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EnviroFor News

Wildfire Policies on Quickscribe

The BC Wildfire Service recently made public a number of policies that support and help interpret the [Wildfire Act](#) and [Wildfire Regulation](#). These policies are intended to provide general guidance and best practices for government staff, public and industry stakeholders. For your convenience, Quickscribe has made these [accessible](#) via the Policies tab on the left navigation. The policies are fully searchable and will show up using the main keyword search tools. More information can be found on the BC government [website](#).

Paul McLean to Annotate OHS Legislation on Quickscribe

Quickscribe is thrilled to announce that [Paul McLean](#), partner with Mathews Dinsdale & Clark LLP, will soon begin contributing annotations for Occupational Health and Safety legislation on Quickscribe. Recognized as a leading practitioner by Best Lawyers and Lexpert, Paul provides strategic counsel to clients concerning occupational health and safety matters, workplace litigation, inquests, workers' compensation and human rights issues. Paul has over twenty-five years of experience in this area of practice and has worked in the mining, transportation, hospitality, construction and financial sectors.

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ENERGY & MINES NEWS

McLeod Lake Band Takes Stake in Defense Metals' Rare Earth Project in British Columbia

Defense Metals (TSXV: DEFN) has entered into a co-design agreement with the McLeod Lake Indian Band regarding development of its 100%-owned Wicheeda rare earth element (REE) project. The project is about 80 km northeast of Prince George, BC. With a targeted annual production equivalent to almost 10% of current global REE production, the project has the potential to become a significant supplier of rare earth elements. The agreement calls for Defense Metals and the band to collaborate on the design of the Wicheeda project to assure the band's interests and priorities are addressed in the planning and design of future feasibility studies and environmental assessments. Read the [full article](#) published on Mining.com.

A Brief Summary of *Enrox Energy and Mining Group v. Soddad*, 2022 BCSC 285

In this decision of *Enrox Energy and Mining Group v. Saddam*, [2022 BCSC 285](#), the Supreme Court of British Columbia recognized and enforced an arbitral award made in Geneva, Switzerland under British Columbia's [International Commercial Arbitration Act](#) (ICAA) and [Foreign Arbitral Awards Act](#).

Nader Saddam (Saddad) is a Canadian and Iranian national and engineer in the oil and gas industry. Michel Pacha (Pacha), a French national resident in Geneva and the United Arab Emirates, is the sole shareholder and director of the petitioner, Enrox Energy and Group (Enrox). In 2014, Saddam and Pacha entered into a business relationship in the upstream oil and gas sector. Pacha would provide funds, while Saddam would provide expertise and contacts. They incorporated a company, Caspian Energy Solutions (Caspian). Initially, Saddam was the sole shareholder and sole director of Caspian. Pacha and Saddam entered into a number of agreements including a memorandum of understanding, a letter of undertaking (LOU), and two loan agreements (collectively, the Agreements), all of which contained a forum selection and choice of law clause requiring all disputes to be arbitrated in Switzerland according to Swiss law. Under the LOU, Saddam agreed to resign and forfeit his shares in Caspian (Shares) upon a breach of the LOU. Enrox advanced funds to Saddam under the loan agreements, and Saddam purchased oil and gas equipment (Equipment). Read the [full article](#) by [Lindsay Burgess](#) with McCarthy Tetrault.

Not All in the Family: BC Utilities Commission Determines that Sales to Subsidiary Make Power Producer a Regulated Public Utility

In [Decision and Order G-332-23](#) the British Columbia Utilities Commission ("BCUC") found that, by selling power generated at two hydroelectric facilities in British Columbia to the United States through a chain of affiliated companies, Powell River Energy Inc. ("PREI") fell within the definition of a "public utility" under section 1 of the [Utilities Commission Act](#) ("UCA"). The BCUC's decision confirms that it will not treat affiliates, which are separate legal entities, as one and the same and that inter-affiliate energy transactions may result in an entity being subject to regulation by the BCUC. Read the [full article](#) by [Tariq Ahmed](#) and [Niall Rand](#) with Fasken.

Tax Incentives for Canada's Future Energy Visions

The past two federal budgets introduced various new refundable investment tax credits ("Refundable ITCs") to encourage and promote the increased adoption of alternative or renewable energy. In the words of the Federal Government, the "transformational new big five Clean Investment Tax Credit...will help produce, manufacture, or transition to clean energy in Canada, while supporting good jobs for the middle class and ensuring more vibrant communities across Canada".

Draft or final legislation is now catching up to the earlier proposals, with the most recent draft proposals released on December 18, 2023 and [Bill C-59](#) making its way through Parliament for enactment. Read the [full article](#) by [Nancy Diep](#) with Lawson Lundell.

BC Hydro Devoting \$36 Billion to 'Unprecedented' Electric System Buildout

BC Hydro in British Columbia, Canada, has released its updated 10-year capital plan, which the BC government said will lead to an "unprecedented" level of construction for community and regional infrastructure, including generation and transmission.

BC Hydro's updated 10-year capital plan includes almost \$36 billion in investments throughout the province between 2024-25 and 2033-34. This represents an increase of 50% over BC Hydro's previous capital plan (\$24 billion) and includes a significant increase in electrification and emissions-reduction infrastructure projects (nearly \$10 billion, up from \$1 billion). Read the [full article](#) by [Elizabeth Ingram](#) in the *Hydro Review*.

BC Energy Regulator Announcements

The following BC Energy Regulator announcements were posted recently:

- [IU 2024-01](#) – New Planning and Mitigation Measures for Energy Resource Activities in Treaty 8 Territory
- [IU 2024-02](#) – Water Use Suspensions Expected in 2024
- [IU 2024-03](#) – Energy Resource Activities Act Amendment for Heritage Conservation Act

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



ENERGY & MINES

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (35/2011)	Jan. 1/24	by Reg 279/2023
Dormancy and Shutdown Regulation (112/2019)	Jan. 1/24	by Reg 78/2023
Drilling and Production Regulation (282/2010)	Jan. 1/24	by Reg 78/2023
Hydro and Power Authority Act	Jan. 1/24	by 2022 Bill 15, c. 21, section 65 only (in force by Reg 282/2023), Low Carbon Fuels Act
Investigations Regulation (134/2019)	Jan. 1/24	by Reg 279/2023
Oil and Gas Processing Facility Regulation	Jan. 1/24	by Reg 78/2023



FOREST AND ENVIRONMENT NEWS

Concerns Raised Over B.C.'s *Land Act* Amendments

The B.C. government is planning some major changes to way land use decisions are made, and resource companies in particular may want to pay attention to the proposed changes, warn lawyers for the law firm McMillan.

In a [brief](#) published Friday, the law firm alerts B.C. businesses to the fact the B.C. government is undertaking [Land Act](#) amendments as part of its efforts to bring all B.C. laws and statutes in line with the Declaration on the Rights of Indigenous Peoples (DRIPA).

The [proposed changes](#) to the *Land Act* could have wide-ranging implications for resources companies – from loggers and miners to farmers and oil and gas companies. The B.C. government is now accepting public input on the proposed changes. Read the [BIV article](#).

Landscape Resilience – By Design

Landscape fire management (LFM) is a powerful, collaborative approach to achieving the goals of ecosystem health and landscape resilience. The Forest Practices Board's recent special report, [Forest and Fire Management in BC: Toward Landscape Resilience](#), is a call for the provincial government to take bold, immediate action to align policies and programs across all levels of government with a vision of landscape resilience. It is the opinion of the Board that a provincial vision and action plan are critical to enable landscape fire management to occur at the pace and scale required to reduce the risk of catastrophic wildfires in BC. The companion document to the special report, [Practicing Landscape Fire Management](#), describes some principles land managers can integrate into practice. Read the [full article](#) by Tracy Andrews, Nick Reynolds and Bruce Blackwell in the *BC Forest Professional* Winter 2024 issue.

Better Water Management Practices Coming to B.C.

Water used by people, wildlife and communities in British Columbia will be protected against misuse by new regulations that promote compliance with water management best practices.

Government has implemented [regulations](#) that will allow financial penalties to be issued for violations of the [Water Sustainability Act](#). The goal is to promote compliance with the legislation and to better manage water resources in B.C., while protecting critical habitat for vulnerable species. Read the government [news release](#).

New Wildlife Habitat Area (Selkirk Natural Resource District)

Notice is hereby given that Wildlife Habitat Area (WHA) 4-319 in the Selkirk Natural Resource District is established for great blue heron in the Kootenay Boundary Region. The Order was signed on January 23, 2024 under the authority of sections 9(2) and 10(1) of the [Government Actions Regulation](#) (B.C. Reg. 582/2004) of the [Forest and Range Practices Act](#) and section 30 of the [Environmental Protection and Management Regulation](#) (B.C. Reg. 200/2010) of the [Energy Resources Activities Act](#). Details of the Order may be obtained from the Ecosystems Section, Kootenay Boundary Region, Ministry of Water, Land and Resource Stewardship, 401 - 333 Victoria Street, Nelson, BC V1L 4K3. The Government Actions Regulation Order, accompanying map, and spatial files may also be obtained from: https://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show_approved

Introducing the Affiliated Forest Professional

What is it? Why now? What does it mean for the profession?

Forest Professionals British Columbia is pleased to offer a new subcategory of registration enabled by the bylaws under the [Professional Governance Act](#): the Affiliated Forest Professional (AFP). The AFP is a subcategory of associate registrant that fills a niche people have inquired about for years and addresses gaps that have grown more apparent as the profession has evolved over time. There are two policy pathways which direct FPBC's efforts towards the target audiences for this designation; one for academics, instructors, and researchers, and another for those who require a limited licence in a narrow aspect of reserved practice. Read the [full article](#) by Casey Macaulay in the *BC Forest Professional* magazine, Winter 2024 issue.

Canada's Zero Plastic Waste Agenda: Update

As the year 2024 starts, the Canadian Government continues to implement its "Zero Plastic Waste Agenda", through judicial and legislative measures.

In advancing this Agenda, on December 30, 2023 the Government of Canada opened a [consultation](#) on its publication of a [Notice of intent to issue a section 46 for the Federal Plastics Registry](#). The plastics registry would collect data on plastics by requiring that producers report annually on the quantity and types of plastic they place on the Canadian market and its end-of-life management. Stakeholders can send their comments to ECCC until February 13, 2024. Read the [full article](#) by [Cindy Vaillancourt](#) and [Morgane L. Besner](#) with McCarthy Tetrault.

Hike to U.S. Softwood Lumber Duties 'Entirely Unwarranted,' Trade Minister Says

Mary Ng says Canada will fight duties by every means available, as U.S. plans raise from 8.05% to 13.86%

The federal government has lashed out at the U.S. Commerce Department over plans to raise duties on Canadian softwood lumber. International Trade Minister Mary Ng says the U.S. has signalled it intends to raise duties to 13.86 per cent, up from 8.05 per cent. Ng calls the move disappointing and entirely unwarranted. It's the latest salvo in a bilateral back-and-forth that Ottawa has described as a drag on efforts to improve the cost and supply of housing. Read the [CBC article](#).

Ottawa, B.C. Team Up to Train Workers to Prevent, Mitigate Wildfires

The federal and British Columbia governments are teaming up to arm silviculture sector workers in the province with the skills they

need to prevent and mitigate wildfires.

These workers include forestry workers, tree planters and staff at nurseries.

In partnership with the Western Forestry Contractors' Association, the two governments are launching a two-year pilot project that will ensure workers around the province are trained to understand risks and mitigations. Through the program, they will also have the skills required for best fire safety practices in B.C.'s forests. Read the [full article](#) by [Jim Wilson](#), published on *Canadian Occupational Safety*.

Regulation of 'Forever Chemicals' (PFAS) in Canada

Per- and polyfluoroalkyl substances (PFAS) are increasingly of interest to environmental regulators – in Canada, and abroad. Recently, the federal government announced its intention to designate PFAS as a class of toxic substances under the [Canadian Environmental Protection Act](#) (CEPA), opening the door to further regulatory restrictions (and potential prohibitions) on the manufacture, use, sale and import of products containing PFAS.

In this Osler Update, we provide an overview of PFAS regulation in Canada (both current and proposed), discuss how Canada's approach to PFAS compares to the United States (including litigation trends), and consider the potential implications of increased regulation of PFAS for businesses operating in Canada. Read the [full article](#) by [Richard King](#), [Jennifer Fairfax](#), [Evan Barz](#) and [Shelby Empey](#) with Osler.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [1782 Holdings Ltd. v. Director, Environmental Management Act](#) [Final Decision – Appeal Denied]
- [Gibraltar Mines Ltd. v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]

[Water Sustainability Act](#)

- [Larry Davidson v. Water Manager](#) [Dismissal Order – Appeal Dismissed]

[Wildlife Act](#)

- [Bradley Bowden, Darren Linnell, Eldon McMann, Allan Tew, Stewart Fraser v. Director of Fish and Wildlife, Ministry of Forests](#) [Final Decision – Appeals Dismissed]

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

Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently:

[Forest Act](#)

- [Eric Dutcyvich v. Government of British Columbia](#) [Settlement Order – Appeal Dismissed Without Costs]

[Forest and Range Practices Act](#)

- [Adams Lake Indian Band v. Government of British Columbia](#) [Final Decision – Appeal Allowed in Part]

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



FOREST AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties (<i>Water Sustainability Act</i>) Regulation	NEW Jan. 12/24	see Reg 1/2024
Forest Act	Jan. 1/24	by 2021 Bill 28, c. 38, section 24 only (in force by Royal Assent), Forest Amendment Act, 2021
Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act	REPEALED Jan. 1/24	by 2022 Bill 15, c. 21, section 64 only (in force by Reg 282/2023), Low Carbon Fuels Act
Hazardous Waste Regulation	Feb. 1/24	by Reg 170/2023
Low Carbon Fuels Act	NEW Jan. 1/24	c. 21, SBC 2022, Bill 15 , sections 1 (part), 2 to 13, 15 to 22, 28 (1), (2) (a) to (c), (4), (5), 29, 30 (1) (a) to (i), (j) (i), (iii), (iv), (k) (i), (iii), (l) to (n), (2), (3), 31 to 34, 35 (1) (a) to (c), (e), (f), (2), (3), 36 to 52, 53 (a) to (e), (g) to (i), 55 to 63 only (in force by Reg 282/2023), as amended by 2023

		Bill 42, c. 47, sections 16 to 24 only (in force by Reg 282/2023), Miscellaneous Statutes Amendment Act (No. 3), 2023
Low Carbon Fuels (General) Regulation (282/2023)	NEW Jan. 1/24	see Reg 282/2023
Low Carbon Fuels (Technical) Regulation (295/2023)	NEW Jan. 1/24	see Reg 295/2023
Manufactured Forest Products Regulation (240/2003)	Feb. 1/24	by Reg 256/2023
Recycling Regulation (449/2004)	Jan. 1/24	by Reg 255/2023
Renewable and Low Carbon Fuel Requirements Regulation (394/2008)	REPEALED Jan. 1/24	by Reg 282/2023



OCCUPATIONAL HEALTH AND SAFETY NEWS

Proposed Amendments to Policy on Activity-related Soft Tissue Disorders of the Limbs

from [WorkSafeBC](#)

Our Policy, Regulation and Research Department (PRRD) is proposing amendments to policy concerning activity-related soft tissue disorders (ASTDs) of the limbs. The proposed amendments are intended to address two ASTD projects in the PRRD's current workplan:

- ASTDs — CPR Recommendations #36–37
- Establishing Work Causation for ASTDs of the Limbs

The proposed amendments clarify policy on the issue of whether an ASTD is due to the nature of the worker's employment and are informed by recommendations from two external reviews:

- Paul Petrie's 2018 compensation policy review (CPR), *Restoring the Balance: A Worker-Centred Approach to Workers' Compensation Policy*
- Janet Patterson's *New Directions: Report of the WCB Review 2019*

Noxious Smoke Forced Nine Workers to Seek Medical Attention

Nine workers at the Parkland Refining Burnaby facility sought medical attention on Sunday January 21 following an incident that led to the release of heavy, noxious smoke, according to a recent report by WorkSafeBC. The incident, which occurred around 8 am, resulted in nine employees requiring first aid, while four others were evacuated from the site. WorkSafeBC, responsible for overseeing workplace safety and providing compensation for injured workers, categorized this incident as a major release of a hazardous substance, citing injuries that necessitated immediate medical attention. Read the [full article](#) by [Shane Mercer](#), published in Canadian Occupational Safety.

New Duty to Cooperate and Maintain Employment Following Workplace Injury

As of January 1, 2024, employers and workers in British Columbia now have a new legal "duty to cooperate" and "duty to maintain employment" under the [Workers Compensation Act](#) (the "WCA"). These amendments were introduced to the WCA as part of Bill 41 in 2022. The duty to cooperate applies to any workplace injury that occurred on or after January 1, 2022, and the duty to maintain employment applies to any workplace injury that occurred on or after July 1, 2023. Read the [full article](#) by Richard Savage and Negina Khalil with Fasken.



OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
Occupational Health and Safety Regulation (296/97)	Jan. 1/24	by Reg 204/2023
		by 2022 Bill 5, c. 3, sections 9 (part) and 13 (part) (in force by Reg 142/2023), Workers Compensation Amendment Act, 2022

Workers Compensation Act

Jan. 1/24

by 2022 Bill 41, c. 37, section 4 and 7 only (in force by [Reg 142/2023](#)), [Workers Compensation Amendment Act \(No. 2\), 2022](#)

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