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The Connecticut Transfer Act and Connecticut Environmental Remediation Programs Update

The Connecticut Transfer Act is still the law in Connecticut, and our updated summary from the Connecticut Environmental Law Handbook can be reviewed by clicking here (http://www.shipmangoodwin.com/files/24050_CTTransferAct.pdf). But, over the last three years, the Connecticut Department of Energy and Environmental Protection (“CTDEEP”) has made it a priority to transform its remediation programs. Shipman & Goodwin has actively participated in public and private work groups dealing with the transformation and taken a leadership role in commenting on proposals to improve the programs. Our involvement with CTDEEP and through the Executive Committee of the Environmental Law Section of the Connecticut Bar Association keeps us informed on the latest developments.

What has happened so far:

- Just issued, but not yet adopted by CTDEEP, a report entitled “Evaluation, Risk-Based Decision Making.” The **Report** makes recommendations to implement Connecticut’s risk-based clean up program. We support the report’s conclusions that Connecticut’s programs need to be improved. (http://www.ct.gov/deep/lib/deep/site_clean_up/comprehensive_evaluation/CDMSmith_Risk-Based_Decision_Making_Report-final.pdf)
- Minor amendments issued to the **Remediation Standard Regulations** (the “RSRs”) that establish criteria for clean-up of soil, sediment and groundwater. The RSRs are the driver, and bottleneck, to timely and cost-effectively completing remediation projects in Connecticut. [<http://www.ct.gov/deep/lib/deep/regulations/22a/22a-133k-1through3.pdf>]
- Through **Public Act 13-308 (Sections 31 and 32)** [<http://www.cga.ct.gov/2013/ACT/PA/2013PA-00308-R00HB-06651-PA.htm>], changes to the state’s significant environmental hazard (“SEH”) reporting requirements (CGS § 22a-6u), were made, but are not effective until July 1, 2015. When they become effective, they will significantly increase the number of sites subject to reporting the discovery of historical or existing contamination.
- CTDEEP has issued **reports** on what the transformation is going to look like, and when to expect it. [<http://www.ct.gov/deep/cwp/view.asp?a=2715&q=481178&deepNavGID=1626>]



What has not happened:

- The Connecticut Transfer Act is still the law, and probably will not change until 2015.
- Another set of changes to the RSRs are going to be proposed (“Wave II” changes) and they will help, but they will take at least another year to develop and implement.

In our view, the outdated RSRs are the impediment to completing remediation projects in Connecticut in a timely, reasonable and cost-effective manner. We are advocating, on behalf of our clients/the regulated community, to improve them first, then look to see if and how the remediation programs (e.g., the Connecticut Transfer Act) also need to change. We will continue to track the proposed changes to Connecticut’s environmental laws and regulations as they affect you, your clients, our clients, and business and real estate transactions in Connecticut.

Our environmental practice group includes John Wertam, author of the Connecticut Environmental Law Handbook, working with nationally based law firms and clients on issues related to regional and Connecticut Environmental Law, and Andrew Davis, a nationally recognized environmental lawyer with a practice that encompasses environmental risk management and oil/chemical spill response and natural resources damages. We are prepared to serve your needs on local and national transactional and risk-management matters related to designing and implementing purchase and sale agreements, environmental insurance, responding to risk management allocation and oil/chemical spills, casualties and any other environmental matters.

Please do not hesitate to contact us if you have any questions or concerns.

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