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National Engagement Strategy

Indigenous Ministerial Arrangements Regulations



Canada 

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Executive Summary

In 2019, the *Canadian Energy Regulator Act (CERA)* replaced the *National Energy Board Act* as part of the federal government's environmental and regulatory reviews. As part of this process, Natural Resources Canada (NRCan) engaged with Indigenous groups across Canada to better understand their views on the regulation of energy projects. Section 78 of the *CERA* provides authority for the Governor in Council to make Indigenous Ministerial Arrangements Regulations (IMARs), which would allow the Minister to enter into arrangements with Indigenous governing bodies to exercise the powers or perform the specified duties and functions under the Act as stated in the agreement.

The IMARs could enable Indigenous governing bodies to engage in and actively participate in the regulatory process for CER regulated infrastructure such as pipelines and powerlines within federal jurisdiction, if an arrangement is reached. It will also support Canada in its commitment to renew relationships with Indigenous Peoples, based on recognition of rights, respect, cooperation, and partnership.

The National Engagement Strategy outlined here includes five phases with Phase 1 Early Touch-Base completed in 2022-2023. Phase 2 Engagement and Regulatory Design is launching in 2024-25 with the goal of learning how and if Indigenous groups wish to be involved in subsequent phases of engagement and to gauge the level of interest in being authorized under the *CERA*; Phase 3 Regulatory Development is expected to begin in 2025-26 where the regulations will be designed and drafted if Phase 2 yields an interest from Indigenous groups being authorized under the *CERA*; Phase 4 Wrap-up will aim to seek approval of the regulations in 2026-27. Finally, Phase 5 Administrative Process for Arrangements will conclude at the end of 2027-28, completing the successful achievement of IMARs and involve the actual authorization of Indigenous groups.

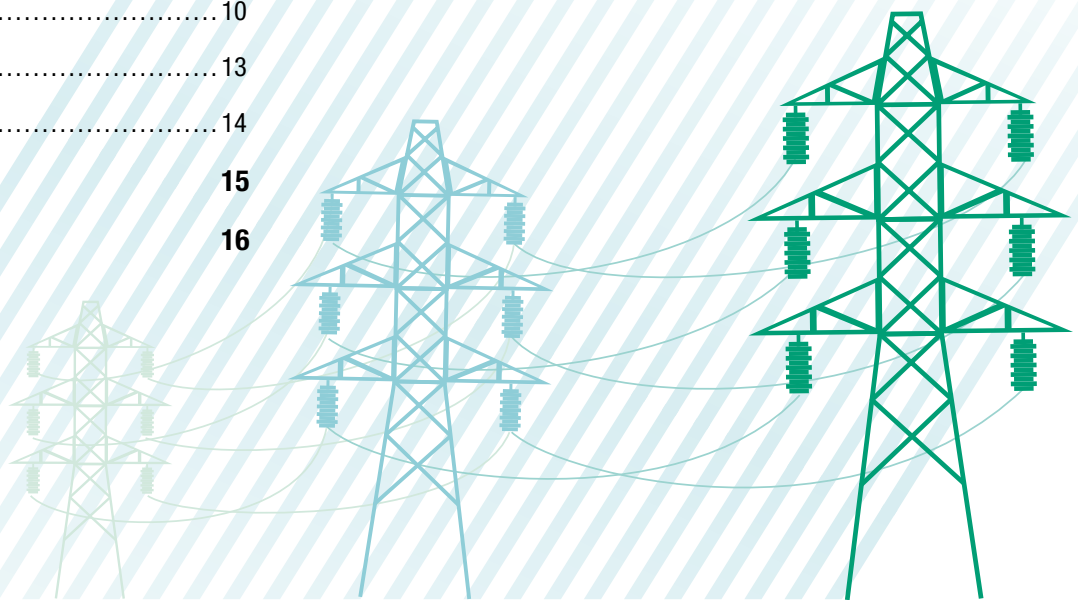
This National Engagement Strategy describes the approach on how engagement will solicit views from Indigenous governing bodies' involvement in the regulatory development process.

To implement the National Engagement Strategy, NRCan has put in place a dedicated IMARs team to lead this work and ensure it moves forward in a timely manner.



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List of Acronyms

AFN: Assembly of First Nations

APM: Action Plan Measure

DoJ: Department of Justice

CER: Canada Energy Regulator

CERA: Canadian Energy Regulator Act

FNMPC: First Nations Major Project Coalition

IAAC: Impact Assessment Agency of Canada

IMARs: Indigenous Ministerial Arrangements Regulations

ITK: Inuit Tapiriit Kanatami

MNC: Métis National Council

NRCan: Natural Resources Canada

OPR: Onshore Pipeline Regulations

RIAS: Regulatory Impact Analysis Statement

TBS: Treasury Board Secretariat

UN Declaration: United Nations Declaration on the Rights of Indigenous Peoples



Context

Since 2017, NRCan has engaged with Indigenous groups across Canada to better understand their views on the regulation of energy projects. This process included an expert panel, several discussion papers, dozens of engagement sessions across Canada, and hundreds of submissions from Indigenous groups. The feedback received helped shape key Indigenous provisions in the *CERA*, which replaced the *National Energy Board Act* in 2019. Notably, the authority to put in place regulations, such as the IMARs, under the *CERA* resulted from what was heard throughout this process.



The Indigenous Ministerial Arrangements Regulations (IMARs) are stipulated in the *CERA* under sections 77 and 78. Section 77 provides

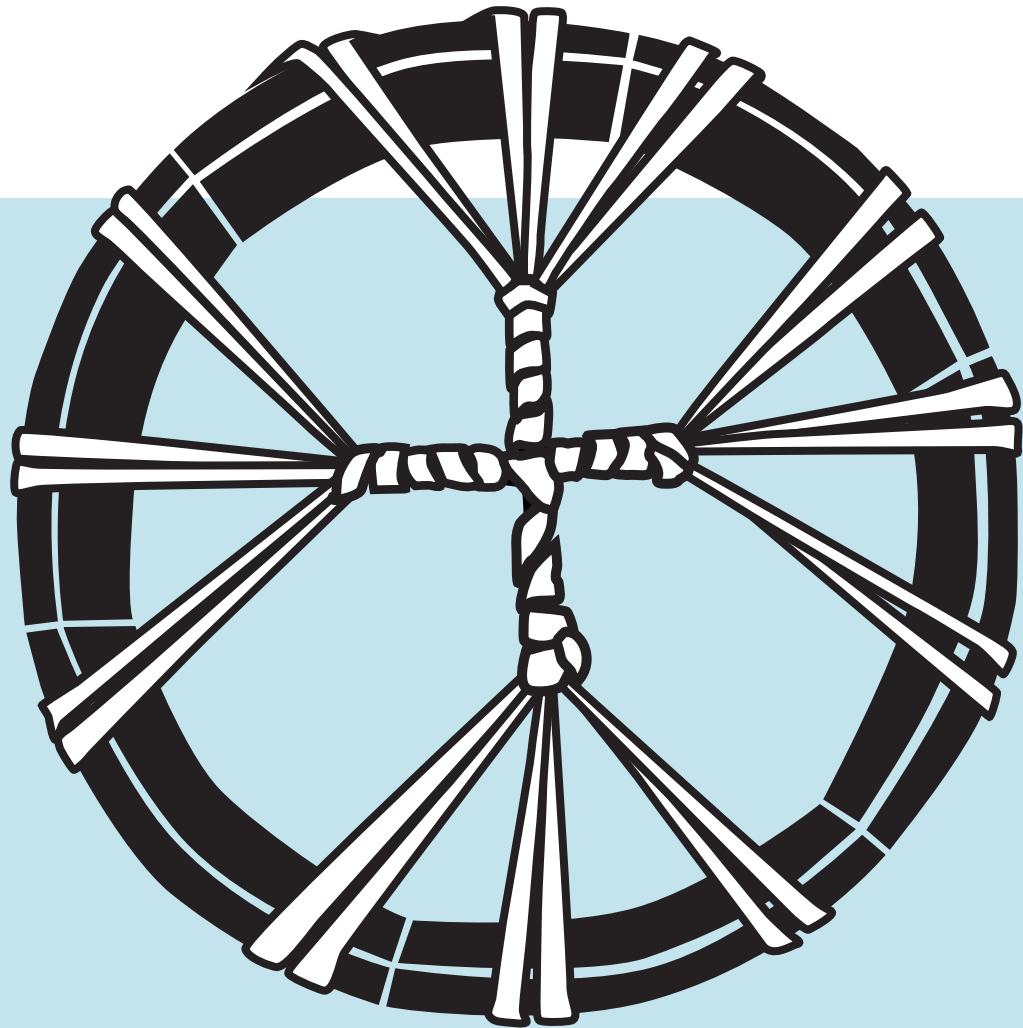
“ If regulations are made under section 78, the Minister may, in accordance with those regulations, enter into arrangements with Indigenous governing bodies for carrying out the purposes of this Act and may authorize any Indigenous governing body with whom an arrangement is entered into to exercise the powers or perform the duties and functions under this Act that are specified in the arrangement. ”

Ultimately, IMARS could enable Indigenous communities governing bodies to engage in and actively participate in the regulatory process for CER regulated infrastructure such as pipelines and powerlines within federal jurisdiction, if an arrangement is reached.

Purpose

This National Engagement Strategy describes the approach to soliciting views from Indigenous groups on their desired involvement in the regulatory development process.

Over the course of 2022-2023, NRCan, conducted Phase 1 Early Touch-Base with Indigenous groups, landowner groups, and the CER Indigenous Advisory Committee to inform the development of an engagement strategy. During this phase, ten meetings were held, and four written submissions were received. The subsequent four phases are further presented in the section of this strategy entitled Engagement.



Links to Key Federal Commitments

NRCan is committed to improving the quality of life of Canadians by ensuring the country's abundant natural resources are developed sustainably, competitively and inclusively. This means building strategic projects to create new jobs and opportunities while protecting the environment, respecting local communities and advancing Indigenous reconciliation.

To achieve this, the department takes a lead role in related science and research, develops innovative policy and advice and supports clean growth through strategic investments. NRCan's mandate works in areas of shared responsibilities with provinces, which includes the environment, public safety, economic development, science and technology, and consultations with Indigenous groups. The following key federal commitments provide a strong basis for IMARs.

- While undertaking the IMARs process, NRCan will plan for focused engagement with Indigenous groups to determine their desired involvement in the regulatory development process, as well as identify the requirements for the proposed regulations that fall under the *CERA*. Section 78 of the Act further states that:

The Governor in Council may make regulations respecting the Minister's power to enter into arrangements under section 77, including regulations:

(a) respecting how they are to be entered into;

(b) respecting the circumstances under which they may be entered into;

(c) respecting their contents; and

(d) varying or excluding any provision of this Act or a regulation made under it as that provision applies to the subject matter of the arrangement.

- The IMARs is also noted as a regulatory initiative as part of [NRCan's Forward Regulatory Plan 2024–26](#). It was first included in the Plan as of April 1, 2019.
- IMARs is in line with the department's commitments, specifically; as per the [Minister of Natural Resources Mandate Letter 2021](#), which noted that "(...) every Minister (to) implement the United Nations Declaration on the Rights of Indigenous Peoples and to work in partnership with Indigenous Peoples to advance their rights." In addition, it is indicated that results be achieved by delivering on "Support(ing) the Minister of Justice and Attorney General of Canada in fully implementing the United Nations Declaration on the Rights of Indigenous Peoples Act across government."

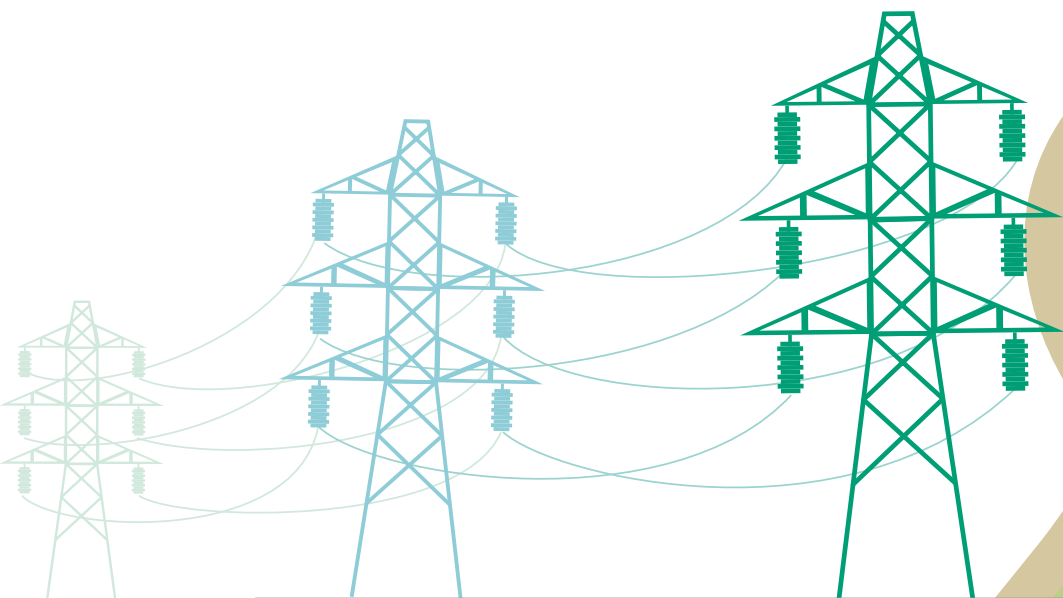


- IMARs is also linked to the Treasury Board Secretariat's [Cabinet Directive on Regulation](#) which states in section 4.1.1 that: *“Departments and agencies are responsible for identifying stakeholders impacted by regulations, including Indigenous peoples, and meaningfully consulting and engaging with them throughout the development, management, and review of regulations.”*

- Finally, IMARs is linked to Sections 5 and 6 of the UN Declaration. The UN Declaration provides a framework for the implementation of the [United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan](#). There are 3 obligations for the Government of Canada: to take measures to ensure the laws of Canada are consistent with the UN Declaration (s.5), to prepare and implement an Action Plan (s.6), and finally to table an annual report to Parliament (s.7). All these obligations must be in “consultation and cooperation with Indigenous Peoples”. The requirement to develop an Action Plan under s.6 of UNDA was achieved in June 2023 by the publication of the Action Plan. The Action Plan includes several Action Plan Measures (APM). The development of IMARs is referred to in APM 34 which states to: *“Work in consultation and cooperation with First Nation, Métis and Inuit communities, governments and organizations to (i) enhance the participation of Indigenous peoples in and (ii) set the measures that could enable them to exercise federal regulatory authority in respect of, projects and matters that are currently regulated by the Canada Energy Regulator (CER).”*

One of the steps to achieve this includes:

“ Develop regulations respecting the Minister of Natural Resource Canada’s power to enter into arrangements that would enable Indigenous governing bodies to be authorized to exercise specific powers, duties and functions under the Canadian Energy Regulator Act. ”



Ultimate Outcomes

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Enhance Canada's regulatory efficiency by including Indigenous governing bodies in a meaningful way throughout the project lifecycle;



Continue to improve upon authentic and meaningful engagement led by NRCan;



Fulfilling Canada's commitments in the *United Nations Declaration on the Rights of Indigenous Peoples Act* Action Plan by creating opportunities to work in consultation and cooperation with First Nation, Metis, and Inuit communities, governments and organizations while developing the proposed IMARs; and



Seek to leverage and align with partner organizations by exploring emerging opportunities to enhance Indigenous Peoples' participation in decision making processes.



Engagement

Indigenous Partners and Stakeholders

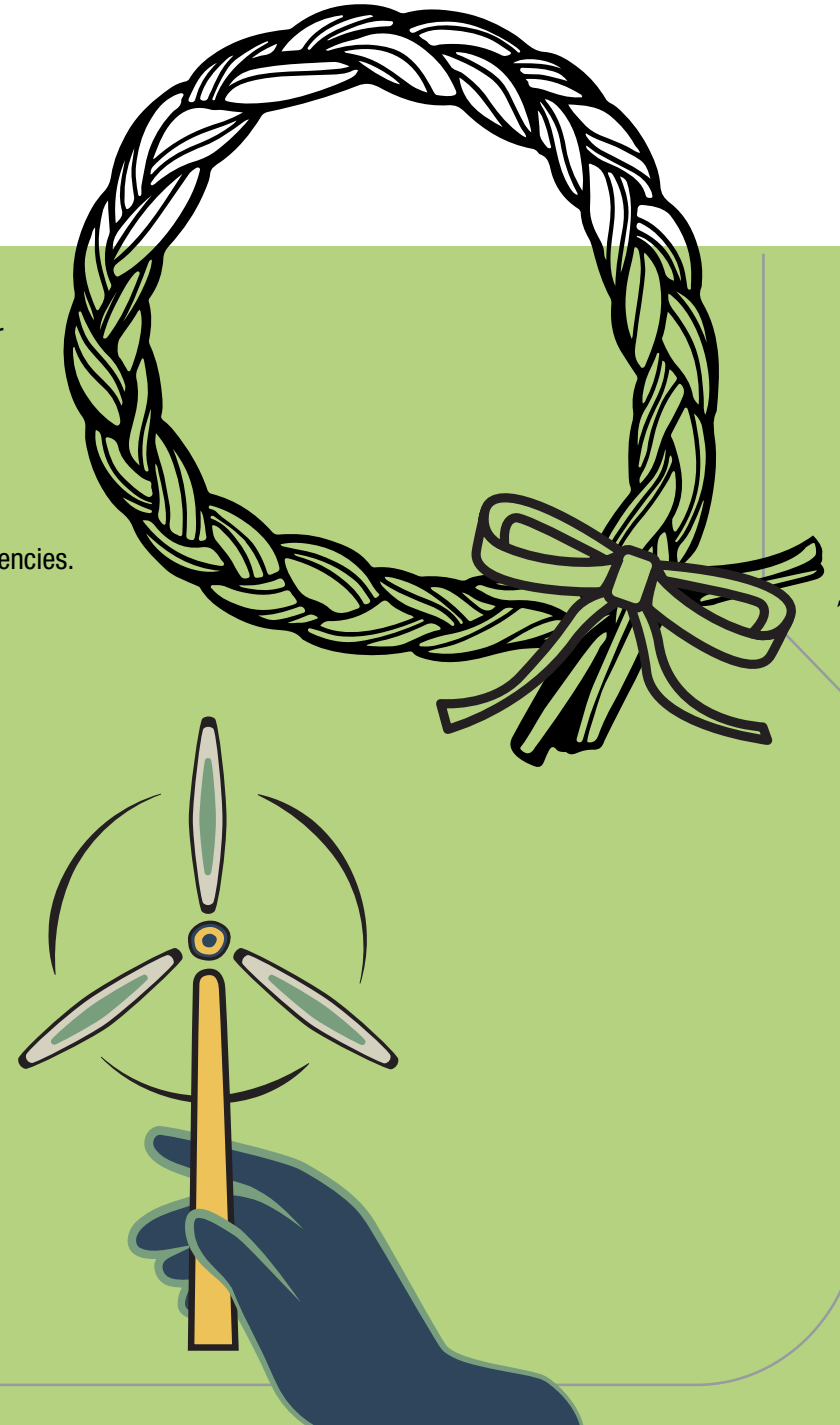
Indigenous interest in participation in an engagement approach is expected to be high. NRCan may need to engage at different levels (national, regional, local) and with many individual Indigenous groups, depending on their expressed preference and capacity to be involved.

Indigenous groups could include:

- National Indigenous Organizations;
- Regional Indigenous Organizations;
- First Nations, Métis and Inuit rights holders;
- Indigenous experts at the community level who would be interested in specific discussions.

NRCan may also be engaging with other stakeholders such as:

- Landowner groups;
- Industry; and
- Government departments and agencies.



Engagement Framework

The approach to engagement is based on input received from the Phase 1 “Early Touch-Base” and will follow a distinctions-based approach. The figure below represents the three different tiers of engagement as part of Phase 2 and subsequent phases as necessary. A tiered engagement approach allows for the IMARs to be socialized more broadly, and for Indigenous groups to disseminate information to their respective members..



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NRCan will extend the opportunity to engage with:



Assembly of First Nations (AFN)



Métis National Council (MNC)



Inuit Tapiriit Kanatami (ITK)

In addition, NRCan will engage with other Regional Organizations and/or Tribal Councils as well as with local communities and other Stakeholders who were consulted with and/or impacted by previous energy related projects under the CER’s purview, and those who currently participate in CER processes.

NRCan has received a fixed budget and timeframe to complete this work, and therefore will have a certain set of timelines it needs to respect as much as possible. These are outlined in the “Phases of Engagement” section of this document.

Engagement Activities

Website

External website pages presenting IMARs' processes, phases of work, and other important communication messages will be developed; and continuously updated as required.

Email and/or phone call notification to Indigenous groups and other stakeholders

An email call-out and/or phone call notification will be sent to the appropriate organizations in Q1 2024-25 to invite those willing to engage with NRCan on the proposed IMARs following the tiered approach. Depending on the audience, specific materials may be included in those notifications.

Participant funding

To ensure meaningful engagement throughout the course of the work, participant funding will be available through the Contribution Agreements process. Interested participants will be able to apply by completing the application form and consulting the applicant guide that will be available on the IMARs website.

In-person or online engagement sessions

Both will be available to Indigenous groups and other stakeholders depending on desired preference, availability, and capacity of the community/organization, and NRCan.

Phases of engagement¹

As discussed above, Phase 1 “Early Touch-Base” concluded in 2022–2023

Phase 2 – Engagement and Regulatory Design (2024-25)

Outcome: To determine the extent to which Indigenous governing bodies want to be involved in the regulatory development process and the overall considerations to help inform the development of regulations.

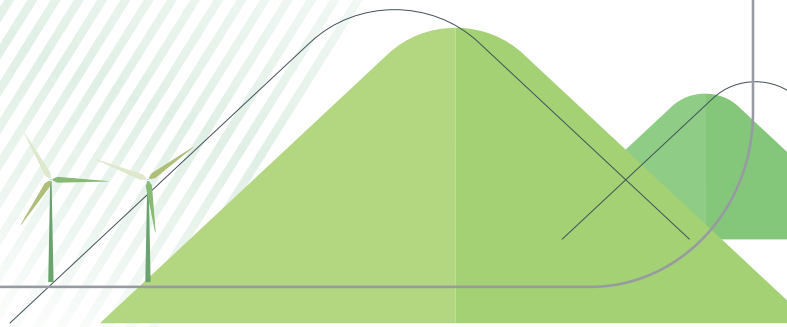
Deliverable	Outputs	Timelines
Identify Indigenous governing bodies (on a distinctions basis) who are interested in participating in engagement sessions to develop the proposed IMARs	<ul style="list-style-type: none"> Promotion of the proposed IMARs development process through emails/letters, NRCAN website, CER website, word of mouth through other government departments, conferences, and social media Application process for recipients as part of participant funding (completed Application Form and Applicant Guide) Review of received applications Completed Contribution Agreements 	Q1 2024–25
Engagement sessions/ “roadshow” (in-person or online as required), ideally 30-50 sessions	<ul style="list-style-type: none"> Compilation of What we heard reports at the end of each engagement session Regular meetings with CER and NRCAN UNDA-I Team to keep them informed on progress 	Q1 and Q2 2024–25
Regulatory Proposal	<ul style="list-style-type: none"> Development of a Regulatory Proposal (e.g. in the form of a Discussion Paper, Policy Paper, other) and start thinking about drafting instructions for proposed regulations Continuous analysis of consistency with the UN Declaration as per Section 5 of the UN Declaration Act Presentation to senior management 	Q3 2024–25
Completion of Phase 2 to help inform Phase 3	<ul style="list-style-type: none"> Validate Regulatory Proposal and What we heard report with Indigenous groups Translation and publication of final What we heard report and Regulatory Proposal Presentation to NRCAN and CER 	Q4 2024–25

¹ Phases are subject to change depending on several factors (e.g. availability of Indigenous groups, consensus on findings, etc.)

Phase 3 – Regulatory Development (2025-26)

Outcome: To draft the proposed Indigenous Ministerial Arrangements Regulations in accordance with Government of Canada requirements.

Deliverable	Outputs	Timelines
Further engagement with Indigenous groups and other stakeholders based on feedback received in Phase 2	<ul style="list-style-type: none"> Refined Regulatory Proposal 	Q1 2025–26
Departmental analysis and Triage approval	<ul style="list-style-type: none"> Complete Triage template Get approval from TBS on Triage, as well as agreement on level costs impacts 	Q2 2025–26
Conduct impact assessments for Canadians as part of regulatory development process	<ul style="list-style-type: none"> Complete RIAS template Get approval from TBS on RIAS template 	Q2 2025–26
Begin drafting regulations with Department of Justice (DoJ)	<ul style="list-style-type: none"> Draft regulations based on feedback received in Phase 2 	Q3 2025–26
TBS approval of draft regulations and review by Privy Council Office and DoJ	<ul style="list-style-type: none"> Draft regulations completed Receive Blue Stamp 	Q4 2025–26
Completion of Phase 3 to help inform Phase 4	<ul style="list-style-type: none"> Validate draft regulations with Indigenous governing bodies, senior management - NRCan and CER 	Q4 2025–26



Phase 4 – Wrap-up (2026-27)

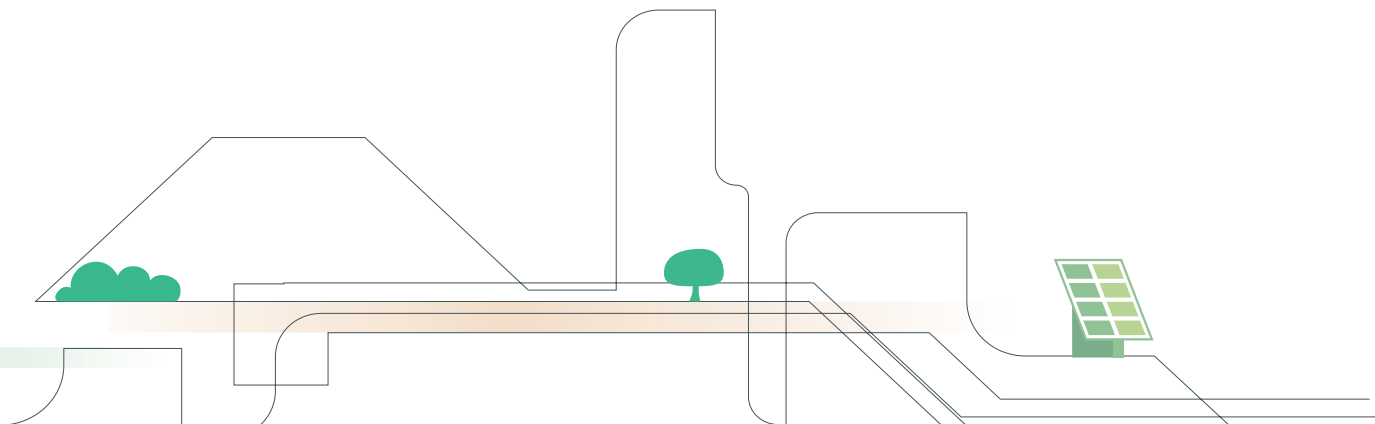
Outcome: Completeness and coming into force of the Indigenous Ministerial Arrangements Regulations.

Deliverable	Outputs	Timelines
Publication of proposed draft regulations	<ul style="list-style-type: none"> Canada Gazette, Part I 	Q1 2026–27
Conduct analysis of feedback received	<ul style="list-style-type: none"> Update regulations Keep Indigenous governing bodies, senior management - NRCan and CER informed of feedback 	Q2 2026–27
Approvals	<ul style="list-style-type: none"> GIC approval of regulations 	Q3 2026–27
Final regulations completed	<ul style="list-style-type: none"> Canada Gazette, Part II 	Q4 2026–27

Phase 5 – Administrative Process for Arrangements (2027-28)

Outcome: To ensure the administrative process is established for the Minister of Energy and Natural Resources Canada to enter into arrangements with Indigenous governing bodies, at the discretion of the Minister.

Deliverable	Outputs	Timelines
Legal administrative process for entering into arrangements	<ul style="list-style-type: none"> Arrangement(s) may be put in place (at the discretion of the Minister) 	Q1 2027–28



Engagement Principles

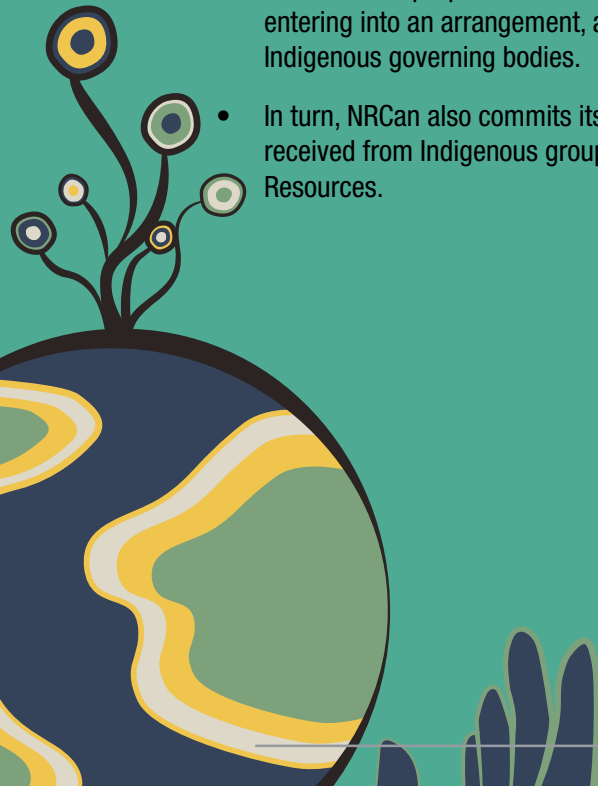
Following the initial Phase 1 “Early Touch-Base” engagement that was done in 2022-2023, a compilation of meeting notes, summaries, and written submissions were analyzed. Based on what was heard, NRCan put together a set of four engagement principles that it commits to adhering to throughout the regulatory development process. These will remain evergreen to ensure they continuously reflect current standards, context, and operating environment, informed by ongoing engagement with Indigenous groups and other stakeholders.

Transparency

- To the extent possible, NRCan will continuously work towards keeping Indigenous groups, other government departments, and stakeholders informed of its ongoing work.
- NRCan will uphold openness by adequately communicating the intention and purpose of the work, conditions, and processes for entering into an arrangement, as well as the regulatory requirements to Indigenous governing bodies.
- In turn, NRCan also commits itself to relaying transparent feedback received from Indigenous groups to the Minister of Energy and Natural Resources.

Respect

- Respecting Indigenous principles, laws, values, teachings, and connections to the land are essential considerations in the development of arrangements between Indigenous governing bodies and NRCan’s Minister.
- The development process of the proposed IMARs will allow a greater opportunity to advance reconciliation. Ultimately, if IMARs are made and arrangements are reached, Indigenous governing bodies will have a greater opportunity to integrate Indigenous perspectives into the operations, procedures, and decisions of the regulatory process.
- Further, NRCan will uphold respect to our Indigenous partners during all meetings, correspondence, and engagement sessions. Amongst others, this will be done by actively listening to other viewpoints, validating contributions to the discussions, and having an empathetic response where it is warranted. In turn, NRCan looks forward to also be respected by those it will engage with throughout the course of this work.



Inclusivity

- NRCan will use a distinctions-based approach throughout the engagement sessions, and this will inform the drafting process of proposed regulations to capture considerations raised during the regulatory development process from the various Indigenous groups.
- NRCan will also adopt a flexible approach throughout the course of the work, to recognize that some Indigenous governing bodies may not want to take on all the regulatory authorities, while others may want to build up capacity to take on more responsibilities.
- To ensure equal access of opportunity, NRCan will also engage with individual Indigenous groups as well as with Indigenous umbrella organizations.

Kindness

- The term Nòkwewashk (sweetgrass) is defined as one of the Algonquin people's sacred and powerful medicines, representing kindness. It is also the name of the NRCan sector within which the IMARs team operates.
- Kindness is at the forefront of everything we do both within and outside the organization. Conceptualizing the sector as a braid of sweetgrass should also remind us of the work we do in connecting natural resources and Indigenous groups – and this directly correlates with the IMARs team's mandate to enhance the role of Indigenous governing bodies in the oversight of major energy projects and matters currently regulated by the CER.
- Upholding the meaning of Nòkwewashk is not only an important endeavor, it is also a necessity to develop and implement IMARs as part of the Government's economic reconciliation agenda.

Engagement Protocols

The IMARs team will follow a certain set of engagement protocols, which will also align with the four engagement principles stated above. These protocols include but are not limited to:

- Land acknowledgments and starting the meeting off in a good way will precede each discussion.
- Thank you notes will follow each discussion.
- Meeting minutes will be developed and shared within two weeks post-engagement and will be validated with participants.

Further, NRCan will leverage different mediums to help promote the mandate and progress of the work. This may include the use of departmental social media, NRCan website, conferences, photos post-engagement, e-mails, and others.

Linking IMARs with other government departments and agencies



The IMARs work intersects with that of other initiatives led by the CER as well as the Impact Assessment Agency of Canada.

More specifically, the CER is currently leading a review of the Onshore Pipeline Regulations (OPR) and the Filing Manuals. This is the first comprehensive review of the OPR since they were developed in 1999. The review is guided by the CER's commitment to advancing Reconciliation with Indigenous Peoples and the implementation of the [UNDA](#), including the supporting [Action Plan](#), most specifically APM 34. The goal is to deliver regulations that support the highest level of safety, security and environmental protection, advance Reconciliation with Indigenous Peoples, encourage innovation and provide for predictable, timely and inclusive oversight.

The Impact Assessment Agency of Canada is also working on the development of cooperation/co-administration regulations, though explicitly focused on the impact assessment process of specific designated projects as defined under the Impact Assessment Act. The Impact Assessment Act provides a new opportunity for Indigenous governing bodies to enter into agreements to be considered as jurisdictions for the application of the Act, and to exercise specific impact assessment powers, duties or functions related to federal impact assessment.

The distinction between the three sets of existing and proposed regulations are the following:

- NRCan's IMARs would only enable the Minister to enter into arrangements with Indigenous governing bodies so that they (Indigenous governing bodies) could exercise the powers or perform the duties and functions under the *CERA*. These powers, duties and functions extend to the entire lifecycle of CER regulated infrastructure, including pipelines and powerlines within federal jurisdiction.
- The Impact Assessment Agency of Canada's proposed cooperation/co-administration regulations would allow for agreements with Indigenous governing bodies to exercise specific powers, duties, or functions within the federal impact assessment process (not lifecycle oversight).
- The CER's Onshore Pipeline Regulations provide the rules that companies with authorizations to build and operate pipelines must follow, the revised regulations will include new requirements related to the protection of Indigenous rights and interests over the lifecycle.

NRCan will continue to keep other stakeholders and Indigenous groups apprised of the results of engagement and overall progress of the work to ensure effective collaboration.

Contact

For additional information on the proposed IMARs or to submit comments in writing, please send an email to:

Indigenous Ministerial Arrangements Regulations – Règlement sur les accords ministériels autochtones

Email: imar-rama@nrcan-rncan.gc.ca



