

BC hydrogen legislation: New regulator for hydrogen and other energy resources

09 décembre 2022

This article is part of a series on changes introduced with the passing of the Energy Statutes Amendment Act, 2022, which also covers increased liability of directors and officers and changes to the regulation of carbon capture and storage.

British Columbia has passed legislation that will streamline the regulation of hydrogen and other energy resources in the province. Called the Energy Statutes Amendment Act, 2022, it introduces changes to the Oil and Gas Activities Act and the Petroleum and Natural Gas Act.

With this new B.C. hydrogen legislation, the Oil and Gas Commission will be renamed the British Columbia Energy Regulator, with jurisdiction over oil, gas, hydrogen, ammonia and methanol. A single-window regulator gives businesses investing in hydrogen in British Columbia a clearer legal framework.

The Energy Statutes Amendment Act, 2022 passed third reading and has received Royal Assent. However, many of the amendments that affect hydrogen will come into force through subsequent regulations, which we will monitor.

Changes to the regulatory framework for energy resources

Under the Energy Statutes Amendment Act, 2022, the name of the Oil and Gas Activities Act is changing to the Energy Resource Activities Act, signalling the province's intent to expand the existing regulatory framework to include hydrogen, ammonia and methanol. Including ammonia and methanol supports the regulation of hydrogen in British Columbia, as these compounds are crucial in the storage and transportation of hydrogen.

Under the amendments, there will be a new purpose for the British Columbia Energy Regulator:

...to regulate energy resource activities in a manner that protects public safety and the environment, supports reconciliation with Indigenous peoples and the

transition to low-carbon energy, conserves energy resources and fosters a sound economy and social well-being.

We will need to see how the courts and the new British Columbia Energy Regulator interpret this purpose, but the language here indicates a shift in focus towards public protection and a transition to low-carbon energy. Further, the new purpose shows clear support for reconciliation with Indigenous Peoples, in line with the [British Columbia Declaration on the Rights of Indigenous Peoples Act](#).

Under the new legislation, the Oil and Gas Appeal Tribunal will continue as the Energy Resource Appeal Tribunal, with powers to hear appeals of certain determinations made by the British Columbia Energy Regulator and designated officials, as well as appeals of other prescribed decisions made under the new legislation.

By introducing an expanded concept of "energy resources," a comprehensive regulatory framework for hydrogen production in British Columbia and a single regulator, this new legislation aligns with the [British Columbia Hydrogen Strategy](#) and [CleanBC Roadmap to 2030](#), both of which identify hydrogen as a key component of a transition towards a low-carbon economy.

With the inclusion of hydrogen, ammonia and methanol facilities into its jurisdiction, the Oil and Gas Commission (soon to be the British Columbia Energy Regulator) is seeking input on changes to the Fee, Levy and Security Regulation. The Oil and Gas Commission is currently funded through levies charged on oil and gas production and infrastructure, in addition to fees for service. There will soon be fees for facilities involved in manufacturing hydrogen, ammonia and methanol. The Oil and Gas Commission is seeking [public feedback](#) on their new proposed fee structure. The deadline for comments is Jan. 31, 2023.

We can expect further changes to B.C. legislation to encourage hydrogen development in the province. The B.C. hydrogen strategy, for example, contemplates amendments to regulations and regulatory frameworks related to the Water Sustainability Act to facilitate the use of hydrogen energy in B.C.

Other changes in the Energy Statutes Amendment Act, 2022

While hydrogen may headline the new legislation, the Energy Statutes Amendment Act, 2022 introduces important changes to other aspects of resource development. The new legislation [expands liability for individuals](#), including directors and officers, for permit obligations. Also, the legislation clarifies [the regulatory framework for carbon capture and storage](#) and [expands the rights of the provincial government to explore for, access, develop and use storage reservoirs](#).

For information on how new B.C. hydrogen legislation could affect your business, or for further analysis of the regulatory landscape for energy in British Columbia, please contact the authors below or any member of BLG's [Environmental](#) or [Energy](#) groups.

[Roark Lewis, Rick Williams](#)

Services

[Environnement, Changements climatiques, Droit autochtone, Enjeux environnementaux, sociaux et de gouvernance \(ESG\), Énergie – Pétrole et gaz, Énergie renouvelable](#)

BLG | Vos avocats au Canada

Borden Ladner Gervais S.E.N.C.R.L., S.R.L. (BLG) est le plus grand cabinet d'avocats canadien véritablement multiservices. À ce titre, il offre des conseils juridiques pratiques à des clients d'ici et d'ailleurs dans plus de domaines et de secteurs que tout autre cabinet canadien. Comptant plus de 725 avocats, agents de propriété intellectuelle et autres professionnels, BLG répond aux besoins juridiques d'entreprises et d'institutions au pays comme à l'étranger pour ce qui touche les fusions et acquisitions, les marchés financiers, les différends et le financement ou encore l'enregistrement de brevets et de marques de commerce.

blg.com

Bureaux BLG

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000, rue De La Gauchetière Ouest
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

Les présents renseignements sont de nature générale et ne sauraient constituer un avis juridique, ni un énoncé complet de la législation pertinente, ni un avis sur un quelconque sujet. Personne ne devrait agir ou s'abstenir d'agir sur la foi de ceux-ci sans procéder à un examen approfondi du droit après avoir souposé les faits d'une situation précise. Nous vous recommandons de consulter votre conseiller juridique si vous avez des questions ou des préoccupations particulières. BLG ne garantit aucunement que la teneur de cette publication est exacte, à jour ou complète. Aucune partie de cette publication ne peut être reproduite sans l'autorisation écrite de Borden Ladner Gervais S.E.N.C.R.L., S.R.L. Si BLG vous a envoyé cette publication et que vous ne souhaitez plus la recevoir, vous pouvez demander à faire supprimer vos coordonnées de nos listes d'envoi en communiquant avec nous par courriel à desabonnement@blg.com ou en modifiant vos préférences d'abonnement dans blg.com/fr/about-us/subscribe. Si vous pensez avoir reçu le présent message par erreur, veuillez nous écrire à communications@blg.com. Pour consulter la politique de confidentialité de BLG relativement aux publications, rendez-vous sur blg.com/fr/ProtectionDesRenseignementsPersonnels.

© 2025 Borden Ladner Gervais S.E.N.C.R.L., S.R.L. Borden Ladner Gervais est une société à responsabilité limitée de l'Ontario.