



# Regulatory Efficiency and Impact Assessment Memo

## August 2025

By: Heather M. Fast, Patricia Fitzpatrick, and Katrine Dilay

**EXECUTIVE SUMMARY:**

This research memo draws on a combination of resources, including regulatory frameworks, case studies, and policy documents, to examine the concept of “regulatory efficiency” in a Canadian context and explore its application. Specific focus was placed on the regulatory frameworks administered by the Manitoba provincial government and the federal government of Canada.

Although there is no consensus on what regulatory efficiency means and how to achieve it, it is clear that it involves more than just streamlining regulatory processes to reduce timelines and legal requirements. To facilitate “regulatory efficiency” in a way that benefits all stakeholders, at a minimum, process reforms need to be implemented to facilitate:

- Timeliness,
- Predictability and Transparency,
- Cooperation,
- Accountability,
- Planning & Coordination, and
- Meaningful involvement of Indigenous Rights holders.

The Canadian federal government in particular, emphasizes the need for cooperation with different levels of government and Indigenous rights holders in IA and other approval processes.

However, despite the benefits promoted by government and industry stakeholders, recently introduced measures at the federal level to achieve “regulatory efficiency” and reform impact assessment and licensing processes to facilitate the approval of “national interest” projects have been heavily criticized by a range of different Indigenous, ENGO, and IA experts (among others). This includes concerns about a lack of transparency and clarity, impacts on Indigenous rights holders, exclusion of meaningful public participation opportunities, limited to no consideration of environmental impacts, and potential conflicts with existing federal laws and legal principles. Moving forward, caution should be taken by regulators to focus on more than just regulatory efficiency and instead aim for a balance of efficiency, effectiveness, and fairness.

**Research Questions**

- 1) What is “regulatory efficiency”?

- 2) How is regulatory efficiency achieved?
- 3) What are the advantages and disadvantages of regulatory efficiency?
- 4) What is the current discourse around impact assessment of mining developments and regulatory efficiency, especially in the context of the energy transition to a low-carbon economy?

### **1. What is “Regulatory Efficiency”?**

Canadian governments have long been concerned with updating and improving regulatory processes. There are many reasons governance approaches are modified and many terms used to describe such changes. A common rationale for policy and law reform is to ensure regulatory processes are more “efficient”, a term that in practice, is largely subjective.

Canadian governments have used a range of approaches in an attempt to facilitate efficiency. In Manitoba, for example, the provincial government has employed different strategies for “reducing red tape”<sup>1</sup> in the name of efficiency, with a focus on reducing regulatory requirements. Other approaches encourage “smart regulation” (Unger 2006) or “agile regulation” which focuses on “effectiveness, transparency and upholding public trust while still utilizing market-oriented measures and a reliance on non-state actors to ensure flexibility, efficiency, and innovation.” (Kaiser and McCarney 2021; Wood and Johansson 2008)

In an environmental context, most discussions of efficiency often seem to be focused on making governance processes faster, cheaper, and less administrative. However, achieving efficiency is recognized by Canadian governments and experts as including a broader range of objectives. As indicated by the Impact Assessment Agency, “[e]fficiencies are not about reducing our standards but rather about improving coordination.” (IAAC 2025b) This includes coordination and cooperation with other levels of governments and decision-makers, the public, and Indigenous rights holders. Other recognized aspects of efficiency include transparency, accountability, timeliness, and predictability. Experts and Canadian governments also recognize that regulatory efficiency must respect Indigenous rights holders and involve facilitation of Indigenous leadership. Experts have acknowledged these interconnections and recognized the need for balance between efficiency and effectiveness. (Sinclair et. al. 2022) As discussed by Sinclair et al., the reality, is that “effectiveness and efficiency are interdependent”, you cannot have one without the other. (Sinclair et. al. 2022)

In the context of clean energy projects, regulatory efficiency has been discussed as requiring “processes that are straightforward, transparent and predictable, helps get clean growth projects built, and it creates more opportunities and builds up regional economies in rural and remote parts of the country”. (Ministerial Working Group 2024) In this context, efficiency is viewed as not changing the rigour of approval processes but instead encourages government to focus their efforts where they can make the most impact and can help make the process more predictable for all involved.

Regulatory efficiency must be considered in the context of the specific regulatory process that is being analyzed and be aimed at the primary purpose of that process. (Johnston

---

<sup>1</sup> See the discussion of “reducing red tape” approaches used in MB in Part 4 of this Memo.

2024) For example, efforts to make impact assessment and regulatory approval processes more efficient must be focused on protecting the environment and human health, respecting Indigenous rights holders, and supporting sustainability. (Johnston 2024)

The meaning and application of “regulatory efficiency” is a timely topic in Canada right now, especially in the context of impact assessment as tensions rise between different levels of government over the development of certain types of natural resource projects (e.g., energy, critical minerals). While there is no consensus on the meaning of this approach, there is a growing body of literature and policy developments that are establishing new criteria and objectives for achieving regulatory efficiency in Canada.

## **2. What is the Current Discourse around IA of Mining Developments and Regulatory Efficiency?**

In Canada, there has been increasing discussion of regulatory efficiency in the context of impact assessment, particularly as it relates to mineral developments, “clean growth projects”, and the energy transition to a low-carbon economy. This discourse has largely focused on the need to make approval and permitting processes more “efficient” in terms of speeding up the timelines of approval processes, reducing regulatory requirements, and facilitating project approvals as fast as possible.

In the last three years, there have been ongoing commitments from the federal government and other jurisdictions (e.g., British Columbia) to “accelerate impact assessments. This includes efforts to combine federal impact assessment and permitting processes for mining developments and reducing the number of activities subject to mandatory impact assessment requirements. (Canada, Fall 2024 Economic Statement ) This section discusses recent examples of government approaches for facilitating regulatory efficiency (often in combination with other objectives) at the federal level and in British Columbia.

Based on these recent efficiency measures aimed at critical mineral and clean growth projects, a range of key government priorities have emerged at the federal level and have been echoed by some provincial governments (e.g., British Columbia), such as:

- Advancing Reconciliation and building partnerships with Indigenous rights holders;
- Reducing regulatory timelines for permitting and IA processes;
- Increasing the number of critical mineral and clean growth projects approved by Canadian regulators;
- Increased cooperation and reduced duplication between different departments, agencies, and levels of government,
- Increased collection and analysis of cumulative effects data,
- Transparency measures – e.g., reporting requirements, creation of a public Dashboard.

### ***a) Building Canada’s Clean Future: A plan to modernize federal assessment and permitting processes to get clean growth projects built faster***

The Government of Canada established a *Ministerial Working Group on Regulatory Efficiency for Clean Growth Projects* in 2023 to coordinate federal efforts to grow the “clean economy”, create an efficient regulatory framework to support the development of clean

growth projects, increase investor confidence, and positively contribute to broader government priorities, including net-zero commitments and advancing Reconciliation with Indigenous Peoples. (Ministerial Working Group, 2024)

In 2024, the Working Group published, *Building Canada's Clean Future: A plan to modernize federal assessment and permitting processes to get clean growth projects built faster.* (Building Canada's Clean Future). (Ministerial Working Group 2024) In this plan, "clean growth projects" include "clean electricity" generation and transmission (including hydro, wind, solar and "clean" hydrogen); "clean fuels" generation and transmission (including biomass/biofuel projects); carbon capture and storage; infrastructure; "clean technology"; "forestry clean technology"; small modular reactors; and critical minerals mines and processing. (Johnston 2024; Ministerial Working Group 2024)

There are five priority areas identified in the *Building Canada's Clean Future* plan:

- 1) Advancing reconciliation with Indigenous Peoples,
- 2) Reducing duplication with provinces and territories,
- 3) Increasing impact assessment and permitting efficiency for clean growth proponents,
- 4) Improving Regulatory Efficiency North of 60, and
- 5) Clean Growth Leadership by Federal Lifecycle Regulators. (Ministerial Working Group, 2024)

Together, the Ministerial Working Group intended the priority areas to "provide a roadmap to improve the efficiency of Canada's impact assessment and regulatory processes". (Ministerial Working Group, 2024) The plan includes recommendations for system-wide reforms focused on "departmental co-ordination, transparency, and accountability". (Ministerial Working Group, 2024)

Short-term actions identified in the plan include:

- The creation of a new federal Permitting Coordinator, located within the Privy Council's Clean Growth Office.
- The creation of an Indigenous Loan Guarantee Program.
- Establishing a Crown Consultation Coordinator to ensure meaningful Crown consultation with Indigenous Peoples on the issuance of federal authorizations. "The government will consult First Nations, Inuit, Métis, and Modern Treaty and Self-Government Indigenous partners on the design and role of this Crown Consultation Coordinator."
- The creation of a new Federal Permitting Dashboard that reports on the status of clean growth projects that require federal decisions. The new Dashboard "will provide a snapshot where anyone can check the status of a project as it moves through the regulatory process, from start to finish." This data will also be used by the Federal Permitting Coordinator to identify trends and problems.
- Setting new targets of five years to complete federal impact assessment and permitting processes, and two years or less for permitting of non-designated projects that do not require a federal impact assessment
- Issuing a Cabinet Directive that sets out clear federal roles and responsibilities across departments with the objective of getting projects built in a timely and predictable manner.

- Working with territorial and Indigenous governments to discuss “transformative changes to their unique project review processes”.

Long-term plans include:

- Increasing the number of federally designated projects subject to a single impact assessment process.
- Establishing new Ministerial Co-operation Agreements to “facilitate substitution, joint review panels or other cooperative approaches to ensure a single harmonized assessment process between all orders of government.”
- Working with other jurisdictions to explore new permitting pilots for improved regulatory coordination, based on the British Columbia model.
- Finalizing a plan to improve the identification and management of cumulative effects that includes Indigenous perspectives and Indigenous Knowledge.
- Completing regional studies and cumulative effects/baseline studies in northern priority regions to inform northern impact assessment and permitting processes.
- Developing standardized public reporting on the status of clean growth projects as they advance through the regulatory system.
- Annual reporting on trends in information requirements across departments, to identify opportunities to increase consistency and predictability.
- Federal review of existing laws and regulations that apply to federal decision-making on projects to ensure their timelines support the new two-year and five-year targets.
- Assessing regional information (including baseline and cumulative effects data) available to inform project development in the North.

### **b) Reform of the IAA**

In June 2024, reforms to the federal Impact Assessment Act were adopted as part of Bill C-69, an omnibus budget bill. These reforms were developed by the federal government in response to the Supreme Court of Canada’s decision in *Reference Re: Impact Assessment Act*. In this case the SCC found the federal government was overstepping its jurisdiction in the context of impact assessment and required amendments to the Act to bring them in line with the division of powers under the Canadian Constitution.

Reforms were also introduced to the IAA in order to make the federal impact assessment process more “efficient”, based on the recommendations of the Ministerial Working Group on Regulatory Efficiency for Clean Growth Projects in *Building Canada’s Clean Future*. (WCEL 2024; Ministerial Working Group 2024) The reforms implemented in order to facilitate greater efficiency under the IAA include:

- Creating broader options for substitution under the IAA (e.g., s 31). This includes allowing decision-makers to consider “means other than an assessment that would allow another jurisdiction (like a province) to address adverse federal effects” when designating projects under section 9 of the Act, and when screening decisions are made under section 16. Practically, this means other types of approval processes outside the realm of IA could be considered an appropriate substitute for part of the federal impact assessment process.

- Creating new powers for provincial authorities to jointly appoint review panels for the impact assessment of projects regulated by the Canadian Energy Regulator (CER) and Canadian Nuclear Safety Commission (CNSC). (IAA s 43.1)
- Adding time limits for review panel reports and final decisions. (IAA s 37, s 65) The Governor General in Council can now only extend time limits once, instead of the previously more flexible “any number of times”.

**c) *Cabinet Directive on Regulatory and Permitting Efficiency for Clean Growth Projects***

In July 2024, the federal government released a Cabinet Directive on Regulatory and Permitting Efficiency for Clean Growth Projects, as a deliverable from the Ministerial Working Group’s Clean Growth Plan.

The Directive “sets out the governance framework upon which federal initiatives to improve efficiency can develop and evolve” (Canada 2024) and establishes principles of regulatory efficiency:

- i. Certainty and predictability: “federal requirements, processes, timelines and decisions should be clearly communicated to improve certainty and predictability for proponents and investors through a service-oriented lens and in consideration of commercial and construction timeline implications.”
- ii. Interjurisdictional cooperation: “federal entities are expected to coordinate and, to the extent possible, integrate with provincial, territorial and Indigenous partners to find efficiencies and reduce duplication in review and consultation processes.”
- iii. Meaningful Indigenous partnerships: “federal processes should reflect the importance of Indigenous consultation, engagement, participation and partnership in clean growth projects.”
- iv. Culture of urgency: “All federal entities are expected to drive culture change within their organizations that reflects the urgent action required to accelerate clean growth, while protecting the environment and biodiversity, and meeting the objectives of legislation that structures and informs their respective mandates.”
- v. Comprehensive decision-making: “federal decisions should be based on robust science, due diligence and respect for Indigenous knowledge, and consider the benefits of projects to Canada advancing the net-zero economic transformation”.

The Directive applies to the processes to support decision-making for all projects under the federal impact assessment or federal permitting processes required to get to construction, but “does not presuppose a positive outcome on any federal decision”. The Directive clarifies the structure and function of the Deputy Ministers’ Regulatory Efficiency Action Council, the Deputy Secretary of Clean Growth, and the Clean Growth Office. The Directive also confirms new regulatory permitting targets (e.g., 5 years, 2 years). The DM Regulatory Efficiency Action Council will “regularly” review the implementation of the Directive and a comprehensive review of the effectiveness of this Directive and associated initiatives will be conducted within three years.

**d) Update to BC Cooperation Agreement Re: Coordination on Permitting Critical Mineral Projects**

In March 2025, an update to the 2019 agreement between the Federal Government and the Government of British Columbia under the IAA was published that focuses on the *Coordination on Permitting Critical Mineral Projects*. (IAAC 2025a) This “extension” to the 2019 agreement is aligned with the BC and federal Critical Mineral Strategies that were previously released. These strategies outline priorities that support intergovernmental collaboration related to critical minerals development in the province and the acceleration of regulatory efficiency.

The objective of this critical minerals “commitment statement” is to “accelerate decision-making around critical minerals projects through aligning their respective regulatory processes and requirements to the extent possible.” The statement is intended to represent “further alignment efforts related to permitting and authorizations, that aim to result in increased coordination and integration, eliminating duplication, and achieving shorter overall timelines for decisions across the full range of regulatory requirements for critical minerals projects.” (IAAC 2025a) See our *Memo on Cooperative Federalism* for more details about this update to the BC/Federal IA Cooperation Agreement.

**e) Bill C-5, the One Canadian Economy Act (2025)**

On June 26, 2025, Bill C-5, the *One Canadian Economy Act* was given Royal Assent after unprecedented quick progress through the federal parliamentary process. The *One Canadian Economy Act* creates two new laws: the *Free Trade and Labour Mobility in Canada Act* and the *Building Canada Act*. The purpose of the *Free Trade and Labour Mobility in Canada Act* is to promote free trade and labour mobility by “removing federal barriers to the interprovincial movement of goods and provision of services and to the movement of labour within Canada while continuing to protect the health, safety and security of Canadians, their social and economic well-being and the environment.” (s 4) This new Act will come into force on proclamation from the Government of Canada (i.e., through an Order in Council). Regulations are currently being developed to provide clarity on the definition of “comparable” which is needed to help with future determinations of comparable federal and provincial/territorial requirements. The regulations will also exclude certain federal requirements from the application of the legislation if there are unacceptable risks to the health, safety and security of Canadians, their social and economic well-being, the environment, or international trade objectives. (Bill C-5 2025, Summary)

Part 2 of the *One Canadian Economy Act* created the *Building Canada Act*, which entered into force on Royal Assent (i.e., June 26, 2025). This Act sets out a regulatory framework for the determination of “National Interest Projects” to undergo a streamlined regulatory process, including the IA process, that is intended to only take two years to complete. As indicated in the Government of Canada press release issued after enactment, “The intent of this Act is to ensure these nation-building projects complete the federal review within 2 years. We will do this by focusing these reviews on “how” to get the project built, instead of “whether” it should be built.” (Government of Canada 2025)

To provide more clarity, an Order in Council (OIC) must be made by the Minister<sup>2</sup> to define “national interest” and set out specific criteria that must be met by the proponent of a project in order for the project to be found to be in the national interest. (s 4.1) This OIC may also include the start of the list of the “national interest projects” that will later be found in Schedule 1 of the Act. Projects can continue to be added to the Schedule of projects via OIC for five years following the enactment of the Act. When identifying these national interest projects, the Government may, but is not required to, consider the extent to which the project can:

- strengthen Canada’s autonomy, resilience and security;
- provide economic or other benefits to Canada;
- have a high likelihood of successful execution;
- advance the interests of Indigenous peoples; and
- contribute to clean growth and to meeting Canada’s objectives with respect to climate change. (s 5(6))

It is very likely that national interest projects will include projects such as highways, railways, ports, airports, oil pipelines, critical minerals, mines, nuclear facilities, and electricity transmission systems. (Lindgren 2025) In Manitoba, it has been speculated that projects likely to be included on the national project list include the Port of Churchill and supporting infrastructure – electrical transmission lines, pipelines, transportation routes, etc., critical mineral extraction projects, energy generation projects (e.g., large hydroelectric dam).

Before recommending a project be added to the national interest list (via OIC), the new *Building Canada Act* requires the Minister to consult with a range of other stakeholders, including other federal ministers, provincial or territorial governments and Indigenous peoples whose constitutionally protected rights may be adversely affected by a national interest project. (s 5(7)) The Minister is also required to publish a notice in the Canada Gazette before adding the name of a project to the Schedule of projects. Although the Press Release issued by Intergovernmental Affairs indicates that publication of the notice in the Canada Gazette for 30 days will mean “everyone including the public has an opportunity to provide feedback on this choice” (Intergovernmental Affairs 2025), the provisions of the *Building Canada Act* do not seem to include any requirements for public participation. Instead, any provisions that include the public refer to the types of information that must be published about national interest projects, including reasons for decisions. Since the enactment of the *Building Canada Act* in July, the federal government has held a First Nations Major Projects Summit, although it has been criticized by attendees. (Balkissoon 2025; Assembly of Manitoba Chiefs 2025; Dreaver 2025; Jago 2025) No public consultation has occurred.

The review process for national interest projects will conclude with the Minister responsible issuing a single set of binding conditions for the project. “These conditions will include mitigation measures to protect the environment and accommodation measures to respect the rights of Indigenous Peoples.” (Government of Canada 2025) The Government plans to take a ‘one project, one review’ approach, which includes “working with provinces and territories to eliminate project assessment duplication and build a more efficient and timely

---

<sup>2</sup> In an Order in Council made on July 3, 2025, the President of the King’s Privy Council for Canada was designated as the Minister for the purposes of the *Building Canada Act*. (SI/2025-0089).

system.” (Government of Canada 2025)

A Major Projects Office will be established to help implement the new process for national interest projects and maintain an online Public Registry.<sup>3</sup> The office will be supported by an Indigenous Advisory Council, with First Nation, Inuit, and Métis representatives, to “advise the Minister on issues related to the implementation of the *Building Canada Act*, including best practices for Indigenous consultations.” (Government of Canada 2025)

### Opposition to the *Building Canada Act*

The passage of Bill C-5, with particular focus on the *Building Canada Act*, was very contentious, in part due to the unprecedented speed at which the Bill progressed through the Parliamentary process. The Bill was introduced on June 6, 2025 and given Royal Assent 20 days later. This significantly limited Indigenous and public consultation prior to and during the progress of the Bill through the House of Commons and the Senate. There have also been a range of Indigenous, environmental, and public interest experts who have concerns with the new and largely undefined regulatory approval process for national interest projects and other recent measures taken by the federal government to adjust federal impact assessment requirements. (Lindgren 2025; Canadian Partnership for Children’s Health and Environment; WCEL 2025; Assembly of First Nations; Assembly of Manitoba Chiefs 2025; Jago 2025; Dreaver 2025; Ecojustice 2025; Environmental Defence 2025)

Key concerns with the *Building Canada Act* and other measures to reduce regulatory timelines, facilitate approval of critical mineral, energy, and “national interest” projects include:

- Impacts on Indigenous Rights Holders: There are significant concerns about the impact of new federal announcements on Indigenous rights holders. There appears to be significant potential to conflict with existing Indigenous Consultation requirements and federal commitments made to implement UNDRIP, among other things.
- Environmental Impacts: A variety of stakeholders are concerned that the lack of environmental considerations in decision-making criteria (e.g., national interest projects) could lead to the approval of environmentally harmful fossil fuel and critical mineral projects (among others) that could cause significant environmental impacts.
- Transparency and Clarity: The new assessment and approval process for “national interest” projects is unclear. Right now, there is no definition of “national interest” or clarity around the criteria to be used to determine whether a project is in the national interest. Other policy announcements have been similarly ambiguous – e.g., announcing reduced approval timelines, but not providing details about how this will actually be accomplished without violating other existing legal requirements.
- Meaningful Public Participation: The development of Bill C-5 and other policy changes discussed above did not involve opportunity for meaningful public participation. The new regulatory framework for “national interest” projects also excludes opportunity for public participation. The only mention of the public is in relation to access to information and

---

<sup>3</sup> The public registry must include, for each project: a detailed description of the project and the reasons why it is in the national interest; the extent to which the project is expected to meet the national interest outcomes (s 5(6)); detailed cost estimates that do not include private sector commercially sensitive financial information; and the estimated timelines for completion of the project.

the publication of project information online. The process for Bill C-5 has been described as “anti-democratic” due to this complete absence of public participation (WCEL 2025).

- **Conflicts with Existing Regulatory Requirements:** Recent changes appear to conflict with existing regulatory safeguards on environment and human health – i.e., efforts to reduce regulatory requirements for assessment and approval processes (including consideration of environmental and health impacts) conflict with the goals of other regulatory commitments, such as those under the *Canadian Environmental Protection Act* and the *Impact Assessment Act*.

On July 16, 2025, nine First Nations<sup>4</sup> from Ontario initiated litigation in the Ontario Superior Court seeking to stop the *Building Canada Act* (and similar provincial legislation – Bill 5) on the basis that these regulatory changes severely threaten their rights to self-determine their ways of life on their homeland territories, the environment and fundamental human freedoms. (Woodward and Co. 2025; Blackburn 2025; Jones 2025) This litigation is ongoing.

### **3. What are the Advantages and Disadvantages of Regulatory Efficiency Measures?**

Among experts, there seems to be no consensus on the advantages and disadvantages of “regulatory efficiency”, and whether or not “regulatory efficiency” should be prioritized in environmental governance processes. It seems largely dependant on the specific context, the stakeholders involved, and if the efficiency measures are considered to be ‘successful’ or not (i.e., do not disrupt existing regulatory processes in a negative way).

Recognized advantages of regulatory efficiency measures most often articulated in Canada include:

- Keeping a jurisdiction’s economy competitive,
- Predictability,
- Creating more, well paying jobs,
- Helping to facilitate the approval of proposed developments (e.g., clean growth projects),
- Creating more economic opportunities in rural and remote parts of the country,
- Facilitating meaningful public engagement, and
- Improving transparency and accountability. (Ministerial Working Group 2024)

Government policy makers and industry stakeholders seem to focus almost entirely on the potential “benefits” of regulatory efficiency measures (discussed above), with little acknowledgement of the potential disadvantages of adopting regulatory efficiency measures. However, academics and environmental legal experts have recognized a range of problems and negative consequences associated with regulatory efficiency, including:

- **Loss of effectiveness:** Regulatory “effectiveness” is another colluded term that has been linked by Government and industry to discussions of efficiency. (Canada 2024; Mining Association of Canada n.d.; Food and Beverage Canada n.d.) While regulators will often suggest that efficiency leads to more effectiveness, there is potential for the regulatory

---

<sup>4</sup> The First Nations involved include Alderville, Apitipi Anicinapek, Aroland, Attawapiskat, Fort Albany, Ginoogaming, Kitchenuhmaykoosib Inninuwug, Oneida Nation of the Thames and Wabauskang First Nation.

approaches adopted on the basis of “efficiency” to negatively impact the effectiveness of the regulatory process. (Cleland and Gattinger 2021) How effectiveness is defined and measured depends on the specific context, but can include economic cost-benefit analysis and consideration of the regulatory system’s functionality, adaptability, and legitimacy. (Cleland and Gattinger 2021)

- Inflexibility: e.g., rigid timelines. Putting strict restrictions on the amount of time stakeholders have to provide input or how long the entire IA process should take can create barriers to public participation and the meaningful involvement of other stakeholders, like Indigenous rights-holders. Creating rigid timelines may increase the likelihood that important data is excluded from the process (e.g., traditional and local knowledge, and the potential for IA decisions to be challenged in court.
- Resource Intensive: Some efficiency measures may waste resources if not effectively implemented and based on the practical evaluation of regulatory processes. For example, Manitoba’s one-for-one rule required a considerable number of government employees to keep track of the number of regulations, turned out to create little practical value.<sup>5</sup>
- Lack of coordination: When regulatory requirements are removed from regulatory processes it can lead to inconsistencies between different jurisdictions and a confusing mix of legal processes to follow. For example, substituting part of one jurisdiction’s IA requirements for another’s could lead to “Frankenstein” assessments with bits cut and pasted from here and there with little or no connection to each other. (WCEL 2024)
- Barriers to meaningful public participation: Regulatory changes focused on reducing regulatory requirements and increasing the speed of government processes can create a number of barriers that reduce opportunity for meaningful public participation. For example, rigid or shortened timelines for public feedback, reduced opportunity for public participation (e.g., written comments vs a full public hearing).
- Incompatibility with Indigenous-led Processes: Indigenous peoples have constitutionally protected rights requiring government to meaningfully consult, in good faith, about decisions that might affect their rights. During the consultation process, Indigenous nations have their own laws and decision-making processes that Crown governments must respect, and that operate along their own timelines. Proposed efficiency measures, such as creating rigid timelines, may increase the likelihood that decisions are challenged in court, if a lack of flexibility (or other barriers created by efficiency measures) prevents meaningful consultation with Indigenous peoples. (Federal Court 2025; Gunn and McKay 2025) See our *Memo on Indigenous-led IA Processes* for more information on Indigenous leadership in IA.

#### **4. How is Regulatory Efficiency Achieved?**

There is currently no consensus on how regulatory efficiency should be achieved. This is likely due to the fact that there is no recognized best practice definition or approach for

---

<sup>5</sup> For example, see the discussion in the next section of the “reducing red tape” measures that have been implemented in Manitoba.

regulatory efficiency in any context, including impact assessment. The concept of “regulatory efficiency” seems to be a subjective term that is achieved in differing ways, depending on the context and the perspective being shared.

In an environmental governance context, regulatory efficiency measures must be implemented carefully to avoid compromising core principles of environmental stewardship and protection. Keeping these core principles in mind, additional themes for improving efficiency drawn from IA literature and past and present government strategies, include:

- a) **Timeliness:** e.g., mandatory timelines. Government actions aimed at improving efficiency often involve the reduction of regulatory timelines and can involve the adoption of new limits. For example, the government of Canada has committed to shortened timelines for clean growth projects and limited the number of extensions that can be granted under the IAA. However, there is a lack of evidence that rigid, shortened timelines actually improve the efficiency of impact assessment processes. (Collard, et. al. 2024) Other approaches to facilitating timeliness include improving the readability of impact assessment documents, including the production of easily readable summaries. This approach is considered to benefit all stakeholders and result in significant time savings. For example, Emily McKie suggests that “Regulators could save approximately 77% (between 32% and 89%) of their time reading EIA summaries if they received them in an easily-readable format.” (McKie 2022a, 2022b) Based on the lack of supporting data to show the actual benefit of streamlining regulatory processes, there appears to be a need for more independent research exploring the timing of IA processes in order to obtain more transparent data about optimal timelines.
- b) **Reducing Regulatory Requirements:** The idea of “streamlining” regulatory processes is a popular one in the context of regulatory efficiency. For example, in Manitoba, there have been ongoing efforts to improve the efficiency of provincial governance processes through the reduction of “red tape”. (Manitoba 2017, 2019, 2024; Da Silva 2024; Kush; Canadian Federation of Independent Businesses; Government of Manitoba 2024; OECD 2006) In 2017, *The Regulatory Accountability Act* (RAA) was enacted to create a framework to manage regulatory requirements. The RAA also required the provincial government and Crown corporations to track and report on the number of regulations that exist and remove a regulation for every new requirement that was introduced. (Da Silva 2024) In 2024, the RAA was repealed and replaced with *The Regulatory Accountability Reporting Act* (RARA) by the NDP government. As stated by the Minister of Justice, “The former government had a convoluted system that forced our civil servants to simply count regulations rather than actually making meaningful changes to reduce red tape.” The new RARA is considered to be a means of empowering the civil service to make “smart decisions” about ways to reduce bureaucracy rather than “mindless counting”. The regulatory reform is intended to eliminate “a huge burden on the public service and on the requirement to simply track one regulation in, one regulation out.” (Da Silva 2024) The RARA requires the provincial government to report on initiatives to eliminate duplicate and inconsistent regulatory requirements, as well as evaluate the effectiveness of regulations.

- c) **Predictability and Certainty:** Common objectives of regulatory efficiency actions are to improve predictability and certainty for proponents, as well as other stakeholders involved in regulatory processes. This includes the adoption of clear rules, detailed information about the process, and clarity around the assignment of responsibility for different aspects of the IA process. For example, the new Federal Permitting Dashboard for clean growth developments will provide a public overview of the progress of a project as it moves through the regulatory process.
- d) **Cooperation:** The efficiency mechanisms discussed in this memo have all include requirements or recommendations for the improved cooperation of all parties within impact assessment and other regulatory decision-making processes. As recommended by IA experts, “governments wanting to pursue efficiency should be focused on the most effective and collaborative ways of ensuring environmental decision-making.” (WCEL 2024) A recognized obstacle of efficiency is inadequate coordination, whether between different governments or between different departments and assessment authorities within the same government. Thus, an opportunity to gain efficiencies is to encourage and facilitate “the close involvement of federal regulatory departments, knowledge holders and independent experts, beginning in the earliest stages and continuing throughout assessments”. (WCEL 2024) This can include the signing of cooperation agreements and the facilitation of harmonized and Indigenous-led IA processes.
- e) **Accountability and Transparency:** Measures focused on efficiency that also facilitate accountability and transparency are commonly recommended in corresponding policies and plans. This includes reporting requirements, clear identification of roles and responsibilities of regulatory officials, regular review and adjustment of efficiency measures and corresponding regulatory requirements to address problems that have emerged.
- f) **Planning & Coordination:** In alignment with other efficiency measures focused on cooperation, transparency, and relationship building with other stakeholders, government plans and expert recommendations usually address the need for planning and coordination before, during, and after regulatory processes have occurred. For example, the use of more regional cumulative effects assessment and strategic assessment could result in efficiencies later in the decision-making process based on the increased range of data that would be available to decision-makers and proponents. (TAC 2024) Other ways to improve planning and coordination include early, meaningful engagement with Indigenous rights holders and the public, as required during the IAA’s planning phase.
- g) **Meaningful involvement of Indigenous Rights holders:** In Canada, efficient regulatory processes require direct involvement of Indigenous rights holders throughout. The facilitation of Indigenous-led IA processes and meeting the governments constitutional and international legal obligations (e.g., the duty to consult under s 35 of the Canadian constitution; Free Prior and Informed Consult under the United Nations Declaration of the Rights of Indigenous Peoples) are also recommended approaches for facilitating regulatory efficiency as it helps reduce the likelihood of lengthy and costly litigation, which can cause significant regulatory delay and contribute to process uncertainty.

## CONCLUSION:

In Canada, government efforts to facilitate “regulatory efficiency” seem to be focused on reducing regulatory requirements and speeding up approval processes. However, as discussed in this memo, there are a range of different requirements and considerations to address when seeking to achieve regulatory efficiencies. The measures proposed by government and industry tend to focus on the potential benefits of efficiency measures, whereas IA experts and academics tend to focus on the potential negative consequences. Experts tend to recommend a balanced approach to efficiency that involves consideration of the overall function and effectiveness of the legislative framework or system as a whole.

Although there is no consensus on what regulatory efficiency means and how to achieve it, it is clear that it involves more than just streamlining regulatory processes to reduce timelines and legal requirements. To facilitate “regulatory efficiency” in a way that benefits all stakeholders, at a minimum, process reforms need to be implemented to facilitate:

- Timeliness,
- Predictability and Transparency,
- Cooperation,
- Meaningful Public Participation,
- Accountability,
- Planning & Coordination, and
- Meaningful involvement of Indigenous Rights holders.

The Canadian federal government in particular, emphasizes the need for cooperation with different levels of government and Indigenous rights holders in IA and other regulatory approval processes.

However, despite the benefits promoted by government and industry stakeholders, recently introduced measures at the federal level to achieve “regulatory efficiency” and reform impact assessment and licensing processes to facilitate the approval of “national interest” projects have been heavily criticized by a range of different Indigenous, ENGO, and IA experts (among others). This includes concerns about a lack of transparency and clarity, impacts on Indigenous rights holders, exclusion of meaningful public participation opportunities, limited to no consideration of environmental impacts, and potential conflicts with existing federal laws and legal principles. Moving forward, caution should be taken by regulators to focus on more than just regulatory efficiency and instead aim for a balance of efficiency, effectiveness, and fairness.

## Resources:

Adkins, S., Jamieson, L., Oleniuk, T-L., and Spencer, S. "UNDRIP as a Framework for Reconciliation in Canada: Challenges and Opportunities for Major Energy and Natural Resources Projects." *Alberta Law Review*, 58(2) (December 2020): pp. 339–369.

Assembly of Manitoba Chiefs, "Press Release: AMC Responds to Federal Summit on Bill C-5: "We Are Not Stakeholders, We Are Sovereign Nations"" (July 17, 2025), [https://manitobachiefs.com/press\\_releases/amc-responds-to-federal-summit-on-bill-c-5-we-are-not-stakeholders-we-are-sovereign-nations/](https://manitobachiefs.com/press_releases/amc-responds-to-federal-summit-on-bill-c-5-we-are-not-stakeholders-we-are-sovereign-nations/)

Balkissoon, Denise, "Nation-building without First Nations?" (The Narwhal: July 25, 2025), <https://thenarwhal.ca/newsletter-first-nations-bill-c-5/>

Blackburn, Mark, "9 First Nations challenge federal and provincial project laws in court" (July 15, 2025; APTN News), <https://www.aptnnews.ca/national-news/9-first-nations-challenge-federal-and-provincial-project-laws-in-court/>

Canada, the *Budget Implementation Act, 2024, No. 1*, SC 2024, c 17 [Bill C-69 2024]

Canada, *One Canadian Economy Act*, SC 2025 c 2 [Bill C-5]

Canada, the *Building Canada Act*, SC 2025 c 2, Part 2

Canada, Order in Council, under the *Building Canada Act*, 2025-0567, SI/2025-0089 (July 3, 2025) <https://orders-in-council.canada.ca/attachment.php?attach=47463&lang=en> PC Number: 2025-0567; Registration: SI/2025-0089; Publication Date: 2025-07-16

Canada, Press Release: Directive for Clean Growth Projects, (July 2024) <https://www.canada.ca/en/privy-council/news/2024/07/government-of-canada-announces-cabinet-directive-for-clean-growth-projects.html>

Canada (Cabinet). "Cabinet Directive on Regulatory and Permitting Efficiency for Clean Growth Projects." 5 July 2024 (2024a). <https://www.canada.ca/en/privy-council/services/clean-growth-getting-major-projects-done/cabinet-directive.html>, 11 May 2025.

Canada (Department of Finance). "2024 Fall Economic Statement." 16 December 2024 (2024b). Retrieved from <https://budget.canada.ca/update-miseajour/2024/report-rapport/FES-EEA-2024-en.pdf>, 10 May 2025.

Canada Electricity Advisory Council (CEAC). "Powering Canada: A Blueprint for Success." May 2024. Retrieved from <https://natural-resources.canada.ca/sites/nrcan/files/energy/electricity/Canada-Electricity-Advisory-Council-Final-Report-2024.pdf>, 10 May 2025.

Canadian Federation of Independent Business, "A step in the wrong direction: CFIB's statement on Manitoba government's decision to repeal the Regulatory Accountability Act" (March 13, 2024), <https://www.cfib-fcei.ca/en/media/a-step-in-the-wrong-direction-cfibs-statement-on-manitoba-governments-decision-to-repeal-the-regulatory-accountability-act>

Canadian Free Trade Agreement Secretariat (CFTAS). "Canadian Free Trade Agreement: Consolidated Version," 17 April 2015. Retrieved from [https://www.cfta-alec.ca/wp-content/uploads/2025/04/CFTA-Consolidated-Text-April-17-2025\\_EN-1.pdf](https://www.cfta-alec.ca/wp-content/uploads/2025/04/CFTA-Consolidated-Text-April-17-2025_EN-1.pdf), 8 May 2025.

Canadian Partnership for Children's Health and Environment (June 19, 2025), "Letter: Bill C-5 jeopardizes the health of children and other at-risk populations, now and into the future", online: <https://healthyenvironmentforkids.ca/2025/06/19/cpche-urges-federal-leaders-to-reconsider-bill-c5/>

Cleland, Michael and Monica Gattinger (2021) *Energy Project Decision Systems for Net Zero: Designing for Functionality, Adaptability and Legitimacy*. Ottawa: Positive Energy, University of Ottawa. [https://www.uottawa.ca/research-innovation/sites/g/files/bhrsdk326/files/2022-08/designing\\_energy\\_project\\_decision\\_systems\\_web.pdf](https://www.uottawa.ca/research-innovation/sites/g/files/bhrsdk326/files/2022-08/designing_energy_project_decision_systems_web.pdf)

Collard, R., Dempsey, J., Al Bouchi, Y., and Bawaan, N. “Does regulation delay mines? A timeline and economic benefit audit of British Columbia mines.” *FACETS*, 9(1) (January 2024): pp. 1–12. DOI: 10.1139/facets-2024-0083.

Collison, B.R., Reid, P.A., Dvorski, H., Lopez, M.J., Westwood, A.R., and Skuce, N. “Undermining environmental assessment laws: post-assessment amendments for mines in British Columbia, Canada, and potential impacts on water resources.” *FACETS*, 7(1) (January 2022): pp. 611–638. DOI: 10.1139/facets-2021-0106.

Da Silva, Danielle, “Rework of Regulatory Accountability Act leads trio of new bills” (Winnipeg Free Press, March 12, 2024), online: <https://www.winnipegfreepress.com/breakingnews/2024/03/12/rework-of-regulatory-accountability-act-leads-trio-of-new-bills>;

Dreaver, Santana, “B.C. chief says Bill C-5 meeting with Carney 'did not resolve concerns, it reinforced them'” (July 19, 2025; CBC News), <https://www.cbc.ca/news/canada/british-columbia/first-nations-summit-bill-c-5-bc-chiefs-1.7589279>

Ecojustice, “Press Release: Ecojustice slams Bill C-5 as a threat to democracy and the environment” (June 6, 2025), online: <https://ecojustice.ca/news/ecojustice-slams-bill-c-5-as-a-threat-to-democracy-and-the-environment/>

Energy Institute (author unknown). *Statistical Review of World Energy* (73rd edn). June 2024. Retrieved from [https://www.energyinst.org/\\_data/assets/pdf\\_file/0006/1542714/684\\_EI\\_Stat\\_Review\\_V16\\_DIGITAL.pdf](https://www.energyinst.org/_data/assets/pdf_file/0006/1542714/684_EI_Stat_Review_V16_DIGITAL.pdf), 10 May 2025.

Environmental Defence, “Press Release: Senate Urged to Fix Bill C-5 to Protect Democracy and the Environment” (June 24, 2025), online: <https://environmentaldefence.ca/2025/06/24/senate-urged-to-fix-bill-c-5-to-protect-democracy-and-the-environment/>

Federal Court, *Keabaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319

Food and Beverage Canada, “Regulatory Effectiveness”, (n.d.) <https://fbc-abc.com/regulatory-effectiveness/>

Gage, A. “The Smoking Gun: Who was the real author of the 2012 omnibus bills?” *West Coast Environmental Law*, 10 January 2013. Retrieved from <https://www.wcel.org/blog/smoking-gun-who-was-real-author-2012-omnibus-bills>, 10 May 2025.

Government of Manitoba, “Manitoba Government Introduces Measures that would Reduce Red Tape” (March 12, 2024), <https://news.gov.mb.ca/news/index.html?item=62437>

Gunn, Kate and Nico McKay, *UNDRIP at the Federal Court: Case Comment on Keabaowek First Nation v. Canadian Nuclear Laboratories*, (First Peoples Law Blog, March 20, 2025), online, <https://www.firstpeopleslaw.com/public-education/blog/undrip-at-the-federal-court-case-comment-on-keabaowek-first-nation-v-canadian-nuclear-laboratories>

Hendriwardani, M. and Ramdoo, I. *Critical Minerals: A Primer*. International Institute for Sustainable Development, September 2022. Retrieved from <https://www.iisd.org/system/files/2023-09/critical-minerals-primer-en.pdf>, 11 May 2025.

Impact Assessment Agency of Canada, *Commitment Statement: Coordination of Permitting for Critical Mineral Projects*, (2025) online: <https://www.canada.ca/en/impact-assessment-agency/corporate/acts-regulations/legislation-regulations/environmental-assessment-agreements/commitment-statement-coordination-permitting-critical-mineral-projects.html> [IAAC 2025a]

Impact Assessment Agency of Canada, Personal Communication between staff and members of the Canadian Environmental Network (RCEN), Impact Assessment Caucus in 2025. [IAAC 2025b]

Intergovernmental Affairs, “Backgrounder: Implementation of Bill C-5: One Canadian Economy” (2025, Government of Canada), online: <https://www.canada.ca/en/intergovernmental-affairs/news/2025/06/implementation-of-bill-c-5-one-canadian-economy.html>

Government of Canada, Advice to the Agency from TAC 2023-24 - Project List Review (2023), <https://open.canada.ca/data/en/info/908e9f16-f132-4799-8cc4-21332ce07548/resource/02f2b402-caad-4d9a-bdf7-b8c24de023c1>

Jago, Robert, “Opinion: I was at the First Nations C-5 summit. Carney isn’t listening” (July 24, 2025; The Narwhal), <https://thenarwhal.ca/first-nations-summit-bill-c-5/>

Johnston, A. “The efficiency house of mirrors.” *West Coast Environmental Law*: 28 August 2024. Retrieved from <https://www.wcel.org/blog/efficiency-house-mirrors>, 10 May 2025. [Johnston 2024]

Jones, Allison, “9 Ontario First Nations ask for injunction against Bill 5, say law represents ‘clear and present danger’ (July 15, 2025; CBC News), <https://www.cbc.ca/news/canada/toronto/first-nations-legal-challenge-against-ontario-bill-five-1.7585361>

Kaiser, C. and McCarney, G. “Agile Regulation for Clean Energy Innovation: Examining the Early Experience of Two Canadian Institutions.” *Energy Regulation Quarterly*, 9(4) (December 2021). Retrieved from <https://energyregulationquarterly.ca/articles/agile-regulation-for-clean-energy-innovation-examining-the-early-experience-of-two-canadian-institutions>, 10 May 2025.

Keen, M., Manhas, M., and Russell, E. “Who Pays for the Energy Transition?” *Alberta Law Review*, 61(2) (December 2023): pp. 151–181.

Kneen, Jamie, “The Building Canada Act Is a Shocking Power Grab – And Powerful Political Theatre. What Happens Next?” (June 20, 2025; MiningWatch Canada), <https://miningwatch.ca/blog/2025/6/20/building-canada-act-shocking-power-grab-and-powerful-political-theatre-what-happens>

Kusch, Larry, “Red tape hunt saps Hydro resources: Crown corporation forced to redeploy staff to comply with provincial legislation” (Winnipeg Free Press, Oct 4, 2017), <https://www.winnipegfreepress.com/business/2017/10/04/red-tape-hunt-saps-hydro-resources>

Lindgren, Richard D., Blog: The Public Interest Need to Reconsider or Amend Bill C-5 (Building Canada Act) (June 11, 2025, Canadian Environmental Law Association), online: <https://cela.ca/blog-the-public-interest-need-to-reconsider-or-amend-bill-c-5-building-canada-act/>

Lombardi Garbellini, G., Westbrook, C.J., and Noble, B.F. “Analysis of EA as an instrument for wetland protection: insights from the mining sector in western and northern Canada.” *Impact Assessment and Project Appraisal*, 43(1) (2025): pp. 70–84. DOI: 10.1080/14615517.2025.2460316.

Manitoba, *The Regulatory Accountability Act*, SM 2017, c. 21.

Manitoba, *The Reducing Red Tape and Improving Services Act*, 2019, SM 2019, c 11.

Manitoba, *The Regulatory Accountability Reporting Act*, SM 2024, c 33.

McKie, Emily, “Improving Regulatory Efficiency with Readability” (Presentation for the 2022 IAIA Conference), [https://conferences.iaia.org/2022/presentations/123\\_McKie\\_Improving%20Regulatory%20Efficiency\\_Powerpoint.pdf](https://conferences.iaia.org/2022/presentations/123_McKie_Improving%20Regulatory%20Efficiency_Powerpoint.pdf) [McKie 2022a]

McKie, Emily L.S., “Enhanced Summaries: A Quantitative Analysis of the Effects of Readability on Regulators in Environmental Impact Assessment” (2022), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4066153](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4066153) [McKie 2022b]

Mining Association of Canada, “Regulatory Effectiveness”, (n.d.) online: <https://mining.ca/our-focus/regulatory-effectiveness/>

Ministerial Working Group on Regulatory Efficiency for Clean Growth Projects, *Building Canada’s Future: A plan to modernize federal assessment and permitting processes to get clean growth projects built faster* (2024). Retrieved from <https://www.canada.ca/content/dam/pco-bcp/images/pco2/clean-growth/plan-eng.pdf>, 10 May 2025. [Ministerial Working Group, 2024]

OECD, “Cutting Red Tape: National Strategies for Administrative Simplification” (2006).

Parfitt, B. "Ben Parfitt: Site C dam to electrify LNG industry is far from clean." *Vancouver Sun*, 4 March 2019. Retrieved from <https://vancouversun.com/opinion/op-ed/ben-parfitt-site-c-dam-to-electrify-lng-industry-is-far-from-clean>, 10 May 2025.

Powell, Brenda Heelan, "Bill C-5 and the Building Canada Act: Is this a case of haste makes waste?" (June 12, 2025), online: <https://elc.ab.ca/post-library/bill-c5-building-canada-act-analysis/>

Richardson, K., Steffen, W., Luckt, W. et al. "Earth beyond six of nine planetary boundaries." *Science Advances*, 9(37) (September 2023): 16 pages (DOI: 10.1126/sciadv.adh2458).

Sinclair, A. J., Doelle, M., & Gibson, R. B. (2022). Next generation impact assessment: Exploring the key components. *Impact assessment and project appraisal*, 40(1), 3-19.

Supreme Court of Canada, *Reference Re: Impact Assessment Act 2023* SCC 23

Trottier-Chi, C. "Streamlining clean growth project approvals with strategic assessments." Canadian Climate Institute, 30 November 2023. Retrieved from <https://climateinstitute.ca/publications/streamlining-clean-growth-project-approvals/>, 10 May 2025.

Trottier-Chi, C. and Fleury, P. "Four principles for streamlining regulatory review to accelerate Canada's clean energy transition." Canadian Climate Institute, 30 November 2023. Retrieved from <https://climateinstitute.ca/four-principles-for-streamlining-regulatory-review-to-accelerate-canadas-clean-energy-transition/>, 10 May 2025.

Twyman, R., Berg, L-M., and Riley, M. "Recent Legislative and Regulatory Developments of Interest to Energy Lawyers." *Alberta Law Review*, 59(2) (December 2021): pp. 527–562.

Unger, Jason, "Federal "Smart Regulation": Does the federal regulatory policy have the requisite grey matter?" (ELC News Brief) Vol 21, No 1, p 1 (2006).

West Coast Environmental Law, "Brief: Amendments to the Impact Assessment Act" (2024)

West Coast Environmental Law (June 16, 2025) "Bill C-5: Building Canada Act, or the Anti-Democracy, Nation-Dividing Act?", online: <https://www.wcel.org/blog/bill-c-5-building-canada-act-or-anti-democracy-nation-dividing-act>

Wood, S. and Johannson, L. "Six Principles for Integrating Non-Governmental Environmental Standards into Smart Regulation." *Osgoode Hall Law Journal*, 46(2) (Summer 2008): pp. 345–395. DOI: 10.60082/2817-5069.1197.

Woodward and Co., "Press Release: First Nations Launching Major Constitutional Challenge to Kill Bill 5, the Ford Government's Megadevelopment Law and Bill C5, Canada's Megaprojects Law" (July 15, 2025), <https://www.newswire.ca/news-releases/first-nations-launching-major-constitutional-challenge-to-kill-bill-5-the-ford-government-s-megadevelopment-law-and-bill-c5-canada-s-megaprojects-law-891903746.html>