



Vol: XV – Issue: 10 – October 2022

ENVIROFOR NEWS:

Recent Legislative Activity

The following government bills were recently introduced:

- [Bill 31](#) – B.C. Pavilion Corporation Act
- [Bill 32](#) – Gaming Control Act
- [Bill 33](#) – Food Delivery Service Fee Act
- [Bill 34](#) – Opioid Damages and Health Care Costs Recovery Amendment Act, 2022
- [Bill 35](#) – Income Tax Amendment Act, 2022
- [Bill 36](#) – Health Professions and Occupations Act
- [Bill 37](#) – Energy Statutes Amendment Act, 2022
- [Bill 38](#) – Indigenous Self-Government in Child and Family Services Amendment Act
- [Bill 39](#) – Judicial Review Procedure Amendment Act, 2022
- [Bill 40](#) – Passenger Transportation Amendment Act (No. 2), 2022
- [Bill 41](#) – Workers Compensation Amendment Act (No. 2), 2022
- [Bill 42](#) – Provincial Sales Tax Amendment Act, 2022

If you wish to be notified when these or other changes come into force, check out Quickscribe's customizable alerts via the [My Alerts](#) page. Quickscribe alerts are included with your subscription so feel free to select the alerts that work best for you!

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[FORESTRY & ENVIRONMENT](#)

[OCCUPATIONAL HEALTH & SAFETY](#)

ENERGY AND MINES NEWS

Energy Statutes Amendment Act, 2022 Introduced

[Bill 37](#), the *Energy Statutes Amendment Act, 2022*, was introduced on October 27, and includes amendments to the [Oil and Gas Activities Act](#) and the [Petroleum and Natural Gas Act](#). These amendments are intended to provide a more cohesive framework for the regulation of hydrogen projects by restructuring and renaming the BC Oil and Gas Commission as the British Columbia Energy Regulator, and expanding its regulatory responsibilities to include hydrogen.

The Bill also proposes amendments intended to clarify the use of underground storage spaces for carbon capture and storage. Other amendments expand liability beyond permit holders for orphaned oil and gas activity sites to include others who benefited from site operations, in order to help pay for restoration of the site. For more

information, see the government [news release](#).

Canada: Tough New Policy on Foreign SOE Investment in Critical Minerals Sectors

On Oct. 29, 2022, the Canadian Federal Government (GoC) announced that, effective immediately, it will be exercising its authority under the [Investment Canada Act](#) (ICA) to increase scrutiny of investments into the Canadian critical minerals sector by foreign state-owned or state-influenced (SOE) investors, in accordance with a new [Policy Regarding Foreign Investments from State-Owned Enterprises in Critical Minerals under the Investment Canada Act](#) (the Policy). Read the [full article](#) by [Subrata Bhattacharjee](#) and [Denes A. Rothschild](#) with Borden Ladner Gervais LLP.

Mining Industry Digs into Alternative Methods as Climate Risks Rise

Changes to industry is a question of cost versus risks

In the North, some mines risk leaking acid if the permafrost melts, while across Canada heavier rainfall will add strain to tailings dams and a lack of it could throw operations.

While no strangers to extreme weather, the growing risks from climate change are forcing the mining industry to take a hard look at their methods and how to prepare for the worst. Many of the most prudent actions to minimize risk are, however, also more costly, meaning that while some have taken them on, not everyone has followed suit. Read the full [CBC article](#).

Coastal GasLink in Hot Water Over Pipeline Environmental Violations

The order was issued after an Oct. 5 inspection found the project wasn't abiding by a compliance agreement supposed to avoid environmental violations.

TC Energy's Coastal GasLink pipeline project is in hot water with British Columbia's environmental regulator for failing to meet the conditions of a compliance agreement that was supposed to correct a lengthening history of violations of the project's environmental permit. Read the [Vancouver Sun article](#).

Spotlight: Mining Law in Canada

Canada is a constitutional monarchy with a Westminster-style parliamentary democracy. It is also a federal state in which legislative authority is constitutionally divided between the federal government of Canada and the provincial governments of Canada's 10 provinces. The federal government and the provinces are sovereign within their respective spheres of competence. Canada also has three sparsely populated northern territories, but they do not enjoy independent constitutional status and derive their powers from Canada's federal government. Legislative powers, including those regarding certain mining matters, may be transferred by the federal government to its territories through a process known as 'devolution'. The devolution process relating to mining matters is complete in connection with Yukon and the Northwest Territories, and continues in connection with Nunavut. The provinces delegate certain powers to cities and other municipalities, effectively creating a third level of government. Read the [full article](#) by Erik Richer La Flèche with Stikeman Elliott LLP – Published by Lexology.

Case Summary: Impossibility of Compliance Defence – Mount Polley's Attempt at Avoiding Contravention of Its Permit

The petitioner was found in contravention of its permit and an administrative penalty was imposed under the [Environmental Management Act](#). The petitioner sought to invoke the common law defence of impossibility. The court concluded that this defence was not available under the EMA's administrative monetary penalty regime. The court also found that the petitioner had full opportunity to make submissions and adduce new evidence on the appeal including on the issue of the assessment of the penalty. The process was fair.

Mount Polley Mining Corp. v. British Columbia (Environmental Appeal Board), [2022] B.C.J. No. 1597, [2022 BCSC 1483](#), British Columbia Supreme Court, August 25, 2022, S. Wilkinson J.

Since 1997, the petitioner, Mount Polley Mining Corp. ("MPM"), operated an open pit copper/gold mine near Likely, BC (the "Mine"). As part of its operations, MPM held a permit issued under the *Environmental Management Act*, S.B.C. 2003, c. 53 (the "EMA") to discharge treated effluent from its mining operations (the "Permit").

In 2014, the Mine was the site of a renowned tailings dam failure. MPM's operations were suspended until 2015. MPM's Permit was also amended to include a short-term water management plan, and a 2-year authorization to discharge effluent into Quesnel Lake. Read the [full article](#) by Adam R. Way with Harper Grey LLP.

ENERGY AND MINES

| Act or Regulation Affected | Effective Date | Amendment Information |
|---|----------------|---|
| Mineral Tax Act | Oct. 1/22 | by 2022 Bill 6, c. 11, sections 35 and 36 only (in force by Royal Assent), Budget Measures Implementation Act, 2022 |
| Net Profit Royalty Regulation (98/2008) | Oct. 28/22 | by Reg 211/2022 |
| Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation (495/92) | Oct. 28/22 | by Reg 211/2022 |

FORESTRY AND ENVIRONMENT NEWS

Contaminated Sites BC: Increased Requirements Proposed in Ministry Discussion Paper

Earlier this month, the British Columbia Ministry of Environment and Climate Change Strategy posted a discussion paper titled "[Making Contaminated Sites Climate Ready](#)." The discussion paper, which is available for public comment until Nov. 30, 2022, summarizes the ministry's policy proposals to incorporate climate change adaptation and sustainability into the [BC contaminated sites framework](#). These proposals are part of a larger trend of recent [amendments](#) to the [Environmental Management Act](#) and the [Contaminated Sites Regulation](#), and forthcoming changes to the process for soil relocation. Read the [full article](#) by [Rick Williams](#), [Roark Lewis](#) and [Maryama Elmi](#) with Borden Ladner Gervais LLP.

Proposed Regulatory Changes to Canada's Living (Organism) Marketplace

Biotechnology is increasingly driving scientific and technological advancements across a wide range of industries, including health, agriculture, energy and environmental remediation. In connection with such advancements, companies are developing, importing, manufacturing and using a growing array of organisms. Organisms new to the Canadian marketplace are typically assessed under the [Canadian Environmental Protection Act, 1999](#) and the [New Substance Regulations \(Organisms\)](#) (the "Regulations") in order to determine whether they pose risks to human health and/or the environment. The Regulations, and assessments conducted thereunder, are therefore vitally important to the way in which companies across Canada can develop and deploy biotechnology. Read the [full article](#) by [Mark Youden](#), [Jessica Boily](#), [Quinn Rochon](#) and [Emma Hobbs](#) with Gowling WLG.

Amending and Establishing Land Use Proposed

Notice of Proposed Ministerial Order establishing Land Use Objectives for the South Island Natural Resource District in the West Coast Region.

Notice is hereby given that Land Use Objectives are proposed for the purposes of the [Forest and Range Practices Act](#) by [Ministerial Order](#), pursuant to Section 93.4 of the [Land Act](#) through the [Land Use Objectives Regulation](#). The Ministerial Order will establish Land Use Objectives for Old Growth Management Areas (OGMAs) to manage for old growth forests and landscape-level biodiversity in the Nahmint Landscape Unit.

The proposed Ministerial Order, Schedule A map, and Landscape Unit Plan are available on the govTogetherBC website at: <https://engage.gov.bc.ca/govtogetherbc/consultation/nahmint-landscape-unit>.

Comments received on or before December 21, 2022, will be summarized and considered in the final preparation of the order. Please submit comments by e-mail to: PublicReviewComments.Nahmint.Proposed.Order@gov.bc.ca or written comments to: Heidi Reinikka, South Island Natural Resource District office at 4885 Cherry Creek Road, Port Alberni, BC V9Y 8E9. For more information, please contact Heidi Reinikka, at Ph: 250-736-6878, Fax: 250-731-3010 or by e-mail: heidi.reinikka@gov.bc.ca.

Province Establishing Permanent Rodenticide Restrictions

The Province is moving forward with permanent regulatory changes that will ban the widespread sale and use of second-generation rodenticides.

Second-generation anticoagulant rodenticides (SGARs) can pose a risk of poisoning to animals that eat poisoned rodents. To reduce this risk, the ministry established an 18-month ban on the sale and use of SGARs in July 2021.

During this 18-month ban, the ministry spoke with technical experts, reviewed the science, outlined proposed regulatory amendments in an intentions paper and held a public consultation. After reviewing almost 1,600 consultation responses, the ministry is proceeding with the changes as described in the intentions paper. To align with the end of the temporary ban, the revised [Integrated Pest Management Regulation](#) will come into effect on Jan. 21, 2023. Read the government [news release](#).

New B.C. Council to Help Build More Resilient Forestry Communities

The Province of British Columbia has convened a new advisory council in support of forestry workers and communities.

"As someone who has worked in forestry and lives in a forestry community, I know personally how vital the sector is for our province," said Katrine Conroy, Minister of Forests. "It is a foundation of the B.C. economy, providing good, well-paying jobs for over 55,000 people. As the major employer in many communities, it is the lifeblood of rural economies. Our vision is to build stronger, more resilient forestry communities and create new economic opportunities through innovative, value-added manufacturing. The council will help ensure we get this right." Read the [full article](#) from Canadian Forest Industries.

Canada's Logging Emissions on Par with Alberta Oil Sands, Says Report

A scathing new report analyzing Canada's overall emissions from logging has found the industry released 75 megatonnes of greenhouse gases in 2020 – on par with the annual output from the Alberta oil sands.

That means that while logging accounted for over 10 per cent of the country's total emissions that year, none of it was counted, according to the report jointly produced by Nature Canada and the Natural Resources Defence Council.

By comparison, the operation of Canada's oil patch produced 81 megatonnes of greenhouse gases in 2020. Read the [BIV article](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decision was made recently:

[Water Sustainability Act](#)

- [Archibald J. McCallum & Rose M. Sinclair v. Assistant Water Manager](#) [Final Decision – Appeals Dismissed]

[Wildlife Act](#)

- [James \(Jim\) Monroe v. Deputy Regional Manager, Recreational Fisheries & Wildlife Program](#) [Preliminary Decision Re: Application to Participate – Granted, Subject To Limitations]

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

Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently:

[Forest and Range Practices Act](#)

- [Nextech Forestry Services Ltd. v. Government of British Columbia](#) [Final Decision – Allowed in Part]

Visit the Forest Appeals Commission [website](#) for more information.

FORESTRY AND ENVIRONMENT

| Act or Regulation Affected | Effective Date | Amendment Information |
|---|----------------|---|
| Agrologists Regulation (10/2021) | Oct. 1/22 | by Reg 191/2022 |
| Applied Biologists Regulation (13/2021) | Oct. 1/22 | by Reg 191/2022 |
| Carbon Tax Act | Oct. 1/22 | by 2022 Bill 6, c. 11, sections 12 and 13 only (in force by Royal Assent), Budget Measures Implementation Act, 2022 |
| Carbon Tax Regulation (125/2008) | Nov. 1/22 | by Reg 211/2022 |
| Code of Practice for Agricultural Environment Management (8/2019) | Oct. 1/22 | by Reg 8/2019 |
| Hunting Licensing Regulation (8/89) | Oct. 11/22 | by Reg 203/2022 |
| Logging Tax Act | Oct. 1/22 | by 2022 Bill 6, c. 11, sections 33 and 34 only (in force by Royal Assent), Budget Measures Implementation Act, 2022 |
| Permit Regulation (253/2000) | Oct. 11/22 | by Reg 203/2022 |
| Professional Governance General Regulation (107/2019) | Oct. 1/22 | by Reg 191/2022 |

OCCUPATIONAL HEALTH AND SAFETY NEWS

Changes to Workers Compensation Act Introduced

[Bill 41](#), the *Workers Compensation Amendment Act (No. 2)*, 2022 was introduced on October 31. The Bill proposes a number of amendments to the [Workers Compensation Act](#), including:

- prohibiting suppression of workers compensation claims;
- adding a duty for employers to return injured workers to work;
- allowing WorkSafeBC to increase the maximum compensation for non-traumatic hearing loss;
- requiring the Workers' Compensation Appeal Tribunal to retain a health professional to provide independent medical opinions when requested for a medical dispute before the tribunal;
- requiring that interest be paid on specified amounts of compensation owed to a worker for more than 180 days following a review or appeal decision changing the rules regarding annual inflation adjustments to pensions and other periodic payments of compensation; and
- establishing a fair practices commissioner to investigate complaints and make recommendations to WorkSafeBC.

For a thorough analysis of these changes, read the [article](#) by [Michelle S. Jones](#) and [Miny Atwal](#) of Lawson Lundell LLP.

New Rules Increase Safety for Young Workers [January 1, 2023]

Changes to employment standards will better protect young people by outlining the types of work that are suitable for those aged 16 to 18. "For a young person, working can be a rewarding and valuable experience, important for personal growth and setting them on a path to their own success," said Harry Bains, Minister of Labour. "But it must be work that is both physically and mentally appropriate for their age, with the necessary

training and supervision." To develop [the new rules](#), ministry staff examined WorkSafeBC injury data and other jurisdictions' labour laws relating to hazardous employment. Based on that information, a number of jobs within several industries were identified as hazardous for young workers, including areas within construction, forestry, food processing, oil/gas and power, asbestos removal and others. Read the full government [news release](#).

Worker Injuries Lead to Fines for BC Employers

British Columbia paper manufacturer Westbond Industries has been fined \$17,000 after one of its workers was seriously injured in the workplace. The incident happened at the company's Delta location last month, when a worker was clearing a paper jam in the rollers. The worker was seriously hurt after being caught in the running machine. WorkSafeBC inspected the facility and found the machine was not locked out and that its guard had been removed. Also, the firm's standard practices for clearing jams did not require machines to be locked out. Read the [full article](#) by Jim Wilson, published in *Canadian Occupational Safety*.

December 2022 Public Hearing on Proposed Amendments to the Occupational Health and Safety Regulation

from WorkSafeBC:

WorkSafeBC will be holding a virtual public hearing on [proposed amendments](#) to the [Occupational Health and Safety Regulation](#). The virtual public hearing will be streamed live on **December 16, 2022**, in two sessions. The first will be from **11 a.m. to 1 p.m.** and the second from **3 to 5 p.m.** The links to view the virtual public hearing and information to dial in will be posted on this [webpage](#) by December 1, 2022. The virtual hearing will cover proposed changes to the following parts of the OHS Regulation:

- [Part 6, Hazardous Drugs \(formerly Cytotoxic Drugs\)](#)

Read the full WorkSafeBC [article](#).

Switch BC Aims to Reduce Violence against Healthcare Workers

British Columbia is launching an anti-violence program to train healthcare workers at 26 emergency rooms and mental health units to better protect themselves from aggressive patients, and a new organization called Switch BC is leading the initiative. It stands for Safety, Well-being, Innovation, Training and Collaboration in Health Care and is the first organization of its kind in Canada. It is made up of employers, doctors, government and three big health-care unions. Read the [full article](#) by Shane Mercer with *Canadian Occupational Safety*.

OCCUPATIONAL HEALTH AND SAFETY

| Act or Regulation Affected | Effective Date | Amendment Information |
|---|----------------|---------------------------------|
| Electrical Safety Regulation (100/2004) | Oct. 1/22 | by Reg 179/2022 |
| Gas Safety Regulation (103/2004) | Oct. 1/22 | by Reg 145/2022 |
| Workers Compensation Act Appeal Regulation (321/2002) | Oct. 24/22 | by Reg 208/2022 |

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