



**CODIFY**  
**MINING REPORT**

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Editors:

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# THE NORTHERN MINER

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## FEDERAL

### SOR/2020-260: Administrative Monetary Penalties (Canada Labour Code) Regulations

Registered December 4, 2020

Published December 23, 2020

#### ENABLING STATUTE

*Canada Labour Code*, R.S.C., 1985, c. L-2.

#### GOVERNMENT NOTE

The objective of the *Administrative Monetary Penalties (Canada Labour Code) Regulations* (the Regulations) is to implement an administrative monetary penalty (AMP) regime and the public naming of violators as a new compliance and enforcement measure under the *Canada Labour Code* (the Code). Labour Program officials will have additional tools to help achieve higher levels of compliance with Part II – *Occupational Health and Safety* and Part III – *Standard Hours, Wages, Vacations and Holidays* of the Code and, as a result, improve working conditions for workers under federal jurisdiction.

The standards outlined in the Code applies to industries that fall under federal jurisdiction such as uranium mining and exploration, mineral industries related to federal Crown corporations or mineral industries operating on federal lands and in offshore areas.

#### EDITOR'S COMMENTS

- The Regulations designate specific violations under Part II and Part III of the Code and only these violations are subject to AMPs. The amount of an AMP will vary depending on the type of violation as well as the person or department believed to have committed a violation's past history of non-compliance.
- Schedule 1 to the Regulations lists the provisions of identified Regulations that are considered violations subject to AMPs.
- The designated provisions for the *Coal Mining Occupational Health and Safety Regulations* are listed under Division 3 of Schedule 1.
- The designated provisions for the *Oil and Gas Occupational Safety and Health Regulations* are listed under Division 5 of Schedule 1.

*Edited by Portia Biswas*

#### SOURCE

<http://gazette.gc.ca/rp-pr/p2/2020/2020-12-23/html/sor-dors260-eng.html>

## SOR/2020-258: Off-road Compression-Ignition (Mobile and Stationary) and Large Spark-Ignition Engine Emission Regulations

Registered December 4, 2020

Published December 23, 2020

### ENABLING STATUTE

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*Canadian Environmental Protection Act, 1999, S.C. 1999, c. 33*

### GOVERNMENT NOTE

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The objective of the *Off-road Compression-Ignition (Mobile and Stationary) and Large Spark-Ignition Engine Emission Regulations* (the Regulations) is to reduce the release of air pollutants generated by the use of large spark-ignition (LSI) and stationary compression-ignition (SCI) engines in Canada, which contribute to adverse environmental and human health impacts. The Regulations will introduce new emission standards and requirements in alignment with the U.S. EPA's standards for LSI and SCI engines. These standards include limits for nitrogen oxides (NO<sub>x</sub>), hydrocarbons (HC), carbon monoxide (CO) and, in the case of SCI engines, particulate matter (PM). The previous Regulations will be repealed and replaced by the Regulations, and while the standards for mobile compression-ignition (MCI) engines will not be changed, new administrative and compliance flexibilities will be introduced. The Regulations also aim to create a level playing field in the Canada–U.S. market for importers and manufacturers of these engines, minimize administrative costs incurred by importers, and improve the clarity and consistency of certain provisions in two other engine-related regulations. The previous Regulations will be repealed and replaced by the Regulations, combining the previous MCI engine standards together with the new LSI engine and SCI engine standards into one consistent framework.

LSI engines produce more than 19 kilowatts (kW) of power and are usually fuelled by gasoline, propane or natural gas and are used to power forklifts, generators, and many other farm, industrial and construction machines.

SCI engines are also used in various industries to power air compressors, to drive heating, ventilation and air conditioning control systems, or to provide air to power pneumatic tools. Other applications include such things as agricultural equipment, hydraulic power units, irrigation sets, and underground mining equipment.

### EDITOR'S COMMENTS

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- The definitions for the previous regulations are combined, with added definitions for “compression-ignition engine”, “hazardous location”, “large spark-ignition engine”, “remote location”, “replacement engine”, “stationary”, and “transportation refrigeration unit” and amended definitions for “emissions family”, “evaporative emissions”, “fuel line”, “useful life” and “volatile liquid fuel”.

- The section regarding prescribed engines (s.5) is expanded, but still refers to the definition of engine in s.149 of the *Canadian Environmental Protection Act*.
- Engines with a per cylinder displacement of less than 50 cm<sup>3</sup> that are used for underground mines remain excluded.
- The standards for engines under the previous regulations are unchanged. Changes to engine standards in s. 9 of the new Regulations are limited to the inclusion of new standards for LSI and SCI engines.
- Before applying the national emissions mark to an engine, the company must submit a request to the Minister and be approved per s. 26
- Added and amended provisions regarding label requirements for the different types of engines that must be used to demonstrate conformity with the standards are provided in s. 26 – s. 34.
- New provisions in s. 44 – s.48 require any company or person importing an engine to submit a declaration to the Minister prior to importing the engine. Companies that import more than 50 engines in a calendar year may submit a declaration after the engine has been imported.

*Edited by Portia Biswas*

#### SOURCE

<http://gazette.gc.ca/rp-pr/p2/2020/2020-12-23/html/sor-dors258-eng.html>

## SOR/2020-261: Regulations Amending Part 1 of Schedule 1 and Schedule 2 to the Greenhouse Gas Pollution Pricing Act and the Fuel Charge Regulations

Registered December 4, 2020

Published December 23, 2020

#### ENABLING STATUTE

*Greenhouse Gas Pollution Pricing Act*, S.C. 2018, c. 12, s. 186

#### GOVERNMENT NOTE

The *Greenhouse Gas Pollution Pricing Act* provides the legal framework and enabling authorities for the federal carbon pollution pricing backstop system (the federal backstop system) to ensure that the pricing of greenhouse gas emissions applies broadly in Canada. The federal backstop system has two components: a regulatory charge on fossil fuels (the fuel charge) and an output-based pricing system for large industry. Under the GGPPA, the Governor in Council has the authority to determine which provinces, territories and areas the GGPPA applies.

The objective of the *Regulations Amending Part 1 of Schedule 1 and Schedule 2 to the Greenhouse Gas Pollution Pricing Act and the Fuel Charge Regulations* (the Regulations) is to cease the application of

the fuel charge in New Brunswick effective April 1, 2020, by removing the references to the province from Part 1 of Schedule 1 and Schedule 2 of the GGPPA.

### EDITOR'S COMMENTS

- In April 2020, The Legislative Assembly of New Brunswick enacted a provincial tax on carbon emitting products which meets the federal stringency requirements for the sources captured under the GGPPA. All provinces and territories that have adopted their own price on carbon pollution that is consistent with federal standards are not subject to the federal fuel charge. The amendments in the Regulations reflect this change.
- Schedule 1 lists the jurisdictions to which the federal backstop system applies. Schedule 1 is amended to remove the reference to New Brunswick.
- Schedule 2 provides the rates of the fuel charge that apply in each jurisdiction listed under Schedule 1. Schedule 2 is amended by removing all references to New Brunswick and the corresponding fuel charge rates.
- A reference to New Brunswick in paragraph 6(b) of the *Fuel Charge Regulations* is repealed.

*Edited by Portia Biswas*

### SOURCE

<http://gazette.gc.ca/rp-pr/p2/2020/2020-12-23/html/sor-dors261-eng.html>

## SOR/2020-277: Regulations Amending the Sulphur in Gasoline Regulations

Registered December 16, 2020

Published December 23, 2020

### ENABLING STATUTE

*Canadian Environmental Protection Act, 1999, S.C., 1999, c. 33.*

### GOVERNMENT NOTE

The *Sulphur in Gasoline Regulations* (the Regulations) were enacted in 1999 to reduce and limit the amount of sulphur in gasoline. Amendments were made to the Regulations in 2015 that established a temporary sulphur compliance unit (SCU) trading system to provide suppliers with flexibility while they transitioned to lowering sulphur concentrations in gasoline.

The objective of the *Regulations Amending the Sulphur in Gasoline Regulations* (the Amendments) is to provide primary gasoline suppliers in Canada (i.e. regulated parties) with additional compliance flexibility while they continue to transition to lower sulphur gasoline.

The Amendments re-enact the temporary SCU trading system under the Regulations for the years 2020 to 2025. This temporary trading system is available to regulated parties electing to participate in the annual pool average compliance option under the Regulations.

The Amendments enable regulated parties to transfer the surplus balances of SCUs that they generated or received in trade in the expired trading system and owned as of March 31, 2020, into the re-enacted temporary trading system. The Amendments also provide regulated parties with the option to generate, trade, or bank SCUs in the temporary trading system for use during the 2020–2025 period. This extension of the temporary trading system provides regulated parties with additional time to complete investments and improvements to meet the standards for lower sulphur gasoline under the Regulations. The re-enactment of the temporary trading system for the years 2020 to 2025 also allows sufficient time for the Department of the Environment to conduct an analysis of the expected impacts of a permanent SCU trading system under the Regulations for 2026 and beyond.

### EDITOR'S COMMENTS

- Provisions relating to concentrations of sulphur in gasoline permitted in preceding years are eliminated. Concentrations of sulphur in each batch of gasoline produced or imported shall not exceed 12 mg/kg in any case.
- The pool average of a pool in respect of which a primary supplier has made an election under s. 9 shall not exceed 10 mg/kg in any case.
- Provisions regarding test and sampling methods that refer to outdated standards are replaced with current references.
  - When a primary supplier takes samples, they should refer to the method described in the National Standard of Canada CAN/CGSB-3.5-2016, entitled *Automotive Gasoline*.
  - The concentration of sulphur in gasoline and the concentration of sulphur in an oxygenate shall be measured in accordance with the ASTM International test method D5453-19a.
  - The concentration of sulphur in butane shall be measured in accordance with the ASTM International test method D6667-14(2019).
- Primary suppliers electing to calculate sulphur concentrations on the basis of a pool average (per s. 9(1)) for 2020 must submit a notice to the Minister no later than 30 days after the amended s. 9 comes into force.
- S. 9(5) is repealed, therefore notices under s. 9 must no longer be signed by an authorized official and sent by registered mail or courier.
- Suppliers electing to participate in the temporary sulphur compliance unit trading system for a pool under s. 9 must notify the minister of their election and the specific pool within 30 days after the amended s. 13 comes into force.
- The formula in s. 14 to calculate a number of sulphur compliance units is amended to reflect the limit of 10mg/kg.
- S. 15 is amended to allow SCUs to be used to adjust pool averages for the years 2020 to 2025.
- S. 19 is amended requiring suppliers participating in the trading system to maintain records for the years 2020 to 2025.
- S. 21 is amended requiring all books and records referred to in s. 18 to 20 to be maintained under December 31, 2031.
- S. 3 of Schedule 2 (which regards reports submitted for the years 2012 to 2016) is repealed.

*Edited by Portia Biswas*

**SOURCE**

<http://gazette.gc.ca/rp-pr/p2/2020/2020-12-23/html/sor-dors277-eng.html>

## ALBERTA

### Bill 36, Geothermal Resource Development Act

Royal Assent December 9, 2020

Published December 9, 2020

**STATUTES OF INTEREST**

*Environmental Protection and Enhancement Act*, c. E-12 RSA 2000

*Mines and Minerals Act*, c. M-17 RSA 2000

*Oil and Gas Conservation Act*, c. O-6 RSA 2000

*Pipeline Act*, c. P-15 RSA 2000

*Responsible Energy Development Act*, c. R-17.3 2012

**GOVERNMENT NOTE**

*No summary.*

**EDITOR'S COMMENTS**

- Creates a regulatory framework to guide the development of geothermal resources in Alberta.
- One of the main purposes of the Geothermal Resource Development Act is to provide for the economic, efficient, and responsible development of geothermal resources.
- Another purpose is to manage the development of geothermal energy along with other energy resources. To this end it protects the rights of surface, mineral, and subsurface owners.
- Amends the *Mines and Minerals Act* to allow the Crown to enter into contracts to explore or develop and recover geothermal resources.
- The Alberta Energy Regulator is the responsible regulator under the Act.

*Edited by Erin Bower*

**SOURCE**

<https://www.assembly.ab.ca/assembly-business/bills/bill?billinfoid=11871&from=bills>

## NEW BRUNSWICK

### Bill 8, An Act to Amend the Executive Council Act

Royal Assent December 18, 2020

Published December 18, 2020

#### STATUTES OF INTEREST

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*Mining Act*, SNB 1985, c. M-14.1

#### GOVERNMENT NOTE

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*No summary.*

#### EDITOR'S COMMENTS

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- This Bill proposes changes to the names of various Ministers, Deputy Ministers, and Departments.
- Subsection 68(2) of the *Mining Act*, chapter M-14.1 of the Acts of New Brunswick, 1985, is amended by striking out “Minister of Environment and Local Government” and substituting “Minister of Environment and Climate Change”.

*Edited by Erin Bower*

#### SOURCE

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<https://www.gnb.ca/legis/bill/pdf/60/1/Bill-8.pdf>

## Northwest Territories

### Regulation R-134-2020: Mining Regulations, amendment

Registered December 15, 2020

Published December 17, 2020

#### ENABLED BY

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*Northwest Territories Lands Act*, SNWT 2014, c 13

#### GOVERNMENT NOTE

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*No summary.*

#### EDITOR'S COMMENTS

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- Amends the *Mining Regulations*, NWT Reg 015-2014 to provide exceptions to certain statutory time limits.
- Section 39 of the Regulations requires the holder of a recorded claim to incur certain work costs after the claim is recorded. The amendments waive these work requirements for the work period ending between April 1, 2020 and March 31, 2021.
- The 90-day period during which a recorded claim holder must submit a report of work done or apply for an extension is suspended as of March 17, 2020 and resumes on January 1, 2021.
- The payment of the annual rent for a lease due between March 17, 2020 and December 31, 2020 is deferred for one year.

*Edited by Erin Bower*

#### SOURCE

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[https://www.justice.gov.nt.ca/en/files/northwest-territories-gazette/2020/12\\_2.pdf](https://www.justice.gov.nt.ca/en/files/northwest-territories-gazette/2020/12_2.pdf)

## ONTARIO

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### Bill 213, Better for People, Smarter for Business Act, 2020

Royal Assent December 8, 2020

Published December 8, 2020

#### STATUTES OF INTEREST

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*Mining Act*, R.S.O. 1990, c. M14

#### GOVERNMENT NOTE

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The Schedule makes various amendments to the *Mining Act*, including the following:

1. A new section 73.1 is added to the Act, permitting the Minister to make an order described in subsection 67 (1) (exclusion of time and work) or 73 (1) (extension of time) on the Minister's own initiative, without an application, if the Minister is satisfied that special circumstances exist. The order may apply to all mining claims or to one or more classes of mining claims. The new section specifies the implications of making such an order. A consequential amendment is made to the definition of "anniversary date" in subsection 1 (1).
2. Amendments are made to subsection 81 (6.1) and 82 (4) requiring that lease renewal applications under sections 81 and 82 (and under sections 83 and 84, by operation of those sections) be made through the

mining lands administration system (MLAS). A new subsection 138 (2.1) is added to the Act that specifies the effect on leases of an extension of time to apply for the renewal of a lease that is granted under subsection 138 (2) because the system is not available.

3. Various other amendments are made to sections 81 to 84 to make them more consistent and to remove obsolete references.

4. A new section 85.1 is added to the Act, permitting the Minister to direct that a fraction or gore that adjoins a mining claim for which an application for a lease is made may be included in the lease without itself being registered as a mining claim.

5. Subsection 185 (5), which sets a limit on the Minister's power under section 185 to grant relief from forfeiture, is repealed.

### EDITOR'S COMMENTS

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- The changes made to the *Mining Act* afford new powers to the Minister and amend the process for lease renewal applications.
- If special circumstances exist, the Minister may, without an application and on the Minister's own initiative, make an order 1) excluding a period of time for work to be performed or reported 2) fixing a date(s) regarding the performance, reporting or payment in lieu of assessment work must be made 3) relieving the requirement of performing units of assessment work and 4) extending the time for performing assessment work or filing a report.
- The Minister may direct that an adjoining fraction or gore be included in the lease of a mining claim without the fraction or gore being registered as a mining claim.
- Applications for lease renewals must be made under the mining lands administration system. If an application is made on a day that the system is unavailable and an extension of time is ordered by the Minister, the lease will not expire until the expiry of the extension of time.
- A boundary claim that has been forfeited, abandoned or cancelled that contains only one boundary claim within the boundary cell, may now be relieved from forfeiture by the Minister.

*Edited by Portia Biswas*

### SOURCE

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<https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-213>

## Quebec

**Bill 74, An Act to give effect to fiscal measures announced in the Budget Speech delivered on 10 March 2020 and to certain other measures**

Presentation December 2, 2020

Published December 2, 2020

### STATUTES OF INTEREST

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*Mining Tax Act, CQLR c I-0.4*

#### GOVERNMENT NOTE

The purpose of this bill is to give effect to fiscal measures announced in the Budget Speech delivered on March 10, 2020 and to certain other measures. For the purpose of introducing or modifying measures specific to Quebec, the bill amends the Taxation Act and the Act respecting the sectoral parameters of certain fiscal measures.

In addition, as a consequence of the COVID-19 pandemic, the bill introduces various transitional measures whose effect is to (1) extend several time limits that are due to expire in 2020 under the Act respecting parental insurance, the Mining Tax Act, the Taxation Act, the Act respecting the legal publicity of enterprises, the Act respecting the Régie de l'assurance maladie du Québec, the Act respecting the Québec Pension Plan and the Act respecting the Québec sales tax, including the time limits applicable to the filing of an individual's fiscal return, the payment, in certain cases, of the balance of tax payable and of provisional accounts, the remittance of the Québec sales tax as well as the filing of the return respecting the tax on lodging and the remittance of the related tax payable.

#### EDITOR'S COMMENTS

- Defers certain dates related to the payment or refund of duties by an operator under certain parts of the *Mining Tax Act* to September 30, 2020.
- Amends section 4.4 of the *Mining Tax Act* to modify the definition of "relevant spot rate" as it pertains to the conversion of an amount from one currency to another.

*Edited by Erin Bower*

#### SOURCE

<http://m.assnat.qc.ca/en/travaux-parlementaires/projets-loi/projet-loi-74-42-1.html>

## Other Provinces and Territories

*NOTE: There was no new legislation pertinent to this report for the provinces and territories not mentioned above during the month of December.*

## Student Editors



### **Erin Bower**

Managing Editor

University of Alberta, JD 2020

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**Full Bio:**

Erin is a recent law school graduate from the University of Alberta. Prior to law school, she obtained a Bachelor of Science in Psychology from the University of Calgary. While at law school she became interested in natural resource law and energy law through her coursework. She also served for two years as a member of the Editorial Board for the Alberta Law Review. Currently, she is clerking at the Alberta Court of Appeal. After her time at the Court she will finish her articles with Osler, Hoskin & Harcourt LLP in Calgary.



### **Portia Biswas**

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**Full Bio:**

Portia is a third-year law student at Osgoode Hall Law School and is currently a summer student at Aird & Berlis LLP in Toronto. Prior to law school, Portia obtained a Bachelor of Arts in

Psychology from Ryerson University. Portia's professional experience is rooted in the non-profit sector, with experience in development and corporate relations. She was introduced to the legal sector through her work as an editor for Thomson Reuters' ProView platform. Portia is the Director of Operations for Fair Change Legal Clinic which provides legal representation for street-involved individuals.

## Lawyer Editors



### **Michael J. Bourassa**

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Partner, Fasken

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#### **Full Bio:**

Michael's practice is focused in the mining industry. A member of the Global Mining Group, he acted as the group's co-ordinator from 2004-2012. A recognized expert, Michael has accumulated extensive experience on both Canadian and international mining projects.

Michael was Co-Chair of the International Bar Association's Mining Executive Committee and a past Director of both the Rocky Mountain Mineral Law Foundation and the Prospectors and Developers Association of Canada. Michael also frequently writes on important CSR trends in the mining industry, and speaks on a wide range of mining related topics.

Widely recognized for his mining expertise, Michael has been ranked in several leading legal publications including Chambers Global, Chambers Canada and the Canadian Legal Lexpert Directory. He has also been named Who's Who Legal's "Mining Lawyer of the Year" in 2010, 2011, 2012, 2014 and 2017, and been recognized in their International Who's Who of Mining Lawyers, for 13 consecutive years.



## Jai Lakhani

Lawyer Editor

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### Full Bio:

Jai is a corporate lawyer at Bennett Jones LLP, who focuses on capital market transactions with growing expertise advising clients in the mining industry.

A highly versatile lawyer, he draws from broad experience to advise clients on complex legal matters. Prior to Bennett Jones, Jai worked at Bell Canada leading regulatory projects on a national scale, and was previously seconded to both Volkswagen Group Canada and the enforcement branch of the Ontario Securities Commission.

Jai graduated from Osgoode Hall and the Schulich School of Business with a JD / MBA and also holds an undergraduate degree in business from Wilfrid Laurier University with a specialization in international finance and accounting.