



Vol: XVI – Issue: 2 – February 2023

ENVIROFOR NEWS:

New Bills

The spring parliamentary session is in full swing, and several new government and members' bills have been introduced.

Government Bills


- [Bill 1](#) – An Act to Ensure the Supremacy of Parliament
- [Bill 2](#) – National Day for Truth and Reconciliation Act
- [Bill 3](#) – Miscellaneous Statutes Amendment Act, 2023
- [Bill 4](#) – Finance Statutes Amendment Act, 2023
- [Bill 5](#) – Public Service Labour Relations Amendment Act, 2023
- [Bill 6](#) – Municipalities Enabling and Validating Act (No. 5)
- [Bill 7](#) – Land Owner Transparency Amendment Act, 2023
- [Bill 8](#) – Real Estate Services Amendment Act, 2023
- [Bill 10](#) – Budget Measures Implementation Act, 2023
- [Bill 11](#) – Election Amendment Act, 2023

Members' Bills

- [Bill M201](#) – Provincial Sales Tax (Used Passenger Vehicles) Amendment Act, 2023
- [Bill M202](#) – Wildlife Amendment Act, 2023
- [Bill M203](#) – Correction Statutes Amendment Act, 2023
- [Bill M204](#) – Freedom of Information and Protection of Privacy Amendment Act, 2023
- [Bill M205](#) – Equal Pay Reporting Act
- [Bill M206](#) – Land Title Amendment Act, 2023
- [Bill M207](#) – Provincial Symbols and Honours Amendment Act, 2023
- [Bill M208](#) – Crown Land Residential Lease Act, 2023
- [Bill M209](#) – Electoral Districts (Renaming) Amendment Act, 2023
- [Bill M210](#) – Preserving Brunswick Point for Agriculture and Migrating Waterfowl Habitat Act, 2023
- [Bill M211](#) – Emergency Program Amendment Act, 2023
- [Bill M212](#) – Buddhist Culture Day Act

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ENERGY AND MINES NEWS

Transitioning from BOGC to BC Energy Regulator

We're now the BC Energy Regulator! Legislation has been brought in effect to officially change our name, modernize our board and expand our mandate. Read the [BCER Bulletin](#).

Carbon Capture, Utilization and Storage Developments in British Columbia and Alberta

As discussed in [our most recent post](#), B.C. passed the [Energy Statutes Amendment Act, 2022](#) (the Act) on November 24, 2022, to change legislation governing energy resources in the province. The Act has already amended the [Petroleum and Natural Gas Act](#) (PNGA) to clarify aspects of the regulatory framework for CCUS in B.C., including the tenure required for CCUS projects and, among other things, renames the B.C. Oil and Gas Commission as the British Columbia Energy Regulator.

The amended PNGA includes requirements for the rights that must be obtained in order to explore for, access, develop and use underground storage reservoirs to store or dispose of carbon dioxide (CO₂). While the rights that must be obtained for such purposes can be difficult to understand in the PNGA itself, B.C.'s Ministry of Energy, Mines and Low Carbon Innovation (the Ministry) has published the [Guidance for Obtaining and Utilizing Subsurface Tenure for Carbon Dioxide Storage](#) [PDF] (the Guide), which is clearer in this regard. Read the [full article](#) by [Jesse Baker](#) and [Joey Chan](#) with Osler, Hoskin & Harcourt LLP.

No More Free Entry?

It all used to be so simple. Way back in the Wild West days of mineral exploration in Canada, prospectors searching for surface signs of gold, silver or copper would cut down trees at four corners of a small plot to "stake" a claim. All a claim-jumper had to do was knock down the stumps.

It's harder now – many jurisdictions have moved their claims online, making claim-jumping much less likely. But the basic model of "open entry" underlying exploration rights – the model that allows virtually anyone to stake an exploration claim simply by clicking on a map and paying a fee – remains the dominant model for mining regulation in Canada. In British Columbia, it's under attack.

In April, the B.C. Supreme Court will hear a challenge to the province's free-entry mineral tenure system that could send tremors throughout Canada's mining sector. The Gitxaala and Ehattesaht First Nations launched the challenge against the B.C. government; they argue the free-entry system is unconstitutional because it violates the government's "duty to consult" with First Nations by allowing exploration without prior consultation. Read the [full article](#) in the *CBA National Magazine*.

In the Courts: First Nation Takes B.C. Government to Court Over Brucejack Mine

The Tsetsaut/Skii km Lax Ha Nation is taking the province to court claiming the government failed in its duty to consult with the First Nation regarding a mining company's acquisition of a mine in its territory, and has failed to work with the mine's new owners and the nation to continue negotiations of a benefit-sharing agreement.

Newcrest Mining Ltd. (TSX:NCM) announced in late 2021 its interest in acquiring Pretium Resources Inc. (TSX, NYSE:PVG) and the Brucejack gold mine.

The First Nation, also referred to as the TSKLH Nation, had been in negotiations with Pretium regarding a benefit-sharing agreement. Read the [BIV article](#).

A Critical Transition

Canada's ambition to supply the world with critical minerals will have to be matched by its efforts at reconciliation.

"No metals, no transition."

That's the stark conclusion from a leading raw materials analyst. Speaking recently at a conference in London, Max Reid at Wood Mackenzie, an energy research consultancy, warned that the world is not producing enough of the foundational elements for things like batteries and solar panels that will help us reach a "net zero" global economy.

As governments race to meet climate commitments, demand for raw materials like lithium, copper and nickel is set to soar over the next decade or two. Already, lithium prices have surged more than tenfold since 2020. Metals deemed "critical" are increasingly considered of global strategic importance and national security at a time when supplies are uncertain owing to Russia's War in Ukraine and tensions with China. Read the [full article](#) by [Agnese Smith](#) in the *CBA National Magazine*.



ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Mining Rights Compensation Regulation (19/99)	Feb. 10/23	by Reg 32/2023
Oil and Gas Activities Act	Feb. 17/23	by 2022 Bill 37, c. 42, sections 2 (c), 5 and 7 (in force by Reg 45/2023), Energy Statutes Amendment Act, 2022



FORESTRY AND ENVIRONMENT NEWS

Recent Changes to the *Environmental Management Act* and the *Contaminated Sites Regulation*

Amendments in [2020 Bill 3](#), the *Environmental Management Amendment Act, 2020*, were brought into force on March 1. 2020 Bill 3 amends the [Environmental Management Act](#) to improve the process of soil relocation in British Columbia by:

- focusing on soil that exceeds a prescribed volume and originates from certain industrial or commercial sites in BC;
- establishing a solid and transparent notification system to track soil movement throughout the province to better ensure accountability on the part of those moving the soil; and
- introducing additional requirements for sites receiving high volumes of soil to prevent contamination of the environment, including groundwater.

Certain provisions of the Act repealed by this Bill continue to apply to the relocation of contaminated soil that is subject to an existing contaminated soil relocation agreement.

Changes to the [Contaminated Sites Regulation](#), B.C. Reg. 375/96, were also made to support the amendments to the Act.

Park Act and *Ecological Reserve Act* Amendments Introduced

[Bill 3](#), the *Miscellaneous Statutes Amendment Act, 2023*, was introduced on February 8. Along with other various changes, this miscellaneous bill includes amendments to the [Park Act](#) and [Ecological Reserve Act](#). If passed, these provisions will allow BC Parks to determine fines for violations of regulations in ecological reserves and parks. The bill includes related amendments to the [Special Accounts Appropriation and Control Act](#) to direct revenue from those fines to the Park Enhancement Fund. The

fund is intended to pay for the costs of those offences and any remedies for environmental damage they may have caused.

Financial Assurance Requirements for Large Industrial Projects in BC Under Review in Public Interest Bonding Strategy

The BC Ministry of Environment and Climate Change Strategy (MoE) has now released two "What We Heard" reports that summarize the feedback received from industry, the public, and Indigenous peoples on the multi-year Public Interest Bonding Strategy initiative that is underway.

The MoE's Public Bonding Strategy is currently considering expanding financial assurance and closure plan requirements for "large industrial projects" governed by the [Environmental Management Act](#), [Mines Act](#), [Forestry Act](#), and other BC environmental laws. Read the [full article](#) by [Emily Chan](#) with Norton Rose Fulbright Canada LLP.

B.C. Expands Old-Growth Logging Deferral to 2.1 Million Hectares, Promises Greater First Nations Collaboration

New money coming for forest landscape planning and to help mills diversify

The British Columbia government announced new measures Wednesday it says will better protect old growth by working with First Nations while it ramps up investments to encourage innovation in an industry that has been plagued by job losses.

The province says it's expanding the logging deferral of old-growth forests to 2.1 million hectares, up from 1.7 million reported last spring, while bringing in new innovations to better care for forests. Read the [CBC article](#).

B.C. Introduces New Measures on Old Growth, Innovation, Forest Stewardship

The B.C. government is launching new measures to protect more old growth by fast-tracking innovation and co-developing new local plans with First Nations to better care for B.C.'s forests.

At the centre of the eight-point plan is \$25 million for new [Forest Landscape Planning](#) (FLP) tables that will drive improved old-growth management while incorporating local knowledge and community priorities. Enabled by [2021 amendments](#) to the [Forest and Range Practices Act](#), forest landscape plans are a more comprehensive and inclusive approach to forest stewardship that will replace existing, industry-developed plans.

In response to requests from First Nations for more in-depth discussions about old growth, this funding will support eight new regional FLP tables with the participation of approximately 50 First Nations. Read the full government [news release](#).

BC's Changing Regulatory Landscape: BC and Treaty 8 First Nations Negotiate Collaborative Approach to Address Cumulative Effects of Resource Development

British Columbia has announced that, following 2021's [Yahey v British Columbia](#) decision, it has reached agreements with five Treaty 8 First Nations over the province's management of natural resources. The agreements, which have not yet been released, signal significant changes to how future resource development will occur in the province in both the near term and in the years ahead.

The essential background – 2021 British Columbia Supreme Court decision

The agreements are the result of negotiations arising from the 2021 British Columbia Supreme Court decision in which Blueberry River First Nation successfully sued British Columbia, a decision the province chose not to appeal.

Read the [full article](#) by [Ray Chartier](#), [Lindsay Bec](#), [Oz Douglas](#) and [Ian Wylie](#) with Norton Rose Fulbright Canada LLP.

Sustainable and Clean Economy in Budget 2023

The provincial budget for 2023 was tabled on February 28, along with the [Budget Measures](#)

[Implementation Act, 2023](#). Some of the highlights for the new investments relation to sustainable and clean economy include the following (all of which represent three-year fiscal plan costs):

- \$567 million in operating and capital funding for a cleaner economy and climate resiliency, including CleanBC enhancements, active transportation infrastructure, and \$64 million in capital funding for the B.C. Wildfire Service over five years for firefighting equipment
- \$21 million to support eight more Forest Landscape Planning tables in partnership with First Nations
- \$77 million to help speed up natural resource permitting processes

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Wildlife Act](#)

- [Bradley Bowden, Darren Linnell, Eldon McMann, Allan Tew and Stewart Fraser v. Director of Fish and Wildlife, Ministry of Forests](#) [Preliminary Decision on Method of Hearing – Appeal to Proceed as Written Submissions]
- [Millers Outdoors Ltd. v. Director of Fish and Wildlife, Ministry of Forests](#) [Summary Dismissal - Granted]

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



FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Contaminated Sites Regulation (375/96)	Mar. 1/23	by Reg 128/2022 , as amended by Reg 35/2023 , and Reg 133/2022 , as amended by Reg 2/2023
Dam Safety Regulation (40/2016)	Feb. 10/23	by Reg 32/2023
Engineers and Geoscientists Regulation (14/2021)	Feb. 10/23	by Reg 32/2023
Environmental Management Act	Mar. 1/23	by 2020 Bill 3, c. 3, sections 1 to 7 only (in force by Reg 128/2022), Environmental Management Amendment Act, 2020
Forest Planning and Practices Regulation (14/2004)	Feb. 10/23	by Reg 32/2023
	Feb. 13/23	by Reg 36/2023
Greenhouse Gas Emission Reporting Regulation (249/2015)	Feb. 10/23	by Reg 32/2023
Integrated Pest Management Regulation (604/2004)	Feb. 16/23	by Reg 44/2023

Professional Governance Act	Feb. 10/23	by Reg 32/2023
Professional Governance General Regulation (107/2019)	Feb. 10/23	by Reg 32/2023
Protected Areas of British Columbia Act	Feb. 13/23	by 2021 Bill 17, c. 28, section 5 only (in force by Reg 42/2023), Protected Areas of British Columbia Amendment Act, 2021
Reviewable Projects Regulation (243/2019)	Feb. 10/23	by Reg 32/2023
Riparian Areas Protection Regulation (178/2019)	Feb. 10/23	by Reg 32/2023
Waste Discharge Regulation (320/2004)	Mar. 1/23	by Reg 128/2022
Water Sustainability Regulation (36/2016)	Feb. 10/23	by Reg 32/2023



OCCUPATIONAL HEALTH AND SAFETY NEWS

Weather Events and Worker Safety

BC is experiencing the effects of climate change. Temperatures are increasing, sea levels are rising and variable and extreme weather events are becoming more frequent. Scientists expect these changes to accelerate and intensify in the years and decades ahead. Understanding and managing these risks is necessary to protect BC's workers, tenure holders and infrastructure within the forest sector. The increased frequency and magnitude of weather events compels Woodlots and Community Forests to re-examine existing safety plans and/or develop new safety plans to address the potential for increased risks to worker safety. Licensee obligations are defined in [Part 2, Division 4, Section 25 of Workers Compensation Act](#). Specifically, Owners, Woodlot Licensees and Community Forest Agreement holders, must provide and maintain the land and premises in a safe manner. Read the [full article](#) in the spring issue of *Forest Safety News*.

Overview of Bill 41 Amendments

[Bill 41](#), *Workers Compensation Amendment Act (No. 2)*, 2022, received royal assent on November 24, 2022. The new legislation introduced seven amendments to better support workers in British Columbia. Here's what you need to know.

What do these amendments relate to?

The seven amendments relate to a variety of sections of the [Workers Compensation Act](#) (the Act).

Which amendments are already in effect?

Three of the amendments took effect on November 24, 2022. These amendments change how workers' compensation benefits are indexed for inflation each year, allow WorkSafeBC to increase the maximum compensation for non-traumatic hearing loss, and expand WorkSafeBC's ability to prohibit employers from suppressing workers' compensation claims.

Read the [full article](#) by Gillian Burnett in the Spring 2023 issue of *WorkSafe Magazine*.

"Transformational Change" in Mining Safety - Why Electric Vehicles Pose New Hazards

"This is a big transformational change in the mining industry," says Brandon Vance, as he talks about the shift to battery powered electric vehicles in underground mines. He's a health and safety and environment consultant with NORCAT, a not-for-profit technology and innovation centre headquartered in Sudbury, Ontario. Read the [full article](#) by Shane Mercer, published by Canadian Occupational Health and Safety.

Safety for Roadside Workers Flagged

In BC, 12 roadside workers were killed by motor vehicles and another 221 workers were injured between 2012 and 2021. Some of the more common workplace injuries experienced by traffic control persons include twisted ankles, being struck by a rock kicked up by a vehicle's tire, and impact from a vehicle's side-view mirror or another part of the vehicle. On December 1, 2021, updates to [Part 18, Traffic Control, of the Occupational Health and Safety Regulation](#) came into effect. These updates introduced new traffic control safety measures for different types of work, including requirements for employers to carry out a risk assessment to create a traffic control plan, apply control measures in order of effectiveness, and ensure adequate supervision. Read the [full article](#) by Sarah Ripplinger in the Spring 2023 issue of *WorkSafe Magazine*.

Asbestos Certification and Licensing Update

The provincial government has amended the [Workers Compensation Act](#) to require asbestos abatement contractors be licensed to operate in British Columbia. Also, workers who perform this work must complete mandatory safety training and obtain certificates. This update summarizes the activities from the past quarter (Q4, 2022) in implementing these requirements and upcoming opportunities for input from workers, employers, and other stakeholders. Training and certification WorkSafeBC has developed a framework for the training and certification program that identifies practical and theoretical training competencies workers will be required to demonstrate before receiving a certificate. To be approved as a training provider for asbestos abatement, training providers will be required to offer curriculum that covers these core competencies. Read the [full article](#) in the Spring 2023 issue of *WorkSafe Magazine*.

OHS Policies/Guidelines – Updates

The following amendments to the [Occupational Health and Safety Regulation](#) are effective March 1, 2023 [[B.C. Reg. 223/2022](#)].

- Part 14 – Crane and Hoists
 - [14.16.1 Certification following misadventure](#) (amended)
 - [14.39 Contact with loads and structures](#) (repealed)
 - [14.49.1 Communication between equipment operators](#) (amended)
 - [14.84.1 Overlapping operating zones](#) (amended)
- Part 16 – Mobile Equipment
 - [16.43 Lift trucks](#) (amended)
- Part 19 – Electrical Safety
 - [19.24.1 Minimum approach distance when working close to exposed electrical equipment and conductors](#) (amended)

Strikethrough versions of the amendments with explanatory notes are available: [Parts 14 and 19, Inconsistent Crane Misadventure and Zone-Limiting Devices in Tower Cranes](#)

OHS Policies – Occupational Health and Safety Regulation

Housekeeping changes were made to the following policy item to reflect amendments to the OHS Regulation:

- [R19.24-1 Working Close to Energized High Voltage Equipment and Conductors](#)

Guidelines – Occupational Health and Safety Regulation

The following guideline was revised, consequential to the March 1 amendments to the OHS

Regulation:

- Part 19 Electrical Safety
 - [G19.24.1 Minimum approach distance](#)

Visit the [WorkSafeBC website](#) to explore these and previous updates.



OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
Occupational Health and Safety Regulation (296/97)	Mar. 1/23	by Reg 223/2022

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