# The Clean Environment Commission

## Public Participation in the Environmental Review Process

Manitoba CLEAN·ENVIRONMENT™ COMMISSION

Manitoba

# Manitoba Clean Environment Commission

## Who are we?

The Manitoba Clean Environment Commission is an arms-length agency of the government of Manitoba. The Commission's principal purpose is to encourage and facilitate public involvement in the province's environmental management process. Through this process, the CEC contributes to the provincial government's stated objective of striking a balance between environmental stewardship and economic development.

By necessity, bodies such as the Clean Environment Commission must be granted a considerable degree of independence. While the Commission operates as a governmental institution, it must also be seen to be an independent forum for environmental matters – open to full public scrutiny and debate.

The Commission is made up of a full-time Chairperson along with at least 10 part-time commissioners who are called upon only when there is a project to do.

The Commission's office is in Winnipeg. An Executive Director or Secretary to the Commission, runs the office and gives support to the Chair and the commissioners.

An administrative assistant also helps with the office work.

The office is small with only 3 full-time staff.

## What do we do?

With few exceptions, the Clean Environment Commission (CEC) may initiate formal proceedings only at the request of the Minister of Conservation. The Minister may ask the Commission:

- To review potential environmental impacts of proposed projects and/or developments and to provide advice to the minister on whether an environmental licence should be issued and/or what are some of the specific topics or issues that should be addressed by the licence.

- To conduct an investigation or an in-depth study of a specific environmental matter and to provide him/her with advice. The Commission may or may not use public input as part of their information gathering.

- To provide mediation services, to assist two or more parties, that have a disagreement over an environmental matter, come to an agreement.

- To review appeals to the minister regarding an environmental licence. The CEC will advise the minister as to whether that licence should go ahead as written, should not go ahead or should be changed.

- To lead the development of, or review and comment on, a clean-up plan for a contaminated site.

## What we don't do!

The Clean Environment Commission:

- Does not make any laws or regulations.
- Does not enforce or make anyone obey the laws.
- Does not take complaints about anyone breaking the law.
- Does not issue any licences or permits.
- Does not answer any questions about government policies or laws.
- Does not have any information about environmental or natural resources projects and programs.

## When does the Commission get involved?

There are two ways the Clean Environment Commission may get involved with review of a project.

**The First Way**

A Proponent – a company or person wanting to build something or do something on the land or in the water – makes an application to the Environmental Assessment and Licensing Branch of the Department of Conservation.

This government branch reviews the project, asks for comments from other government departments and asks for public comments.

If the project meets all the rules and regulations set out by the province and most public concerns can be addressed in a licence, the project will get approved.

**However**, if there are many public concerns or the project is so big that it covers a very large area, the minister may ask the Clean Environment Commission to do its own review with input from the public.

**The Second Way**

Sometimes the government has a program that covers many subject areas. Some of these subjects overlap department responsibilities, have effects on other government levels or are important topics to most Manitobans. The minister will then ask the CEC to help review and identify the environmental problems with the program and, with the help of the public, recommend solutions. This process usually applies to government policy matters.

## How does the CEC get involved?

The Minister of Conservation will announce that a project will go to the Clean Environment Commission for public review.

A Clean Environment Commission review can take a relatively long time, a year or more from start to finish. Once the minister makes the announcement, it does not mean that the Commission will be ready to meet with the public right away.

The minister will provide the Commission with Terms of Reference – the rules that will tell the CEC what topics are to be studied and what kind of advice the minister would like.

The Commission will receive all the information gathered by the Environmental Assessment and Licensing Branch, including the project proposal, the comments by government departments, all public comments and any information available from Aboriginal consultations.

The Commission will set up a Panel by choosing three to five commissioners to be part of the project review team.

This panel will read all the information, ensuring that all the topics are covered with enough information to understand what is being requested and what effects it may have. If not, the Panel will ask for additional information from the Proponent or others.

Because many of these projects are very complex and much of the information is quite technical, the Commission will often hire experts to help them understand the technical information.

## How does the CEC do its review?

There are two ways the Commission may do a review depending on what the Minister asks of them.

The review may take the form of a Hearing or an Investigation.

**A Hearing**

A hearing is a court-like activity where the CEC Panel acts as the jury and the Proponent and Participants make their cases to this jury. It is not as formal or restricted as a court of law, but there are rules on who, how and when people can speak to and with the Panel. Despite these formal rules, it is important that anyone wishing to say something gets a chance. The Panel will ensure that everyone will be given that chance.

In a hearing, the information presented by the Proponent, the Participants, the Presenters and the public at the hearing can be used by the Panel to make recommendations to the minister. Information cannot be added after the close of the hearing. The Panel has 90 days to make their report to the minister.

**An Investigation**

The rules and procedures for conducting an investigation are not as strict. In an investigation, the CEC Panel can speak to anyone, anytime, anywhere, whether it is at a public meeting or at their place of work. They may also get information by reading research papers and other reference documents. Usually as part of an investigation, public input is gathered at public meetings. There are no Proponents or Participants involved in these meetings. Anyone wishing to speak is considered a Presenter. Public meetings are considered only part of the investigation process. Information gathering will continue until the panel is satisfied it has enough information to make a recommendation to the minister; there is no time limit on when that report is required.

Panel : The project review team made up of three to five Clean Environment Commission members.

Proponent: The company , person or agency that will be doing a project or development on the land or in the water.

Participant: A group or person that has a significant interest or will be highly affected by the project. An application must be made to the Panel to be named a Participant.

Presenter: A presenter is an individual who wishes to make a statement at the hearing. Presenters are given 15 minutes to speak.

Participant Assistance Program: The Participant Assistance Program assists Participants with the preparation of their presentation, usually by supplying funds to help with research and preparing the presentation.

Secretary to the Commission: The Executive Director or person who runs the Clean Environment Commission office.

## What's next?

In the case of a hearing, once the panel is satisfied that it has enough information, the Commission will invite Participants. This will be done in newspapers, on our website, our Facebook page and many other ways, for example sending notices to be included in organization newsletters.

**Participants** are sometimes called interveners. Participants are groups or individuals that will be highly affected by the project or have a great interest in the project and its effects. Participants must be prepared to put in much time and effort to bring information to the Panel. Participants must be prepared to attend many meetings before the hearing actually begins, prepare a detailed report of their concerns to be presented to the Panel, attend and make a presentation at the hearings.

Because Participants are required to gather and present a large amount of information, often there are funds available to help. The **Participant Assistance Program** (see text box) is designed to provide money for groups and individuals who wish to be Participants and need financial help in developing their presentation. If there are participant assistance funds available, the opportunity to apply for them will also be advertised.

An application package will be available that will explain who can apply, how to apply and what the recipient's responsibilities are.

**Participant Assistance Program**

Once the Minister of Conservation establishes the Participant Assistance Program for a particular project, a Participant Assistance Committee will be formed. This committee will be made up of members of the Clean Environment Commission whose job will be to assess participant assistance applications and provide funding recommendations to the minister.

Application forms and instructions will be available for downloading on the Clean Environment website or in printed form by contacting the Commission directly.

Application forms are filled out and sent to the Commission where the Participant Assistance Program Committee will review them. A participant assistance committee meeting will then be held where applicants will be required to explain their request and may be asked questions by the Committee.

The Committee will then make recommendations to the minister regarding level of funding and any associated conditions. Should an applicant be successful, they may be requested to provide a more detailed work plan that includes any adjustments or conditions specified by the minister.

Successful applicants will also be required to acknowledge they have read and understand the Participant Assistance Funding Terms and Conditions that specifies the level of funding to be provided and the conditions under which it can be spent and accounted for.

## Preparing for the Hearing

Once all the parties are identified, these being the Panel, the Proponent and the Participants, the hearing process continues.

A pre-hearing meeting will be held to set the rules of operation, including how information will be shared, who can speak when and the possible dates and places where the hearing will be held.

During this time, the Participants are gathering information to write their report or submission, the Proponent is gathering information to answer questions that will be asked of them and the

Panel is reviewing all available information so that they may ask questions of both the Participants and the Proponent to make sure they understand all the issues.

It is only then, many months after the start of the process that the dates, times and locations of a hearing are set and the public is asked to participate.

Thirty days before the start of the hearings, an announcement will be made and advertised in the newspapers, on our website, our Facebook page and other ways that will tell the public about the hearing, where and when it is and ask for anyone that wishes to make a presentation to contact the Commission to sign up. This can be done by phone, e-mail or through our website.

**Why do you need to sign up?**

Members of the public that wish to speak are asked to sign up because:

- It helps the Commission know how many people wish to speak and how much time it will take so that enough time can be made for everyone. For example, the hearing may need to go on for an extra day if there are many people who wish to talk.
- If something suddenly changes with the schedule, we need to be able to contact you to tell you so you don't show up at the wrong place or wrong time.

Although it is a good idea to make sure you have a designated time, people will also be given an opportunity to speak at the hearing even if they did not sign up ahead of time.

## At the Hearing

Public hearings are open to anyone who wishes to just sit and listen and not just for those who wish to speak.

At the hearing, where the presentations will be made, a court reporter will record everything that is said. This record, as well as any written materials, will become part of the public and official file.

Each person that speaks at the hearing will be asked to take an oath promising to tell the truth.

At the hearing, after a brief introduction by the Panel chair, the Proponent will be asked to give a detailed presentation on its project and its effects. (see sample agenda).

After the Proponent's presentation, the Panel may ask questions. Each of the Participants will also be allowed to ask questions of the Proponent.

Each Participant will then be given a chance to make a presentation explaining their concerns. Participants may also be questioned by the Panel and the Proponent.

At certain times, members of the public will also get a chance to make comments. Members of the public are asked to sign up ahead of time, wherever possible, to make sure there is a place and time for them to talk. Presenters will get 15 minutes to make any comments. The Panel may ask questions at the end of their presentation but not the Proponent or the Participants.

A hearing may be held in one or more places. The Proponent will be at all of these places as will the Panel. Most Participants and public presenters will be different from place to place, usually appearing in the location closest to their home.

Some people don't like to speak in public and some cannot make it to the hearing. The Commission will also accept written submissions or letters to the panel during the hearing period.

The hearing will continue until everyone has had a chance to have their say. Once the panel is satisfied everyone who wished to speak has had their chance the hearing will be closed.

The Panel then has 90 days to write a report about what they heard and give the minister recommendations on what should be done.

## Where to get more information.

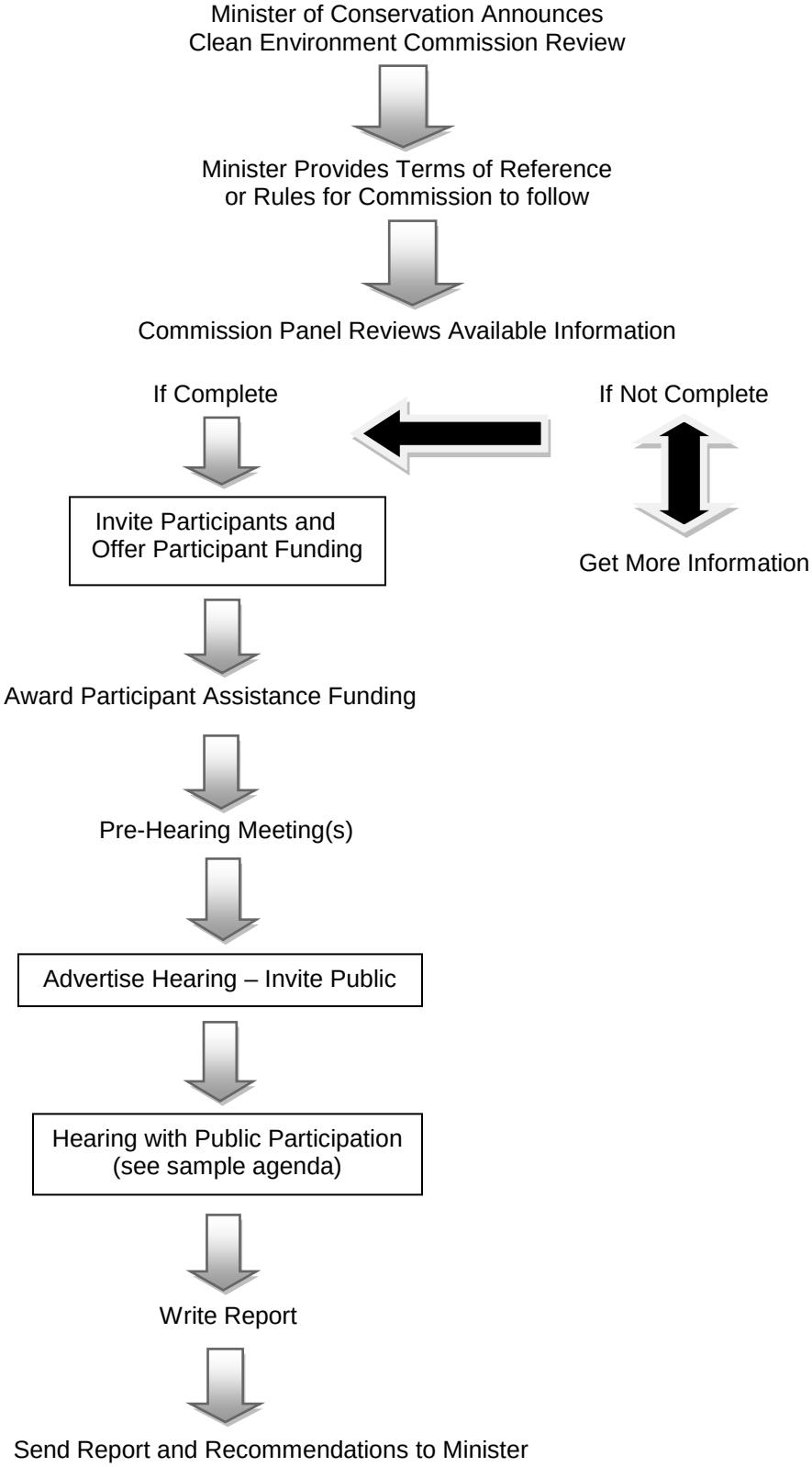
You can get more information about the Clean Environment Commission by:

- Visiting our website at **www.cecmanitoba.ca**
- E-mailing us at **cec@cecmanitoba.ca**
- Writing to the Clean Environment Commission at:

  305-155 Carlton Street
  Winnipeg, MB R3C 3H8

- Calling us at 204-945-0594 or toll free at 1-800-597-3556

# Clean Environment Commission Hearing Process Activity Flow Chart



**What happens at a Hearing?**

For the most part, Hearings are held during day-time business hours – from 9.00 a.m. to 5.00 p.m., with breaks for meals and refreshments. There will be some sessions held in evenings to accommodate those who wish to participate, but are unable to make day-time hearings.

At the Hearing, the order of business will, typically, be as follows:

## 1. Opening Remarks

**Panel Chair**

- Welcome
- Statement of the purpose of the hearing
- Introduction of panel and staff
- Discussion of procedural, legal or other similar matters.

(less than ½ hour.)

## 2. Preliminary Matters

**Director**, Environmental Assessment and Licensing Branch, Department of Conservation

- Report on the steps in the proceeding, from the filing of the application for a licence leading up to the Hearing

(less than ½ hour.)

## 3. Project Overview

**Proponent**

- Comprehensive presentation describing the project – including a detailed description of the Environmental Impact Statement.
- Panel members question Proponent
- Participants question Proponent
- Members of Public question Proponent.

(This step may take from a few hours to a few days.)

## 4. Intervener Submissions

**Participants**

- For each submission:
    - Documents are registered as exhibits

- Witnesses are introduced
- The submission is highlighted by the witnesses

- Participants and their Witnesses are examined

  - by the Panel
  - by the Proponent

(This step may take from a few days to a few weeks.)

**5. Public Submissions**

**Presenters/Public**

- Those who have registered as Presenters and members of the Public will be given an opportunity to make a brief submission. These submissions are limited to 15 minutes in length.

- Only the Panel may ask questions of the Presenters and the Public.

- (There will be evening sessions to accommodate public presentations.)

(This step may take from a few hours to a few days.)

**6. Rebuttal**

**Proponent** only

- Proponent may submit rebuttal evidence to address points raised during the submissions of Participants.

- Examination by Participants is permitted, but only on the additional evidence presented.

(Interveners are not allowed rebuttal as their submissions are made after the Proponent and they have opportunity at that time to rebut the Proponent's submission.)

(This step may take a few hours to a day or two.)

**7. Final Argument**

**Participants** in same order as Submissions
**Proponent** last

- State what they believe are the most important aspects of the matters to be considered and the reasons for the conclusions they believe the Commission should come to.

(This step may take from a few hours to a few days.)

## 8. Closing

At the conclusion of the Hearings, the Panel Chair will announce the closure of the record – that no more information will be accepted for consideration by the Panel. This may be on the final day of the hearings. Or, by agreement, it may be a few days later to receive additional written information.

## 9. Report

Once the record is closed, the Panel has 90 days to reach its decisions and prepare a report to the Minister.