



Vol: XII – Issue: IV – April 2019

ENVIROFOR NEWS:

New Bills Introduced

The following government Bills have been tabled since the last Reporter:

- [Bill 8](#), Employment Standards Amendment Act, 2019
- [Bill 13](#), Community Safety Amendment Act, 2019
- [Bill 18](#), Workers Compensation Amendment Act, 2019
- [Bill 22](#), Forest Amendment Act, 2019
- [Bill 25](#), Coastal Ferry Amendment Act, 2019
- [Bill 26](#), Financial Services Authority Act, 2019
- [Bill 27](#), Ticket Sales Act
- [Bill 28](#), Zero-Emission Vehicles Act
- [Bill 29](#), Miscellaneous Statutes Amendment Act, 2019
- [Bill 30](#), Labour Relations Code Amendment Act, 2019
- [Bill 31](#), Police Amendment Act, 2019
- [Bill 32](#), Protected Areas of British Columbia Amendment Act (No. 2), 2019

Several non-government Bills were introduced as well:

- Bill M208, Welfare Payment System Reflection Act
- [Bill M209](#), Business Corporations Amendment Act, 2019
- [Bill M210](#), Vulnerable Adolescents Protection from E-Cigarettes (VAPE) Act, 2019
- Bill M211, RCMP Appreciation Day Act

A reminder that if you would like to track the progress of these bills, or to track changes to any laws that bills amend, please feel free to make use of our [BC Legislative Digest](#) tracking tool, and have us monitor and alert you to changes for laws of your choosing.

Tip: Log in to EnviroFor Online prior to clicking Reporter links.

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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

Report Calls for Protection for "Besieged"

BC Farmland [Resource Extraction]

An independent report on agricultural revitalization in British Columbia is calling for a task force to address the "imbalance" between oil and gas development and agriculture in the province's northeast.

The Agriculture Ministry released the final report today that makes 32 recommendations related to the province's Agricultural Land Commission and Reserve.

It calls for the proposed task force to review how to balance the surface rights of farmers and ranchers with subsurface rights of the extractors, and to deliver a strategy to address "the significant resource extraction issues" affecting farmland in the Peace Region.

In a letter introducing the report, committee chair and former Independent MLA Vicki Huntington calls for a government-wide policy shift that identifies BC's agricultural land and industry as equivalent to other natural resources.

Huntington says the oil and gas industry has had a significant and growing impact in the northeast and the development of the energy sector has exceeded the capacity of the current regulatory environment to protect farmland. Read the CTV [article](#).

Notice of Construction Start

Submission Changes

The BC Oil and Gas Commission is changing the process for submitting a Notice of Construction Start for a well, road, associated oil and gas activity (AOGA), stream crossing or National Energy Board (NEB) ancillary. Effective April 24, 2019 8:00 a.m. information related to these activities currently submitted to OGC.ExternalNotifications@bcogc.ca using either the Notice of Construction Start or Notice of Road Construction Start form must be submitted via the eSubmission online portal.

This change enhances the Commission's capabilities for providing oversight and compliance for NCS submission requirements. For permit holders, the new process increases efficiency by reducing the number of forms that must be submitted via email, centralizing more operational submission requirements in the eSubmission system, and creating additional consistency across activity types. E-mailed forms will no longer be accepted after April 23, 2019 at 4:00 p.m. Read the [BCOGC Industry Bulletin](#).

"Zapping" Back: Clean Energy BC Responds to Critical Review of BC Hydro's Purchase of Power from BC IPPs

In a [document](#) released March 21, 2019 (the "Response"), the Clean Energy Association of BC (CEBC) has responded to a critical report released in February that alleged that BC Hydro, in entering into agreements to purchase energy from independent power producers (IPPs) in British Columbia, "bought too much energy, paid too much for the energy it bought, and undertook these actions at the direction of the Government".

The Response aims to rebut various assertions made in a recently released report commissioned by BC's Minister of Energy, Mines and Petroleum Resources, entitled "[Zapped: A Review of BC Hydro's Purchase of Power from Independent Power Producers](#)" ("[Zapped](#)"). In [Zapped](#), author Ken Davidson strongly critiques the procurement of power from IPPs by BC Hydro and lays the blame squarely on the government policies, legislation and directives that [Zapped](#) concludes had driven misguided energy practices. Read the [full article](#) by [Maureen Gilles](#) with McCarthy Tetrault LLP.

2019 Status Updates to Area-based Analysis

The BC Oil and Gas Commission (Commission) has completed the 2019 annual update to Area-based Analysis (ABA). These changes come into effect on May 1, 2019.

The status of Riparian Reserve Zones in the northeast largely remains the same. In total, 45 water management basins are status normal, 22 are enhanced management and two are regulatory policy.

There is no significant change to Old Growth Management Areas (OGMA). 191 OGMA are ABA Status normal and 49 OGMA are regulatory policy. In addition, there is no change to ABA Old Forest with Boreal Plains, Northern Boreal Mountains and Boreal Foothills remaining ABA status normal, and Omineca, Wet Mountains and Wet Trench remaining enhanced management.

There are no new Ungulate Winter Range or Wildlife Habitat Areas in the Peace region. 323 wildlife areas are status normal, 21 are enhanced management and 46 are regulatory policy.

ABA is an operational program which monitors incremental cumulative disturbance on the land base from multiple sectors. In effect for four years, ABA supports the consideration of cumulative effects in decision-making, and helps to identify development risks and promote applicable mitigation development in areas of potential sensitivity. Read the full [BCOGC Industry bulletin](#).

Mining Association of BC Appoints New President and CEO

The Mining Association of British Columbia (MABC) is pleased to announce the appointment of Michael Goehring as President and CEO. Mr. Goehring will assume the role effective May 1, 2019.

Mr. Goehring brings more than 20 years' experience in public affairs and strategic communications in the mining, energy, forestry, utilities, technology and trade industries. He has built a strong reputation for advancing public policy files and delivering successful advocacy and communications campaigns. He joins MABC following a successful career as a Partner at Canada's largest communications firm.

"We look forward to Michael taking the helm of MABC, the voice of the mining industry in British Columbia," noted Rob Rotzinger, Chair of the Board of Directors. "Michael's expertise in communications, advocacy and regulatory affairs will strengthen our drive towards positive changes for the mining industry to the benefit of all British Columbians."

"Mining is critical to our economy and communities across B.C., and there are significant opportunities for the industry to make an even greater contribution to our province's future. I am excited to join MABC and to work on behalf of an innovative and high tech industry whose best days are yet to come," said Michael Goehring. Read the full article on the [Mining Association of BC](#) website.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Direction to the British Columbia Utilities Commission Respecting the Biomass Energy Program (71/2019)	NEW Apr. 1/19	see Reg 71/2019
Fee, Levy and Security Regulation (8/2014)	Apr. 1/19	by Reg 45/2019
Liquefied Natural Gas Income Tax Regulation (101/2015)	Apr. 1/19	by Reg 66/2019
Oil and Gas Activities Act	Apr. 1/19	by 2018 Bill 15, c. 15, sections 2, 12, 19 and 23 only (in force by Reg 62/2019), Energy, Mines and Petroleum Resources Statutes Amendment Act, 2018
Oil and Gas Activities Act General Regulation (274/2010)	Apr. 1/19	by Regs 62/2019 and 67/2019
Oil and Gas Commission Levy and Orphan Site Reclamation Fund Tax Regulation (363/98)	REPEALED Apr. 1/19	by Reg 67/2019
Reconsideration by Alternative Dispute Resolution Regulation (45/2001)	REPEALED Apr. 1/19	by Reg 67/2019

FORESTRY AND ENVIRONMENT NEWS

Bill 21 - The Forest and Range Practices Amendment Act, 2019

[Bill 21](#) was recently introduced into the BC Legislature and represents "phase 1" of the current government's agenda to reform the regulation of forest practices in BC. What follows are some of the more noteworthy amendments in Bill 21.

Ecological Communities

Bill 21 introduces the concept of an "ecological community" into the [Forest and Range Practices Act](#) (FRPA): "a group of different species occupying a particular area." The provincial cabinet will have the authority to authorize the minister responsible for the [Wildlife Act](#) to establish categories of ecological communities, and "general measures" in relation to ecological communities. "General measures" are apparently something different than "general wildlife measures" that the minister is already authorized to establish under the [Government Actions Regulation](#) with respect to wildlife habitat area or ungulate winter range. The amendments in Bill 21 do not appear to contemplate "objectives" under FRPA for ecological communities as is the case for ungulate winter range and wildlife habitat area.

Forest Operations Maps

Another new concept that Bill 21 introduces into FRPA is a "forest operations map" that must show the "approximate" location of proposed cutblocks and roads. A licensee must prepare and submit the map for public review and comment, and must report to government on the public review and comments.

[Note: for your convenience, Quickscribe has published [an early consolidation of the FRPA](#) as it will read when these amendments come into force.]

Read the [full article](#) by [Jeff Waatainen](#), published in the May/June edition of the *BC Forest Professional*.

Delineating the Risk: Pollution-exclusion Clauses in Canada

In finding that the clause unambiguously excluded coverage for environmental claims, the Court of Appeal set aside a lower court's ruling and held that the insurers did not have a duty to defend in the circumstances. Environmental remediation can be very expensive. As a result, it is not uncommon for commercial general liability policies to exclude coverage for environmental liabilities. These exclusion clauses are typically broadly drafted in an attempt to capture a wide range of environmental risks. The British Columbia Court of Appeal was recently asked to enforce a broadly-worded, pollution-exclusion clause. In finding that the clause unambiguously excluded coverage for environmental claims, the Court of Appeal set aside a lower court's ruling and held that the insurers did not have a duty to defend in the circumstances.

The Facts

West Van Holdings Ltd. and a related company (together, "West Van") owned a property in West Vancouver. Various businesses had operated on the property over the years, including a dry-cleaner and an auto repair business. In 2014, an adjacent land owner started an action against West Van, alleging that dry-cleaning chemicals and petroleum products had escaped from West Van's property and contaminated the soil and groundwater of the neighbouring land.

Read the [full article](#) by [Heather Gray](#), [Kyle Magee](#) and [Mark Mandelker](#) with Clyde & Co LLP.

Changes to Wildlife Legislation

Effective April 15, a provision was added to the [Wildlife Act](#) to allow for the governing of how notices must be given and when they are considered to be received. Both the [Angling and Scientific Collection Regulation](#) and the [Wildlife Act General Regulation](#) were updated to reflect the change by providing for the application and requirements respecting such notices.

Changes Needed to Compliance and Enforcement Program

A new report on the compliance and enforcement (C&E) program in the Ministry of Forests, Lands, Natural Resource Operations and Rural Development has been released.

"Sufficient oversight of forestry and range activities is critical to support the environmental, social and economic values that BC's forestry legislation is intended to protect," said Kevin Kriese, Forest Practices Board chair. "We conclude that the public cannot be confident that government's C&E framework is achieving the intended result of promoting licensee compliance with legislation."

"Based on our own audit work, we believe that overall levels of compliance with forest and range legislation are fairly high. However, we found the C&E program does limited proactive monitoring of forest and range activities, or public reporting of compliance levels. Together, this makes it difficult to determine what the level of licensee compliance really is." Read the [full article](#) on the BC Forest Practices Board [website](#).

Forest Act Amendments – Early Consolidation

Quickscribe has published [an early \(red text\) consolidation](#) of the BC [Forest Act](#) as it will read when (and if) the newly introduced [Bill 22](#), *BC Forest Amendment Act, 2019*, comes into force. According to the government: these changes will require forest companies to get approval from the minister before they dispose of or transfer a tenure agreement to another party. As a result, the minister will be able to refuse to approve the new arrangement if it is not in the public interest or put conditions on the approval. For years, through the control of the disposition of Crown tenures, major forest licensees have controlled the market for milling and forest tenure holdings. As a result, smaller operators like communities and First Nations found it harder to compete. Changes to the *Forest Act* will:

- improve government's ability to exert more control over the disposition of Crown tenures;
- ensure that public interest is considered in the disposition of *Forest Act* agreements;
- ensure that dispositions and changes of control do not result in further concentration within the forestry sector; and
- ensure government has the necessary information when needed from companies to inform policy and legislative changes to address emerging forestry issues.

Read the official government [news release](#).

Environmental Appeal Board Decisions

There were two Environmental Appeal Board decisions in the month of March:

[Environmental Management Act](#)

- [John Pickford; John Henry Dressler; Rodger Hamilton; Ellis O'Toole; Angie Delainey; Tricia McLellan v. Director, Environmental Management Act](#) [Final Decision – Appeals Allowed in Part]
- [Sumas Environmental Services Inc. v. Director, Environmental Management Act](#) [Final Decision – Appeal Dismissed]

[Wildlife Act](#)

- [Chris Condie v. Director of Wildlife](#) [Final Decision – Appeal Dismissed]
- [Brent Giles v. Director of Wildlife](#) [Final Decision – Appeal Dismissed]

Visit the Environmental Appeal Board [website](#) for more information.

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Angling and Scientific Collection Regulation (125/90)	Apr. 15/19	by Reg 85/2019
Carbon Tax Act	Apr. 11/19	by 2019 Bill 5, c. 7, section 1 only (in force by Royal Assent), Budget Measures Implementation Act, 2019
Disposition and Change of Control Regulation (351/2004) (formerly titled <i>Transfer Regulation</i>)	Apr. 11/19	by Reg 76/2019
Interest Rate Under Various Statutes Regulation (386/92)	Apr. 1/19	by Reg 66/2019

Japanese Beetle Control Regulation (77/2019)	NEW Apr. 12/19	see Reg 77/2019
North American Gypsy Moth Eradication Regulation, 2018 (74/2018)	REPEALED Apr. 15/19	by Reg 87/2019
North American Gypsy Moth Eradication Regulation, 2019 (87/2019)	NEW Apr. 15/19	see Reg 87/2019
Wildlife Act	Apr. 15/19	by 2016 Bill 12, c. 11, sections 43, 47, 48 and 49 (part) (in force by Reg 85/2019), Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2016
Wildlife Act General Regulation (340/82)	Apr. 1/19	by Reg 1/2019
	Apr. 15/19	by Reg 85/2019

OCCUPATIONAL HEALTH AND SAFETY NEWS

BC Extends PTSD Presumption to Nurses, Care Aids, Dispatchers

Emergency dispatchers, nurses and publicly funded health-care assistants in British Columbia now have easier access to workers' compensation for mental-health disorders stemming from work-related trauma. Under new amendments to the [Mental Disorder Presumption Regulation](#), if these workers develop a mental health disorder, it will be presumed to have been due to the nature of their work. With a presumptive condition, there is no longer a need to prove that a claimant's disease or disorder is work-related once a formal diagnosis has been made.

"These changes... are about fairness and support for workers who experience higher-than-average mental harm due to the jobs they do," said Minister of Labour Harry Bains.

Last spring, the BC government amended the [Workers Compensation Act](#) to add post-traumatic stress disorder (PTSD) and other mental-health disorders to the list of illnesses that are recognized as being associated with certain professions, specifically police, firefighters, paramedics, sheriffs and correctional officers. Read the [full article](#) published in the *Canadian Occupational Safety* magazine.

OHS Guideline Updates

– from WorkSafeBC:

New, revised, and retired [guidelines](#) were posted on April 9 related to emergency procedures, exposure control plans, pesticides, noise exposure, hearing tests, confined spaces, blasting certification, and laboratory safety cabinets. On May 1st, 2019, [revision](#) was made to the OHSR Guideline – Part 5 Chemical Agents and Biological Agents. The Table of Exposure Limits and Notations has been updated to reflect recent changes to the notations by the ACGIH and IARC for some substances, as well as some housekeeping changes.

Consultation on Proposed Amendments to the Occupational Health and Safety Regulation

– from WorkSafeBC:

The Policy, Regulation and Research Division is requesting feedback on proposed amendments to the [Occupational Health and Safety Regulation](#). The consultation phase provides stakeholders an opportunity to provide feedback prior to the proposed amendments being taken to public hearing. The proposed regulatory amendment packages under review are:

1. Part 8, Personal Protective Clothing and Equipment, section 8.24, High visibility apparel
2. Part 20, Construction, Excavation and Demolition, section 20.47, Equipment inspection
3. Part 21, Blasting Operations

View the [proposed regulatory amendments](#) and information on how to provide feedback. Please provide your feedback by 4:30 p.m. on Friday, June 14, 2019. Source: [WorkSafeBC](#)

Review of Worker Safety Underway 7 Years after BC Mill Explosions

The union representing four workers who died in two British Columbia sawmill explosions in 2012 says it hopes a new review of worker safety ordered by the provincial government will lead to overdue justice for survivors and families of the victims.

Steve Hunt, district director for the United Steelworkers union, said previous inquiries into the explosions at Babine Forest Products in Burns Lake and Lakeland Mills in Prince George raised more questions than answers and he hopes the new review prevents similar disasters from happening in the future. "The best I can hope for out of this is we don't do a repeat ever in any industry, and we make an adjustment that makes a societal change. This one screams for that," Hunt said.

The BC Ministry of Labour says it has contracted Vancouver lawyer Lisa Helps to assess how WorkSafeBC implemented worker safety recommendations in the wake of the explosions that killed four and injured 42 workers.

Helps will also provide advice on potential legislative changes to improve worker safety in the province in her report to the attorney general due mid-July.

Coroner's inquests were previously conducted into the deaths and the government commissioned two other reports in 2014 – the Dyble report and Macatee report. Together, they made recommendations directed at government and other agencies. Read the [full article](#) by Amy Smart in *Canadian Occupational Safety*.

OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
Mental Disorder Presumption Regulation (136/2018)	Apr. 16/19	by Reg 92/2019

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