

# RECENT LEGISLATIVE AND REGULATORY DEVELOPMENTS OF INTEREST TO ENERGY LAWYERS

Rosa Twyman  
Laura-Marie Berg  
Marlé Riley

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REGULATORY  
LAW CHAMBERS

# Overview

- Rosa Twyman
  - GHG Emissions Reduction
- Marlé Riley
  - Hydrogen
  - Small Nuclear Reactors
  - Regulatory Efficiency
- Laura-Marie Berg
  - *Vavilov*
  - Aboriginal/Indigenous law - UNDRIP



# GHG Emissions

## Canada's Commitments

- Paris Agreement: Global warming below 1.5°C, compared to pre-industrial levels.
- Canada by 2030: 40 to 45 percent below 2005 emissions levels.

## How to Achieve?

<i>Greenhouse Gas Pollution Pricing Act</i>	Federal GHG pricing.
<i>Output-Based Pricing System Regulations</i>	Regulation of OBPS.
<i>Canadian Net-Zero Emissions Accountability Act (Bill C-12)</i>	Establishment of an emissions reduction plan for each target period to reach set emissions-reduction targets.
<i>Federal Credit Offset Regulations</i>	Introduces a federal GHG offset credit system.
<i>Federal Clean Fuel Regulations</i>	Incent low carbon fuel uptake, end-use fuel switching in transportation, and process improvements in the oil and gas sector.



# GHG Emissions

## Stringency Under *GGPPA*?

- How do we measure this?
- Cap and Trade - Price unstable; Environmental outcome more certain.
- Carbon Pricing - Price stable; Environmental outcome uncertain.

## Alberta

- *Technology Innovation and Emissions Reduction (TIER) Regulation.*
- Carbon capture - Alberta Carbon Trunk Line.

## Facilities: What We See

- CER Filing Manual "...for proponents of projects with a lifetime beyond 2050, project applications must include a credible plan to achieve net zero emissions by 2050".
- Oil and gas sector proponents:
  - Compressor station electrification, renewable electricity generation, nuclear refurbishments, RNG and hydrogen, carbon management (capture, utilization, sequestration, off-sets).
  - Compressor equipment methane capture.
  - Government, industry, academic collaboration.



# Hydrogen

- Does the regulatory and practical sum result in an efficient equation?

# Small Scale Nuclear

- Taking to the road... are we there yet?

# Regulatory Efficiency

- The more things change, the more they stay the same ... or do they?



# Impact of *Vavilov*

- Statutory Appeals
  - *Manitoba (Hydro-Electric Board) v Manitoba (Public Utilities Board) et al*, 2020 MBCA 60
- Judicial Review
  - *Normtek Radiation Services Ltd v Alberta Environmental Appeal Board*, 2020 ABCA 456
  - *Alexis v Alberta (Environment and Parks)*, 2020 ABCA 188
- Internal Reviews
  - *Yee v Chartered Professional Accountants of Alberta*, 2020 ABCA 98



# Aboriginal / Indigenous Law

- *Fort McKay First Nation v Prosper Petroleum Ltd.*, 2020 ABCA 163
- *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*
- *Coastal GasLink v Huson*, 2019 BCSC 2264

