

Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

BUSINESS GUIDE TO ENVIRONMENTAL LAW David Estrin Release No. 3, November 2021
--

Business Guide to Environmental Law addresses business liability regarding Canadian environmental law. It is designed to aid legal counsel as well as senior executives in dealing with legal situations regarding the environment. The topically organized presentation of issues includes environmental issues in real estate transactions, directors' and officers' liabilities, transportation of dangerous goods, extended producer liability, labelling, advertising, patents and trademarks.

Release Highlights

This release features updates to the case law and commentary in Chapters 1 (Toxic Real Estate: Environmental Law Issues in Property Transactions), 7 (Extended Producer Responsibility, Packaging, Marketing and Advertising) and Legislation.

THOMSON REUTERS CANADA®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

Case Law Highlights

- **Toxic Real Estate: Environmental Law Issues in Property Transactions—Environmental Legislation Affecting Property Transactions—Ontario—Interpretations of MOE Property Clean-up Powers—**In *Poulin v. Ontario (Environment, Conservation and Parks)*, 2021 CarswellOnt 7251, the Environmental Review Tribunal (ERT) (as of June 1, 2021 see now the Ontario Land Tribunal) determined the necessity and reasonableness of requirements in a Provincial Officer's Order that had been issued under section 157.1 of the EPA and that was amended by a Director's Order when considering an appeal by the Orderees. The Director's Order imposed a requirement on the Orderees to take preventative measures as described in section 18(1) of the EPA, in particular to undertake a Phase 2 Environmental Site Assessment and prepare and submit a Phase 2 ESA Action Plan to the Director and complete all required work identified in the Phase 2 ESA Action Plan. The ERT also used its authority under the EPA to order the Director to expand the scope of the Phase 2 ESA as set out in O. Reg. 153/04 to be carried out to determine if other materials stored at the site were usable for the farm property, as claimed by the Orderees, or constituted waste; and, if found to be waste, that the Director amend the order under appeal to require a plan for their removal be prepared as part of the Phase 2 ESA Action Plan.

The Orderees were persons involved with the ownership or activities on a large farm property. An inspection by the Ministry of the Environment and Climate Change (MECP) of the property concluded that waste was stored at the property, including bags of asbestos waste, large drums of hydrocarbons, pans of oily water, asphalt, concrete, wood, old windows, and electronic equipment. The Orderees appealed the requirements of the Order, taking the position that there was no reasonable belief that leachate would be generated over the time period in question, and that there was therefore no risk of subsurface contamination to support the Order. The ERT found that Orderees failed to demonstrate to the ERT how the environmental protection objectives of the EPA would be met if the Order was revoked.

- **Extended Producer Responsibility, Packaging, Marketing and Advertising—Extended Producer Responsibility and Waste Reduction and Diversion Initiatives—Provincial Waste Reduction and Diversion Initiatives—Ontario—**In June 2016, Ontario passed Bill 151, the *Waste-Free Ontario Act, 2016*, which enacted the *Resource Recovery and Circular Economy Act, 2016* (RRCEA). The RRCEA provides the framework for individual producer responsibility in the province. The RRCEA requires producers to be responsible and accountable for the collection and management of post-consumption products and packaging.

As of October 2021, the following materials have been designated under the RRCEA's individual producer responsibility regulatory framework: batteries; tires; electrical and electronic equipment; and hazardous and special waste. The Blue Box program will transition to the new framework starting July 1, 2023.

The shift to the RRCEA, which focuses on individual producer responsibility or extended producer responsibility, means that the scope

of persons who may have obligations under the RRCEA and accompanying regulations will be expanded. The various regulations for materials that have been designated under the RRCEA identify the relevant persons who have obligations and responsibilities under the respective regulations.

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases, Table of Statutes and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages