responsibilities with due dates
- Re-adjust timeline if required
- Schedule next meeting



Preparation Phase: FN Commits to Proceed

- Funding implications
- FN team needs commitment over years
- AANDC must plan:
 - Staff time
 - \$\$
- BCR or Letter of Commitment
- Time to begin informing FN members in order to develop support

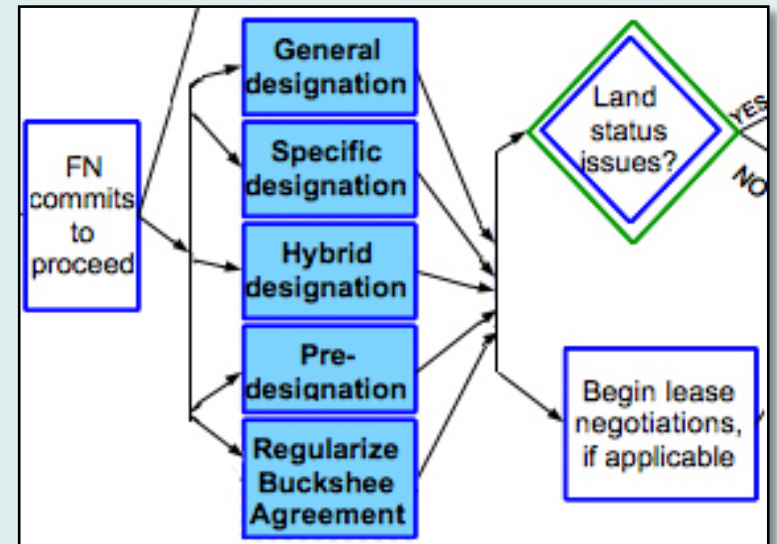


BCR to commit

- Designation need
- Type of Designation
- Project manager
- Land description
- Uses of land
- Expected timeline
- Authorization
- + Feasibility study, or business plan

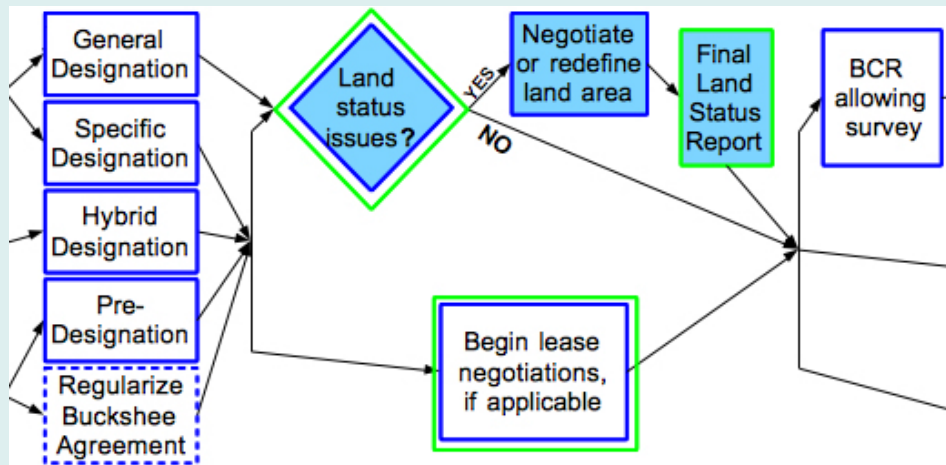
Preparation Phase: Designation Type

- **General**
 - Long-range planning
 - No specific project
- **Specific**
 - Project defined
 - Often a partner/proponent involved
 - A lease to be negotiated generally
 - May be time-sensitive
 - Subsurface – Mines & Minerals
- **Hybrid**
 - Combination of the two above
 - Project, and long-range planning
- **Pre-Reserve designation**
 - Specific use
 - Purchase or ATR dependent on use
- **Regularizing Buckshee**
 - a business already in place, specific



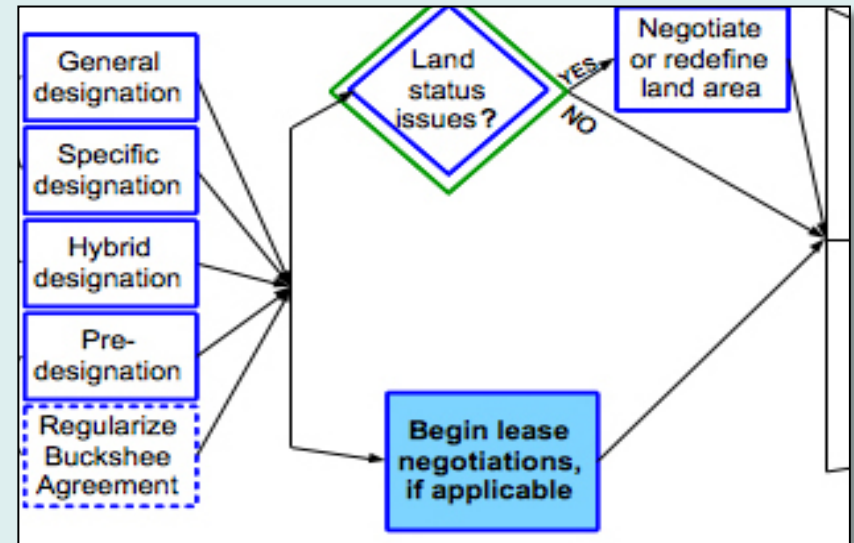
Preparation Phase: Land Status Issues?

- Walk-through
- Check ILRS
- Issues, such as CPs, TPI, estate issues?
- Are 3rd Parties compatible
- Notify all parties
- Negotiate, buy out or compensate
- No easy resolution? Redefine area
- Check First Nation by-laws

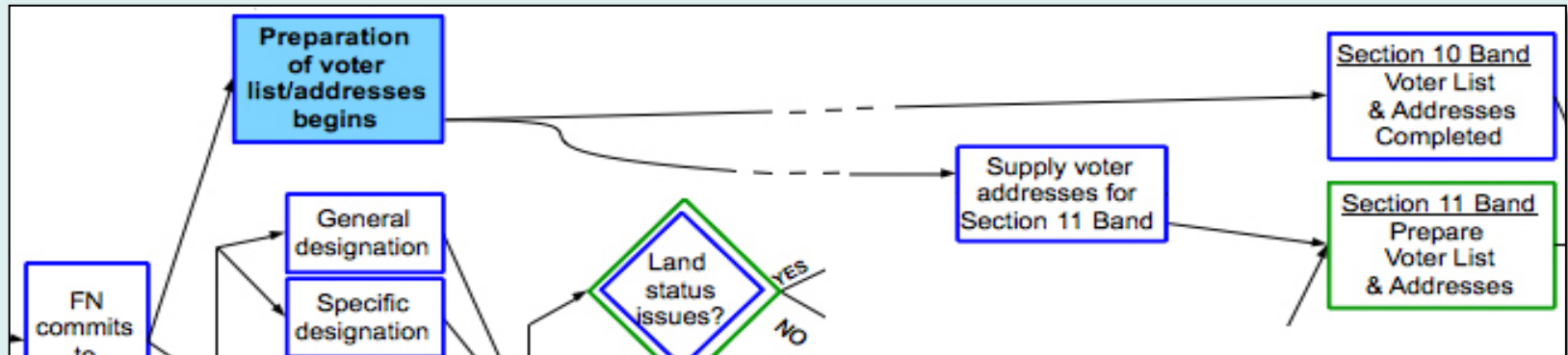


Preparation Phase: Begin Lease Negotiations

- Meet proponents
- Meet with lawyers
- Lease type
 - New lease: for specific, hybrid, or pre-reserve
 - Rewrite: for Buckshee or pre-reserve
 - Generally for commercial ventures or residential projects
- Lease will be reviewed by DoJ
- Use standard documents (templates from AANDC)
- Refer to Chap 7 of Land Management Manual



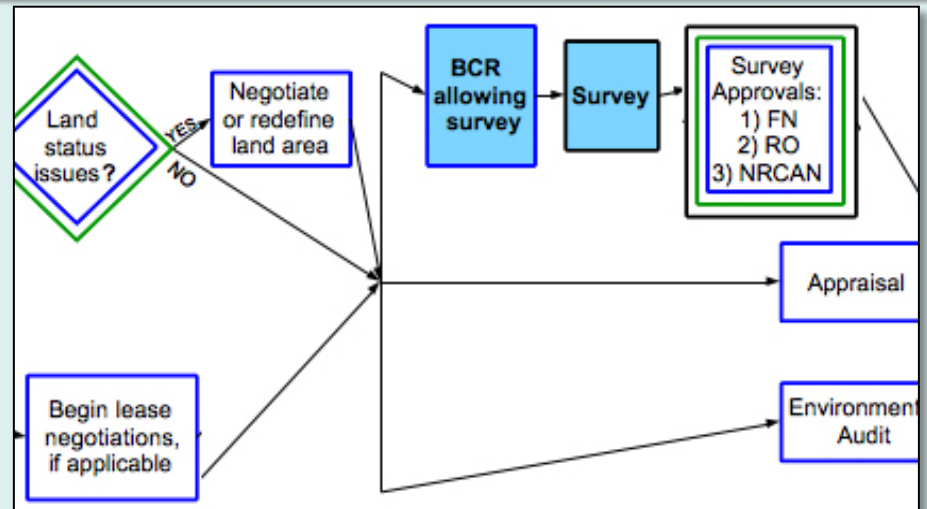
Preparation Phase: Voter List preparation



- Referendum success depends on voter turn-out
- All members should be given opportunity to vote
- Up-to-date voter list is critical
- Begin as early in the process as possible
- Talk with RO about best format (e.g., Excel or other)
- Start with most recent electors list, then add/delete
- Update addresses of off-reserve members

Preparation Phase: Survey

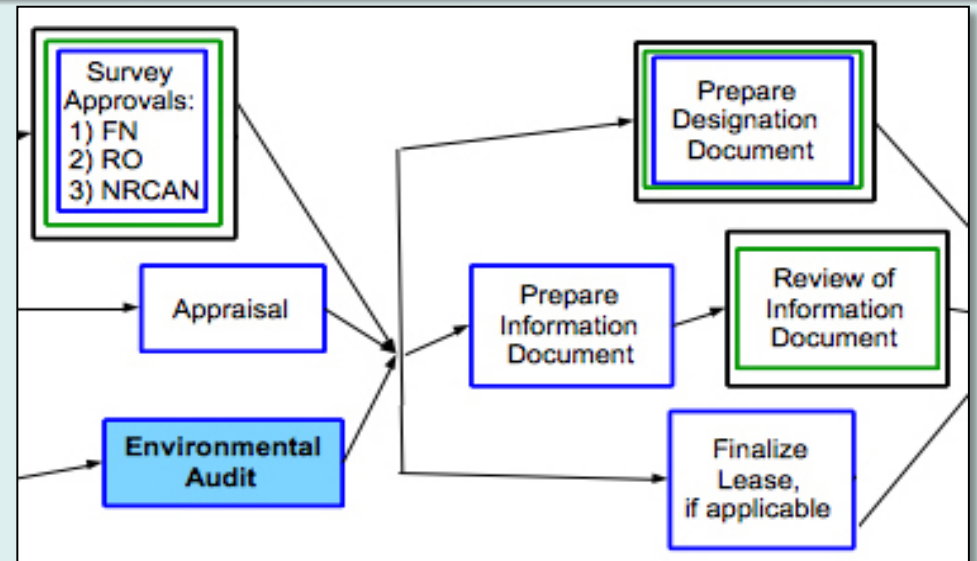
- A survey is required...
 - ... at the CLSR level
 - ... to define extent of parcel
 - ... to define boundaries



- Consult with AANDC early
 - Need Canada Lands Surveyors (few in some areas)
 - Determine funding (or maybe proponent will take on cost)
- Chief and Council must pass a BCR allowing survey
 - ... with a copy to the surveyor
- Timing of survey

Preparation Phase: Environment

- Funding in place
 - By FN
 - By proponent
 - By LEDSP (AANDC)
 - Size of the parcel and location affect the cost
- Conducted by: Environmental Officer or consultant
- General designation (no project yet):
 - Often only an audit required at this time
 - Once project defined, an ESA may be required
- All others, with a project:
 - ESA to determine contamination
 - EA to determine usability for project



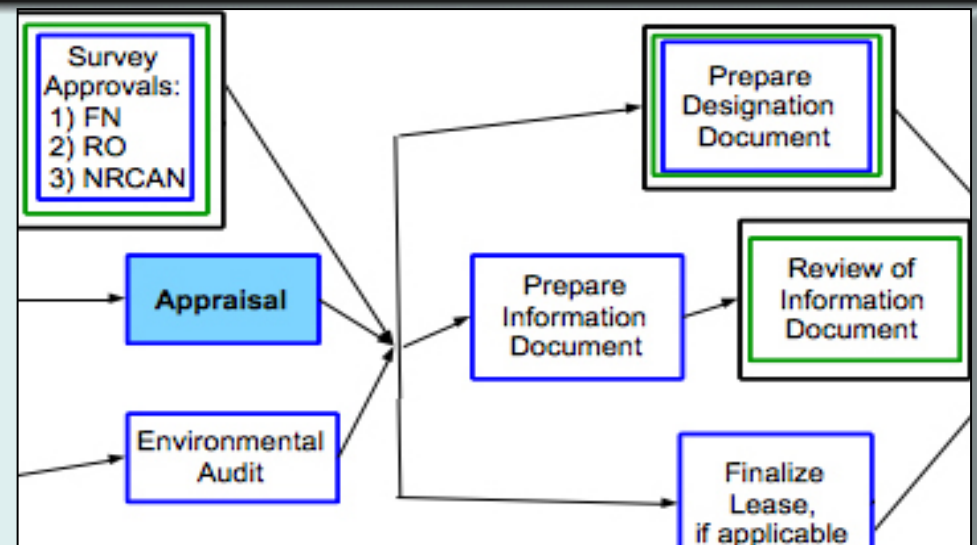
Preparation Phase: Environment

- Before undertaking the study:
 - Research the history of use
 - Talk to the elders
 - Walk the land, take pictures
- Terms of reference is critical
- The ESA is good for 5 years
- ESA must be signed off by Env. Officer and FN
- Remediation can be expensive
- Future use must be considered:
 - Social impact, such as traffic, may be an issue
 - Effect of use on species at risk



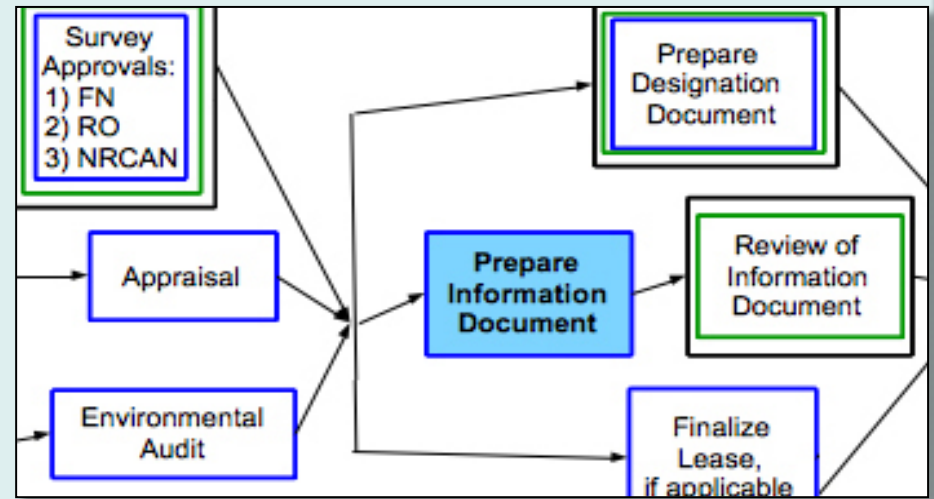
Preparation Phase: Appraisal

- Funding in place
 - By FN
 - By proponent
 - By LEDSP at AANDC



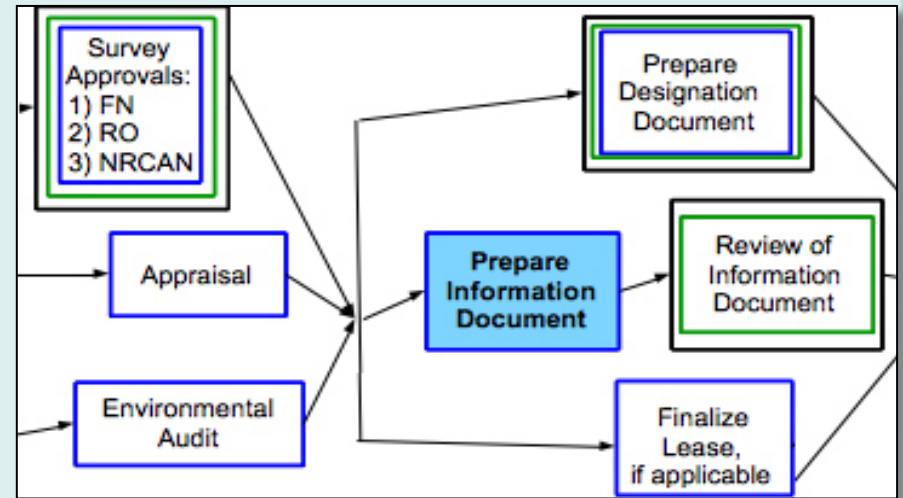
- The appraisal determines “fair market value” / “fair market rent”
- Set out clear TOR
- Conducted by a registered appraiser
- Critical if lease(s) involved
- Stale-dating depends on location
 - Short-term in volatile market
 - Longer term is stable market

Preparation Phase: Prepare Information Document



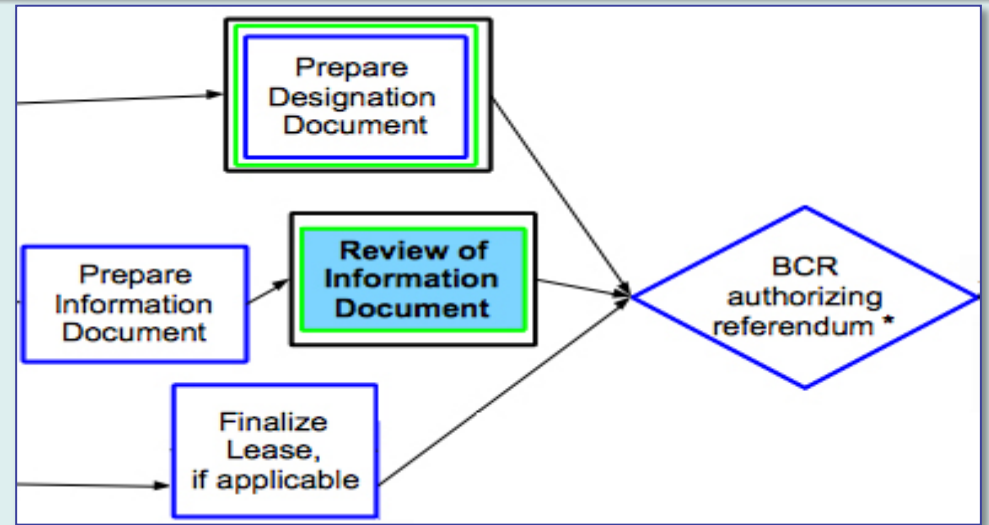
- The First Nation's document
- Designation affects the use of the community's property
- The community decides by referendum
- The community must have informed consent
 - ... a comprehensive Information Document is required
- This document represents your vision to all parties:
 - First Nations members
 - AANDC
 - Proponents (potentially)

Preparation Phase: Prepare Information Document



- First Nation's responsibility
- The Information Document contains:
 - All the pertinent facts
 - Explains land designation; why; the process
 - A description of the benefits to FN
 - A fair explanation of the risks, with plans on how to minimize
 - Answers/clarifications to possible anticipated objections
- **Prepare an Executive Summary as well**

Preparation Phase: Review Information Document

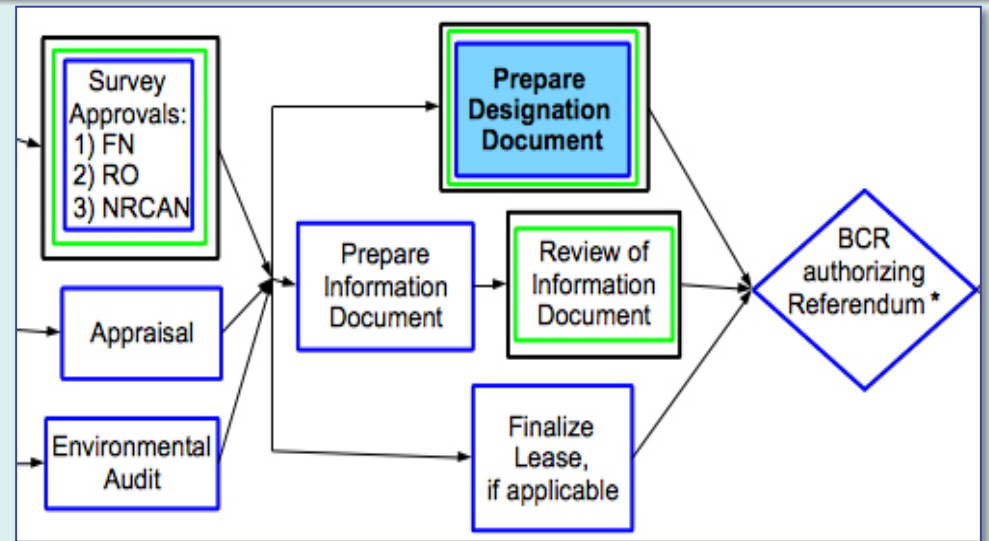


- Document provides “Informed Consent” ...
... it must be complete and correct
- To minimize turn-around time, have interim reviews
- Designation Document is part of Information Document
- Review by FN & FN lawyer
- Review by AANDC Staff & DoJ

Preparation Phase: Prepare Designation Document

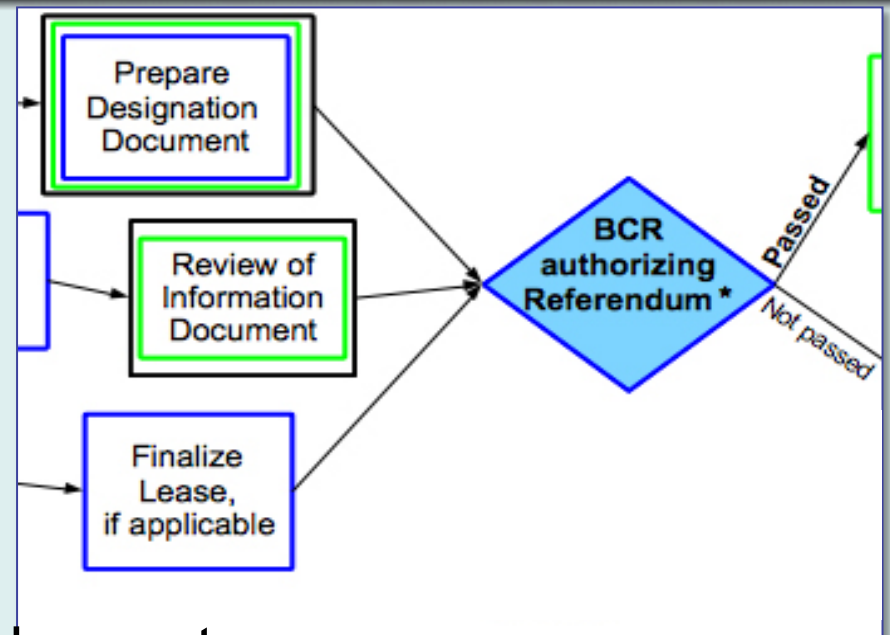
• THE Document

- AANDC “holds the pen”
- Formal, legal, for MO
- Use a template
- No discrepancies with Information Document
- Provide attachments (if lease attached)
- Input from
 - FN legal counsel
 - AANDC R.O. / Dept of Justice
- Expect back and forth during review timeframe



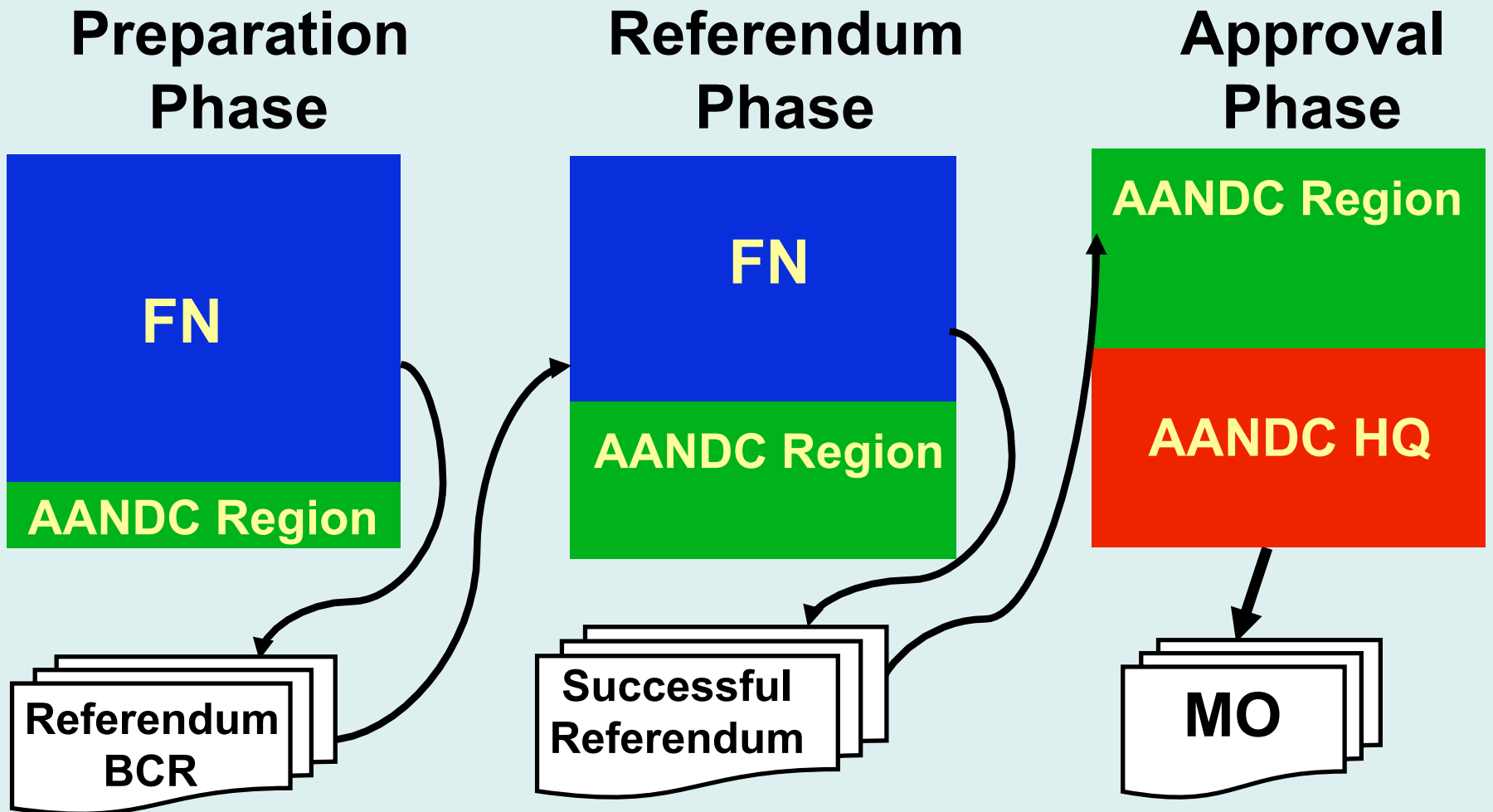
Preparation Phase: BCR for Referendum

- Signed by Quorum
- Information to include:
 - Purpose of Designation
 - Date, time, place of Referendum vote
 - Request Minister to order Referendum
 - Legal description of land
 - Term, Compensation
 - Request appointment of an Electoral Officer
 - Date(s), time(s), place(s) of Information meeting(s)
 - Lease if applicable



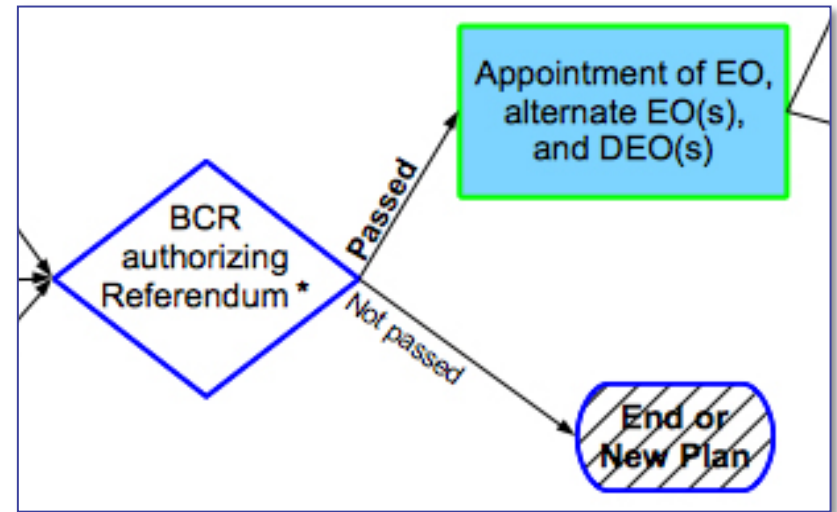
Major Milestone: Preparation Phase Complete

Designation Process

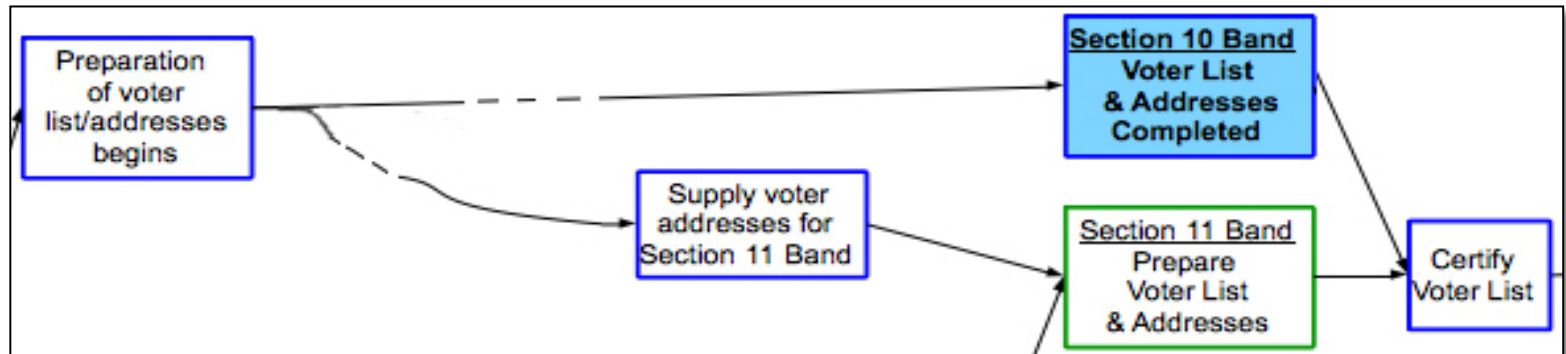


Referendum Phase: Electoral Officer

- BCR at AANDC RO
- AANDC RDG appoints:
 - Electoral Officer (EO) from AANDC RO
and generally an Alternate
 - Later EO appoints several Deputy Electoral Officers (DEO)
 - ... from AANDC RO
 - ... from FN
- Many of subsequent responsibilities -> EO
- FN still required to provide documents/information

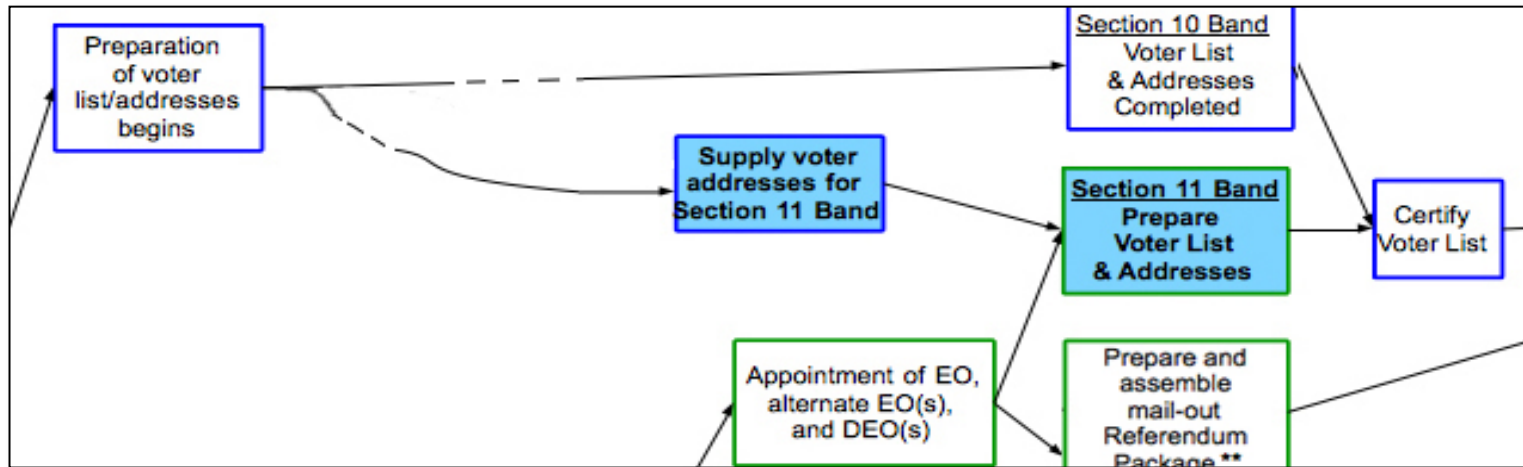


Referendum Phase: Sec 10 Band Voter List



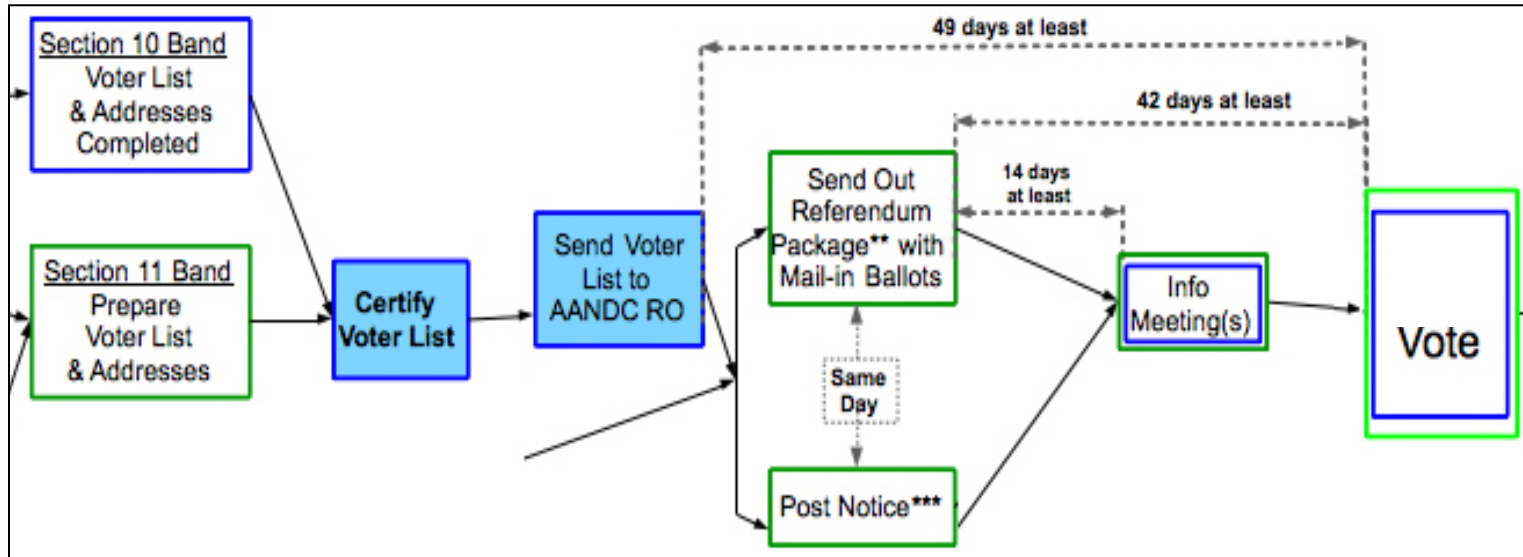
- Section 10 Band: manages own member list
- Voter list comprised of eligible members
- Electors eligible: both on- and off-reserve
- Membership Clerk prepares Voter List to include:
 - Member name
 - Registry number
 - Date of birth
 - Residency
 - Address of off-reserve members

Referendum Phase: Sec 11 Band Voter List



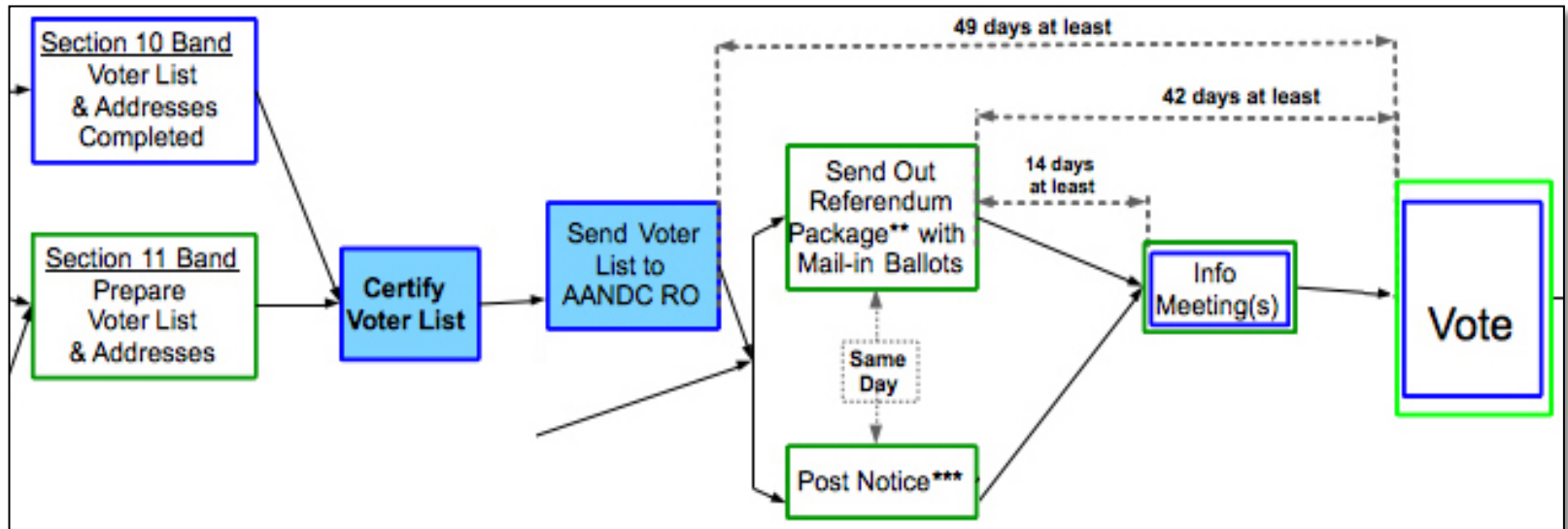
- Section 11 Band: member list managed by AANDC
- Voter list comprised of eligible members 18+
- Electors eligible: both on- and off-reserve
- Membership Clerk provides any updated info about:
 - Residency
 - Address of off-reserve

Referendum Phase: Voter List to AANDC



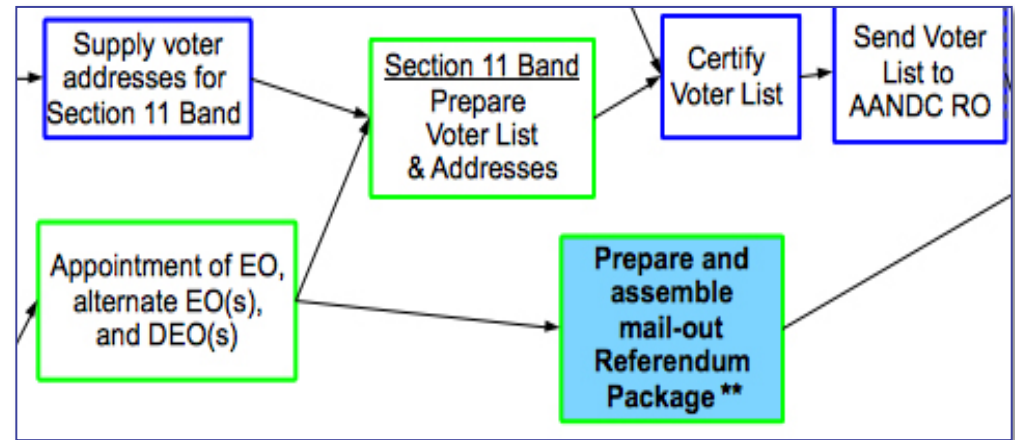
- Certification and Voter List sent to AANDC
- Timing begins before Vote:
 - Allow a minimum of 7 days for stuffing/addressing of packages

Voter List to AANDC



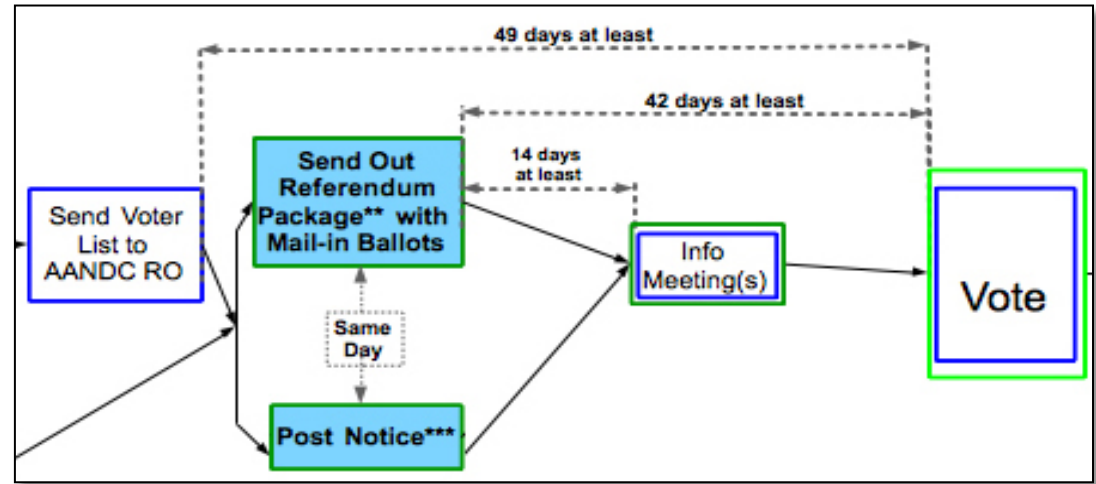
- Creation of Master Voter's List by EO includes:
 - Electors names in alphabetical order
 - Date of birth
 - Registry number
 - Residency – on/off reserve
 - Address of off-reserve as provided
 - Date package sent
 - Comments column – such as pkg returned, blind EO assisted, hand delivered at Info mtg

Referendum Phase: Referendum Package



- Package for off-reserve members whom addresses have been provided; and
- For on-reserve members who request package
- EO should prepare “extras” for potential requests at Information Meeting

Referendum Phase: Mail-Out Referendum Package



- Package includes:

- ...Notice of Referendum

- ...Mail-in ballot initialed on the back by EO

- ...Postage paid return envelope, pre-addressed to EO

- ...A second inner envelope marked "Ballot"

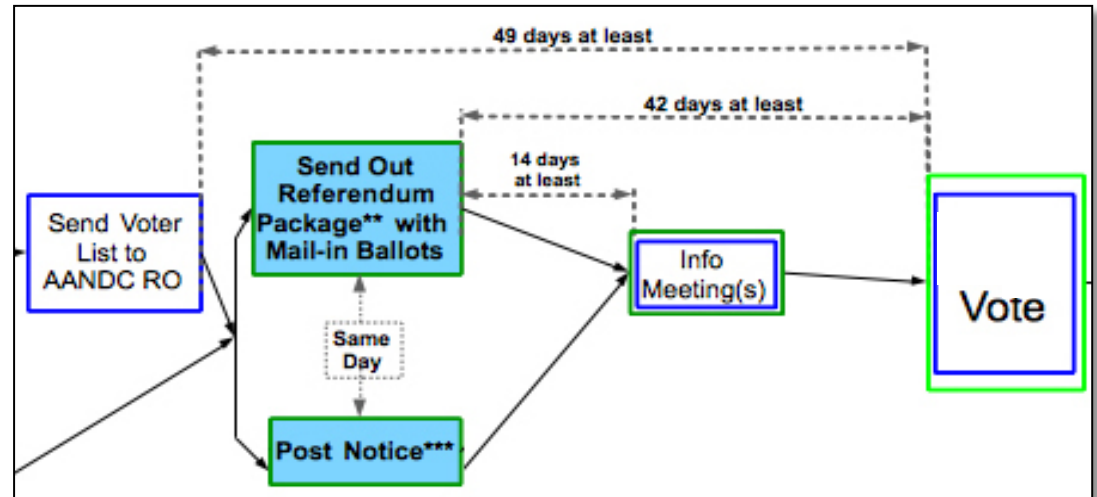
- ...Voter declaration form (usually on envelope back)

- ...Letter of instruction regarding voting by mail-in

- ...Information Document

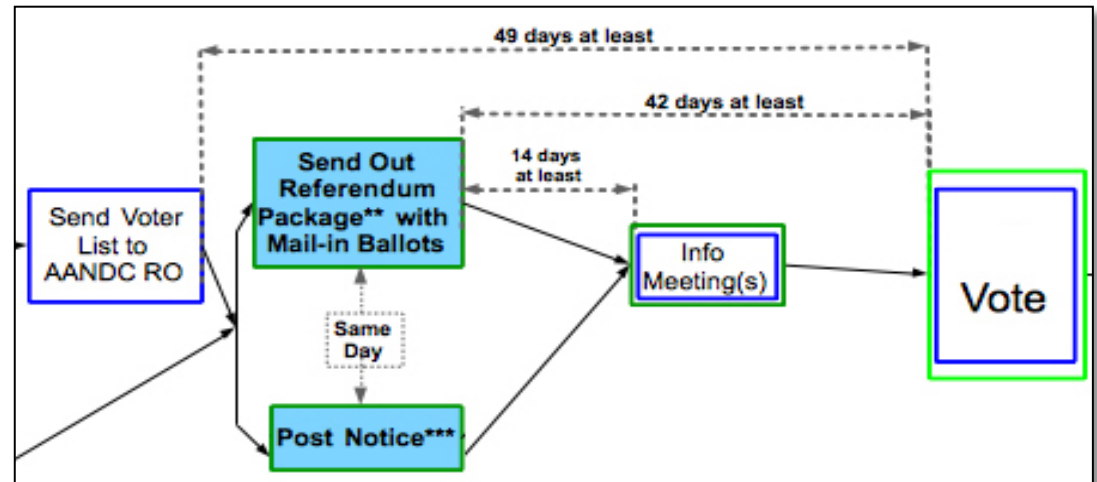
- ...Designation Document

Referendum Phase: Post Referendum Notice



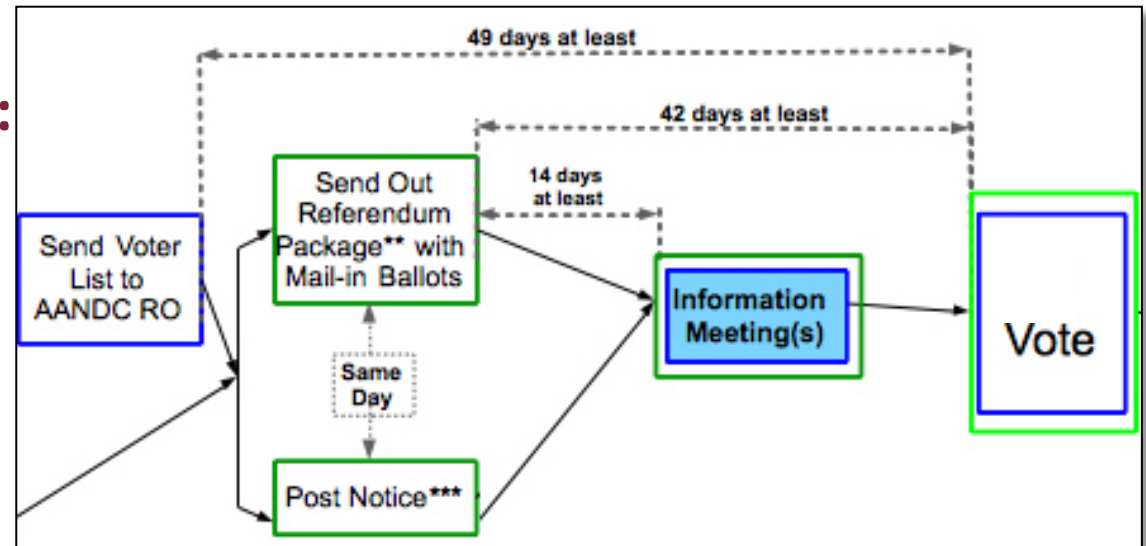
- EO is responsible
- DEOs may assist
- Post in at least 1 conspicuous place on the reserve
- Posting includes:
 - Notice of Referendum
 - Designation Document with Survey Plan
 - Information Document
 - Voter List (names only)
- First Nation - Notice in newspaper, in newsletter, on website
- Timing:
 - Minimum 7 days to stuff/address packages
 - Mailing date is at least 42 days from Vote day
 - Mailing date is at least 14 days to Information Meeting
 - Posting day is **same day** as Mail-out day

Referendum Phase: Mail-Out Referendum Package



- EO is responsible for mailing of Referendum Package to off-reserve electors and on-reserve if requested
- Cost borne by AANDC
- Timing:
 - Minimum 7 days to stuff/address packages
 - Mailing date is at least 42 days from Vote day
 - Mailing date is at least 14 days to Information Meeting
 - Mailing day is **same day** as Posting of Notice day

Referendum Phase: Information Meeting

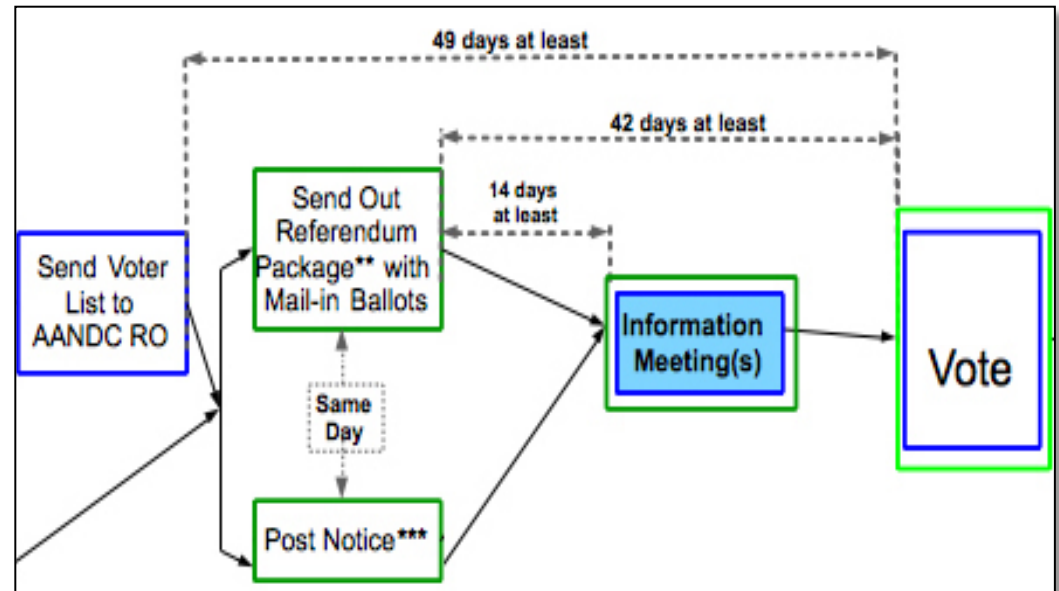


- Timing: at least 14 days after mailing/posting
 - Allows for mail to be received
- Organized by FN Project team
- Number of meetings:
 - One is required on-reserve
 - More if follow-up information needs to be provided
 - More if needed for off-reserve members in different locations (Discussion between FN and EO). This would have been finalized prior to Notice being finalized.

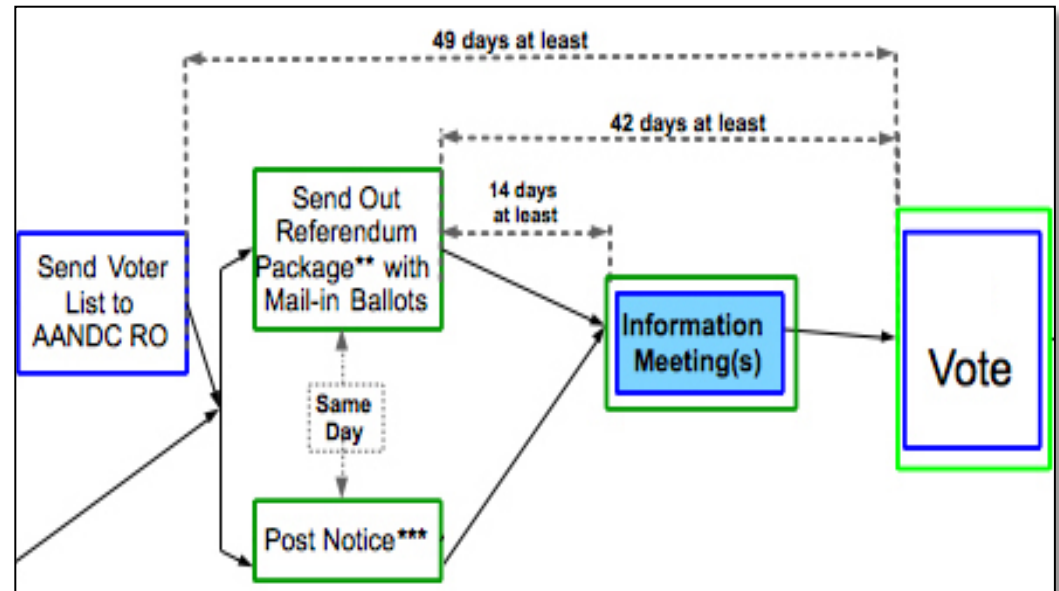
Information Meeting

– Good things to have

- Food
- Transportation
- Visuals – maps, charts
- First Nation power-point
- Incentives
- Advertising beforehand – newsletter, newspaper, word of mouth, events board, web page

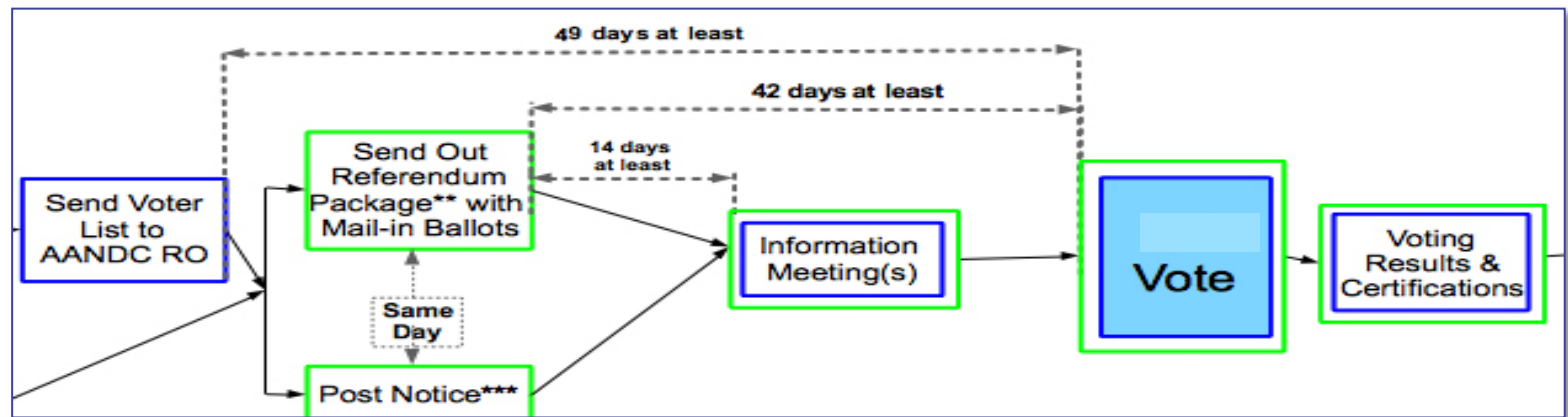


Information Meeting



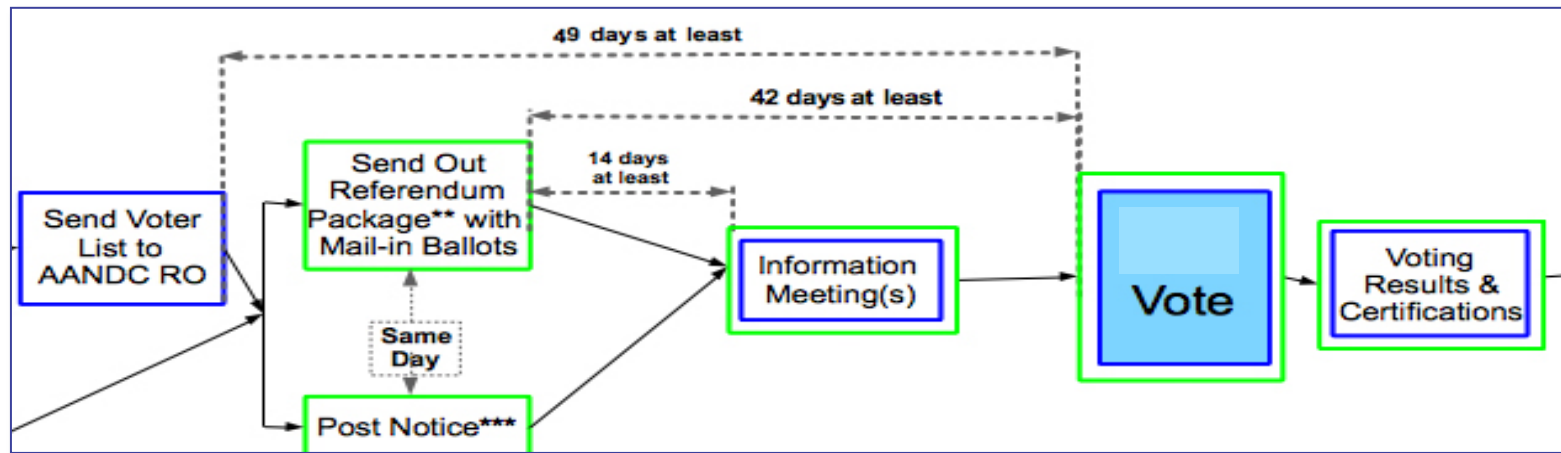
- Agenda prepared
- FN Chairperson
- FN delivers information on the proposed designation
- FN legal counsel may deliver information
- FN financial advisor may deliver information
- Proponent, if applicable may deliver information
- Electoral Officer (AANDC) outlines process of referendum vote
- Chief & Council may speak to endorse proposal
- Elder may speak to endorse proposal
- Questions & answers – Chairperson to direct
- Approximate time frame – 2 hours
- Stick to Agenda – Stay on Track

Referendum Phase: **Vote**



- Well ahead of time:
 - Reserve easy-to-access facility for polling station(s)
 - Arrange for tables, chairs, etc
 - Retain a Commissioner of Oaths (possibly)
 - Retain a translator (if required)
- The preceding evening, set up polling station(s)
- Do NOT set up until the morning:
 - Ballot boxes
 - Ballots
 - Voter lists

Referendum Phase: Vote



Day of vote

- EO set up ballot boxes
- Open at 9 a.m.
- FN could provide transportation for electors
- Membership Clerk confirms electors not on Voter List
- Chief and Council members present to show support
- Running tab of # of ballots cast: encourage voting
- Polls close at 8 p.m.

Referendum Phase: **Success/Failure**

Success

- Simple Majority:

Majority of the electors voted “yes”

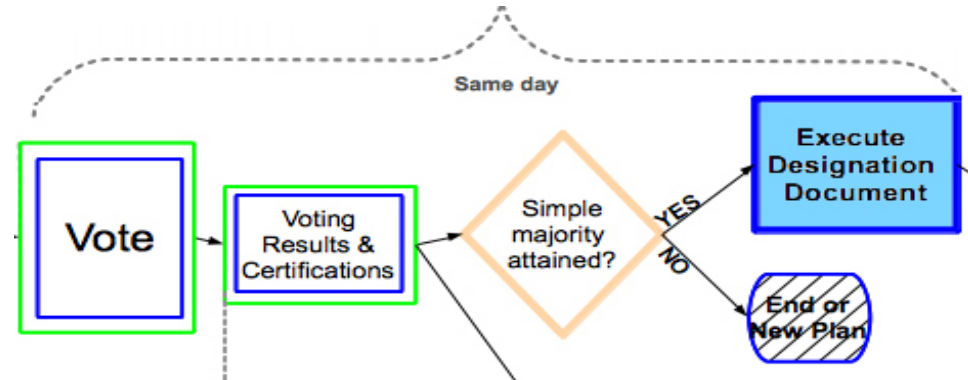
Result  **Execute Designation Document**

Failure

- Majority of electors voted “no”

Result  **Proposal ends here**

Referendum Phase:
**Execute
Designation
Document**

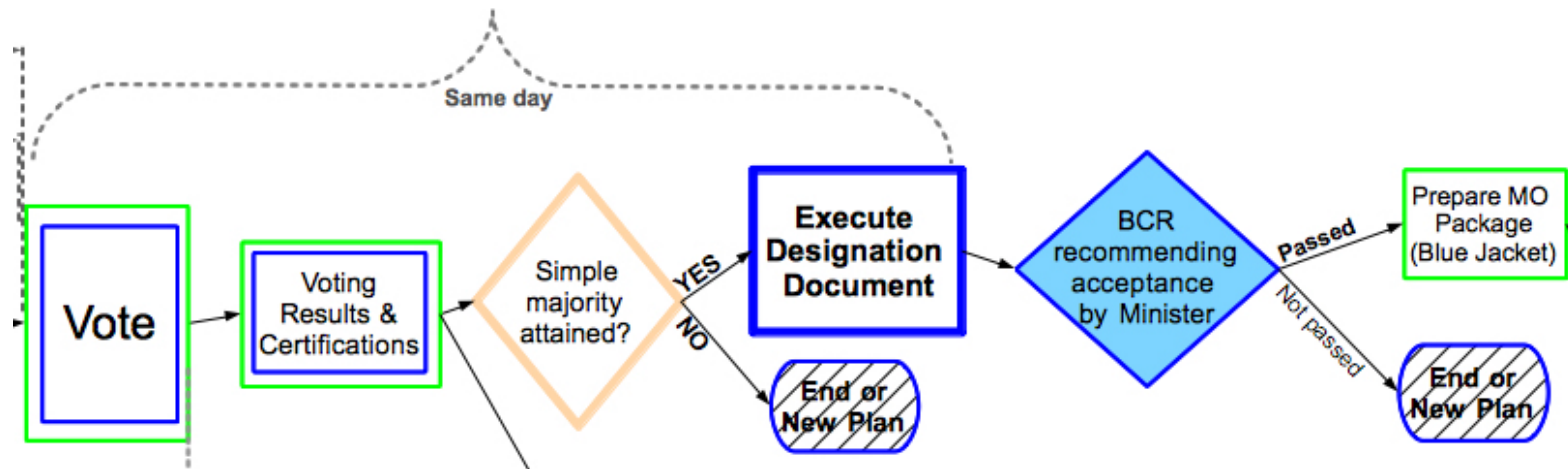


- Success was achieved by:
 - Simple Majority
- Designation Document signed by:
 - Chief
 - Quorum of Council
 - Witness
- Document given to EO to form part of package headed to RO and HQ

Critical Milestone Achieved

Referendum Phase:

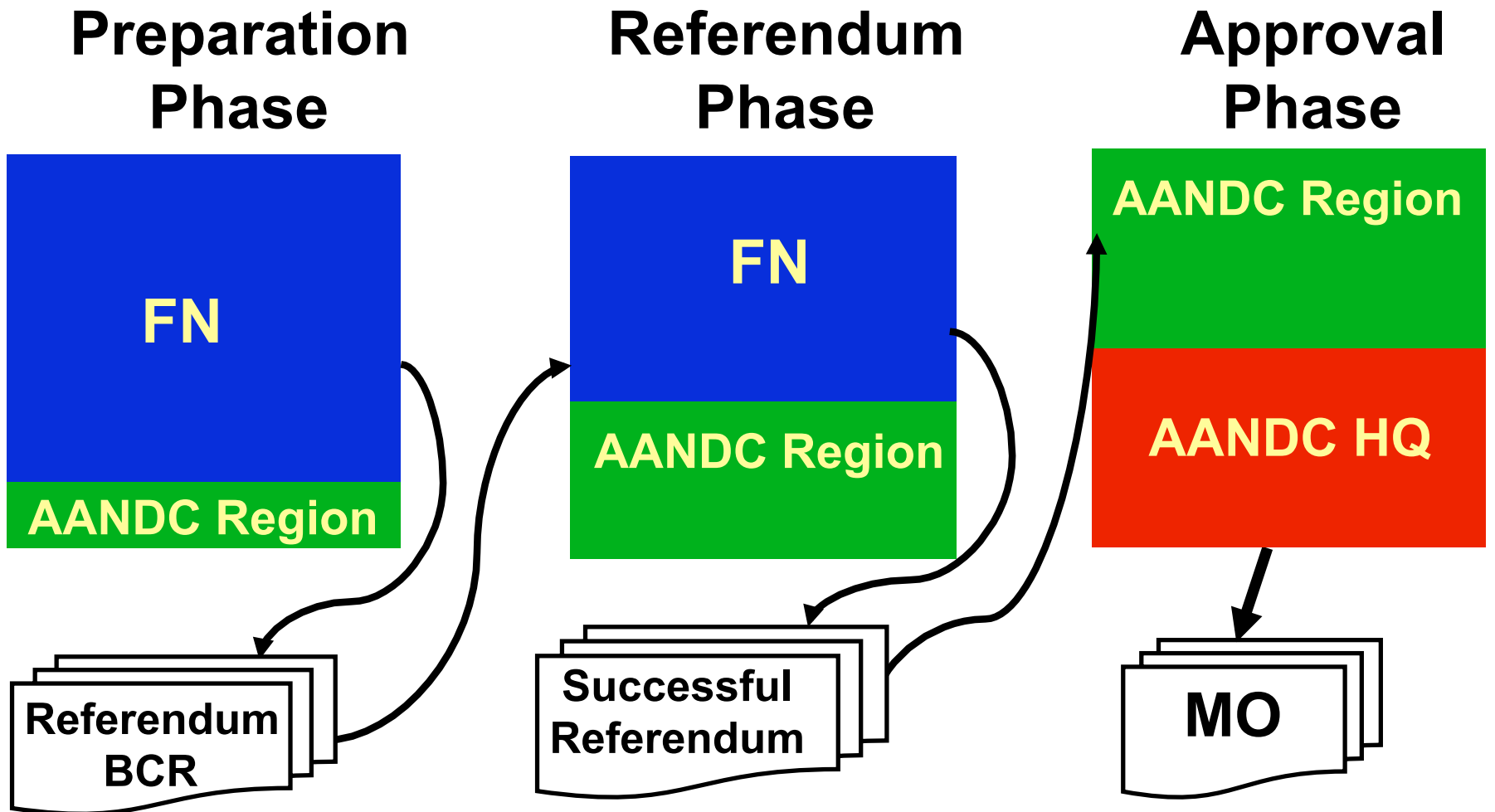
BCR Requesting Ministerial Acceptance



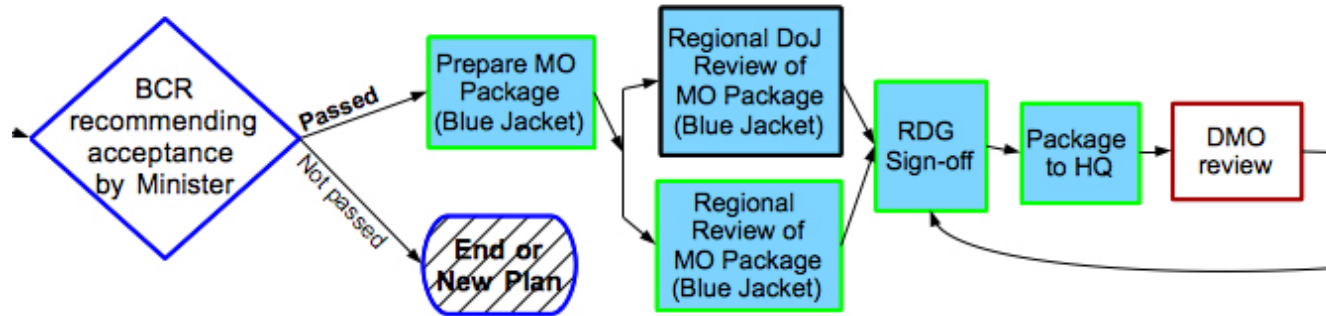
- Chief & Council request Minister to accept Designation
- Document given to EO to form part of package headed to RO and HQ

Major Milestone – Referendum Phase Successful

Designation Process



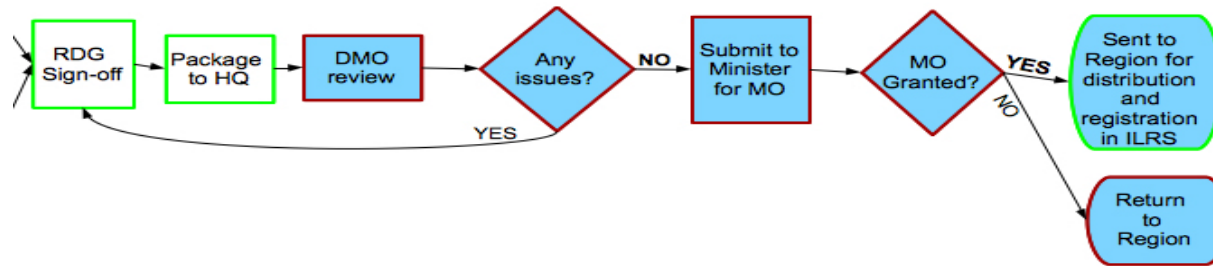
Approval Phase: Regional Office Review



- On receipt of the executed Designation Document & BCR
- Regional Office AANDC staff prepare Ministerial Order package
- Review by AANDC RO staff
- Review by DoJ
- Regional RDG signs off
- Package to AANDC HQ



Approval Phase: HQ Review & Submission



- Package at HQ
- HQ review
- Package sent to Minister's Office
- **Ministerial Order granted**
- Approved document copies sent to:
 - AANDC Regional Office
 - Who forwards to:
 - First Nation
 - Indian Lands Registry at Region



Thank you

- LEDSP funding form link:
- <http://www.aadnc-aandc.gc.ca/eng/1406217390783/1406217434540>
- Please fill out an evaluation form and return for your Designation Toolkit USB
- I will be available during the Network Café this afternoon for further questions