



## Vol: XVI – Issue 11 – November 2023

### EnviroFor News

#### Fall Wrap-Up

The fall legislative session came to an end last Thursday, November 30th, with the passing of four housing-related bills garnering most of the focus in the final stretch. Of the forestry and environmental resource sector, the [Forest Statutes Amendment Act, 2023](#) achieved Royal Assent on November 30th; however, most of the sections in this bill have not yet come into force and will become law at a future date, by regulation. The legislation amends the [Forest Act](#), [Forest and Range Practices Act](#), and [Wildfire Act](#) to enact some of the policy changes in the June 2021 [Modernizing Forest Policy](#) intentions paper.

It is also worth noting that the [Environmental Management Amendment Act, 2023](#), first introduced back in the spring, achieved Royal Assent on November 8th; however, none of the sections of this Bill have come into force yet. The changes are intended to ensure that owners of large, high-risk industrial projects are responsible for the full cost of environmental cleanup if their projects are abandoned. The Bill will allow for the creation of future regulations that will grant authority to the government to decommission and develop closure plans for prescribed industrial facilities and to require financial assurance and cost recovery tools for cleanup of abandoned and contaminated sites. The regulations will be established after a period of comprehensive engagement and transition.

### New Bills

The following bills were recently introduced:

#### Government Bills

- [Bill 43](#) – Money Judgment Enforcement Consequential Amendment and Transitional Provisions Act
- [Bill 44](#) – Housing Statutes (Residential Development) Amendment Act, 2023
- [Bill 45](#) – Miscellaneous Statutes Amendment Act (No. 4), 2023
- [Bill 46](#) – Housing Statutes (Development Financing) Amendment Act, 2023
- [Bill 47](#) – Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023
- [Bill 48](#) – Labour Statutes Amendment Act, 2023

#### Members' Bills

- [Bill M226](#) – No Net Loss of Wetland Act
- [Bill M227](#) – Lunar New Year Act

For more information on the status of these or any other bills, visit our dedicated [Bills page](#), located on the left navigation. 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!

**Tip:** [Log in to Quickscribe EnviroFor](#) prior to clicking Reporter links.



View the [PDF version](#) of the Reporter.

### Quickscribe Alerts

Are you looking for a more custom notification that will advise you about important developments that impact your specific area of interest? Quickscribe offers numerous customizable alerts – visit the [My Alerts Page](#). Quickscribe alerts are included with your subscription, so feel free to select the alert that works best for you!

### Want to Track Federal Laws?



For notification of federal amendments, we recommend using our Section Tracking tool to keep informed on changes to federal laws. Look for the paw icon adjacent to the sections you wish to track.

### Looking for Previous Reporters?

We have archived the Quickscribe Reporter going back to 2004. Visit the historical [Reporter archives](#)

## EnviroFor Reporter Categories

[ENERGY & MINES](#)[FOREST & ENVIRONMENT](#)[OCCUPATIONAL HEALTH & SAFETY](#)

### ENERGY & MINES NEWS

#### Clean Economy Tax Credits: Investment Tax Credit for Carbon Capture, Utilization and Storage

On August 4, 2023, the Department of Finance released a series of draft legislative proposals (August 4 Proposals) on a variety of previously announced tax measures. The August 4 Proposals can be found [here](#) and the related explanatory notes can be found [here](#).

The August 4 Proposals include revised draft legislation in respect of the Carbon Capture, Utilization and Storage Investment Tax Credit (CCUS Tax Credit), draft legislation in respect of the Clean Technology Investment Tax Credit (CTI Tax Credit) and draft legislation specifying the labour requirements (Labour Requirements) that must be satisfied to maximize these tax credits as well as the proposed Clean Hydrogen Tax Credit and Clean Electricity Tax Credit. The Clean Hydrogen Tax Credit and the Clean Electricity Tax Credit were announced in Budget 2023 but the August 4 Proposals do not include draft legislation in respect of these credits.

This article reviews the CCUS Tax Credit. Our review of the CTI Tax Credit can be found [here](#) and our review of the Labour Requirements can be found [here](#). Read the [full article](#) by [Nigel P.J. Johnston](#), [Matthew Kraemer](#) and [Adam N. Unick](#) with McCarthy Tétrault.

#### 'No Is a Valid Outcome of Consultation,' Say Groups Fighting B.C. Copper Mine Project

A dispute between Taranis Resources (TSXV: TRO; US-OTC: TNREF), the British Columbia government and First Nations groups over the Thor polymetallic project is brewing over deep drilling exploration permit delays.

On October 16, Taranis escalated the battle to the B.C. Supreme Court, seeking to bypass what it says are excessive delays in the permitting process. At issue is Taranis' complaint against the B.C. Ministry of Energy, Mines and Low Carbon Innovation (EMLI). Read the [BIV article](#).

#### Updates to Natural Resource Taxes

The following updates to natural resource taxes were recently posted:

##### Mining taxes

- **November 6, 2023**

Interest rates have been updated for [mineral tax](#), [mineral land tax](#), and [mine and inspection fee](#).

For more information, visit the BC government [website](#).

#### BC Hydro Releases Pay Transparency Report, Revealing Equal Pay for Men and Women

Canadian provincial utility BC Hydro has released its first public [Pay Transparency Report](#) in accordance with the Province's [Pay Transparency Act](#), and it reveals there is little to no difference in pay by gender when comparing pay for specific roles.

The release of this report is an important step in building trust and helping to close the gender pay difference that still exists in B.C., the utility said.

BC Hydro said it is committed to transparency and building a workforce that reflects the diversity of the province. It has a workforce of about 7,700 employees. Read the [full article](#) by [Elizabeth Ingram](#) in the *Hydro Review*.

#### BC Energy Regulator Announcements

The following BC Energy Regulator announcements were posted recently:

- [DIR 2023-11](#) – BCER Lifts Suspension for Water Sources in the North Thompson River Basin
- [TU 2023-16](#) – Restricted Access to Core Samples
- [DIR 2023-12](#) – Suspensions Lifted for More Water Sources in the Fraser River and Peace River Watersheds
- [TU 2023-17](#) – Collection of Perforation Data Improved

Visit the BC-ER [website](#) for more information.



### ENERGY & MINES

Act or Regulation Affected	Effective Date	Amendment Information
Shulus Exemption Regulation (263/2021)	Nov. 2/23	by <a href="#">Reg 230/2023</a>



## FOREST AND ENVIRONMENT NEWS

### Housekeeping Amendments to Forest Statutes

Bill 41, the [Forests Statutes Amendment Act, 2023](#), received Royal Assent on November 30. Some provisions of the bill are now in force, though most of the substantial changes will be brought into force by regulation. Several housekeeping amendments including repeals of obsolete provisions have been made to the [Forest Act](#), and the [Forest Act](#), [Forest and Range Practices Act](#), [Forest Practices Code of British Columbia Act](#) and [Range Act](#) have been amended to add the power to prescribe matters that must be considered in the exercise of a discretionary power under those Acts.

### Changes to Lumber Regulation Will Drive Local Manufacturing, Job Growth

Amendments to B.C.'s lumber regulations will open the door for more wood products to be manufactured in the province, strengthening the forestry sector and creating more family-supporting jobs.

Changes to the [Manufactured Forest Products Regulation](#) are being introduced in the Interior of B.C. to expand manufacturing requirements for the export of cedar and cypress lumber. The changes are set to come into effect on Feb. 1, 2024, and will require mills in the Interior to fully manufacture cedar and cypress wood that has been harvested. Read the government [news release](#).

### Court Rules Federal Cabinet Acted Outside Their Authority by Broadly Designating Plastic Manufactured Items as Toxic

On November 16, 2023, in [Responsible Plastic Use Coalition v. Canada \(Environment and Climate Change\)](#), the Federal Court ruled that the federal cabinet acted outside their authority when they issued an order (the Order) adding "Plastic Manufactured Items" (PMI) to the list of toxic substances in Schedule 1 of the [Canadian Environmental Protection Act, 1999](#) (CEPA).

The Court held that it was both unreasonable and unconstitutional to add PMI to Schedule 1 because it is too broad of a category. The Court also found the decision of the Minister of the Environment and Climate Change to refuse requests to establish a Board of Review under CEPA before the Order was issued to be unreasonable, because of a lack of justification and transparency in that decision. Read the [full article](#) by [Jennifer Fairfax](#), [Tommy Gelbman](#), [Sander Duncanson](#), [Jesse Baker](#), [Ankita Gupta](#), [Marleigh Dick](#), [Clare Barrowman](#) and [Maeve O'Neill Sanger](#) with Osler, Hoskin & Harcourt LLP.

### Tripartite Agreement with First Nations, BC and Ottawa Lacks Clarity on Consultation: Lawyer

A tripartite agreement between the federal government, the province of British Columbia and First Nations regarding nature conservation offers strong commentary about the Crown working in partnership with the Indigenous Peoples and their governments. Still, the details of the framework leave several questions open as to how that will happen, according to one lawyer.

Saul Joseph is partner and co-chair of the Indigenous law group at Vancouver-based Clark Wilson. He is also of Coast Salish descent and is a member of the Squamish First Nation (Skwxwú7mesh). He says the wording of the agreement still leaves him with questions. Read the [full article](#) by [Carolyn Gruske](#) in the *Canadian Lawyer*.

### Treaty 8 Nations Challenge Blueberry River Agreement

A legal challenge by Treaty 8 First Nations to an agreement the B.C. government struck with the Blueberry River First Nation is adding to the uncertainty that has hung over the multi-billion dollar natural gas industry in northeastern B.C. since the summer of 2021.

That's when the B.C. Supreme Court sided with the Blueberry River First Nation (BRFN) in a cumulative impacts claim.

The court found that, in permitting industrial activities – logging, road-building, oil and gas activities, etc. – the B.C. government had breached the BRFN's Treaty 8 rights to hunt, fish and trap as they had historically done, as per Treaty 8. Read the *BIV* [article](#).

### 2022-23 Annual Report Now Available

The Forest Practices Board has published its [2022-23 annual report](#). Introduced by Board Chair Keith Atkinson, the report summarizes Board accomplishments over the past year and previews of work in progress.

### Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

#### [Environmental Management Act](#)

- [Luigi Sulmona, Elena Sulmona and Luigi Giuseppe \(Joe\) Sulmona v. Director, Environmental Management Act](#) [Consent Order – Appeal Dismissed]

#### [Water Sustainability Act](#)

- [Outback Nursery & Garden Centre Ltd. v. Water Manager](#) [Appeal Dismissed]
- [Okanagan Indian Band v. Assistant Water Manager](#) [Dismissal Order – Appeal Dismissed]
- [Inder Valley Fruit Farms Ltd. v. Water Manager](#) [Dismissal Order – Appeal Dismissed]

[Wildlife Act](#)

- [Scott Mackenzie v. Director of Wildlife, Ministry of Forests](#) [Final Decision – Appeal Dismissed]

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

**Forest Appeals Commission Decisions**

The following Forest Appeals Commission decision was made recently:

[Wildfire Act](#)

- [Clarke Matthiesen v. Government of British Columbia](#) [Final Decision – Orders Confirmed; Amount Varied]

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

**FOREST AND ENVIRONMENT**

Act or Regulation Affected	Effective Date	Amendment Information
Drainage, Ditch and Dike Act	Nov. 30/23	by 2023 Bill 45, c. 49, sections 22 to 35 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 4), 2023</a>
Exemption Regulation (No. 3) (238/2023)	<b>NEW</b> Nov. 24/23	see <a href="#">Reg 238/2023</a>
Forest Act	Nov. 30/23	by 2023 Bill 41, c. 43, sections 10, 13, 18, 19, 21, 26, 49, 52, 63, 65, 81, 83, 87 and 88 only (in force by Royal Assent), <a href="#">Forests Statutes Amendment Act, 2023</a>
Forest and Range Practices Act	Nov. 30/23	by 2023 Bill 41, c. 43, sections 133 and 154 only (in force by Royal Assent), <a href="#">Forests Statutes Amendment Act, 2023</a>
Forest Practices Code of British Columbia Act	Nov. 30/23	by 2023 Bill 41, c. 43, section 161 only (in force by Royal Assent), <a href="#">Forests Statutes Amendment Act, 2023</a>
Professional Governance Act	Nov. 30/23	by 2023 Bill 45, c. 49, sections 3 to 15 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 4), 2023</a>
Protected Areas of British Columbia Act	Nov. 30/23	by 2023 Bill 42, c. 47, section 25 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Range Act	Nov. 30/23	by 2023 Bill 41, c. 43, section 165 only (in force by Royal Assent), <a href="#">Forests Statutes Amendment Act, 2023</a>
Required Consent (Red Chris Porphyry Copper-Gold Mine Amendments) Regulation (234/2023)	<b>NEW</b> Nov. 14/23	see <a href="#">Reg 234/2023</a>
Water Users' Communities Act	Nov. 30/23	by 2023 Bill 45, c. 49, sections 36 to 38 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 4), 2023</a>
Wildfire Act	Nov. 30/23	by 2023 Bill 41, c. 43, sections 167 and 171 only (in force by Royal Assent), <a href="#">Forests Statutes Amendment Act, 2023</a>

**OCCUPATIONAL HEALTH AND SAFETY NEWS**

**Is Everyone Who Employs Anyone Responsible for Everything Anyone Does? Maybe. SCC Splits on Scope of Owner / Employer OHSA Obligations on Construction Projects**

On November 10, 2023, the Supreme Court of Canada released its long-awaited decision in *R. v. Greater Sudbury (City)*, [2023 SCC 28](#), a case which was anticipated to have significant impact on the duties of “owners” and “employers” under occupational health and safety legislation. The court split 4:4 on its decision, reflecting a strongly divided opinion on a complex area of OHS law, namely, whether “owners” of construction projects, who are also “employers” (of contractors or quality control or contract administration personnel) ought to have strict “employer” duties to ensure compliance by everyone at the project, or whether, more sensibly and practically, the scope of an owner/employer’s obligations under the Ontario *Occupational Health and Safety Act* (“OHSA”) are determined by contextual factors reflecting the actual work performed on the project and structure of the OHSA. The split decision means the Ontario Court of Appeal’s decision, which the City appealed to the Supreme Court, has not been overturned. The upshot is that project “owners” and “employers” will have to continue to address the Court of Appeal decision – one we believe to be unfortunate and one that does not reflect the proper apportionment of OHS duties on a construction project. Read the [full article](#) by Jeremy Warning and John Illingworth with Mathews Dinsdale & Clark LLP.

### **Consultation on Proposed BC Exposure Limits Based on the New or Revised 2019 and 2020 ACGIH TLVs for Selected Chemical Substances**

from [WorkSafeBC](#)

Each year, the American Conference of Governmental Industrial Hygienists (ACGIH) publishes a list of substances for which they have set new or revised Threshold Limit Values (TLVs). A TLV is the airborne concentration of a chemical substance where it is believed that nearly all workers may be exposed over a working lifetime and experience no adverse health effects. TLVs may be expressed as an 8-hour time-weighted average (TWA), 15-minute short-term exposure limit (STEL), or ceiling limit. Before adopting new or revised TLVs published by the ACGIH, WorkSafeBC reviews relevant data on health effects and the availability of validated sampling methods. WorkSafeBC also consults with stakeholders on potential implementation issues. WorkSafeBC’s existing B.C. Exposure Limits (ELs) continue to be in effect until the Board of Directors makes a decision on which new or revised ACGIH TLVs to adopt as B.C. ELs. See additional information on [WorkSafeBC’s EL review process](#). We are requesting stakeholder feedback on the [proposed ELs for 24 substances](#). Feedback will be accepted until 4:30 p.m. on Friday, February 2, 2024.

### **BOD Decision: Permanent Disability Evaluation Schedule Policy Updates – Ongoing Review**

from [WorkSafeBC](#)

On November 9, 2023, WorkSafeBC’s Board of Directors approved amendments to the Permanent Disability Evaluation Schedule (Appendix 3) of the Rehabilitation Services & Claims Manual, Volume II. These amendments are part of the ongoing review of the Permanent Disability Evaluation Schedule to ensure the guidance it provides remains accurate and up to date.

The amendments:

- Clarify individual and grouped ratings regarding nerve root conditions
- Update some of the listed examples regarding central nervous system conditions
- Clarify the purpose of the subsection on upper extremities for central nervous system conditions

The amendments apply to all decisions made on or after December 1, 2023.

You can also review the complete [Resolution](#).

### **New BC Law Helps Injured Workers Return to Workplace**

Employers will need to make sure their employees, who were on a WorkSafeBC claim, have a job to return to starting Jan. 1, 2024. This is part of a new B.C. law WorkSafeBC has announced to support employees returning to work after getting injured on the job. Almost 63,000 workers in B.C. were injured while at work in 2022, according to WorkSafeBC statistics. As of the new year, employers and their employees will need to work with WorkSafeBC to make sure there is a safe and positive return-to-work plan for those injured on the job. Read the *BIV* [article](#).

### **Getting Trained and Certified for Asbestos Abatement Work**

from [WorkSafeBC](#)

To help keep workers safe from the dangers of asbestos, WorkSafeBC is implementing mandatory training and certification. Anyone who performs asbestos abatement work in relation to buildings in B.C. must complete training from an approved provider and obtain a certificate. The new requirements will be in effect starting January 1, 2024. Visit the WorkSafeBC site for further details.

### **How a Ban on Replacement Workers Could Improve Health and Safety**

In early November, the federal government introduced [Bill C-58](#), a piece of legislation aimed at prohibiting the practice of employers bringing in replacement workers during contract disputes. This bill has far-reaching implications for labour relations and, notably, for the health and safety of workers in federally regulated industries. Bill C-58 represents the culmination of decades of efforts by the Canadian labor movement and fulfills a key demand in the Liberal-NDP confidence and supply agreement. The legislation would impact several sectors such as banking, telecommunications, air and rail transportation, trucking, and more. It is estimated that over one million employees work in federally regulated industries, with approximately one-third of them being unionized. Read the [full article](#) by Shane Mercer on Canadian Occupational Safety Magazine.

### **OHS Policies/Guidelines – Updates**

Guidelines – Occupational Health and Safety Regulation

The following new, revised, and retired guidelines are consequential to [amendments](#) to the [Occupational Health and Safety Regulation](#):

## Part 4 General Conditions

- [G4.81/4.82 Controlling exposure to environmental tobacco smoke \(ETS\) and e-cigarette vapour](#) (revised)
- [G4.84\(2\) Eating areas – Storage and consumption](#) (revised)
- [G4.86 Change areas](#) (revised)
- Part 5 Chemical Agents and Biological Agents
  - [G5.54-1 Exposure control plan](#) (revised)
  - [G5.80 Hazardous wastes and emissions – Sharp-edged waste](#) (revised)
- Part 6 Substance Specific Requirements – Hazardous Drugs
  - [G6.45 Risk assessment – Grouping of hazardous drugs](#) (new)
  - [G6.42 Cytotoxic drugs – Definition](#) (retired)
  - [G6.43 Cytotoxic drug – Exposure control plan](#) (retired)
  - [G6.53\(1\) Biological safety cabinets \(BSCs\)](#) (retired)
  - [G6.53\(2\) Safe work procedures](#) (retired)

Editorial revisions were also made to the following guidelines:

- Part 4 General Conditions – Buildings, Structures, Equipment and Site Conditions
  - [G4.9 Inspection and maintenance records](#)
- Part 6 Substance Specific Requirements – Asbestos
  - [G6.48 Procedures for abatement of asbestos materials during house and building demolition/renovation](#)

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



## OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
Occupational Health and Safety Regulation (296/97)	Dec. 1/23	by <a href="#">Reg 203/2023</a>

### Disclaimer

.....

*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. 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](#)

## Quickscribe Online 2.0

Do you get the Reporter but are not familiar with Quickscribe Online? See why [Quickscribe Online 2.0](#) is now the go-to source for legislation in BC.

QUICKSCRIBE SERVICES LTD.

Email: [info@quickscribe.bc.ca](mailto:info@quickscribe.bc.ca)

Website: [www.quickscribe.bc.ca](http://www.quickscribe.bc.ca)

Toll Free: 1-877-727-6978 | Phone: 1-250-727-6978