

BRIEFING NOTE

RESTORING CONFIDENCE IN MAJOR PROJECT REVIEWS

PART II: THE CANADIAN ENERGY REGULATOR ACT

ABOUT THE REPORT

This report proposes reforms to the *Canadian Energy Regulator Act* (CER Act) to streamline pipeline review processes and reduce maximum time limits to 250 days or less. The goal is to align the CER Act with industry's shared ambition to attract more investment in pipelines and have them built faster without sacrificing health, safety, social, cultural, or Indigenous interests.

This paper is Part II of a two-part series, the former of which proposes substantive changes to the *Impact Assessment Act*. Critically, Part I recommends that all federal pipeline reviews be conducted by the Canada Energy Regulator.

WHAT'S HOLDING INVESTMENT BACK

The federal government has a renewed ambition to make Canada into an energy superpower and diversify access to markets.

Building pipelines will be key to achieving this goal. But right now, potential investors do not have enough confidence that the project review process in the Canadian Energy Regulator Act (CER Act) is fast, predictable, or efficient enough to meet the moment.

Investors require regulatory process and timeline certainty before proposing pipeline projects. The CER Act's review framework needs to actively encourage this investment.

But key barriers remain. They include:

- **Political decisions and misaligned purpose:** The purpose of the Act can be clarified to align decisions with a pro-development policy direction; and decision-making can be depoliticized.
- **Excessive timelines:** Maximum timelines for both large and small project reviews are too long, and too many opportunities exist for timeline extensions.
- **Overly scoped assessments:** Review intensity and length do not scale properly to project impacts, and reviews often include low-value requirements.
- **Lack of consultation clarity:** Unpredictable Indigenous consultation weakens reconciliation efforts, Indigenous participation, and investor confidence that requirements will be met through the regulatory process.

The result is a pipeline review process that reduces investor confidence in Canada as a place to allocate capital, thereby detracting from Canada's energy superpower and trade diversification ambitions.

PRIORITY ACTIONS

Improving pipeline review processes requires changes to the law in order to provide more investor certainty of predictable processes and timelines. This report focuses on specific changes to the CER Act and its relevant service standards and regulations:

ACTION	DETAILS
Promote development and review certainty	<ul style="list-style-type: none"> • Embed economic development and regulatory certainty as explicit regulatory objectives. • Remove political uncertainty by elevating the CER as the final decision-maker for all federally regulated pipelines.
Reduce timelines	<ul style="list-style-type: none"> • Shorten maximum assessment time limits for reviews of short and long pipelines. • Remove all opportunities to extend or suspend timelines.
Limit the scope of reviews	<ul style="list-style-type: none"> • Base the review threshold on new right-of-way length rather than total pipeline length. • Avoid re-reviewing issues already addressed by existing regulations, codes, and standards. • Reduce the burden of conditions on approved projects.
Clarify Indigenous consultation processes	<ul style="list-style-type: none"> • Ensure the Crown fully utilizes businesses' engagement as fulfilling procedural aspects of the Crown's duty to consult. • To the extent possible, ensure the duty to consult is fulfilled in alignment with maximum review timelines.
Increase efficiency	<ul style="list-style-type: none"> • Better leverage existing risk-based categories to reduce review timelines for low-risk projects. • Reduce the regulator's decision-making burden by appropriately empowering Designated Officers for lower-risk decisions.

WHO NEEDS TO ACT

Cabinet and Privy Council Office	Drive legislative change agenda to promote pipeline development, and adequately resource key regulators and departments.
Canada Energy Regulator	Increase capacity to review more projects; and embrace a legal mandate to make more final decisions and promote review efficiencies.
Other Federal Authorities	Engage the CER to develop internal processes that align with the Act's new review timelines.

WHAT SUCCESS LOOKS LIKE

- Investors perceive the pipeline review process as part of Canada's competitive advantage.
- The CER is mandated to review all federally reviewable pipeline projects, regardless of size.
- More pipeline proposals are filtered into lower-risk review categories.
- All pipeline reviews are completed within two years, with only the highest impact pipelines approaching the two-year review mark; and renewed ambition to reduce timelines even further to be competitive with the United States.