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ENERGY AND MINES NEWS

**Autonomous Vehicles in Mining Operations:
 Key Legal Considerations**

The use of autonomous and data-driven systems is anticipated to be one of the most effective ways to increase the energy efficiency of mining operations. However, currently, only three per cent of mobile equipment in the mining sector is autonomous. As reliability of autonomous technologies increases, the scalability of the technologies is expected to decrease costs, making it more accessible in the mining sector. That being said, increasing automation and connectivity brings a new set of legal challenges and considerations and the adoption of autonomous technologies in the mining sector is no exception. In this new paradigm, mining sector participants must be cognizant and evaluate novel risks and legal issues to provide parties with the certainty they need to adopt autonomous and data-driven systems (hereinafter, "Autonomous Mining Technologies"). Read the [full article](#) by [Marin Leci](#), [Graeme Martindale](#), [Jason Howg](#), [Hugh A. Meighen](#) and [Arba Radaj](#) with Borden Ladner Gervais.

Recent BCOGC Bulletins

There were no BCOGC bulletins issued in the month of August.

ENERGY AND MINES

Act or Regulation Affected	Effective Date	Amendment Information
Emergency Management Regulation (217/2017)	Sep. 1/21	by Reg 226/2021

FORESTRY AND ENVIRONMENT NEWS

Cumulative Effects – The Impact of "A Tide of Change" on Indigenous Treaty Rights

For sometime now, uncertainty has existed as to how the cumulative environmental effects of industrial development should be evaluated in relation to a potential infringement on Aboriginal or treaty rights. For the first time, a court has carried out a deep dive into this issue and considered whether there has been an infringement of a First Nations' treaty right due to the cumulative environmental impacts of industrial development.

When the prairies were first being settled, some of the Indigenous tribes of northeastern British Columbia negotiated the preservation of their rights to hunt, trap, and fish. The British Columbia Supreme Court's decision in [Yahey v British Columbia](#) analyzes the cumulative impacts of industrial development in treaty territory finding the government's conduct "frustrates the essential promise of the Treaty". The Court held that the government's protection of treaty rights has been ineffective, largely allowing the rights to meet a "death by a thousand cuts". The judgment seeks to ensure Indigenous people are not left "with an empty shell of a treaty promise". Read the [full article](#) by [Heather L. Treacy](#), Q.C., I.C.D. and [Shannon Peddlesden](#) with DLA Piper.

10 Tips For Canadian Companies When Environmental Regulators Call

Canadian companies operating in environmentally sensitive industries face a complex set of regulatory obligations that may transect federal, provincial, and municipal governments. Regulatory compliance requires ongoing diligence that includes a robust environmental risk management system, and the penalties and reputational risk for non-compliance can be substantial.

In recent years, federal and provincial governments have signalled increasing emphasis on environmental protection, and consistent with that intent, government regulators appear to have ramped up compliance inspections and investigations. Monetary penalties arising from non-compliance have risen dramatically, as demonstrated by the Teck Coal Limited ("Teck") guilty plea entered in the British Columbia Provincial Court on March 26, 2021, in which Teck agreed to pay \$60,000,000 for repeated violations in 2012 of the Federal [Fisheries Act](#). This fine is the largest financial penalty imposed in Canadian history on liability for an environmental offence. Read the [full article](#) by [Wally Braul](#), [Josh Jantzi](#), [Mark Youden](#) and [Nicholas Tollefson](#) with Gowling WLG.

Provincial State of Emergency Extended

The Government of British Columbia has extended the provincial state of emergency through the end of the day on Sept. 14, 2021, to support the ongoing co-ordinated response to the wildfire situation and to ensure public safety. Read the full government [news release](#).

More Mill Closures Loom for B.C., Researcher Warns

Study examines economic costs of more environmental protections for the province's forests

Since 2005, 35 sawmills in B.C.'s Interior and nine on the coast have permanently shuttered, along with about half of the coastal shake and shingle mills, according to a new socioeconomic analysis of forestry in B.C.

According to Statistic Canada, forestry in B.C. sustained more than 200,000 jobs (direct and indirect) in 2001. That has since been cut in half to about 100,000 jobs today, 50,000 of which are direct jobs.

In the Interior, the annual allowable cut (AAC) has been dramatically reduced by a mountain pine beetle infestation. On the coast, a sizable chunk of the coastal AAC has been lost to new parks and protected areas. Read the Business in Vancouver [article](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [Norman Tapp v. Director](#) [Preliminary Decision – Appeal Dismissed]

[Water Sustainability Act](#)

- [Kenneth and Dawn Olynyk: Estate of Winfried and Astrid Reuter v. Assistant Water Manager](#) [Final

Decision – Appeals Dismissed]

[Wildlife Act](#)

- [Derrick Miller Gair v. Deputy Regional Manager, Recreational Fisheries and Wildlife Programs](#) [Final Decision – Appeal Dismissed]

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

FORESTRY AND ENVIRONMENT

Act or Regulation Affected	Effective Date	Amendment Information
Motor Vehicle Prohibition Regulation (196/99)	Aug. 24/21	by Reg 224/2021
Wildlife Act Commercial Activities Regulation (338/82)	Aug. 10/21	by Reg 220/2021

OCCUPATIONAL HEALTH AND SAFETY NEWS

Consultation on Proposed Amendments to the Occupational Health and Safety Regulation

From WorkSafe BC:

WorkSafeBC's Policy, Regulation and Research Division is requesting feedback on proposed amendments to the [Occupational Health and Safety Regulation](#).

The consultation phase provides stakeholders an opportunity to share feedback before the proposed amendments are taken to public hearing. There are two proposed regulatory amendment packages under review:

- Part 3, Minimum Levels of First Aid
- Parts 14 and 19, Inconsistent Crane Misadventure and Zone Limiting Devices in Tower Cranes

View the [proposed regulatory amendments](#) and information on how to provide feedback. Feedback must be submitted by 4:30PM on Friday, October 8, 2021. Read the [notice](#) on WorkSafe BC.

OHSR Amendments – September 1st

Amendments to the [Occupational Health and Safety Regulation](#) came into effect on September 1, 2021. Affected sections include pesticides, safety headgear, high-visibility apparel, and mobile equipment. For more information on these amendments, download the [PDF Overview](#) from WorkSafeBC.

Due Diligence and Identifying Workplace Hazards

Employers have a duty to provide their employees with a safe work environment. Section 21 of the [Workers Compensation Act](#) states that employers must remedy any workplace condition that is hazardous to the health or safety of their employees.

It is therefore prudent for employers to conduct assessments of their employees' working conditions and ensure that adequate precautions are taken to identify and eliminate workplace hazards. WorkSafeBC has provided guidance on due diligence measures that may be undertaken by employers in order to identify and eliminate potential hazards before they arise. Click [here](#) for access to the full checklist. Read the [full article](#) at Overholt Law.

B.C. Repatriating Housekeeping, Food-Service Contracts to Work Directly for Health Authorities

For nearly 20 years, support service workers and services in British Columbia were contracted out to private companies. The provincial government is moving to change this scheme. Beginning this fall, B.C. will serve notice under the terms of 21 commercial service contracts and start a phased approach to repatriating

housekeeping and food-service contracts. Read the [article](#) by Jim Wilson at Canadian Occupational Safety.

Injured Workers' Digital Signature to Be Accepted For Release Of Medical Records: WorkSafeBC

WorkSafeBC is making it easier for injured workers to get access to their medical records. Starting next month, the organization will accept digital signatures from injured workers to authorize the release of relevant medical records from their treatment providers.

B.C.'s [Electronic Transactions Act](#) allows for digital signatures in place of handwritten pen-to-paper signatures. WorkSafeBC will accept digital signatures drawn on a touch-screen tablet or with a mouse. Read the [article](#) by Jim Wilson at Canadian Occupational Safety.

Mandatory Vaccination Policies: Are They a Reasonable Health and Safety Precaution?

Employees across Canada are beginning to transition into post-pandemic work life as vaccination rates go up and restrictions are lifted. With a return to physical workplaces on the horizon for more workers, employers may be considering whether to implement mandatory COVID-19 vaccination policies. Read the [article](#) by Cathy Chandler at Canadian Occupational Safety.

New Public Health Orders

The Public Health Office (PHO) recently issued the following Orders, Notices & Guidance:

- Order:
- [COVID-19 Vaccination Status Information and Preventive Measures Order – August 31, 2021 \(PDF, 512KB\)](#)

- Notice:
- [Notice of Repeal of the Travellers and Employers Order – August 23, 2021 \(PDF, 242KB\)](#)

- Guidance:
- [Guidance for Food and Liquor Serving Premises – August 16, 2021 \(PDF, 613KB\)](#)

Visit the [PHO website](#) to view these and other related orders and notices.

OHS Policies/Guidelines – Updates

WorkSafeBC recently issued the following OHS Updates:

OHS Guidelines – Occupational Health and Safety Regulation

The following new and revised guidelines are consequential to the September 1 amendments to the [OHS Regulation](#):

- Part 6 Substance Specific Requirements
 - [G6.70 Pesticides – Definitions](#) (revised)
 - [G6.77 Mixing, loading, and applying pesticides – Qualifications](#) (revised)
 - [G6.89 Restricted entry intervals](#) (revised)
 - [G6.90 Authorization to enter – Restricted entry intervals on pesticide labels](#) (revised)
- Part 8 Personal Protective Equipment and Clothing
 - [G8.11\(1\) Safety headgear](#) (new)
 - [G8.11\(2\) Activity specific safety headgear](#) (revised)
 - [G11\(2\)-2 Activity specific safety headgear – Ski helmets](#) (revised)
 - [G8.24 High visibility apparel](#) (revised)
- Part 16 Mobile Equipment
 - [G16.8\(3\) Rider restriction](#) (revised)
 - [G16.24 Alternate means of escape – Purpose-built window breaking device](#) (revised)
 - [G16.30 Load handling attachments – Forklifts](#) (revised)
 - [G16.33 Protective structures for hydraulic excavators pioneering on steep side hills](#) (revised)
 - [G16.33-2 Protective structures – Acceptable alternate standards](#) (revised)
 - [G16.35 ROPS standards – Acceptable alternate standard](#) (revised)
 - [G16.40\(8\) All terrain vehicles – Modifications](#) (revised)
 - [G16.43\(2\)-1 Lift truck operator training](#) (revised)
 - [G16.43\(2\)-2 Lift truck operator training – Alternative standards](#) (revised)

- [G16.43\(5\) Pedestrian and equipment traffic](#) (revised)

New and revised guidelines are posted for a 60-day preliminary period, during which time the stakeholder community may [comment and request revisions](#).

The following guidelines were retired consequential to the September 1 amendments to the OHS Regulation:

- Part 6 Substance Specific Requirements
 - [G6.91 Exemptions](#)
- Part 8 Personal Protective Equipment and Clothing
 - [G8.24-1 Alternative standards for high visibility apparel](#)
- Part 16 Mobile Equipment
 - [G16.3 \(and 4.3\(3\)\) Tag out procedure for identifying unsafe mobile equipment](#)
 - [G16.3 \(and 4.3\(4\)\) Fuel tank filler and vent outlet locations](#)
 - [G16.4\(1\)\(c\) Operating equipment with air brakes](#)
 - [G16.13 Braking requirements – Mobile equipment – Alternate standard](#)
 - [G16.13\(3\) Braking requirements – Mobile equipment](#)
 - [G16.18 Acceptable standards for operating controls](#)
 - [G16.21\(2\)-1 Operator protective structure standards for agricultural tractors](#)
 - [G16.22 Rollover protective structures \(ROPS\)](#)
 - [G16.24 ROPS certification – Damaged sweep arms](#)
 - [G16.28 Guarding moving parts on mobile equipment](#)
 - [G16.33 Use of seatbelts on forklifts](#)
 - [G16.44\(2\) Acceptable standard for load restraint](#)

Check the [WorkSafe BC Updates page](#) to explore these and other important OHS updates.

OCCUPATIONAL HEALTH AND SAFETY

Act or Regulation Affected	Effective Date	Amendment Information
Occupational Health and Safety Regulation (296/97)	Sept. 1/21	by Reg 139/2021

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