



EnviroFor Reporter

Powered by Quickscribe Online

Toll Free: 1-877-727-6978
Phone: 1-250-727-6978
Fax: 1-250-727-6699

Email:
info@quickscribe.bc.ca

Website:
www.quickscribe.bc.ca

Vol: XII – Issue: V – May 2019

ENVIROFOR NEWS:

Laws Now Load Faster – *Much Faster!* (Hansard Restored)

Some clients may have noticed that the laws on Quickscribe have not been loading in a timely manner. The issue stemmed from how the new [Hansard](#) references were being extracted and displayed on the table of contents of each law. As part of this fix, we had to temporarily remove the Hansard from the database. We are pleased to report that through this process we have not only restored the Hansard feature, but have significantly increased the speed of the database. In fact, laws now load faster than ever before. Please help us by forwarding this news to your colleagues who may have experienced this issue but are not set up to receive this Reporter notice.

New Video – How Can You Benefit from Quickscribe's New Keyword Alert Tool?

We have published a short, [five-minute video](#) that demonstrates how easy it is to set up your own personalized alert for legislative activity or legislative debates that reference keywords or subject matter of your choosing. The setup only takes a few seconds and we will then keep you informed on legislative activity that matters most to you. [Have a look for yourself!](#)

Legislature Wrap-up

The 4th session, 41st Parliament concluded May 30th. The busy spring session included a total of 34 government bills being tabled, all of which have received Royal Assent, with the exception of [Bill 13, Community Safety Amendment Act, 2019](#). There were 24 non-government bills tabled, two of which, [M206, Residential Tenancy Amendment Act, 2019](#), and [M209, Business Corporations Amendment Act \(No. 2\), 2019](#), received Royal Assent in May. To review the status of all the Bills, visit Quickscribe's [Bills' Page](#) for further details.

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

First Timelines in Western Canada for Oil and Gas Well Cleanup Announced in New Plan

The BC Oil and Gas Commission (Commission) has introduced a new regulation, making BC the first province in

western Canada to impose in law timelines for the restoration of oil and gas wells. The [Dormancy Regulation](#) is included in the Commission's new [Comprehensive Liability Management Plan](#) (CLMP) which ensures 100 per cent of the cost of reclaiming oil and gas sites continues to be paid for by industry.

"The Dormancy Regulation and new Comprehensive Liability Management Plan address long-standing concerns raised by many people in BC," said Minister of Energy, Mines and Petroleum Resources Michelle Mungall. "These changes to better manage inactive sites and orphan wells are the result of legislation our government brought in last spring that provides the BC Oil and Gas Commission with the tools it needs to better protect our land and water." The CLMP ensures no direct cost to BC residents, protects public safety and safeguards the environment. Read the entire BCOGC [news article](#).

A Victory for Canadian Energy Development & Federalism: BC Court of Appeal Reference Case

On May 24, 2019, the BC Court of Appeal released its much-anticipated reference decision concerning provincial regulatory authority over interprovincial pipelines. In a rare unanimous five judge decision, the Court held that BC's proposed amendments (the "Proposed Amendments") to its [Environmental Management Act](#) ("EMA") which purported to apply to the Trans Mountain Expansion Project ("TMX") were outside of the powers of a provincial legislature as they were primarily focused on a federal interprovincial undertaking. This strong, unanimous decision provides much needed legal clarity on regulatory jurisdiction at a time of considerable uncertainty in the energy industry.

BC has already announced its intention to appeal the decision to the Supreme Court of Canada.

A reference decision is an advisory opinion rendered by a court on a major legal issue at the request of either a provincial government or the federal government. Technically, a reference case is not a binding decision but, in practice, reference decisions are given as much weight as decisions rendered in regular proceedings.

This decision provides much needed legal clarity on the regulatory jurisdiction of interprovincial projects at a time of uncertainty in the energy industry. In substance, this is the strongest possible decision for project proponents, as it struck down the Proposed Amendments at the validity stage – holding outright that provinces do not have constitutional authority to regulate interprovincial pipelines - without having to apply the sometimes complex and murky doctrines of interjurisdictional immunity and federal paramountcy. Read the [full article](#) published by [Michael A. Marion](#), [Alan L. Ross](#), [Stephen Armstrong](#) and [Brett Carlson](#) with Borden Ladner Gervais LLP.

British Columbia Utility Commission Proceeds with Inquiry Into Regulation of Indigenous Utilities

In response to direction from the British Columbia government (set out in an [Order in Council](#)), the British Columbia Utilities Commission (BCUC) has established an Inquiry Respecting the Regulation of Indigenous Utilities. Among other things, the BCUC plans to address what are the characteristics of an "Indigenous Utility" and whether and how Indigenous Utilities should be regulated. The BCUC is required to submit an interim report describing the commission's preliminary findings by December 31, 2019, and to submit a "final report describing the results of consultations undertaken by the commission and the commission's findings and recommendations" by January 31, 2020.

As set out in the Order in Council and confirmed in the BCUC's Notice, when looking at the characteristics of an Indigenous Utility, the BCUC will consider the ownership and operation of the utility, the services provided, the service recipients and the area served by the utility. When looking at whether and how an Indigenous Utility should be regulated, the BCUC will consider whether the current [Utilities Commission Act](#) should be used or whether another mechanism is appropriate, and how ratepayers will be protected if there is no regulation. Read the [full article](#) by David Stevens with Aird & Berlis LLP.

Alberta Repeals its Carbon Tax Legislation

On June 3, 2019, Alberta's United Conservative Party government passed Bill 1 – *An Act to Repeal the Carbon Tax* (the Repeal Act). The *Repeal Act* received royal assent today [June 3rd], and is expected to be proclaimed imminently. Upon coming into force, the *Repeal Act* repeals the *Climate Leadership Act*, which enabled provincial carbon levies under the former NDP government. As a result of the *Repeal Act*, fuel purchasers will no longer be charged a provincial levy at the time of sale, and sellers and distributors will no longer be required to remit levies to the provincial government. However, this does not mean that Alberta is free from carbon tax. Alberta will soon become one of the federal backstop provinces. Albertans need to understand the federal carbon tax requirements, compliance methods and potential impacts resulting from the change in carbon regime.

The *Climate Leadership Act* is repealed retroactively to May 30, 2019, and news reports indicate that the

provincial government had already started implementing the changes as at May 30, 2019. For fuel purchased before the repeal date, but not yet taken into possession, no levy is deemed to have been payable at the time of purchase. This effectively allows the purchasers to obtain a refund from the fuel seller. Further, anyone who owned fuel for the purposes of resale as of the repeal date, and who paid a carbon levy when they bought or imported the fuel, may file a report with the Alberta Minister of Energy by no later than June 29, 2019 requesting a refund of the levies paid. This provides a mechanism for sellers to recover levies they paid on unsold fuel which they can no longer pass on to their purchasers. Read the [full article](#) by [Chidnma Thompson](#) and [Bradon Willms](#) of Borden Ladner Gervais.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Clean Energy Act	May 16/19	by 2019 Bill 19, c. 24, sections 1 to 8 only (in force by Royal Assent), Energy Statutes Amendment Act, 2019
Drilling and Production Regulation (282/2010)	May 17/19	by Reg 103/2019
Hydro and Power Authority Act	May 16/19	by 2019 Bill 19, c. 24, section 9 only (in force by Royal Assent), Energy Statutes Amendment Act, 2019
Mineral Tax Costs and Expenditures Regulation (405/89)	May 13/19	by Reg 233/2019
Mineral Tenure Act	May 30/19	by 2019 Bill 14, c. 26, sections 35 and 36 only (in force by Royal Assent), Heritage Conservation Amendment Act, 2019
Oil and Gas Activities Act	May 30/19	by 2019 Bill 14, c. 26, sections 37 and 38 only (in force by Royal Assent), Heritage Conservation Amendment Act, 2019
Utilities Commission Act	RETROACTIVE to June 14/12	by 2019 Bill 19, c. 24, section 17 only (in force by Royal Assent), Energy Statutes Amendment Act, 2019
	May 16/19	by 2019 Bill 19, c. 24, sections 10 to 16 and 18 only (in force by Royal Assent), Energy Statutes Amendment Act, 2019

FORESTRY AND ENVIRONMENT NEWS

Professional Governance Act

Sections of Bill 49 [Professional Governance Act](#) came into force June 1, while some sections will come into force at a later date by regulation. According to the government, the intent of the law is to modernize and strengthen the roles and expectations of qualified professionals in the province, in turn providing greater, science-based public oversight of how BC's natural resources are managed. It will also establish an office of the superintendent of professional governance to ensure consistency and best practices are applied in the work of qualified professionals moving forward.

Public Feedback Invited into Management of Forests and Range and Private Forests

The BC government is inviting British Columbians to provide input on a two initiatives – to review the [Forest and Range Practices Act](#) and [Private Managed Forest Land Program](#) (PMFLP). A discussion paper, Forest and Range Practices Act Improvement Initiative: Renewal and Resilience, and feedback form are available online: <http://engage.gov.bc.ca/forestandrangepactices>. Feedback can be provided until July 15, 2019.

The *Forest and Range Practices Act* governs on-the-ground forest and range activities on BC's public forests and rangelands. Guiding principles for proposed changes include putting the resiliency of the land first, public trust, reconciliation with First Nations and scientific knowledge, as well as flexibility and adaptation. The Private Managed Forest Land Program was established in 2003 with the introduction of the [Private Managed Forest Land Act](#). Public input on the program is welcome until 4 p.m. on July 9, 2019. Feedback forms and more information are available: <https://engage.gov.bc.ca/privatemanagedforest> The objectives of the review are to confirm the primary goals of the program, which are to encourage private landowners to manage their lands for long-term forest production and encourage sustainable forest management practices, including protecting key public environmental values. Government also wants to increase public awareness and understanding of the program. For these and other news items, visit the [Ministry website news portal](#).

Environmentalists Threaten Legal Action if BC Spotted Owls' Habitat not Protected

It's estimated just 6 of the birds remain in the wild – all in BC

Conservationists are demanding Ottawa do more to protect the spotted owl, and are [threatening legal action](#) against the federal government if it doesn't take more steps to save one of the most endangered animals in Canada.

Environmental advocate group Ecojustice says that there are an estimated six spotted owls left in the wild in Canada – all in BC – and the animals are at risk of being completely wiped out. Ecojustice and the Wilderness Committee want the federal government to come to the rescue of the birds by committing to a tougher plan for the spotted owl in southwestern BC.

The group recently sent a letter to Catherine McKenna, minister of the Environment and Climate Change, demanding she fulfill obligations to protect and restore species under the federal [Species at Risk Act](#). Read the CBC [article](#).

Follow-up Report on Forest Stewardship Plans, Are They Meeting Expectations?

In 2015, the Forest Practices Board published a special investigation report on forest stewardship plans (FSPs). The 2015 report findings were substantial, and the recommendations triggered a quick response from government in the form of non-legal direction and training for practitioners and government staff. Since the 2015 report came out, many FSPs have expired and new replacement FSPs have been submitted to the province for approval. Read the [full report](#) on the Forest Practices Board website.

Making Producers Pay – From Product Stewardship to Innovative EPR Programs

Product and packaging waste is increasingly drawing public attention across the globe. This stems, in part, from a growing awareness of massive plastic pollution accumulation zones in our oceans, government bans of single use plastics, China's recent import ban on scrap plastics, and news of the Philippines wanting to return Canadian "recyclables." In this era, governments are increasingly turning to innovative waste management and diversion policies and laws.

To date, Canada has focused on two approaches for managing products and their packaging at end-of-life: (1) extended producer responsibility or "EPR", and (2) product stewardship programs. For the most part, these programs (which cover various categories) fall under provincial jurisdiction.

To varying degrees, these programs shift the end-of-life waste responsibility away from governments (and tax payers) and on to producers (e.g., brand owners, manufacturers and first importers). Depending on the program, this responsibility includes reporting and funding (at least in part) the management of the waste created by their products. Read the [full article](#) by [Mark Youden](#) and [Maya Stano](#) with Gowling WLG.

Forestry Legislation Amendments

On May 30, 2019, [Bill 22, Forest Amendment Act, 2019](#), amending the [Forest Act](#), came fully into force by Royal Assent. The amendments require forest companies to gain approval from the minister before disposing of or transferring a tenure agreement to another party. This will allow the minister to refuse or approve a new arrangement if it is not in the public interest or to put conditions on an approval. Bill 21, [Forest and Range Practices Amendment Act, 2019](#), also received Royal Assent, but largely comes into force in future by

regulations. The bill amends the [Forest and Range Practices Act](#) to improve the health and sustainability of BC's forest and range lands and increase public confidence in how these lands are managed. For your convenience, Quickscribe has published [an early consolidation](#) of the *Forest and Range Practices Act*, as it will read when all changes come fully into force.

Environmental Appeal Board Decisions

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

[Environmental Management Act](#)

- [Don Tegar; Isabel and Marc Brezinger; Siamak Zand; Robert and Susan Enslin; William C. Evans; Joel Shakin; Brian D. Milne; Christiana Shum; Edward Bruce; Maria T. Reeve; Devra Faye Samson; Jennifer Taylor; Trevor Tso; Lai Y.T. Lam; Yunn Lam; Arnold E. Shuchat; Maria Carmen and Carlos P. Alfaro; Christie S.M. Michel; C. Alexandra Neufeld v. District Director, Greater Vancouver Regional District](#) [Final Decisions – Appeals Allowed in Part]
- [Harvest Fraser Richmond Organics Ltd. v. District Director, Greater Vancouver Regional District](#) [Final Decision – Resolved by Consent]
- [GFL Environmental Inc. v. District Director, Environmental Management Act](#) [Document Disclosure Applications – Granted in Part]

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

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Environmental Management Act	May 16/19	by 2019 Bill 17, c. 19, sections 11 to 25 only (in force by Royal Assent), Environmental Management Amendment Act, 2019
Forest Act	May 30/19	by 2019 Bill 22, c. 31, sections 1 to 23 (in force by Royal Assent), Forest Amendment Act, 2019
Forest and Range Practices Act	May 16/19	by 2019 Bill 21, c. 25, section 2 only (in force by Royal Assent), Forest and Range Practices Amendment Act, 2019
Integrated Pest Management Act	May 16/19	by 2019 Bill 29, c. 11, sections 7 to 12 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2019
Professional Governance Act	NEW June 1/19	c. 47, SBC 2018, Bill 49 , (in force by Reg 107/2019)
Professional Governance General Regulation (107/2019)	NEW June 1/19	see Reg 107/2019
Protected Areas of British Columbia Act	May 16/19	by 2019 Bill 16, c. 17, sections 1 to 4 only (in force by Royal Assent), Protected Areas of British Columbia Amendment Act, 2019 ; and 2019 Bill 32, c. 16, section 1 only (in force by Royal Assent), Protected Areas of British Columbia Amendment Act (No. 2), 2019

OCCUPATIONAL HEALTH AND SAFETY NEWS

Workers Compensation Act Amendments

The [Workers Compensation Amendment Act, 2019](#) came into force by Royal Assent on May 16, 2019. The amendments to the [Workers Compensation Act](#) serve to broaden the definition of firefighter by extending the occupational disease presumptions.

Occupational Health and Safety Regulation Amendments

A significant number of amendments to the [OHSR](#) came into force on June 3rd as a result of [B.C. Reg. 14/2019](#). Amendments were made to the following Parts:

- Part 5 – Chemical Agents and Biological Agents
- Part 8 – Personal Protective Clothing and Equipment
- Part 20 – Construction, Excavation and Demolition
- Part 21 – Blasting Operations
- Part 23 – Oil and Gas
- Part 24 – Diving, Fishing and Other Marine Operations
- Part 26 – Forestry Operations and Similar Activities
- Part 29 – Aircraft Operations
- Part 34 – Rope Access

All amendments have been consolidated on the Quickscribe site.

Proposed Policy Amendments Regarding Vocational Rehabilitation and Proposed Options Regarding Cost Relief

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 April 2018 and contains a number of recommendations. Recommendations #5 through #15 propose amendments to WorkSafeBC's Vocational Rehabilitation (VR) policies, and recommendations #16 and #19 propose amendments to cost relief policy in relation to VR and return to work. Read the full WorkSafeBC News [release](#).

OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
Workers Compensation Act	May 16/19	by 2019 Bill 18, c. 10, sections 1 to 3 only (in force by Royal Assent), Workers Compensation Amendment Act, 2019

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](#).