



EnviroFor Reporter

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ENVIROFOR NEWS:

New "Updated To..." Reference Links Added

All laws on Quickscribe include a reference to the amending bill or regulation that bring into force the most recent changes to each law. These references will now link directly to the source so you can more easily determine the nature of the most recent changes to the law. Here are some examples:

- [Land Act](#): [includes [2018 Bill 37](#), c. 37 amendments (effective October 31, 2018)]
- [Provincial Forest Use Regulation](#): [includes [B.C. Reg. 262/2018](#), Sch. 1 amendments (effective December 10, 2018)]

While not all laws are covered at this time, we hope to apply this to the remaining laws over the next few months. These link references will also now appear in the BC Legislative Digest email alerts, making it easier than ever for you to quickly determine the nature of the changes with a single click.

Latest Annotations

New annotations have recently been added to the Quickscribe site. These annotations include contributions from:

- [Jeff Waatainen](#), DLA Piper LLP – [Forest and Range Practices Act](#), [Wildfire Act](#), [Forest Planning and Practices Regulation](#), [Woodlot Licence Planning and Practices Regulation](#)

Watch this 20-minute [YouTube video](#) to learn more about annotations including how to receive alerts when new annotations are published to the laws that matter most to you. To view and follow annotation contributors, select "[Annotations](#)" via the left navigation, then select the "[experienced legal professionals](#)" link under the large star icon, then "Follow User" adjacent to any "expert annotator".

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

**Commission Introduces New Regulations
to Meet Methane Targets**
OBCOGC Bulletin:

The BC Oil and Gas Commission (Commission) has introduced new regulations to reduce methane emissions from upstream oil and gas operations to meet or exceed federal and provincial methane emission reduction targets. The [amendments](#) to the [Drilling and Production Regulation](#) come into effect on Jan. 1, 2020.

The impact of the new regulations is a reduction in methane emissions by 10.9 megatonnes of carbon dioxide equivalent over a 10-year period, which is like taking 390,000 cars off the road each year.

Developed with input from environmental groups and industry, the new regulations address the primary sources of methane emissions from BC's upstream oil and gas industry, which are:

- Pneumatic devices
- Equipment leaks
- Compressor seals
- Glycol dehydrators
- Storage tanks
- Surface casing vents

The changes include enhancements to requirements for leak detection and repair, designed to ensure leaks are detected and repaired quickly. Additionally, robust data management and reporting requirements to ensure transparent reporting of industry actions are under development. The new regulations and methane reduction measures align with the Province's CleanBC plan. Read the [full OGC bulletin](#).

This Pipeline is Challenging Indigenous Law and Western Law. Who Really Owns the Land?

With members of the Wet'suwet'en First Nation blockading a pipeline project on their traditional lands, Na'moks was standing by a crackling campfire, next to an RCMP checkpoint, drawing in the snow with his right boot.

The hereditary chief of the Tsayu clan made a small circle to represent the authority of elected band councils within reserves. Outside that circle, he explained, is where Wet'suwet'en clans wield power over a vast territory. "We are hereditary chiefs," he said, "and we have control of this land."

The temporary checkpoint was set up in a remote area of the BC Interior as things got tense, with RCMP officers arresting 14 protesters on Monday [January 7th] at a blockade erected last month along a logging road.

The road leads to the Unist'ot'en camp on the Morice River bridge, where hereditary leaders were preventing construction workers from TransCanada Corp.'s Coastal GasLink pipeline project from passing. By Friday, the barriers were coming down, after the protesters agreed to comply with an interim court injunction to grant workers temporary access to the area. The way forward for the project, however, remains uncertain. Read *The Globe And Mail* [article](#).

Commission Launches Mediation Service Pilot Project

The BC Oil and Gas Commission (Commission) is launching a new mediation service to provide an additional level of support for land owners in cases where land owners and companies are not able to agree on remedies for complaints and site restoration post permit.

Due to a broadening of the Commission's role in engagement, the Commission has identified a need for support and processes to bridge existing services for stakeholders during the permitting process and managing differences throughout the full lifecycle of energy activities. The Commission's new pilot mediation service will aim to resolve issues between land owners and companies. Read the [full BCOGC Bulletin](#).

Super-Priority for Environmental Liabilities in Insolvencies – A Comment on the Supreme Court of Canada's Decision in Redwater

On January 31, 2019, the Supreme Court of Canada released its landmark decision in *Orphan Well Association v Grant Thornton Ltd*, [2019 SCC 5](#) ("Redwater"). The question before the Court was whether the Alberta Energy Regulator and Orphan Well Association (collectively, the "Regulator") could require Grant Thornton Limited, as receiver and then trustee in bankruptcy (the "Trustee") of Redwater Energy Corporation ("Redwater"), to comply with abandonment, reclamation and remediation orders issued by the Regulator, or whether the Trustee was entitled to "disclaim" the assets subject to the orders (the "Renounced Assets") and not comply with the orders.

A 5:2 majority of the Supreme Court determined that the Trustee could not disclaim the Renounced Assets, effectively elevating the environmental orders to a super-priority status. Absent an immediate response from Parliament, *Redwater* will have profound and potentially severe impacts on many solvent and insolvent

businesses in Canada, especially in Alberta's energy sector. Read the [full article](#) by [Josef G.A. Kruger](#), [Robyn Gurofsky](#), [Jack Maslen](#) and [Jessica Cameron](#) of Borden Ladner Gervais LLP.

NEB Wants Marine Protection Program from Trans Mountain Pipeline Builder

The National Energy Board would require the creation of a marine mammal protection program for the Trans Mountain pipeline in a series of draft conditions it has laid out before it considers the project.

The focus of the review is to apply the [Canadian Environmental Assessment Act](#) and the [Species at Risk Act](#) to project-related marine shipping, the board says in the document.

The conditions mitigate potential risks to the environment and protect the public, it says. Releasing these draft conditions and recommendations is not an indication of the board's forthcoming recommendation to the federal government to either approve or deny the project, it says. Read the [full article](#) on *CBC News*.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Mineral Tenure Act	Jan. 1/19	by 2018 Bill 7, c. 5, section 13 only (in force by Reg 272/2018), Miscellaneous Statutes Amendment Act, 2018

FORESTRY AND ENVIRONMENT NEWS

Bill 49 Signed into Law; Government Schedules More Meetings With Regulators in Advance of Professional Governance Act Implementation

[Bill 49, the Professional Governance Act](#), passed third reading and was signed into law by the lieutenant governor on November 22.

The *Professional Governance Act* is designed to be enacted through regulations. In preparation for drafting the regulations, the Ministry of Environment and Climate Change Strategy scheduled a series of meetings throughout December, January, and February with the five affected regulators (Association of BC Forest Professionals; BC Institute of Agrologists; College of Applied Biology; Engineers and Geoscientists of BC; and Applied Science Technologists and Technicians of BC). The intent of the meetings is to discuss the government's policy objectives and plans to develop regulations to implement the *Professional Governance Act*. Key among the issues to be addressed through new regulations are:

- right to practice (under the Act, biologists, agrologists, and technologists will be given right to practice, a status until now held only by engineers and foresters);
- regulation of firms (under the Act, the ABCFP will be responsible for also regulating firms that employ forest professionals);

Read the [full article](#) published the January/February addition of the ABCFP publication – *BC Forest Professional*.

BC "Revitalized" Environmental Assessment Regime – The Path Ahead

In November 2018, British Columbia [passed legislation](#) designed to "revitalize" its [Environmental Assessment Act](#) as well as "to ensure the legal rights of First Nations are respected, and the public's expectation of a strong transparent process is met."

The new framework legislation – Bill 51 – is scheduled to come into force in the fall of 2019. Leading up to the implementation of the new Act, the government will consult with the public on the development of policy and regulations to elaborate on several core elements of the regime.

This commentary outlines the main changes and the implications for those involved with environmental assessments.

1. What Are the Goals and How Does the New Regime Measure Up?

The government says it focused on these three goals:

- enhancing public confidence;
- advancing reconciliation with First Nations; and
- protecting the environment while offering clear pathways to sustainable project approvals.

Read the [full article](#) by David Bursey, Radha D. Curpen, Brad Gilmour, Sharon G.K. Singh and Charlotte Teal with Bennett Jones LLP.

Forest Policy Reforms to Rebuild Coastal Forest Sector

To create and support good jobs in British Columbia's coastal forest sector, government is making policy changes to increase the processing of BC logs on the coast and to reduce wood waste by redirecting it to BC's pulp and paper mills.

The changes, as part of the Coast Forest Sector Revitalization Initiative, were announced by Premier John Horgan at the annual Truck Loggers Association (TLA) convention. Government is taking steps to reverse a systemic decline that has taken place in the coast forest sector over most of the last two decades.

"We're committed to rebuilding a strong and healthy coastal forest sector for British Columbians," said Premier Horgan. "Through the forest policy reforms I'm announcing today, we will see more logs and fibre processed in BC, supporting BC workers, their families and communities." The Coast Forest Sector Revitalization has five main goals:

- Rebuilding solid wood and secondary industries to ensure more BC logs and fibre are processed in BC
- Improving harvest performance to ensure more fibre is available for domestic mills, including the pulp and paper sector.

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

Changes to FRPA & RPPR

Staff in the Ministry of Forests, Lands, Natural Resources Operations and Rural Development (FLNRORD) are working on amendments to the [Forest and Range Practices Act](#) (FRPA) that are expected to be introduced into the legislature in 2019. We are told that some of the changes being considered are based on work the Board has done, including our 2017 *Special Report on Opportunities to Improve FRPA* and our work on range planning and practices. It's been 15 years since FRPA was introduced, without any substantive changes made to the legislation in that time. Read the [full article](#) in the Winter 2018/19 issue of the Forest Practices Board newsletter.

New BC Timber Sales Regulation

Effective January 8, 2019, the new [Refusal of Cutting Permit or Road Permit Regulation](#) will allow the minister or delegate to refuse a cutting permit or road permit application that is wholly or partially within a BCTS Operating Area subject to criteria specified in the regulation. The minister or delegate may, however, also consider any mitigating factors relevant to the criteria when determining the issuance of a cutting permit or road permit. For the purposes of this regulation only, the proposed harvest areas and roads that are applicable to this regulation are spatially identified in a multi-year development plan by BC Timber Sales, which is updated regularly.

Environmental Appeal Board Decisions

There were three Environmental Appeal Board decisions in the month of January:

[Water Sustainability Act](#)

- [Harrison Hydro Project Inc.; Fire Creek Project Limited Partnership; Lamont Creek Project Limited Partnership; Stokke Creek Project Limited Partnership; Tipella Creek Project Limited Partnership; Upper Stave Project Limited Partnership v. Comptroller of Water Rights](#) [Preliminary Applications for Dismissal – Denied]

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

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information

Contaminated Sites Regulation (376/96)	Jan. 24/19	by Regs 11/2019 and 13/2019
Fish and Seafood Licensing Regulation (261/2016)	Jan. 1/19	by Reg 261/2016, section 68
Hunting Regulation (190/84)	Jan. 2/19	by Reg 1/2019
Hunting Licensing Regulation (8/99)	Jan. 2/19	by Reg 1/2019
Interest Rate Under Various Statutes Regulation (386/92)	Jan. 1/19	by Reg 268/2018
Permit Regulation (253/2000)	Jan. 2/19	by Reg 1/2019
Refusal of Cutting Permit or Road Permit (252/2018)	NEW Jan. 8/19	see Reg 252/2018
Wildlife Act Commercial Activities Regulation (338/82)	Jan. 2/19	by Reg 1/2019
Wildlife Act General Regulation (340/82)	Jan. 2/19	by Reg 1/2019

OCCUPATIONAL HEALTH AND SAFETY NEWS

TSB Report Cites Fatigue in BC Tug Incident, Says Mate Asleep while on Watch

A tugboat accident has the Transportation Safety Board repeating its calls for heightened awareness about the dangers of crew fatigue while at sea.

There were no injuries or pollution spills when the lone mate on watch duty fell asleep as the Ocean Monarch touched bottom while on auto pilot in Princess Royal Channel in British Columbia, but it could have been deadly, the board's senior marine investigator, Glenn Budden, said Thursday [January 10th].

"We're talking very remote country," he said. "It could have been much, much worse. We could have had three fatalities on our hands."

The Ocean Monarch was towing a barge filled with cement when the July 2017 accident occurred south of Kitimat.

The tug's master and deck hand were asleep below deck and the vessel's navigational alarms were off, the board's report says. It concludes the mate likely fell asleep as a result of acute fatigue from previous night shifts, chronic sleep disruptions and the monotonous workload in the wheel house.

"You basically are impaired," said Budden. "Your reaction time is slower. Your cognitive thinking is not what it should be." Read the [full article](#) by Dirk Meissner of The Canadian Press.

Housekeeping Amendments to the Prevention Manual (OHS Policies)

The [Workers Compensation Act](#) (Act) is being reviewed by British Columbia's Office of the Legislative Counsel as part of a standard statute revision process. Changes made pursuant to the *Statute Revision Act* will result in editorial changes to language, as well as renumbering of sections, parts, and divisions of the Act.

At issue is the consequential revisions required for the policies in the *Prevention Manual*, to ensure they continue to reflect the legislation. These changes would all be housekeeping in nature, meaning there is no change in the substance of the applicable law or policy. Read the full WorkSafeBC [news release](#).

Proposed Revisions to the Workers Compensation Act

The BC government has [proposed changes](#) to the language and numbering of the [Workers Compensation Act](#). Proposed changes are intended to make the Act easier to read and understand.

The proposed changes include a reorganization of the Act's components, some new wording in various sections, and deletion of provisions that have been repealed or are no-longer needed.

The current Act has four parts with multiple divisions, sections, and subsections. To improve clarity, the proposed changes would rearrange the Act into eight parts. Complex provisions would be split up into individual components, creating more sections and subsections.

In some sections, the government has proposed minor wording revisions expected to modernize the language and help with clarity. Read the [full article](#) by Lori Guiton in the November/December edition of *WorkSafe* magazine.

Proposed Merits and Justice Policy Amendments

In January 2018, WorkSafeBC's Board of Directors commissioned an external compensation policy review. The resulting report, entitled *Restoring the Balance: A Worker-Centred Approach to Workers' Compensation Policy*, was published in April 2018 and contains a number of recommendations. Recommendation #1 is for WorkSafeBC to consider amending policy item #2.20, *Application to the Act and Policies*, in the Rehabilitation Services & Claims Manual, Volume II, to explicitly incorporate the requirement "the Board must make its decision based on the merits and justice of the case," as required by section 99(2) of the [Workers Compensation Act](#). Read the full WorkSafeBC [news release](#).

OCCUPATIONAL HEALTH AND SAFETY

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

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