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## Vol: XI – Issue: X – October 2018

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### ENVIROFOR NEWS:

#### New Bills Introduced

Recent government bills tabled at the time of the release this Reporter include:

- [Bill 36](#), Miscellaneous Statutes Amendment Act (No. 3), 2018 – *partially in force by RA*
- [Bill 37](#), Land Statutes Amendment Act, 2018 – *partially in force by RA*
- [Bill 38](#), Opioid Damages and Health Care Costs Recovery Act – *in force by RA*
- [Bill 39](#), Poverty Reduction Strategy Act – *second reading*
- [Bill 40](#), Electoral Reform Referendum 2018 Amendment Act, 2018 – *first reading*
- [Bill 41](#), Advanced Education Statute Repeal Act – *second reading*
- [Bill 42](#), Assessment Amendment Act, 2018 – *in force by RA*
- [Bill 43](#), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018 – *in force by RA*
- [Bill 44](#), Budget Measures Implementation (Employer Health Tax) Act, 2018 – *second reading*
- [Bill 45](#), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018 – *second reading*
- [Bill 46](#), South Coast British Columbia Transportation Authority Amendment Act (No. 2), 2018 – *second reading*
- [Bill 48](#), Temporary Foreign Worker Protection Act – *second reading*
- [Bill 49](#), Professional Governance Act – *second reading*
- [Bill 50](#), Human Rights Code Amendment Act, 2018 – *first reading*
- [Bill 51](#), Environmental Assessment Act – *first reading*
- [Bill 52](#), Agricultural Land Commission Amendment Act, 2018 – *first reading*
- [Bill 53](#), Recall and Initiative Amendment Act, 2018 – *first reading*
- [Bill 54](#), Lobbyists Registration Amendment Act, 2018 – *first reading*

A reminder that if you would like to track the progress of new bills this session, or track proposed changes to laws that matter most to you, please feel free to make use of our [BC Legislative Digest](#) tracking tool.

#### Latest Annotations

New annotations have recently been added to the Quickscribe site. These annotations include contributions from: [Anita Mathur](#), BC Oil & Gas Commission – [Oil and Gas Activities Act](#)

**Tip: Log in to EnviroFor Online prior to clicking Reporter links.**

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**FEDERAL LEGISLATION** – For notification of federal amendments, we recommend you use our [Section Tracking](#)  tool.

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#### CATEGORIES

[ENERGY & MINES](#)

[FORESTRY & ENVIRONMENT](#)

[OCCUPATIONAL HEALTH & SAFETY](#)

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## ENERGY AND MINES NEWS

### Public Input Sought on Water Use in Mineral Exploration and Small-scale Placer Mining

The Government of British Columbia is proposing to make temporary provisions for water use in mineral exploration and small-scale placer mining operations a permanent part of the *Water Sustainability Act* regulations, and has released an intentions paper for public comment. Historically, water use for prospecting did not require an authorization. Legislation and policy at the time considered mineral exploration and small-scale placer mining as prospecting. This changed in 2016 with the narrow definition of prospecting under the [Water Sustainability Act](#), and individuals undertaking these activities became subject to the requirement to obtain an authorization to use water. In light of existing permitting requirements and restrictions for these activities under the [Mines Act](#), government put in place temporary rules to allow the use of available water for mineral exploration and small-scale placer mining activities without an authorization, subject to additional restrictions under the [Water Sustainability Regulation](#). Read the government [news release](#).

### Cryptocurrency Mining: The Legal Issues

Blockchain technology and its application to cryptocurrencies are becoming increasingly prominent in Quebec. While the technology has been in existence for some 10 years, the development of large-scale real estate projects dedicated to cryptocurrency mining is currently in full swing. The availability of large tracts of land, the relatively cold climate and the low cost of electricity combine to make Quebec a favourable environment for the development and growth of this industry. It is against this backdrop that Hydro-Québec recently asked Quebec's energy regulator, the *Régie de l'énergie* (the "Board") to intervene pursuant to ministerial order no. 2018-004 of the Ministry of Energy and Natural Resources ("Order 2018-004"). The subsequent decisions of the Board will impact the majority of entrepreneurs engaged in cryptocurrency mining using Blockchain technology in Quebec. In this regard we are publishing a series of bulletins on the legal issues specific to cryptocurrency mining, of which this first is a summary of the four major impacts of Order 2018-004 and the Board's subsequent decisions.

#### 1. Suspension of requests for electricity by the Ministry of Energy and Natural Resources

On May 31, 2018, the Ministry of Energy and Natural Resources issued Order 2018-004, suspending the processing of new requests for electricity for cryptographic processes involving blockchains. As the potential energy demands of these data-mining projects are considerably greater than Hydro-Québec's current power-generation capacity, this measure was intended to ensure adequate distribution of electricity throughout Quebec. The suspension was to remain in effect until September 15, 2018 or until such time as the Board sets the rate applicable to such requests.

Read the [full article](#) by Mylany David and Simon Grenier of Langlois.

## ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (35/2011)	Oct. 22/18	by <a href="#">Reg 221/2018</a>
Clean Energy Act	Oct. 31/18	by 2018 Bill 43, c. 29, section 4 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018</a>
Direction Respecting Liquefied Natural Gas Customers (150/2016)	<b>REPEALED</b> Oct. 2/18	by <a href="#">Reg 197/2018</a>
Direction Respecting Liquefied Natural Gas Customers (197/2018)	<b>NEW</b> Oct. 2/18	see <a href="#">Reg 197/2018</a>
Domestic Long-Term Sales Contracts	Oct. 2/18	by <a href="#">Reg 197/2018</a>

Regulation (201/2014)		
Drilling and Production Regulation (282/2010)	Nov. 1/18	by <a href="#">Reg 174/2018</a>
Net Profit Royalty Regulation (98/2008)	Nov. 1/18	by <a href="#">Reg 194/2018</a>
Oil and Gas Activities Act General Regulation (274/2010)	Nov. 1/18	by <a href="#">Reg 221/2018</a>
Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation (495/92)	Nov. 1/18	by <a href="#">Reg 194/2018</a>

## FORESTRY AND ENVIRONMENT NEWS

### Update Regarding Changes to Provincial Spill Reporting Requirements

[On October 30th], the requirement to submit the Update to Minister Report and End-of-Spill Report came into effect under the [Spill Reporting Regulation](#). In order to support the new spill reporting requirements, the Environmental Emergency Program of the British Columbia Ministry of Environment and Climate Change Strategy has updated their Report a Spill webpage. This webpage is now live and a short URL has been created for ease of access: [www.gov.bc.ca/ReportASpill](http://www.gov.bc.ca/ReportASpill). This webpage contains information on each spill report and when they are required. There are links to the updated [Spill Reporting fact sheet](#), the Spill Reporting Regulation, and the [Environmental Management Act](#). Additionally, the new [SpillReports@gov.bc.ca](mailto:SpillReports@gov.bc.ca) contact email is provided to which responsible persons (spillers) will submit their reports (other than the Initial Report) and can contact for information on spill reporting. NOTE: the Initial Report/DGIR must continue to be reported by calling the spill reporting line at 1-800-663-3456. In the 'Templates' box on the right side of the webpage, the Update to Minister/End-of-Spill Report template is provided; this template will serve as both the Update to Minister Report and the End-of-Spill Report as the Spill Reporting Regulation outlines that the same content be provided in both reports. Responsible persons will check the appropriate box in section I of the template to indicate which report they are submitting. For more information, or to view the full article, visit the [Ministry website](#).

### Judicial Deference to Regulators and the Workers Compensation Act

A decision of the Supreme Court of Canada (SCC) last spring may have blurred the lines between "employers" and "owners" in the BC forestry sector for purposes of workplace safety under [Part 3](#) of the [Workers Compensation Act](#) (Act). More generally, it may also erode faith in the rule of law. At issue in *West Fraser Mills Ltd. v. British Columbia* (Workers' Compensation Appeal Tribunal) was [Section 26.2](#) of the [Occupational Health and Safety Regulation](#) (Section 26.2) prescribed under the Act. Section 26.2 imposes a duty upon any "owner" of a forestry operation in relation to the planning and conduct of activities at the forestry operation. Following the death of a faller at one of its operations, West Fraser Mills Ltd. (WF) was found in contravention of Section 26.2. The faller was not an employee of WF. An administrative penalty was imposed against WF under [Section 196\(1\)](#) of the Act (Section 196) on account of this finding of contravention, even though Section 196 only authorized administrative penalties against "employers" and not "owners". The Workers' Compensation Appeal Tribunal (Tribunal) upheld the penalty on the basis that WF was also an "employer" since it used employees to perform its duties as an "owner." The Act defines "owner" and "employer" as distinct terms, and WF did not contravene any of its duties as an employer. Read the [full article](#) by [Jeff Waatainen](#) of DLA Piper LLP and published in the November/December edition of the *BC Forest Professional Magazine*.

### BC Government Review of Professional Reliance Current Status – from ABCFP

The BC government is seeking public feedback on a Regulations Intentions Paper related to Bill 49, the proposed [Professional Governance Act](#), tabled in the legislature on October 22 and which passed second reading October 30 by a 43 to 38 vote. The intentions paper is divided into two parts. Part One describes the recently introduced Bill 49, the *Professional Governance Act*, with the main purpose being to explain how the governance of registered professionals that operate in the natural resource sector will change with the passing of the Act. Part Two describes topics that government is seeking feedback on to help inform the development of future policy

and regulations. According to the paper, the government is seeking feedback on three key policy areas for which it is developing regulations. Read the [full article](#) and the latest news the from ABCFP website.

### New Rules for Major Resource Projects in BC Call for Indigenous Consent

British Columbia is [rewriting its environmental assessment act](#) to require a commitment to seek free, prior and informed consent from Indigenous communities for major resource projects, but the new law stops short of allowing them a veto if consent cannot be reached.

The change is based on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Environment Minister George Heyman said the new law reflects the reality that the success of any major industrial project in B.C. rests on meaningful partnerships with Indigenous communities.

"What people need to understand about this process is, it is consent-based," Mr. Heyman told reporters.

The legislation also requires, for the first time, that greenhouse gas emissions be considered in the assessment process, and paves the way for the cumulative impact of industrial development in a region to be factored into decisions about individual projects.

The legislation says achieving consent is the objective, however, it is strictly needed in only very limited circumstances: when a nation has a treaty or final agreement on a treaty that spells out consent as a requirement. Only a few Indigenous communities in British Columbia have settled treaties.

"In all other cases, we are focused on getting consent," Mr. Heyman said, "but the final decision does rest with the minister." Read the [full article](#) by Justine Hunter of *The Globe and Mail*.

## FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Boundary Act	Oct. 31/18	by 2018 Bill 37, c. 37, section 1 only (in force by Royal Assent), <a href="#">Land Statutes Amendment Act, 2018</a>
Conservation Officer Service Authority Regulation (318/2004)	Oct. 17/18	by <a href="#">Reg 209/2018</a>
Creston Valley Wildlife Act	<b>RETRO to</b> Apr. 21/97	by 2018 Bill 43, c. 39, section 8 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018</a>
Financial Administration Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 10 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018</a>
Financial Institutions Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 22 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2018</a>
Gasoline Vapour Control Regulation (226/95)	Oct. 1/18	by <a href="#">Reg 191/2018</a>
Land Act	Oct. 31/18	by 2018 Bill 37, c. 37, in section 2 only (in force by Royal Assent), <a href="#">Land Statutes Amendment Act, 2018</a>
Land-based Finfish Waste Control Regulation (68/94)	Oct. 1/18	by <a href="#">Reg 191/2018</a>

Open Burning Smoke Control Regulation (145/93)	Oct. 1/18	by <a href="#">Reg 191/2018</a>
Park Conservancy and Recreation Area Regulation (180/90)	Oct. 1/18	by <a href="#">Reg 193/2018</a>
	Oct. 17/18	by <a href="#">Regs 209/2018</a> and <a href="#">210/2018</a>
Protected Areas of British Columbia Act	Oct. 31/18	by 2018 Bill 43, c. 39, sections 20 to 22 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018</a>
Water Sustainability Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 27 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018</a>
Wildfire Act	Oct. 31/18	by 2018 Bill 43, c. 39, sections 28 and 29 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018</a>
Wildlife Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 30 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018</a>

## OCCUPATIONAL HEALTH AND SAFETY NEWS

### WorkSafeBC Issues New (Revised) Guidelines

Two WorkSafeBC guidelines were updated recently. These include:

- [Revised guidelines for environmental tobacco smoke and e-cigarette vapour to take into account the effects of cannabis smoke](#)
- [New, revised, and retired guidelines for first aid assessment, hand-arm vibration exposure limits, adjacent piping controls in confined spaces, and electrical testing equipment](#)

Visit the WorkSafeBC website for more information on these and other related news and material.  
<https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation>

### Cannabis Industry Must Prioritize OHS as Legalization Approaches

Trimming marijuana leaves, working around grow lamps and extracting oils take a hit on workers. Health and safety professionals across Canada are concerned about the legalization of recreational marijuana and its impact on the workplace — especially when it comes to safety-sensitive positions. But something that has been largely ignored is the health and safety of workers within the soon-to-be legal cannabis industry. Deloitte has predicted that legalized recreational marijuana could be a \$22.6 billion industry in Canada, taking into account the retail market, growers, product makers, testing labs and security. Unfortunately, when an industry is on the rise, the significant influx of new workers means occupational incidents – injuries, fatalities or both – rise as well. For example, Alberta experienced its highest number of workplace fatalities on record in 2013, clocking in at 188, during a time when the provincial economy was at its peak. To avoid this trend, cannabis companies – especially those involved in growing and harvesting operations – need to prioritize OHS now. Read the [full article](#) by Amanada Sillker on *Canadian Occupational Safety*.

### New Worker Qualification Regulation

On October 16, 2018, the [Worker Qualification Regulation](#) came into effect. Made under the [Cannabis Control and Licensing Act](#) and the [Cannabis Distribution Act](#), the regulation provides that a retail store licensee must not allow an individual to perform any work related activity as an employee, independent contractor or volunteer in a retail store unless the individual has been granted a security verification that has not expired or been revoked.

**OCCUPATIONAL HEALTH AND SAFETY**

**Act or Regulation Affected**

**Effective  
Date**

**Amendment Information**

*There were no amendments this month.*

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