



EnviroFor Reporter

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ENVIROFOR NEWS:

Legislature Recap

The 3rd Session, 41st Parliament wrapped up on Wednesday, November 28th. All 27 Bills introduced this fall received Royal Assent. The following Bills were introduced in November:


- [Bill 47](#), Health Sector Statutes Repeal Act
- [Bill 50](#), Human Rights Code Amendment Act, 2018
- [Bill 51](#), Environmental Assessment Act
- [Bill 52](#), Agricultural Land Commission Amendment Act, 2018
- [Bill 55](#), Passenger Transportation Amendment Act, 2018
- [Bill 56](#), Oil and Gas Activities Amendment Act, 2018
- [Bill 57](#), Attorney General Statutes Amendment Act, 2018

Refer to the [QS Bills page](#) to determine what laws are impacted by these bills, and what sections are now in force.

A reminder that if you would like to track the progress of new bills this session, or track proposed changes to laws that matter most to you, please feel free to make use of our [BC Legislative Digest](#) tracking tool.

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FEDERAL LEGISLATION — For notification of federal amendments, we recommend you use our [Section Tracking](#)  tool.

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ENERGY AND MINES NEWS

NEB Agrees to Consider Whether Pipeline Serving LNG Canada Project Requires NEB Approval

In late October 2018, the National Energy Board (NEB) issued a [letter](#) indicating that the NEB will consider a jurisdictional challenge over whether the NEB must approve the Coastal GasLink Pipeline (CGLP) that would serve the recently-confirmed [LNG Canada project](#). The CGLP is a proposed 670 km natural gas pipeline entirely within the province of British Columbia that would supply the LNG Canada project. The CGLP was [authorized](#) by and is currently regulated by the British Columbia Oil and Gas Commission (BCOGC). The NEB proceeding was prompted by an application by Michael Sawyer, who argues that the CGLP, along with the existing NOVA Gas

Transmission Ltd. (NGTL) System, comprise a single federal undertaking and is therefore subject to federal regulation (NEB oversight).

In argument on the preliminary question of whether his application should proceed, Mr. Sawyer referred to and relied upon a recent Federal Court of Appeal [decision](#) in a case related to the NEB's jurisdiction over the proposed Prince Rupert Gas Transmission Project (PRGTP). That decision (which was also prompted by Mr. Sawyer) found that there was a "*prima facie*" case that the PRGTP appeared to be functionally integrated with federally-regulated works (including the NGTL system) that would also be part of the planned supply to an LNG facility. The Federal Court of Appeal indicated that there was an arguable (*prima facie*) case that the PRGTP would be functionally integrated with a federal undertaking and subject to the NEB Act. Read the [full article](#) by [David Stevens](#), a partner at Aird & Berlis LLP Group.

Squamish Nation's Yes to Woodfibre LNG Deal Was Not a Simple Decision

Squamish First Nation Coun. Khelsilem voted against accepting benefit agreements flowing from the \$1.6-billion Woodfibre LNG project south of Squamish, putting him on the losing side of the decision.

On Friday [November 30th], however, Khelsilem, who goes by his traditional name, found himself front and centre representing council's decision to accept the agreements reached with Woodfibre, FortisBC and the province as the designated spokesman for the governing body.

His position is emblematic of the complexity of the Squamish Nation's decision, which featured opposition to the resource development because of environmental concerns, but also a strong desire to exert maximum influence over a project in their territory. "One of the challenges I personally have, and a lot of First Nations have around these projects, is just the way we're set up," Khelsilem said of dealing with large industries and big governments.

However, the Squamish were given a unique opportunity to conduct their own environmental assessment of Woodfibre's proposal, separate from the provincial environmental assessment process. Read [The Vancouver Sun article](#).

Oil and Gas Amendments Protect People and Environment

Michelle Mungall, Minister of Energy, Mines and Petroleum Resources, has introduced [amendments](#) to the [Oil and Gas Activities Act](#) that will better protect people and the environment.

The proposed changes will support a made-in-B.C. approach to methane oversight that is equivalent to federal regulations and provide a legal framework for off-site environmental mitigation.

These amendments will create the legislative framework for a complaint mechanism that allows the public to request an investigation of alleged contraventions of methane emission regulations and requires the BC Oil and Gas Commission to investigate.

Additionally, the amendments will support government's actions to strengthen environmental protection and remediation in areas where oil and gas activities occur. For example, mitigating impacts to caribou habitat within an operating area by treating or restoring previously disturbed caribou habitat outside of the permit holder's operating areas. Read the government [news release](#).

Drilling and Production Regulation Amended

Effective November 1st, the [Drilling and Production Regulation](#) was amended to change reporting requirements and implement housekeeping amendments. The effect is more consistency and greater oversight in the following cases:

- In the event of gas being flared at a well, a report must be made to the Oil and Gas Commission 20 days after the end of the month, as opposed to the regular 60 day period
- A permit holder must report the quantity of water from a water source well 20 days after the end of the month, down from the current 25
- Reporting of injection or disposal must occur no later than 20 days after the end of the month.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Clean Energy Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Drilling and Production Regulation (282/2010)	Nov. 1/18	by Reg 174/2018
Fee, Levy and Security Regulation (8/2014)	Dec. 1/18	by Reg 240/2018
Hydro and Power Authority Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
	Nov. 27/18	by 2018 Bill 45, c. 46, section 154 only (in force by Royal Assent), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018
Liquefied Natural Gas Project Agreements Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Net Profit Royalty Regulation (98/2008)	Nov. 1/18	by Reg 194/2018
Oil and Gas Activities Act	Nov. 27/18	by 2018 Bill 56, c. 54, sections 2 and 10 only (in force by Royal Assent), Oil and Gas Activities Amendment Act, 2018
Oil and Gas Activities Act General Regulation (274/2010)	Nov. 1/18	by Reg 221/2018
Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation (495/92)	Nov. 1/18	by Reg 194/2018
Vancouver Island Natural Gas Pipeline Exemption Regulation (524/95)	Nov. 15/18	by Reg 237/2018

FORESTRY AND ENVIRONMENT NEWS

BC's Take on a Modern-Style Environmental Assessment

BC recently advanced plans to modernize its EA (environmental assessment) process by passing first reading of Bill 51 – the new [Environmental Assessment Act](#). The new Act would:

- expand the Environmental Assessment Office's ("EAO's") role and purpose (to promoting sustainability and supporting United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") implementation);
- flush out early planning processes (before EA certificate ("EAC") applications are submitted);
- prohibit projects that cause "extraordinarily adverse effects";
- recognize Indigenous land use plans; and

- provide for cost recovery to the Province and Indigenous nations.

The Province is aiming to have the new Act come into force in late 2019 – if that timeline is met, there could be implications for both new and existing major resource projects across the Province around this time next year. Read the [full article](#) by Maya Stano and Mark Youden with Gowling WLG.

BC Government Review of Professional Reliance

The Good and the Bad in Bill 49

A review of [Bill 49](#), the proposed *Professional Governance Act*, by the ABCFP's legal counsel and senior staff, has identified number of provisions we believe are positive and will strengthen the role and ability of professional regulators under the Act, should it pass.

At the same time, we have also identified areas of concern and a number of drafting errors and unclear policy provisions. We remain committed to working with government to ensure that Bill 49, should it pass and become law, it functions as effectively as possible in implementation, despite our reservations about the necessity of a new Act and the creation of the Office of the Superintendent of Professional Governance. Read [more](#) on the Association of BC Forest Professionals website, and link to the summary of areas supported and a list of drafting errors and unclear policy statements.

Viewpoint: Five (More) Things You Should Know about the Proposed BC Environmental Assessment Act

From Blake, Cassels & Graydon LLP blog Business Class:

Recently, Sam Adkins and I commented on the Indigenous aspects of [Bill 51](#), the proposed legislation to replace BC's current *Environmental Assessment Act* (BCEAA). For more information, please see our November 2018 [Blakes Bulletin: Government of British Columbia Introduces Indigenous Consent Requirement for Major Projects](#). If you're considering a project in BC, here are five more things you should know about Bill 51.

1. There's No Guarantee That You Won't Have to Go Through an Environmental Assessment (EA) Process Under BCEAA, the EA process is triggered when someone proposes to build a "reviewable project". A reviewable project is a project that exceeds certain established thresholds, usually based on size or production capacity. While the responsible minister has the power to require other projects to go through an EA, this power is rarely exercised.

Under Bill 51, size won't matter – or at least as much as it used to. Bill 51 still anticipates predetermined thresholds that would automatically trigger an EA, which haven't been identified yet. However, Bill 51 also expands the minister's discretion to require other projects to go through an EA. In addition, anybody can apply to the minister for a project to be designated as a reviewable project.

To support this broader approach, Bill 51 effectively creates a further tier of projects that don't meet the established thresholds but fall within other (again yet-to-be-defined) categories. Someone proposing a project of this nature must formally notify the head of the B.C. Environmental Assessment Office (EAO). The project then can't proceed until the proponent has been told that no review is necessary, or any required review has been completed.

Read the [full article](#) by [Sandy Carpenter](#) with Blake, Cassels & Graydon LLP.

Public Invited to Comment on Proposed Fishing Regulation Changes

The public is invited to provide feedback on proposed changes to fishing regulations for the 2019-2021 Freshwater Fishing Regulations Synopsis.

A complete list and description of the proposed regulations can be viewed here:

<https://apps.nrs.gov.bc.ca/pub/ahte>

The proposals include changes to fishing methods, gear, bait, quotas, boundaries and fishery opening and closing dates. These changes are based on regional requirements and conditions, and aim to meet management objectives for native and invasive fish species, while maintaining sustainable angling opportunities for recreational fishers. Read the government [news release](#).

BC Faces Lawsuit: Fracking Dams Exempted from Environmental Review

A conservation group is suing the British Columbia government for deciding two oilpatch dams are exempt from environmental rules.

A conservation group is suing the BC government for exempting two oilpatch dams from environmental rules years after the dams were built.

"It seems like the government was really playing catch-up," Olivia French, the lawyer handling the lawsuit for the B.C. Sierra Club, said Monday. "Progress Energy acted with a bit of disregard for BC's laws – one of those typical, 'Ask for forgiveness, not for permission' sort of positions."

The lawsuit asks that the exemptions given the two dams be revoked. French said the issue is becoming too common in the province's northern natural gas fields. A statement of defence has not yet been filed and none of the lawsuit's claims has been proven in court. Progress Energy is an Alberta company owned by Malaysian oil giant Petronas. The dams were built in 2012 and 2014 to store water used by the company's fracking operations northwest of Fort St. John, BC. BC Environment Minister George Heyman said legal officials are looking into the two dams.

"It's very clear under the existing [Environmental Assessment Act](#) that proceeding with a project without undergoing an assessment is against the act," he said. "Four months ago we referred the results of our investigation to Crown counsel and it's now in their hands." Read *The Vancouver Sun* [article](#).

Report Says Experts Should Monitor BC's Efforts to Protect At-Risk Species

BC government efforts to protect species at risk should be monitored by a special independent scientific body, a team of conservation and biodiversity experts said in a study released October 30.

"This is a key idea that I think helps move to action quickly," said Brian Starzomski, a biodiversity professor at the University of Victoria. He was co-author of the Protecting Biodiversity In British Columbia study.

As the provincial government drafts species-at-risk legislation expected in 2019, Mr. Starzomski's team says the proposed oversight organization is central to their proposal for saving species at risk – a necessity given what the group describes as a "patchwork" of provincial laws and regulations it says has not prevented species loss and decline.

The group cites findings by the national Committee on the Status of Endangered Wildlife in Canada that 278 species are at risk of extinction in BC – the largest number in any Canadian province or territory – but notes that BC has no law to protect such species. Read *The Globe and Mail* [article](#).

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Climate Change Accountability Act (formerly titled <i>Greenhouse Gas Reduction Targets Act</i>)	Nov. 9/18	by 2018 Bill 34, c. 32, sections 1, 3 and 4 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Closed Areas Regulation (76/84)	Nov. 22/18	by Reg 239/2018
Drinking Water Protection Regulation (200/2003)	Nov. 15/18	by Reg 237/2018
Environmental Management Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018

Greenhouse Gas Industrial Reporting and Control Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Hunting Regulation (239/2018)	Nov. 22/18	by Reg 239/2018
Logging Tax Regulation (166/2016)	Nov. 5/18	by Reg 229/2018

OCCUPATIONAL HEALTH AND SAFETY NEWS

Proposed Policy Amendments Regarding Instalment Model for Quarterly Reporting

WorkSafeBC calculates assessments based on payroll. Employers with an annual assessment of \$1,500 or more are generally required to report payroll and remit assessment premiums on a quarterly basis. At issue are changes to policy to reduce reporting requirements for these employers. These changes are intended to simplify reporting and payment requirements for employers and improve their experience with WorkSafeBC.

The Policy, Regulation and Research Division is releasing a discussion paper with options on proposed policy regarding an instalment model for quarterly reporting to stakeholders for comment. Read the full WorkSafeBC [news release](#).

Potential Health and Safety Risks of Processing Burnt Timber

In the fall of 2017, after a record-setting wildfire season in the history of BC, the provincial government estimated that 53 million cubic metres of timber had been burned in the Interior – an entire year's worth of harvest. It looks as though this year's wildfire season will be similarly severe, although inventories are not yet complete. Some of that timber was and will be salvageable, but processing fire-damaged wood presents its own set of risks and hazards that need to be evaluated, planned for, and mitigated. In addition to the technological and quality issues that can arise, potential health and safety risks to workers need to be addressed by employers. The most immediate exposure hazards for sawmill workers handling burnt timber are the ash and char that accompany the fire-damaged wood. Ash and char from forest fires can be complex mixtures that will vary depending on the temperature of the fire. Char is composed of a variety of carbon-based compounds which are formed at lower fire temperatures, some of which may be carcinogenic. As char is only partially combusted wood, char dust will remain combustible. Higher-temperature fires will also result in wood ash (calcium carbonate), which is no longer combustible but is a lung irritant. Char dust and wood ash are both much finer than wood dust and are easily breathable; long-term, repeated exposure at high concentrations have the potential to cause respiratory illness. Short-term health effects from exposure to wood char and ash can include eye, nose, and throat irritation; coughing; and allergic reactions. In the long term, exposure may lead to more serious health issues, including lung diseases such as chronic obstructive pulmonary disease (COPD). Read the [full article](#) by Barry Nakahara, WorkSafeBC's Manager of Prevention Field Services in Prince George, and manager of interest for the Manufacturing and Occupational Disease Strategies – published in the November/December issue of the *ABCFP BC Forest Professional*.

WorkSafeBC Launches Process Safety Initiative

WorkSafeBC has launched a new initiative around process safety in order to help prevent low-frequency, high-consequence events, such as catastrophic fires, explosions, chemical releases and structural collapses. "Process safety is a form of risk assessment that aims to identify any significant hazards and threats at a work site and implement critical controls to mitigate any harm," WorkSafeBC said in a news release. "The goal is to prevent the release of any highly hazardous substances — such as flammable and explosive chemicals, toxic gases and combustible dust — that could lead to catastrophic consequences for workers and the public."

A team of prevention officers, engineers, risk analysts and human factors specialists at the agency have come together to conduct inspections and engage employers in process safety. "We are looking at the types of hazards

and the risks they pose that are specific to each employer, and how they are managing and controlling those risks," said Gordon Harkness, manager, risk analysis unit, WorkSafeBC. "We want employers to manage the risks that are created through their processes."

The initiative is focusing on chemical manufacturing and processing, oil and gas and wood products manufacturing. "We see process safety as the next logical step in the journey that we've been working on with health and safety in the province," said Budd Phillips, manager, prevention field services, WorkSafeBC. Read the [full article](#) on the Canadian Occupational Safety website.

OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
Safety Standards Act	Nov. 30/18	by 2018 Bill 36, c. 36, sections 31 to 43 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018

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