



EnviroFor Reporter

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ENVIROFOR NEWS:

New EnviroFor Enhancements

EnviroFor has recently made a few enhancements to the site, including significant progress on the ongoing expansion of historical Bills, which now date back to 1992. Other changes include a redesign of the "Title/Keyword" search tool to make it more obvious for new users to intuitively switch between the two search functions. In the coming months, you will see a significant expansion of historical orders as well as a new supplemental note feature that will provide you with yet another layer of helpful information about each section of law. Stay tuned!

Legislative Session

The 2nd Session, 42nd Parliament (2021) commenced on April 12 with the throne speech. The first budget since the pandemic was delivered on April 20th. The budget included significant spending on various social programs, housing and mental health and addiction services. BC's deficit is expected to climb to \$9.7 billion for 2021-2022 and provincial debt to top \$103 billion by 2024. The government has introduced seven new bills and one member bill as of the release of this Reporter.

- [Bill 1](#) – An Act to Ensure the Supremacy of Parliament
- [Bill 2](#) – Public Interest Disclosure Amendment Act, 2021
- [Bill 3](#) – Employment Standards Amendment Act, 2021
- [Bill 4](#) – Budget Measures Implementation Act, 2021
- [Bill 5](#) – InBC Investment Corp. Act
- [Bill 6](#) – Accessible British Columbia Act
- [Bill 8](#) – Public Safety and Solicitor General Statutes Amendment Act, 2021
- [Bill M201](#) – Assessment (Split Assessment Classification) Amendment Act, 2021

A reminder that if you would like to be notified on the progress of these bills or any other legislation, visit the [My Alerts](#) page to set up some custom alerts for laws that matter most to you. We recommend trying the BC Legislative Digest or the new [Keyword Alert](#) options.

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.

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CATEGORIES

[ENERGY & MINES](#)

[FORESTRY & ENVIRONMENT](#)

[OCCUPATIONAL HEALTH & SAFETY](#)

ENERGY AND MINES NEWS

Energy in Transition: Renewable Natural Gas has a Role to Play

For Canada to meet its recently announced "Net Zero by 2050" climate commitment, reducing the carbon intensity of natural gas production, distribution and consumption is a priority – all the more so given Canada's bold ambition to reduce greenhouse gas (GHG) emissions by 40 to 45 per cent below 2005 levels by 2030 (announced on April 22, 2021, at the Leaders Summit on Climate).

Renewable Natural Gas (RNG), also known as biomethane, is often seen as the key to decarbonizing the natural gas system. And for good reason: RNG is a drop-in replacement for conventional natural gas, but with much lower GHG emissions. Some RNG projects can do even more, delivering RNG through existing infrastructure that is not just incrementally better for the climate than conventional natural gas when it is burned but is actually "carbon negative" when measured on a lifecycle basis. Read the [full article](#) by [Emilie Bundock](#), [Christopher R. Bystrom](#) and [Jean-Philippe Therriault](#) with Fasken Martineau DuMoulin LLP.

Washington Lawmakers, Conservationists Push B.C. on Mining Regulations

Letter from Washington legislators adds voices to effort calling on B.C. to improve environmental regulation of industry.

A group of Washington state legislators is calling on Premier John Horgan to better protect the headwaters of cross-border rivers from the threat of pollution from mining in British Columbia.

The 25 state senators and house representatives, led by Senator Jesse Salomon, sent a letter to Horgan last week urging the premier to "undertake needed reforms to improve British Columbia's financial assurance system," related to mine reclamation and cleanup. Read the Vancouver Sun [article](#).

Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletins:

- [IB 2021-01](#) – BC Oil and Gas Commissioner Retiring in 2021
- [INDB 2021-12](#) – Changes to Electronic Submission of Methane Leak Detection and Repair (LDAR) Surveys
- [INDB 2021-13](#) – Kiskatinaw Seismic Monitoring and Mitigation Area Special Project Order Enhancements
- [IB 2021-02](#) – Commission Takes Steps to Appoint Receiver for SanLing Energy Ltd's Assets
- [INDB 2021-14](#) – Bulk Gas and Fluid Analysis Submissions
- [INDB 2021-15](#) – Submission File Validation Added to eSubmission
- [INDB 2021-16](#) – Updates to the Application Management System

Visit the [BCOGC website](#) to view this and other bulletins.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties (Mines) Regulation (47/2017)	Apr. 1/21	by Reg 7/2021
Workplace Hazardous Materials Information System Regulation (Mines) (257/88)	REPEALED Apr. 1/21	by Reg 7/2021

FORESTRY AND ENVIRONMENT NEWS

Significant Changes to Canada's Federal Environmental Protection Regime Proposed

On April 13, 2021, the government of Canada proposed significant changes to the [Canadian Environmental Protection Act, 1999](#) ("CEPA") through the introduction of [Bill C-28, Strengthening Environmental Protection for a Healthier Canada Act](#) (the "Amendments").

With these Amendments, the government hopes to modernize Canada's environmental regime which has not

undergone significant change in over 20 years. CEPA is the primary statute through which the federal government regulates and protects the environment. CEPA and its accompanying regulations regulate among other things the treatment and disposal of chemicals and hazardous waste, vehicle and engine emissions, equipment and other sources of pollution, and the prevention and impact of environmental emergencies such as oil and chemical spills.

This bulletin provides an overview of the major changes to CEPA that have been proposed. Read the [environmental bulletin](#) by [Holly Sherlock](#), [Julia Loney](#), [Talia Gordner](#) and [Ralph Cuervo-Lorens](#) with McMillan LLP.

Windfalls and Legal Costs: Victory Motors Clarifies Contaminated Sites Cost Recovery in British Columbia

British Columbia's contaminated sites cost recovery regime under the [Environmental Management Act](#) (EMA) is based on a simple premise – "polluter pays" – that has proven complicated to implement. The EMA casts a wide net to catch an array of "responsible persons" connected to a contaminated site, including previous site owners and operators, then provides the courts with broad discretion to allocate retroactive liability for remediation costs between those responsible persons based on certain criteria. The question of how the courts should exercise that discretion has been the subject of much litigation.

In [Victory Motors \(Abbotsford\) Ltd. v. Actton Super-Save Gas Stations Ltd.](#), the British Columbia Court of Appeal clarified two discrete cost allocation issues. First, it confirmed courts should not increase the relative liability of a current owner simply because it was a polluter that benefitted from a remediation, absent evidence of a "windfall." Second, it explained that remediation-related legal costs (as opposed to litigation costs) could be fully recovered as a remediation cost to the extent that they are "reasonably incurred." Read the [full article](#) by [Michael Manhas](#) and [Niles Bond](#) with Norton Rose Fulbright Canada LLP.

Canada Has New Ways to Pressure Washington Over Softwood Lumber Duties: Ambassador

Pressure mounts for Biden administration to address the softwood dispute, says Canada's ambassador to the U.S.

Canada's ambassador to the United States says Canadian officials have new leverage as they urge Washington to negotiate a solution to the long-standing dispute over U.S. duties on softwood lumber. Read the CBC [article](#).

Updated Public Health Order – Industrial Camps – April 13, 2021

From the PHO: This order repeals and replaces the previous order July 20, 2020 with respect to industrial camps and the Order January 12, 2021 with respect to the resource sector worksites and industrial camps in the region of the Northern Health Authority, as designated under the Health Authorities Act. View the updated [Order](#).

Federal Carbon Pricing Is Here To Stay: What Does It Mean And What Comes Next?

On March 25, 2021, a [6 to 3 majority](#) of the Supreme Court of Canada [upheld](#) the federal [Greenhouse Gas Pollution Pricing Act](#) ("GGPPA"), following the joined constitutional challenges of Ontario, Alberta and Saskatchewan. The decision will no doubt become a landmark – not only in constitutional and environmental law, but also in the history of the country's response to climate change.

The Supreme Court recognized federal jurisdiction to establish minimum national standards of greenhouse gas ("GHG") price stringency to reduce GHG emissions.

The authority recognized by the Supreme Court is narrow. The majority rejected approaches that would give the federal government complete control over greenhouse gases, climate change or even setting "national standards" in general.

Nevertheless, the Supreme Court's recognition of the federal government's limited jurisdiction is significant. It signals to the country that climate change is a serious problem requiring intervention at all levels of government. More specifically, it allows the federal government to set the pace and stringency of national carbon pricing, and to compel the Canadian economy as a whole to internalize the costs of carbon emissions. Read the [full article](#) by [Liane Langstaff](#) and [Chris Hummel](#) with Gowling WLG.

Key Developments in British Columbia and Federal Environmental Law

From the Law Firm Borden Ladner Gervais LLP:

We are pleased to present [BLG's review of key developments in British Columbia and federal environmental law](#).

The COVID-19 pandemic, reconciliation with Indigenous peoples, climate change, and jurisdictional disputes are key issues that have shaped environmental law in British Columbia and across Canada this past year.

Looking back at 2020 and early 2021, we have highlighted the most significant judicial decisions, regulatory decisions, legislative changes, and policy developments, as well as how these decisions may affect your business in 2021 and beyond. Disputes over natural resource projects, contaminated sites, environmental prosecutions, as well as judicial review or appeal decisions arising from environmental regulatory bodies, have brought many changes to the landscape of environmental law. The COVID-19 pandemic slowed both the federal and provincial legislative processes. However, several significant federal amendments have been proposed, including statutes related to achieving net-zero greenhouse gas emissions by 2050. At the provincial level, the British Columbia government has implemented new regulations under the [Environmental Assessment Act](#) and introduced new obligations for identifying and addressing contaminated sites through amendments to the [Environmental Management Act](#) and [Contaminated Sites Regulation](#). Read the [full article](#) and download the report.

Environmental Appeal Board Decisions

There were five Environmental Appeal Board decision in the month of April:

[Water Users' Communities Act](#)

- [The Nature Trust of British Columbia v. Comptroller of Water Rights, Ministry of Forests, Lands, Natural Resource Operations and Rural Development](#) [Preliminary Jurisdiction Decision – Granted in Part]

[Integrated Pest Management Act](#)

- [Western Aerial Applications Ltd. v. Administrator, Integrated Pest Management Act](#) [Final Decision – Appeal Dismissed]

[Wildlife Act](#)

- [Christopher Shawn Kitt v. Deputy Regional Manager, Recreational Fisheries and Wildlife Programs](#) [Preliminary Decision on Jurisdiction – Appeal Dismissed]

[Environmental Management Act](#)

- [Pacesetter Mills Ltd. v. District Director, Environmental Management Act](#) [Final Decision – Appeal Dismissed]
- [Border Feedlot Corporation v. Delegate of the Director, Environmental Management Act](#) [Consent Order – Resolved]

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

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Hunting Regulation (190/84)	Apr. 22/21	by Reg 112/2021
Limited Entry Hunting Regulation (134/93)	Apr. 22/21	by Reg 112/2021
Motor Vehicle Prohibition Regulation (196/99)	Apr. 22/21	by Reg 112/2021
North American Gypsy Moth Eradication Regulation (102/2021)	NEW Apr. 1/21	see Reg 102/2021
North American Gypsy Moth Eradication Regulation, 2020 (81/2020)	REPEALED Apr. 1/21	by Reg 102/2021

Wildlife Act Commercial Activities
Regulation (338/82)

Apr. 22/21

by [Reg 112/2021](#)**OCCUPATIONAL HEALTH AND SAFETY NEWS****British Columbia Expands Power to Close Businesses in Response To Workplace Covid-19 Transmission**

A new public health order has expanded the powers of British Columbia's medical health officers in the fight against the Covid-19 pandemic. [The Expedited Workplace Closure order](#), in effect since April 12, allows medical health officers to temporarily close workplaces where one or more persons has become infected with COVID-19 and it is necessary for the workplace, or part of the workplace, to stop operating in order to prevent further transmission. Businesses subject to an order may be closed for 10 days or longer.

With workplaces identified as one of the most common sources of transmission, the order attempts to quell the recent surge in the number of people infected with COVID-19. Read the [full article](#) by Dana F. Hooker and Kristina Draskovic (Articling Student) with DLA Piper LLP.

New Public Health Orders

The Public Health Office (PHO) recently issued the following orders & Guidelines:

- [Workplace and Post-Secondary Institution Safety – April 21, 2021](#) (PDF, 345KB)
- [Variance of Existing Orders to Suspend Reconsideration – April 21, 2021](#) (PDF, 273KB)
- [Food and Liquor Serving Premises – April 21, 2021](#) (PDF, 367KB)
 - Read related [Public Health guidance](#)
- [Industrial Camps – April 13, 2021](#) (PDF, 407KB)
 - [Delegation: Industrial Camps – June 9, 2020](#) (PDF, 216KB)
- [Industrial Projects Within the Northern Health Authority Region – April 13, 2021](#) (PDF, 407KB)
- [Delegation: Workplace Closures – April 11, 2021](#) (PDF, 319KB)

Visit the [PHO website](#) to view these and other related orders and notices.

WorkSafe BC Updates Guidelines – (April 15)

– from WorkSafeBC:

A number of Occupational Health and Safety regulation guidelines were updated in April. These include:

Guidelines – Occupational Health and Safety Regulation

- Part 14 Cranes and Hoists
 - G14.13 [Training](#) (revised)
 - G14.29 [Operator protection](#) (revised)
- Part 15 Rigging
 - G15.9 [Wedge socket connections](#) (revised)
- Part 17 Transportation of Workers
 - G17.1 [Application](#) (revised)
 - G17.2-1 [Employer's responsibility](#) (revised)
 - G17.4 [Riding restrictions](#) (revised)
 - G17.6 [Hazardous materials](#) (revised)
 - G17.7 [Carrying animals](#) (revised)
 - G17.8 [Passenger compartments](#) (revised)
 - G17.9 [Boarding and leaving – Docking facilities](#) (revised)
- Part 23 Oil and Gas
 - G23.43 [Ventilation openings](#) (revised)

New and revised guidelines are posted for a 60-day preliminary period, during which time the stakeholder community may [comment and request revisions](#). Visit [WorkSafe BC Updates page](#) for these and other changes.

WorkSafeBC: Proposed Policy Amendments Regarding Permanent Disability Evaluation Schedule Review

From WorkSafeBC: The Permanent Disability Evaluation Schedule (PDES) is a guide set out in policy and is used to assess a worker's entitlement to permanent partial disability benefits granted under the loss of function method. The PDES is reviewed every two years to ensure it remains current with medical and scientific methods and approaches to disability assessment.

The PDES Review proposes changes to the Vision Disability section of the PDES concerning photophobia. The changes include revising the ratings for photophobia and adding criteria to the policy. These changes are proposed to ensure policy reflects the nature and degree of the condition and best practices in the field of ophthalmology and ophthalmology assessment.

Our Policy, Regulation and Research Division is releasing a discussion paper on the PDES Review with options and draft policy to stakeholders for comment. You're invited to provide feedback on the options until 4:30 p.m. on August 6, 2021.

Visit [WorkSafeBC](#) for more information and to view the discussion paper.

Workplace Vaccines: Four Key Things to Consider

Legal expert analyses four key issues around workplace vaccines, including the thorny subjects of mandatory shots and human rights

COVID-19 vaccines are the topic on every employer's mind. Employers have so many questions: Can employers make vaccines mandatory? What to do about employees who [won't or can't receive a vaccine](#)? How to be compliant and also [respect employees' privacy](#)?

It can be hard to figure out what the best way forward is with so much information streaming in every day.

"As time rolls forward, we have a different view than we even would have had two months ago and we have to keep re-calibrating regularly," says Loretta Bouwmeester, partner, Mathews Dinsdale & Clark LLP. Read the [full article](#) by Maia Foulis, published on the Canadian Occupational Safety website.

OCCUPATIONAL HEALTH AND SAFETY

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Workplace Hazardous Materials Information System Regulation (Mines) (257/88)	REPEALED Apr. 1/21	by Reg 7/2021

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