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Ontario

Municipality held liable for damages relating to purchase of contaminated property

In *Biskey v. Corp. of the Municipality of Chatham-Kent*, the Ontario Superior Court of Justice found the Municipality of Chatham-Kent (CK) liable to pay C\$386,142 in damages to the Bisekeys, a couple who purchased contaminated property from the Kaminskis, a private party. Unknown to the Bisekeys when they purchased the property, it had previously been used as a landfill both by Raleigh Township (which became part of CK) and by citizens of the township. After the purchase closed, the Bisekeys applied for a building permit, which CK granted with no restrictions. After receiving the building permit, the Bisekeys discovered their property's previous use as a landfill. The Bisekeys, who subsequently paid to remediate the property, claimed that CK should have notified them when they applied for the building permit that the property had been previously used as a landfill. They also argued that CK should have imposed conditions on the building permit to alert them to the previous use of the property. The Court held that CK had a duty to the Bisekeys and any subsequent purchaser of the property to notify them of its true condition, and that in not doing so, CK breached its duty and was responsible for the damages caused to the Bisekeys.

Toronto phases in by-law on environmental reporting and disclosure

As was reported in Torys' [December 2008 EHS Bulletin](#), City of Toronto By-law 1293-2008, *Environmental Reporting and Disclosure*, came into effect on January 1, 2010. It requires certain businesses and facilities to track and report annually on their uses and releases of 25 specified substances. Different mass thresholds – ranging from 10 to 200 kg per year – apply for the reporting of the listed substances. Reporting will be introduced over the next three years in three phases. By June 30, 2011, facilities covered by phase one, including chemical manufacturing, power generation and wood industries, must submit a report to the City of Toronto about their uses and releases of the specified substances in 2010.

For further information, please see the [By-law](#) and the [Guide to Reporting](#).

Canada

National Energy Board publishes memorandum of understanding regarding environmental assessment process

On March 8, 2011, the National Energy Board (NEB) published a Memorandum of Understanding (the MOU) on the substitution of the environmental assessment process followed by the NEB for an environmental assessment by a review panel under the *Canadian Environmental Assessment Act* (CEAA). Under the MOU, the federal

To discuss these issues, please contact

[Dennis Mahony](#)
416.865.8214
[David Chernos](#)
416.865.8246
[Crawford Smith](#)
416.865.8209
[Michael Fortier](#)
416.865.8147
[Tyson Dyck](#)
416.865.8136

or
Jeff Gracer
(Partner at Sive, Paget & Riesel, New York)

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Minister of the Environment and the NEB agreed that the NEB's public hearing and review process for energy projects will, where applicable and other than in exceptional circumstances, substitute for any review panel assessments required for such projects under the CEAA. In particular, the NEB's process will apply when a project proponent applies for a certificate or order under the *National Energy Board Act*, and when the NEB would have otherwise recommended that the project be assessed by a review panel under the CEAA before the certificate or order is issued. To implement the MOU, the NEB is expected to establish a public registry similar to the Canadian Environmental Assessment Registry maintained by the Canadian Environmental Assessment Agency.

For further information, please see the [MOU](#).

NEB update on public review of Arctic safety and environmental offshore drilling requirements

On February 28, 2011, the NEB published an update regarding the public review of Arctic safety and environmental offshore drilling requirements. The update announces the NEB's decision to engage specialists in four study areas, namely the assessment of oil spill response gaps, the modelling of oil spill trajectories, the comparison of offshore drilling regulatory regimes and the review of previous studies regarding Canadian Arctic offshore oil exploration. The NEB will also host information meetings regarding Arctic offshore drilling beginning in May and June 2011 in Inuvik, Iqaluit, Whitehorse and Yellowknife. The NEB has indicated that the outcome of this review and consultation will be a public report clarifying the filing requirements for future applications for offshore drilling in Canada's Arctic.

For further information, please see the [NEB Update](#).

Proposed regulations to amend the renewable fuels regulations

On February 26, 2011, Environment Canada proposed *Regulations Amending the Renewable Fuels Regulations* that would require diesel fuel and heating distillate oil to contain 2% renewable fuels by volume. The amendments (as proposed) would set July 1, 2011 as the date that the requirement would come into force.

For further information, please see the [Canada Gazette](#).

Government of Canada proposes regulating products containing mercury

On February 26, 2011, the government of Canada proposed regulations that would prohibit the manufacture of, import into and sale in Canada of certain products containing mercury. The regulations, titled *Regulations Respecting Products Containing Certain Substances Listed in Schedule 1 to the Canadian Environmental Protection Act, 1999*, would allow some mercury-containing products (for example, dental fillings, scientific instruments and fluorescent lamps) to be manufactured in, imported into and sold in Canada. The proposed regulations were subject to a comment period that ended March 12, 2011.

For further information, please see the [Canada Gazette](#) and the [Environment Canada News Release](#). **T**