



---

## Vol: XII – Issue: II – February 2019

---

### ENVIROFOR NEWS:

#### New Bills Introduced

The 4th session, 41st parliament resumed February 12, 2019. The government has tabled several new Bills, including:

- [Bill 1](#), An Act to Ensure the Supremacy of Parliament
- [Bill 2](#), Protection of Public Participation Act
- [Bill 3](#), Municipal Affairs and Housing Statutes Amendment Act, 2019
- [Bill 4](#), Witness Security Act
- [Bill 5](#), Budget Measures Implementation Act, 2019
- [Bill 9](#), Attorney General Statutes Amendment Act, 2019
- [Bill 12](#), Supply Act (No. 1), 2019

Two non-government Bills were introduced as well:

- [M201](#), Miscellaneous Statutes (Passenger Transportation Services) Amendment Act, 2019
- [M202](#), Election Amendment Act, 2019

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.

#### QS Keyword Alert – Coming Soon!

Quickscribe will soon launch a new, custom email alert tool that will notify you of any new Orders, Bills or Hansard if they include key words or phrases that you deem as important. Stay tuned!

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

---

View [PDF](#) of this Reporter.

---

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

---

[\[ Previous Reporters \]](#)

---

#### CATEGORIES

[ENERGY & MINES](#)  
[FORESTRY & ENVIRONMENT](#)  
[OCCUPATIONAL HEALTH & SAFETY](#)

---

#### ENERGY AND MINES NEWS

**New Dormant Site Provisions**  
*BCOGC Bulletin:*

The BC Oil and Gas Commission (Commission) is developing regulations to impose timelines on the clean-up of dormant well sites, which are wells and their associated operating areas that for five or more years have not met a certain threshold of activity. These changes are supported in legislation by [Bill 15](#) and associated amendments to the *Oil and Gas Activities Act*.

The Bill 15 amendments were passed in May 2018 and allow the Commission to impose requirements for the clean-up of dormant sites. As a result, B.C. will become the first province in western Canada to impose timelines for clean-up. The Commission is currently developing regulations for restoration timeframes that promotes timely clean-up, while ensuring operators will have the flexibility to achieve cost-efficient restoration. Read the [bulletin](#) from the OGC website.

### **Fresh Blow to Canada's Oil Industry as Key Pipeline Delayed by a Year**

Canada's already beaten-down oil industry is facing a fresh setback as regulatory issues bog down another key pipeline project.

The roughly one-year delay to Enbridge Inc.'s expansion of its Line 3 conduit, announced last week, threatens to prolong a shortage of pipeline space that has made it difficult for Canada's drillers to ship their crude to refineries. That pinch caused a crisis in the industry last year, sending local oil prices to record lows and prompting the government of Alberta to embark on an unprecedented intervention in the market.

Enbridge's Line 3, which would help move 370,000 more barrels of crude out of Alberta, is particularly important because the province's government was counting on it to help end mandated production cuts. The delay may scramble plans for drillers who were counting on the line and shift investors' focus to efforts by producers and Alberta's government to move more crude by rail. Read *The Vancouver Sun* [article](#).

### **NEB Recommends Approval of the Trans Mountain Expansion Project**

On February 22, 2019, the National Energy Board ("NEB" or the "Board") released its reconsideration report (the "Reconsideration") on the Trans Mountain Expansion Project (the "Project"). The Reconsideration follows the August 2018 Federal Court of Appeal decision that set aside the NEB's previous approval of the Project and the federal government's subsequent direction for the NEB to reconsider the Project to take into account Project-related marine shipping. In its lengthy report, the Board recommends the approval of the Project subject to the 156 conditions that it had proposed in its previous recommendation and 16 new recommendations that are aimed at mitigating the environmental impacts of marine shipping that are beyond the scope of the Board's regulatory authority. This recommendation flows from the Board's finding that the Project is in the Canadian public interest and is required by present and future public convenience and necessity. The NEB's decision is timely as it sends a signal for potential relief of the oil and gas industry's pipeline bottleneck days following the Alberta government's announcement of a deal to market crude by rail.

In the Reconsideration, the Board makes three key findings with respect to the Project's environmental effects. First, the Project-related marine shipping is likely to cause significant adverse environmental effects on the Southern resident killer whale population and on Indigenous cultural use associated with same. Second, the marine shipping is likely to result in significant increases of greenhouse gas emissions. Finally, while unlikely to occur, the environmental effects from a worst-case spill would be significant. Ultimately, the Board concludes that the potential adverse effects can be justified in light of the Project's considerable benefits and the availability of mitigation measures. Read the [full article](#) by Alan L. Ross, Matti Lemmens, Chidinma Thompson and Tiffany Bennett on the BLG Energy Law Blog.

## **ENERGY AND MINES**

<b>Act or Regulation Affected</b>	<b>Effective Date</b>	<b>Amendment Information</b>
Direction No. 1 to the British Columbia Utilities Commission (105/2009)	<b>REPEALED</b> Feb. 14/19	by <a href="#">Reg 24/2019</a>
Direction No. 3 to the British Columbia Utilities Commission (105/2012)	<b>REPEALED</b> Feb. 14/19	by <a href="#">Reg 24/2019</a>

Direction No. 6 to the British Columbia Utilities Commission (29/2014)	<b>REPEALED</b> Feb. 14/19	by <a href="#">Reg 24/2019</a>
Direction No. 7 to the British Columbia Utilities Commission (28/2014)	<b>REPEALED</b> Feb. 14/19	by <a href="#">Reg 24/2019</a>
Direction No. 8 to the British Columbia Utilities Commission (24/2019)	<b>NEW</b> Feb. 14/19	see <a href="#">Reg 24/2019</a>
Direction to the British Columbia Utilities Commission Respecting the Iskut Extension Project (137/2013)	Feb. 14/19	by <a href="#">Reg 24/2019</a>
Special Direction No. 9 to the British Columbia Utilities Commission (157/2005)	Feb. 14/19	by <a href="#">Reg 24/2019</a>
Standing Offer Program Regulation (320/2010)	Feb. 14/19	by <a href="#">Reg 23/2019</a>

## FORESTRY AND ENVIRONMENT NEWS

### **Amendments to the *Canada Shipping Act, 2001* and *Marine Liability Act***

On December 13, 2018, [Bill C-86](#), *A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures*, otherwise known as the *Budget Implementation Act* was given royal assent. This Bill, which was first introduced on October 29, 2018, predominantly pertains to amendments of budget-related legislation, but also proposes significant amendments to both the [Canada Shipping Act, 2001](#) ("CSA") and the [Marine Liability Act](#) ("MLA"). The amendments to the CSA were introduced to allow the federal government to regulate for environmental reasons and specifically "to deliver on commitments made under the Oceans Protection Plan to enable the Government to respond to marine pollution incidents faster and more effectively, and to better protect marine ecosystems and habitats". The amendments provide significant new powers and authority that potentially change the marine safety and environmental protection framework in Canada. Read the [full article](#) by Joanna Dawson with McMillan LLP.

### **Winds of Change and Clouds of Uncertainty: The *Professional Governance Act***

For many companies operating in the natural resource sector, a common barrier to investment decisions is uncertainty; uncertainty around government policies, environmental regulations, tax regulations, fibre supply, and land claims. With the recently passed Bill 49, the [Professional Governance Act](#), regulators and registered professionals working in the natural resource sector now find themselves face to face with that bugaboo, uncertainty.

At our forestry conference in early February, I jointly spoke on a plenary panel with the CEOs of Engineers and Geoscientists of BC (Ann English, P.Eng) and College of Applied Biology (Christine Houghton) about the *Professional Governance Act*; reflecting on both the lead up to the Act's passing, and what the future may hold.

Uncertainty has held an overwhelming presence since the genesis of the Act. Tight timelines meant a rushed consultation process and writing of the legislation; it also meant a lack of policy clarity, and lack of information such as the cost and business implications for regulators and professionals prior to the Act's introduction. Broad discretion and far-reaching powers of the soon-to-be-established Office of the Superintendent of Professional Governance sustains a degree of ongoing uncertainty.

When implemented, the new Act will change how the forest profession operates and requirements of forest professionals in providing professional services. Read the [full article](#) in the March – April 2019 issue of *BC Forest Professional Magazine*.

### **Federal Court Quashes Federal Policy Allowing Transfer of Salmon into Fish Farms Without**

### Testing for Contagious Virus or Consulting with Indigenous Peoples

On Feb. 4, 2019, the Federal Court issued its reasons for judgment regarding certain decisions made by the Minister of Fisheries, Oceans and Canadian Coast Guard. The Court's reasons were extensive, spanning roughly 200 pages.

'Namgis First Nation, alongside biologist Alexandra Morton, challenged a policy relating to the process associated with authorizing the transfer of smolts (juvenile salmon) grown on land-based hatcheries into ocean-based fish farms.

Specifically, the Department of Fisheries and Oceans ("DFO") had an established policy of not testing for the presence of Piscine Orthoreovirus ("PRV") or Heart and Skeletal Muscle Inflammation ("HSMI") prior to issuing licences authorizing such a transfer (the "Policy").

DFO had reconsidered, but maintained, the Policy on several occasions. In this litigation, 'Namgis and Ms. Morton challenged the latest iteration of the Policy, which the Minister confirmed on June 28, 2018. 'Namgis additionally challenged a decision by DFO to issue a specific license pursuant to the Policy, authorizing a transfer of smolts to restock a particular fish farm situated in its territorial waters. Read the [full article](#) by Paul Seaman, partner with Gowling WLG International Limited.

### BC Budget: Environmentalists Say Clean BC Cash is a Start

With the provincial budget including \$902 million for the Clean BC initiative the province has taken further steps to deal with climate change, but there's a long walk ahead, some environmentalists say.

"They have checked another box," said Alan Andrews, climate change director with Ecojustice. "The big question for us is: Are we going to see legislation? Are we going to see laws that hold ministers to account for achieving targets?"

Over the next three years, the \$902 million committed to the program will fund incentives to steer drivers into cleaner vehicles, fund renovations to improve the efficiency of buildings, offer incentives for homeowners to upgrade windows and heating systems, work with First Nations to switch to cleaner energy sources and provide incentives for industry to clean up.

Andrews said despite the "good start," there remains a gap as the plan will only get BC 75 per cent toward its 2030 emissions target. Jill Doucette, chief executive of Synergy Enterprises, said the budget showed the government is putting its money where its mouth is. Read the full *Times Colonist* [article](#).

### Environmental Appeal Board Decisions

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

#### [Water Sustainability Act](#)

- [Clara London v. Deputy Comptroller of Water Rights \(BC Hydro and Power Authority, Third Party\)](#) [Final Decision – Appeal Dismissed]

#### [Environmental Management Act](#)

- [Mark Spittael v. Delegate of the Director, Environmental Management Act](#) [Consent Order – Appeal Allowed in Part]

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

## FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (Environmental Management Act) (133/2014)	Feb. 28/19	by <a href="#">Reg 7/2019</a>
Agricultural Waste Control Regulation	<b>REPEALED</b>	

(131/92)	Feb. 28/19	by <a href="#">Reg 7/2019</a>
Code of Practice for Agricultural Environment Management (8/2019)	<b>NEW</b> Feb. 28/19	see <a href="#">Reg 8/2019</a>
Code of Practice for the Slaughter and Poultry Processing Industries	Feb. 28/19	by <a href="#">Reg 8/2019</a>
Mushroom Compost Facilities Regulation (413/98)	Feb. 28/19	by <a href="#">Reg 7/2019</a>
Organic Matter Recycling Regulation (18/2002)	Feb. 28/19	by <a href="#">Reg 7/2019</a>
Solid Fuel Burning Domestic Appliance Regulation (218/2016)	Feb. 28/19	by <a href="#">Reg 7/2019</a>
Water Sustainability Act	Feb. 22/19	by 2018 Bill 52, c. 56, section 54 only (in force by <a href="#">Reg 30/2019</a> ), <a href="#">Agricultural Land Commission Amendment Act, 2018</a>
Water Sustainability Fees, Rentals and Charges Tariff Regulation (37/2016)	Feb. 19/19	by <a href="#">Reg 27/2019</a>
Water Sustainability Regulation (36/2016)	Feb. 19/19	by <a href="#">Reg 27/2019</a>
Waste Discharge Regulation	Feb. 28/19	by <a href="#">Regs 7/2019</a> and <a href="#">Reg 8/2019</a>

## OCCUPATIONAL HEALTH AND SAFETY NEWS

### Permanent Disability Evaluation Schedule (PDES) 2018 Review

The Policy, Regulation and Research Division is releasing a discussion paper on the PDES 2018 Review with options and draft policies to stakeholders for comment. The PDES is a guide set out in policy to assist in the calculation of permanent disability awards. As medical and scientific methods and approaches to disability assessment change over time, it is necessary to review the PDES and associated policies regularly to ensure the content remains current. Read the full WorkSafe BC [bulletin](#).

### Upcoming Changes to OHSR – WorkSafeBC: Board of Directors Approves Amendments to the Occupational Health and Safety Regulation

At its January 2019 meeting, WorkSafeBC's Board of Directors approved [amendments](#) to the [Occupational Health and Safety Regulation](#). In addition, the Board of Directors approved consequential changes to Policy Item R20.17-1 of the *Prevention Manual* as a result of the amendment to [Part 20](#) of the Regulation. These amendments will become effective on June 3, 2019. Read the full WorkSafeBC [article](#) for more details.

### Forestry Industry Forum Allows for Improved Collaboration, Better Safety Outcomes

Industry via the Manufacturing Advisory Group (MAG) worked with WorkSafeBC and the BC Forest Safety Council (BCFSC) to develop a framework for what improved collaboration could look like, focusing on the shared goal of achieving a safer industry, and eliminating fatalities and serious injuries.

The result was the creation of the Forestry Industry Forum to provide an effective mechanism between the BC Forestry industry and WorkSafeBC to address emerging issues, build a stronger working relationship, provide

efficiencies for resolutions and communications, and improve safety standards and performance. Read the [full article](#) in the February 2019 issue of *Forest Safety News*.

## OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
There were no amendments this month.		

***The content of this document is intended for client use only. Redistribution to anyone other than Quickscribe clients (without the prior written consent of Quickscribe) is strictly prohibited.***

## QUICKSCRIBE SERVICES LTD.

### DISCLAIMER

The Reporter includes articles that should be used for information and educational purposes only and are not intended to be a source of legal advice. Please consult with a lawyer before choosing to act on any information included in the Reporter. The content in each article is owned by its respective author.

**UNSUBSCRIBE FROM THIS EMAIL SERVICE**  
To unsubscribe from this service, click [here](#).