



**NATURAL RESOURCES CANADA - INVENTIVE BY NATURE**

# NEB Modernization

March 28, 2017



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# Purpose

- Explain the mandate of the NEB Modernization Expert Panel
- Provide an overview of the NEB Modernization process
  - Public Engagement Plan
  - Indigenous Engagement Plan
- Present key discussion questions
- Questions and discussions regarding the issues covered

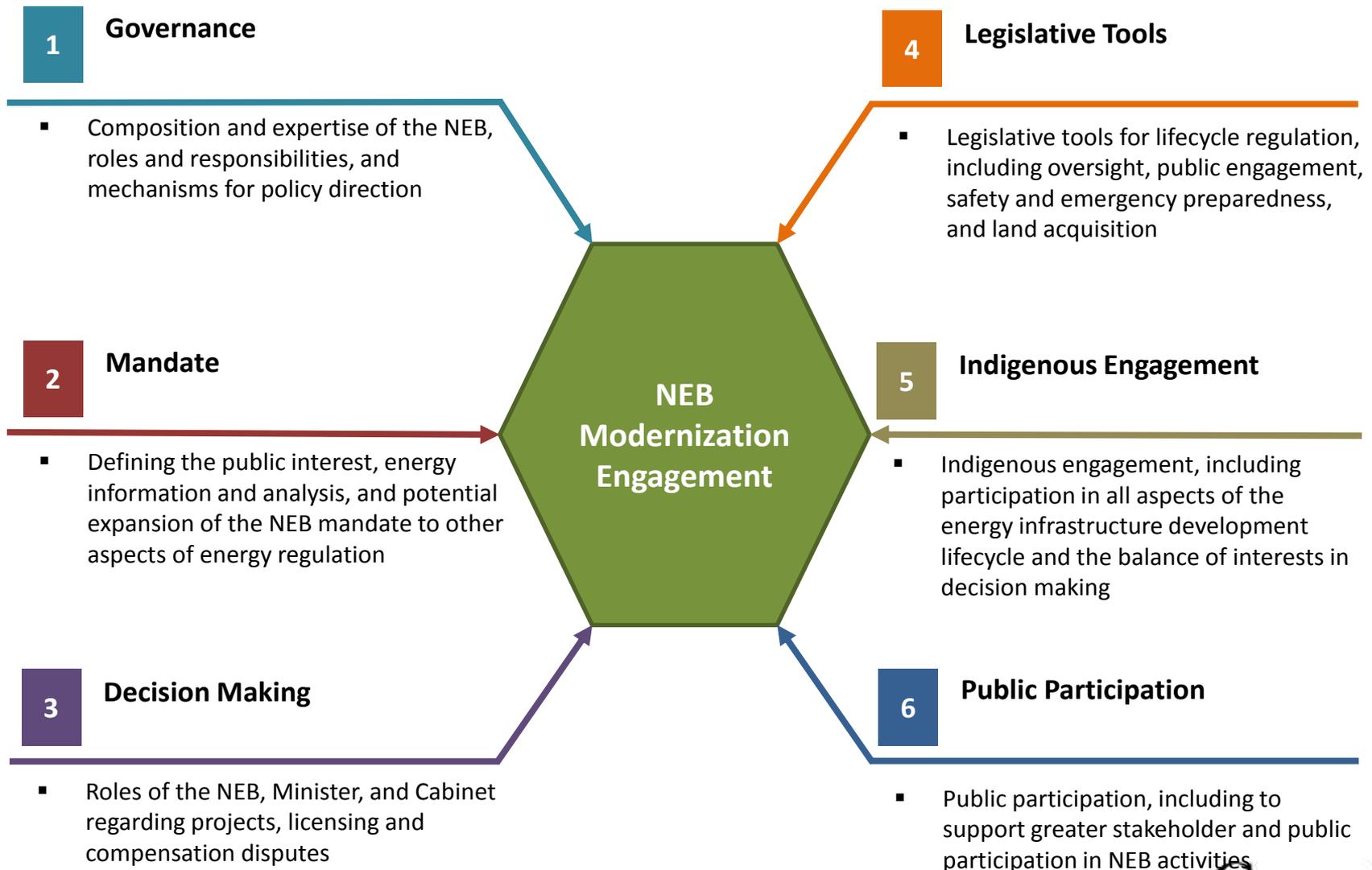


# The Mandate of the Modernization Expert Panel



# What is NEB Modernization?

An Expert Panel has been appointed by the Minister of Natural Resources to examine:



# NEB Modernization Themes and Related Discussion Papers

NEB Modernization Theme	Related Discussion Papers
<b>Governance</b>	<i>National Energy Board Governance</i>
<b>Mandate</b>	<i>Mandate and Regulatory Framework; Determining the Canadian Public Interest; and Energy Information, Reports and Advice</i>
<b>Decision-Making</b>	<i>Decision-Making Roles on Projects; The Hearing Process; and Land Acquisition and Compensation</i>
<b>Legislative Tools (for Lifecycle Regulation)</b>	<i>Safety and Environmental Protection; and Emergency Prevention, Preparedness and Response: Tools and Requirements; and Land Acquisition and Compensation</i>
<b>Indigenous Engagement</b>	<i>Indigenous Engagement and Consultation</i>
<b>Public Participation</b>	<i>Public Participation; and The National Energy Board's Participant Funding Program</i>



# Overview of the NEB Modernization Expert Panel Process

- Public Engagement Plan



# Public and Indigenous Engagement Session Locations

## NEB MODERNIZATION – EVENT DATES AND LOCATIONS

Saskatoon: Jan. 25-26

Toronto: Feb. 1-2

Vancouver: Feb. 8-9

Winnipeg: Feb. 15-16

National Capital

Region: Feb. 22-23

Fort St John: Mar. 1-2

Edmonton: Mar. 7-8

Yellowknife: Mar. 10

Saint John : Mar. 21-22

Montreal: Mar. 28-29



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# Engagement Activities



## Presentations

5-7 minute presentations on one or more themes, providing background information for workshops



## Dialogue Sessions

Up to 100 participants for a half-day dialogue session to discuss all themes



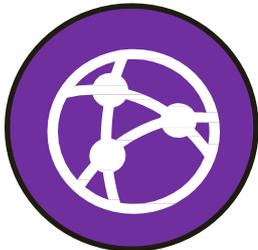
## Open Houses

5 minute presentations to the Panel the evening after a workshop



## Optional bilateral Meetings

The Panel may meet with Provincial and Territorial representatives throughout the review.



## Online Awareness and Participation

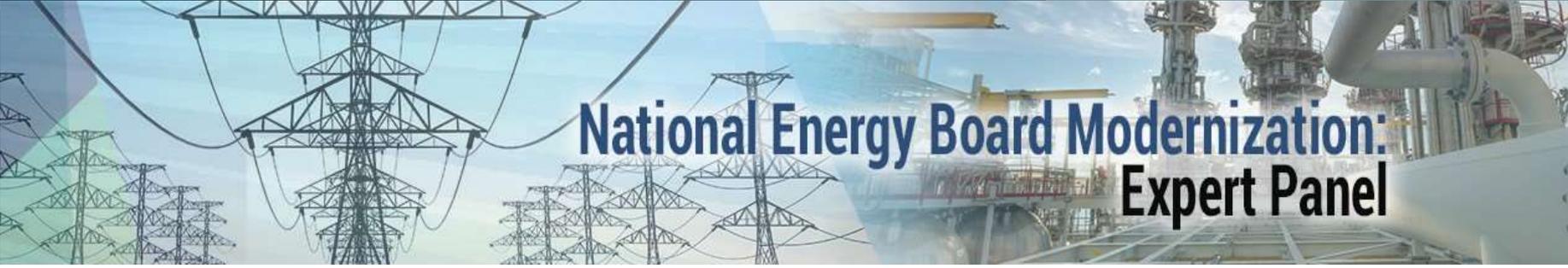
Online participation through [www.neb-modernization.ca](http://www.neb-modernization.ca) to provide comments, learn more about the themes by reading discussion papers, and keep up to date on the latest news from the review



# Overview of the NEB Modernization Expert Panel Process

- Indigenous Engagement Plan



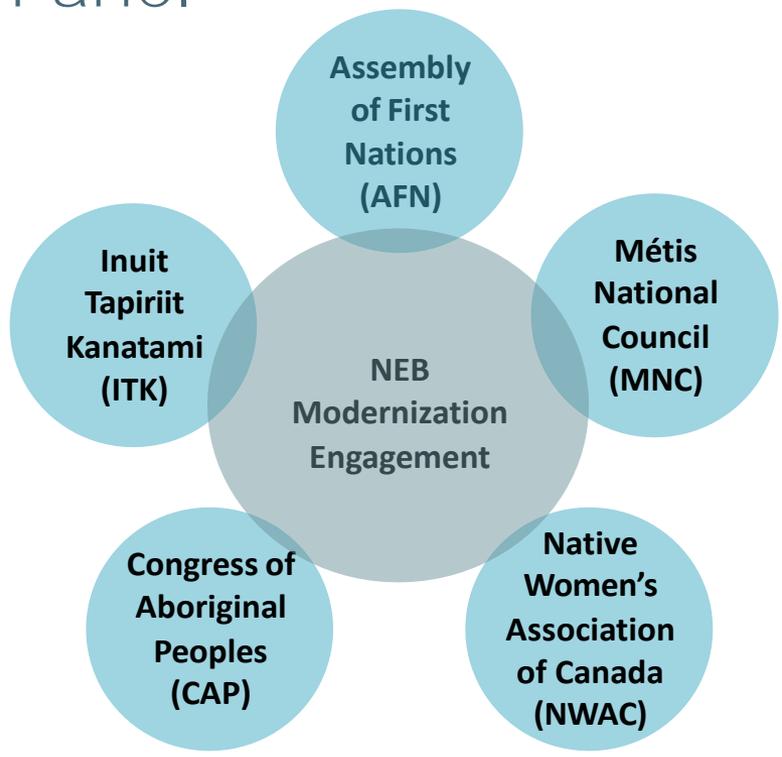


# National Energy Board Modernization: Expert Panel

## Engagement with Indigenous peoples is key to the Expert Panel

This plan outlines how the Panel wishes to seek input and have dialogue with Indigenous peoples to inform its recommendations to the Minister of NRCan on how to modernize the NEB. This Plan does not encompass post-report consultation activities to be undertaken by the Crown.

In December 2016, the Panel held preliminary discussions with the five national Indigenous organizations (NIOs) and governments to discuss how to collaborate on the Indigenous Engagement Plan, and determine how best to engage with Indigenous peoples.

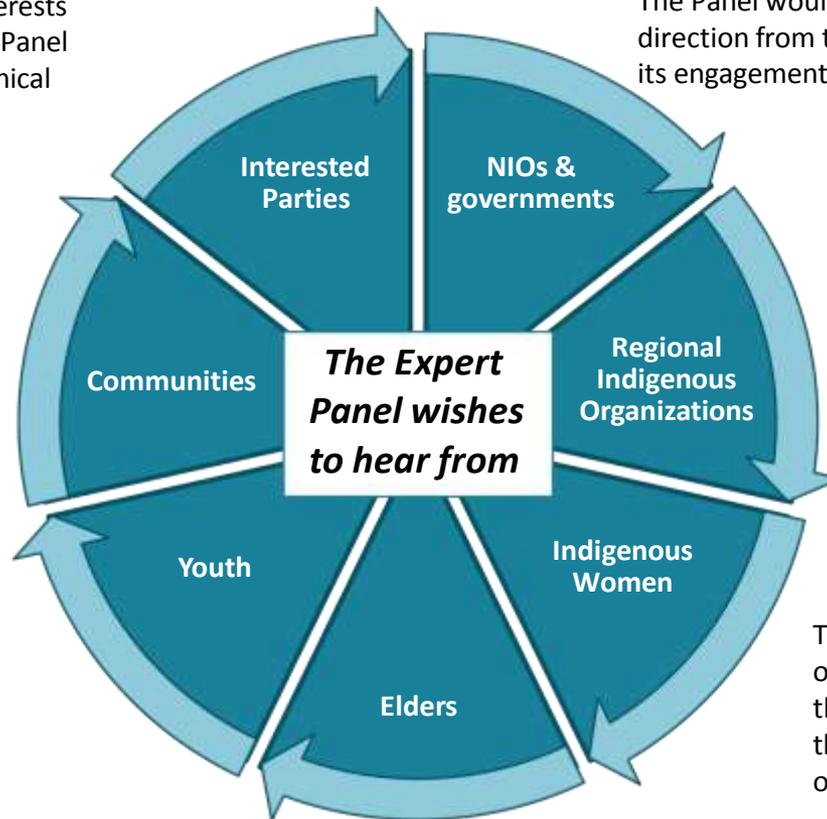


# National Energy Board Modernization: Expert Panel

The Panel recognizes Indigenous interests conduct engagement activities. The Panel wishes to have a dialogue with technical groups to gain additional expertise.

The Panel wishes to hear from individual First Nations, Métis and Inuit communities on their experiences, concerns and interests.

The Panel believes input from Indigenous youth is imperative to providing recommendations on how to improve Indigenous participation in NEB processes.



The Panel would like to seek ongoing guidance and direction from the national Indigenous leadership on its engagement activities and recommendations.

The Expert Panel wishes to collaborate with P/T Indigenous organizations and governments to invite participants to engagement sessions.

The Panel wishes to speak to organizations and groups representing the interests of Indigenous women that can provide a gender-based lens on how the NEB can be modernized.

The Panel would like to look to Indigenous Elders to share knowledge on the Indigenous way of life, the importance of understanding the connection to the land.

# What might an engagement session look like?



**Dialogue sessions with  
Indigenous facilitators**



**Regional Indigenous  
meetings with  
Indigenous leadership**



**Community gatherings,  
including gatherings with  
Elders and Knowledge  
Keepers**

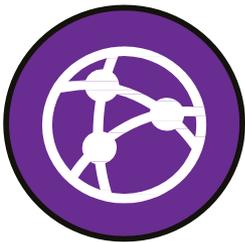


**Optional bilateral  
dialogue with  
organizations**

*Based on feedback from regional Indigenous organizations, the Indigenous engagement sessions can take a form that suits the needs and interests of the local peoples being engaged*

## Online Awareness and Participation

The Expert Panel will also reach out to Indigenous peoples through social media and Indigenous news portals such as NationTalk and Wind speak



# Key Discussion Questions and What We Have Heard So Far



# Governance

## Overview:

- Composition and expertise of the NEB;
- Roles and responsibilities;
- Mechanisms for policy direction; and
- Related Discussion Paper: *National Energy Board Governance*.

## Key Questions:

- 1) What are appropriate requirements for Board Members (particularly regarding composition, expertise, regional representation, and Indigenous representation)?
- 2) Where should permanent NEB Board Members reside?
- 3) Where should the NEB be located and why?



# Governance continued

4) What are your views with respect to the Chair of the Board **also being the NEB's CEO?**

Where does policy direction come from?

5) How should the Government of Canada provide the NEB with policy direction?

- What should be the role of the NEB in implementing Government policies and priorities?

6) What NEB decisions, recommendations or functions should be delegated to Board Members? To NEB staff?

# Mandate

## Overview:

- Defining the public interest;
- Energy information and analysis;
- Potential expansion of the NEB mandate to other aspects of energy regulation; and
- Related Discussion Papers: *Mandate and Regulatory Framework; Determining the Canadian Public Interest; and Energy Information, Reports and Advice.*

## Key Questions:

- 1) **What does the 'Canadian public interest' mean to you?**
- 2) How is public interest determined?
- 3) What energy and environment is gathered?
- 4) **Are there emerging areas for which the NEB's mandate should be expanded? If so, what are they?**



# Decision-Making

## Overview:

- Roles of the NEB, Minister and Cabinet regarding projects, licensing, and compensation disputes.
- Related Discussion Papers: *Decision-Making Roles on Projects; The Hearing Process; and Land Acquisition and Compensation.*

## Key Questions:

- 1) What principles should determine who should make the final decisions for the following projects and why:
  - Major international and interprovincial pipeline projects (i.e., greater than 40 km in length)?
  - Smaller international and interprovincial pipeline projects (i.e., 40 km in length or less)?
  - International and designated interprovincial power line projects?
  - Import and export licences?
- 2) What are your views with regard to the legislated timelines for project reviews (i.e., 15 months for NEB recommendation and 3 months for a GIC decision)?



# Legislative Tools

## Overview:

- Legislative tools for lifecycle regulation, including: oversight; public engagement; safety and emergency preparedness; and land acquisition.
- Related Discussion Papers: *Safety and Environmental Protection; and Emergency Prevention, Preparedness and Response: Tools and Requirements; and Land Acquisition and Compensation.*

## Key Questions:

- 1) In your opinion, are the existing emergency preparedness and response tools and requirements sufficient? If not, what additional tools or requirements are needed?
- 2) Are there additional initiatives the NEB could undertake to help promote a positive culture for safety and environmental protection?
- 3) What are your views with regard to the land acquisition process and dispute resolution?



# Indigenous Engagement

## Overview:

- Indigenous engagement, including participation in all aspects of the energy infrastructure development lifecycle; and the balance of interests in decision-making.
- Related Discussion Paper: *Indigenous Engagement and Consultation*.

## Key Questions:

- 1) What are your views on the approach the Government of Canada has taken in recent years to engage and consult Indigenous groups on projects regulated by the NEB? Specifically:
  - Early engagement of Indigenous groups prior to a formal environmental assessment and regulatory review process by the NEB;
  - Consultations with Indigenous groups **on matters that fall both within and outside the NEB's mandate;**
  - Adequacy of participant funding **to support Indigenous groups' participation in the overall engagement and consultation process;**
  - The roles of the NEB and the Crown in considering and addressing potential impacts to Aboriginal or treaty rights on NEB-regulated projects, and how these respective roles are carried out; and
  - Ongoing consultation and engagement of Indigenous groups during the construction, operations, and abandonment phases of projects that are approved.



# Indigenous Engagement continued

- 2) How can Indigenous traditional knowledge and perspectives (including Traditional Ecological Knowledge) and information be further integrated into the NEB application and hearing process?
  - What are the potential benefits and constraints to this integration?
- 3) How can Canada enhance its approach to Indigenous engagement and consultation to inform decision-making on NEB-regulated projects?
- 4) What should be the role of: a) the NEB; b) the Government of Canada; c) Project Proponents; and d) Indigenous peoples (e.g., specific groups or communities)?
- 5) **How should the Government of Canada's approach to engaging and consulting Indigenous groups on NEB regulated projects support the Government of Canada's goal of renewing the nation-to-nation relationship with Indigenous peoples and moving towards reconciliation?**
- 6) How can the Government of Canada best consider and address the principles outlined in the United Nations Declaration on the Rights of Indigenous Peoples when undertaking efforts to modernize the NEB and when making decisions on whether NEB-regulated projects are in the public interest?



# Public Participation

## Overview:

- Public participation, including to support greater stakeholder and public participation in NEB activities.
- Related Discussion Papers: *Public Participation; and The National Energy Board's Participant Funding Program.*

## Key Questions:

- 1) What works well regarding public participation:
  - Prior to the hearing process;
  - In NEB hearings(NEB Act criteria stating that the Board shall consider representations of those directly affected by the granting or refusing of the application or those who have relevant information or expertise);
  - In the development of emergency response manuals/ plans and their transparency;
  - Outside the hearing process, including opportunities related to: the project life cycle, specific issues, and the development of regulations.
- 2) With regard to the items mentioned in the previous question, what could be improved?
- 3) What additional opportunities could be provided for the public and Indigenous peoples to provide input over the course of the entire lifecycle of NEB regulated facilities (i.e., from application to abandonment)?



# Panel members

- Ms. H el ene Lauzon (co-chair)
- Mr. Gary Merasty (co-chair)
- Ms. Wendy Grant-John
- Dr. Brenda Kenny
- Dr. Dave Besner

