



## Vol: XVII – Issue 7 – July 2024

### EnviroFor News

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### ENERGY & MINES NEWS

#### BC Court of Appeal Resolves Important Dispute Over Mineral Rights

On July 4, 2024, the British Columbia Court of Appeal released a landmark decision in *Skeena Resources Ltd. v. Mill*, [2024 BCCA 249](#), providing much needed guidance on the question of ownership of waste rock and tailings generated by mining operations.

Skeena Resources Ltd. ("Skeena") claimed ownership over waste rock and tailings from Eskay Creek Mine (the "Mine") that Skeena had deposited into Albino Lake (the "Lake") in accordance with environmental regulations. Richard Mill, the individual who held a mineral claim over the Lake, asserted that he was the rightful owner of the valuable minerals in the waste rock and tailings deposited by Skeena. The question before the Court was whether Skeena relinquished its rights to the material when it deposited it into the Lake. Read the [full article](#) by [Una Radoja](#), [Daniel Bornstein](#) and [Rachel Abrahams](#) with McCarthy Tétrault LLP.

#### Provincial Government Announces \$5.8B for BC Hydro Over the Next Decade

The provincial government announced \$5.8 billion over ten years in capital spending for BC hydro's electricity. Elected officials and BC Hydro staff gathered at Vernon's substation to announce the funding. Vernon itself will see \$50 million to expand the distribution system here, which will add 15,000 new homes.

That's part of a total \$450 million pledged to crucial transmission upgrades. Other projects include the West Kelowna Transmission and Westbank Upgrade project, upgrades to support electrification at the Highland Valley Copper mine near Kamloops, and Bridge River project.

All the upgrades will allow for more homes to be built in the Southern Interior, as the region continues to grow. Maureen Daschuk with BC Hydro said by 2046 there is expected to be 440,000 people living in the area. Read the [BIV article](#).

#### U.S., Canada Reach Agreement in Principle on Elements of Modernized Columbia River Treaty

U.S. President Joseph Biden announced that the U.S. and Canada have reached agreement in principle on the key elements of the modernized Columbia River Treaty.

The President made the announcement during a visit to Washington, D.C., by Canadian Prime Minister Justin Trudeau.

The Columbia River and its tributaries are of great importance to Tribal and Indigenous peoples, who have been sustained by this ecosystem and the abundant resources it provides, the White House said. These waterways are also vitally important to the U.S. economy, generating 40% of U.S. hydropower, irrigating \$8 billion in agriculture products, and moving 42 million tons of commercial cargo every year. For 60 years, the U.S. and Canada have managed these waterways together through the Columbia River Treaty. Read the *Hydro Review* [article](#).

### Regulatory Intervention in the Critical Minerals Sector: Geopolitical impacts, Opportunities and Challenges

As the global economy moves towards lower carbon energy that is more interconnected and dependent on electronics, the demand for critical minerals is set to surge.

Against this backdrop, as nations rapidly seek to either gain access to or leverage the critical mineral resources they possess, there have been a variety of legislative and policy developments intended to advance these objectives. These developments have had a variety of impacts on the sector, ranging from commodity price volatility (ie, the nickel market), to significant project relocation to secure public funding, to a shift in geographic investment focus to respond to increasingly stringent foreign direct investment (FDI) regimes. Read the [full article](#) by [Oliver Wright](#) and [Alexander Samson](#) with DLA Piper.

### BC Energy Regulator Announcements

The following BC Energy Regulator announcements were posted recently:

- [IU 2024-10](#) – New Interactive B.C. Production Dashboard
- [DIR 2024-01](#) – BCER Expands Water Suspensions to include the Coldwater River
- [TU 2024-09](#) – Amendment to Hydraulic Fracturing Water Reporting

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



## ENERGY & MINES

Act or Regulation Affected	Effective Date	Amendment Information
British Columbia Hydro and Power Authority Exemption Regulation (242/2024)	<b>NEW</b> July 23/24	see <a href="#">Reg 242/2024</a>
Direction No. 8 to the British Columbia Utilities Commission (24/2019)	July 15/24	by <a href="#">Reg 236/2024</a>
Direction to the British Columbia Utilities Commission Respecting Industrial Electrification (295/2020)	July 8/24	by <a href="#">Reg 200/2024</a>
Energy Resource Activities Act	July 22/24	by 2018 Bill 56, c. 54, sections 1, 3 to 9, 11, 12, 14, 15 and 17 only (in force by <a href="#">Reg 241/2024</a> ), <a href="#">Oil and Gas Activities Amendment Act, 2018</a> , as amended by 2022 Bill 37, c. 42 (in force by <a href="#">Reg 187/2023</a> ), <a href="#">Energy Statutes Amendment Act, 2022</a>
Environmental Protection and Management Regulation (200/2010)	July 15/24	by <a href="#">Reg 219/2024</a>
Fuel Price Transparency Regulation (52/2020)	July 1/24	by <a href="#">Reg 125/2024</a>
Greenhouse Gas Reduction (Clean Energy) Regulation (102/2012)	July 1/24	by <a href="#">Reg 125/2024</a>
Hydro and Power Authority Act	July 5/24	by 2024 Bill 25, c. 23, section 6 only (in force by <a href="#">Reg 162/2024</a> ), <a href="#">Haida Nation Recognition Amendment Act, 2024</a>
Mineral Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 128 and 130 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Treaty 8 Planning and Mitigation Regulation (146/2023) (formerly Blueberry River First Nations Implementation Agreement Regulation)	July 22/24	by <a href="#">Reg 241/2024</a>



## FOREST AND ENVIRONMENT NEWS

### Forest and Range Practices Act Amendments

Effective July 15, 2024, amendments were made to the [Forest and Range Practices Act](#) by [2021 Bill 23](#) and [2023 Bill 41](#). Bill 23 establishes a new forest landscape planning framework to replace the current forest stewardship planning regime. The changes in 2023 Bill 41 are consequential to the Bill 23 changes, and expand the circumstances where a minister must refuse to issue cutting permits and road permits.

### Energy Resource Activities Act Amendments

On July 22, changes made by 2018 Bill 56, the [Oil and Gas Activities Amendment Act, 2018](#), were brought into force, amending the [Energy Resource Activities Act](#) to require BCER to impose off-site environmental mitigation activities when issuing or amending a permit for certain energy resource activities.

### British Columbia Announces Regulation to Facilitate Dispute Resolution with Indigenous Groups During Environmental Assessments

On July 9, 2024, the [Environmental Assessment Dispute Resolution Facilitators Regulation](#) (the "Regulation") came into force in British Columbia. The Regulation arrives almost five years after the "new" [Environmental Assessment Act](#) (the "EAA") came into force in 2019.

The Regulation follows years of engagement regarding its development including the release of the Dispute Resolution Regulation Discussion Paper in May 2023, Dispute Resolution Interim Approach in June 2023 and a What We Heard and Summary of Engagement report in March 2024. Read the [full article](#) by [Dani Bryant](#) and [Samuel Geisterfer](#) with Fasken.

### Case Update – This Time, Polluter Doesn't Pay Under the EMA:

#### ***Cordy Environmental Inc. v. Obsidian Energy Ltd.*, 2024 BCCA 226**

We previously reported on this case (at the Supreme Court Level) [here](#).

On appeal (*Cordy Environmental Inc. v. Obsidian Energy Ltd.*, [2024 BCCA 226](#)) the B.C. Court of Appeal has now reversed that decision, and clarified the law on recoverability of contractor costs under the [Environmental Management Act](#), SBC 2003, c.3 (the "EMA").

In the decision below, the plaintiff, Cordy Environmental Inc. ("Cordy"), was a contractor providing remediation services. Cordy sued a previous owner of the property who was alleged to have contaminated the site. The apparent motivation was that Cordy's customer, who now owned the site, had gone into receivership and its assets sold to a third party (free of any claim from Cordy). Read the [full article](#) by [Thomas D. Boyd](#) with Lawson Lundell LLP.

### New Plastic Items Banned Starting July 15

On July 15, the [Single-Use and Plastic Waste Prevention Regulation](#) was amended by [B.C. Reg. 254/2023](#) as part of the next phase of the [CleanBC Plastics Action Plan](#). The changes ban plastic shopping bags, food service items such as cups or cartons that are made from biodegradable plastic, Styrofoam, PVC or PVDC, and all oxo-degradable plastics. More information about upcoming changes to the Single-Use and Plastic Waste Prevention Regulation can be found [here](#).

### BC Forest Practices Board Releases 2023-2024 Annual Report

The BC Forest Practices Board has published its 2023-2024 annual report, marking 28 years of commitment to improving forest and range practices across British Columbia. The report provides an in-depth overview of the Board's accomplishments over the past fiscal year, addressing key issues and setting strategic priorities for the future. Read the [report](#) from the Forest Practices Board.

### Federal Government Publishes Notice Requiring PFAS Information and Updates its Draft State of PFAS and Risk Management Scope Reports

On July 27, 2024, the Federal Government published a [Notice with respect to certain per- and polyfluoroalkyl substances \(PFAS\)](#) in the Canada Gazette under paragraph 71(1)(b) of [Canadian Environmental Protection Act, 1999](#) (CEPA). The purpose of the Notice is to gather information on 312 PFAS substances listed in Schedule 1 of the Notice to establish baseline commercial use data and support future activities related to the regulation of the class of PFAS. The Federal Government has also published a companion Guidance manual to assist with responding to the Notice. The deadline for reporting under the Notice is January 29, 2025. Read the [full article](#) by [Sarah Gilbert](#), [Julia Schatz](#), [Sharon Singh](#) and [Sean Assié](#) with Bennett Jones LLP.

### Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

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

- [School District No. 83 v. Director, Environmental Management Act](#) [Consent Order – Appeal Dismissed; Administrative Penalty Fixed]
- [Michael Rapier & Citizens for My Sea to Sky v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]

#### [Integrated Pest Management Act](#)

- [MKY Holdings Ltd. v. Administrator](#) [Final Decision – Appeal Granted; Determination Reversed]

Wildlife Act

- [Robert Serrouya v. Director, Wildlife Act](#) [Dismissal Order – Appeal Dismissed]
- [James \(Jim\) Munroe v. Deputy Regional Manager, Recreational Fisheries & Wildlife Programs, Omineca Region, Ministry of Forests](#) [Final Decision – Appeal Allowed; Application for Costs Denied]

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

**Forest Appeals Commission Decisions**

The following Forest Appeals Commission decisions were made recently:

Forest and Range Practices Act

- [Canabo Cattle Co Ltd. v. Government of British Columbia](#) [Final Decision – Appeal Dismissed; Order Confirmed]

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

**FOREST AND ENVIRONMENT**

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation ( <i>Environmental Management Act</i> )	Aug. 1/24	by <a href="#">Reg 178/2023</a>
Administrative Orders and Remedies Regulation (101/2005)	July 15/24	by <a href="#">Reg 219/2024</a>
BC Carbon Registry Regulation (25/2024)	July 8/24	by <a href="#">Reg 185/2024</a>
Carbon Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 28, 29, 31, 32, 36 and 39 to 41 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Carbon Tax Regulation (125/2008)	July 8/24	by <a href="#">Reg 186/2024</a>
	July 15/24	by <a href="#">Reg 210/2024</a>
Code of Practice for Agricultural Environment Management (8/2019)	July 15/24	by <a href="#">Reg 8/2019</a> as amended by <a href="#">Reg 179/2024</a>
Controlled Recreation Area (Resort Timber Administration Act) Regulation (166/2007)	July 3/24	by <a href="#">Reg 150/2024</a>
Emission Offset Project Regulation (250/2015)	July 8/24	by <a href="#">Reg 185/2024</a>
Environmental Assessment Dispute Resolution Facilitator Regulation (204/2024)	<b>NEW</b> July 9/24	see <a href="#">Reg 204/2024</a>
Forest Act	July 15/24	by 2021 Bill 23, c. 37, sections 1, 3 and 4 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2021</a>
		by 2023 Bill 41, c. 43, sections 40, 77 and 78 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2023</a>
Forest and Range Practices Act	July 15/24	by 2021 Bill 23, c. 37, sections 30, 31, 33 to 44, 49, 51, 62, 64, 65, 69, 74, 75, 82 to 84, 86, 87, 91, 93 and 95 to 97 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2021</a> , as amended by 2023 Bill 41, c. 43, sections 120 and 122 only (in force by <a href="#">Reg 62/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2023</a> , and 2023 Bill 14, c. 10, section 287 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Modernization) Amendment Act, 2023</a>
		by 2023 Bill 41, c. 43, sections 126 and 128 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2023</a>

Forest Planning and Practices Regulation (14/2004)	July 15/24	by <a href="#">Reg 219/2024</a> and <a href="#">Reg 221/2024</a>
Forest Practices Board Regulation (15/2004)	July 15/24	by <a href="#">Reg 219/2024</a>
Forest Recreation Regulation (16/2004)	July 15/24	by <a href="#">Reg 219/2024</a>
Greenhouse Gas Emission Administrative Penalties and Appeals Regulation (248/2015)	July 8/24	by <a href="#">Reg 185/2024</a>
Greenhouse Gas Emission Reporting Regulation (249/2015)	July 8/24	by <a href="#">Reg 185/2024</a>
Interest Rate Under Various Statutes Regulation (386/92)	July 5/24	by <a href="#">Reg 181/2024</a>
Logging Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 113 and 115 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Municipal Wastewater Regulation (87/2012)	Aug. 1/24	by <a href="#">Reg 178/2023</a>
Muskwa-Kechika Management Area Act	July 15/24	by 2021 Bill 23, c. 37, section 110 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2021</a>
Oil and Gas Waste Regulation (254/2005)	July 8/24	by <a href="#">Reg 192/2024</a>
Park Act	July 5/24	by 2024 Bill 25, c. 23, section 7 only (in force by <a href="#">Reg 162/2024</a> ), <a href="#">Haida Nation Recognition Amendment Act, 2024</a>
Pesticide Control Act Regulations (319/81)	<b>REPEALED</b> July 8/24	by <a href="#">Reg 184/2024</a>
Professional Governance Act	July 1/24	by 2023 Bill 39, c. 32, sections 71 to 77 only (in force by <a href="#">Reg 129/2024</a> ), <a href="#">International Credentials Recognition Act</a>
Provincial Forest Use Regulation (176/95)	July 15/24	by <a href="#">Reg 223/2024</a>
Public Notification Regulation (202/94)	July 8/24	by <a href="#">Reg 193/2024</a>
Single-Use and Plastic Waste Prevention Regulation (254/2023)	July 15/24	by <a href="#">Reg 254/2023</a>
Tax Appeals Regulation (135/2024)	<b>NEW</b> July 1/24	see <a href="#">Reg 135/2024</a>
Tree Farm Licence Management Plan Regulation (280/2009)	July 15/24	by <a href="#">Reg 219/2024</a>
Tree Seeds and Services Regulation (138/2019)	July 15/24	by <a href="#">Reg 222/2024</a>
Water Sustainability Regulation	July 8/24	by <a href="#">Reg 184/2024</a>
Wildlife Management Areas Regulation (12/2015)	July 9/24	by <a href="#">Reg 203/2024</a>



## OCCUPATIONAL HEALTH AND SAFETY NEWS

**Decision on the New and Revised BC Exposure Limits Based on the 2019 and 2020 ACGIH TLVs for Selected Chemical Substances**

At its May 2024 meeting, WorkSafeBC's [Board of Directors \(BOD\)](#) approved the adoption of the 2019 and 2020 new and revised American Conference of Governmental Industrial Hygienists Threshold Limit Values (ACGIH TLVs) for the following selected chemical substances:

- Chromium and Inorganic Compounds: Metallic Chromium, as Cr(0)
- Cobalt and inorganic compounds, as Co
- Cyclopentadiene
- Dicyclopentadiene
- Dicyclopentadiene, including Cyclopentadiene (8-hour TWA only)
- Manganese, elemental and inorganic compounds, as Mn
- Resin acids, as total resin acids
- Rosin core solder thermal decomposition products (colophony)
- 1,1,2,2-Tetrabromoethane
- Tin and inorganic compounds, excluding tin hydride and indium tin oxide, as Sn
- Tin and inorganic compounds, excluding Tin hydride, as Sn, Metal
- Tin and inorganic compounds, excluding Tin hydride, as Sn, Oxide and Inorganic compounds

Effective July 10, 2024, these substances will be removed from the Table of Exposure Limits for Excluded Substances in [Policy R5.48-1](#) of the *Prevention Manual* and the ACGIH TLVs will be assigned as B.C. exposure limits: Read the full WorkSafeBC [article](#).

### WorkSafeBC Summer 2024 Update: First Aid Regulatory Change

– from [BC Forest Safety](#)

WorkSafeBC's Board of Directors has approved amendments to Part 3 of the [Occupational Health and Safety Regulation](#), relating to occupational first aid (OFA). These amendments take effect November 1, 2024. To assist you in preparing for the new requirements, WorkSafeBC is sharing information about the new workplace first aid curriculum and providing additional resources to help you understand the first aid regulatory changes. [Download the WorkSafeBC Announcement](#) and share with your team.

### Board of Directors Approves Amendments to the Occupational Health and Safety Regulation

– from [WorkSafeBC](#)

At its May 2024 meeting, WorkSafeBC's Board of Directors approved amendments to the Occupational Health and Safety Regulation. The amendments relate to [Emergency Planning](#) and [Notice of Project — Tower Crane](#). Strikethrough versions of the amendments with explanatory notes can be accessed below. Deletions in the regulatory amendments are identified in strikethrough and additions are in bold text and highlighted in yellow.

- Part 5, Emergency Planning  
[Approved amendments with explanatory notes](#)  
These amendments will come into effect on February 3, 2025.
- Part 14, Notice of Project — Tower Crane  
[Approved amendments with explanatory notes](#)  
These amendments will come into effect on October 1, 2024.

These amendments were posted online for feedback during the public hearing process. Stakeholder feedback for [Emergency Planning](#) and [Notice of Project — Tower Crane](#) is available for review.

### WorkSafeBC Keeps Premium Rate at 1.55 Per cent

WorkSafeBC is maintaining its 1.55 per cent average base premium rate for the year 2025. This will be the eighth straight year that the average base premium rate has stayed at the level. The rate, however, is still subject to final approval by WorkSafeBC's board of directors. The board will finalize the 2025 premium rates in October of this year. Read the [full article](#) by Jim Wilson, published by Canadian Occupational Safety.

### OHS Policies/Guidelines – Updates

July 10, 2024

#### Guidelines – Occupational Health and Safety Regulation

- Part 5 Chemical Agents and Biological Agents
  - [Table of Exposure Limits for Chemical and Biological Substances](#)  
The table has been updated to reflect changes to OHS Policy R5.48-1 (amended July 10, 2024). Deletions are shown as strikethrough; additions and revisions are highlighted in green.

#### OHS Policies — Occupational Health and Safety Regulation

OHS Policy R5.48-1 has been amended to reflect the current exposure limits for substances listed on the new or revised Threshold Limit Values for 2023 from the American Conference of Governmental Industrial Hygienists (effective July 10, 2024).

- [R5.48-1 Controlling Exposure — Exposure Limits](#)

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



Act or Regulation Affected	Effective Date	Amendment Information
There were no amendments this month.		

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