Connecticut Enacts Transfer Act Amendments Including Eventual Transition from Transaction-Triggered to Release-Based Program

On October 2, 2020, Connecticut Governor Ned Lamont signed into law House Bill No. 7001 (Public Act No. 20-9), concerning that state's transaction-triggered environmental law commonly known as the Transfer Act, Connecticut's counterpart to New Jersey's Industrial Site Recovery Act (ISRA). The new legislation modifies the universe of applicable transactions and events, but more importantly authorizes the development and implementation of regulations to transition from a transaction-triggered to release-based program.

Similar to ISRA, the Transfer Act requires certain filings with the Connecticut Department of Energy and Environmental Protection (CT DEEP) upon the transfer of an "establishment" as defined in the Act, which results in a "change in ownership," also as defined in the Act.

Public Act No. 20-9 follows amendments to the Transfer Act which took effect in 2019. The 2019 amendments included modification of certain Transfer Act triggers, and to the state's audit process for final "verification letters" requiring that a decision by the CT DEEP to audit a final verification issued to close a case by the Licensed Environmental Professional (LEP) be made within one year of the issuance of the verification.

Public Act No. 20-9 consists of two distinct parts:

Pending the adoption of implementing regulations by the CT DEEP, the Transfer Act remains in effect as modified by the legislation. Further, for parties and sites already in the system based on transaction-triggered events, it is anticipated that notwithstanding future transition of the program, active matters will still have to remain in the system and be taken to conclusion under the law and its regulations.

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