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Future Property Transactions and the Licensed Environmental Professional

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INSIGHTS is published on an as-needed basis to inform our clients and friends in the industrial community about environmental topics of high current interest.

This issue of *INSIGHTS* outlines an interesting new development affecting environmental investigations and cleanups of contaminated properties: the licensed environmental professional (LEP) program. The program was created in 1995 by the Legislature in Public Act 95-183, as part of a comprehensive revision of the Connecticut Property Transfer Statute. The LEP program as defined therein was also built into a companion act, PA 95-190, aimed at encouraging voluntary site remediation of contaminated properties.

LEPs are individuals in the private sector, not staff members or agents of DEP. Since they will perform some functions that traditionally have been the purview of DEP, this program has some privatization components. The expectation is that the market-driven private sector will be a more efficient mechanism for getting sites cleaned up and properties transferred. The hoped-for outcome is that the costs and time required for property transactions will be reduced. The concern is that relinquishing a portion of control to the private sector will degrade the quality of the investigation or cleanup.

Because expectations, hopes and concerns all need to be carefully balanced, it is important that LEPs have high standards of ethics and professional competence. DEP is developing administrative aspects of the program to assure this, including an exam, licensing criteria and regulations. Prior to the full-fledged program (scheduled for 1997), DEP expects to publish an interim list of LEPs in May 1996.

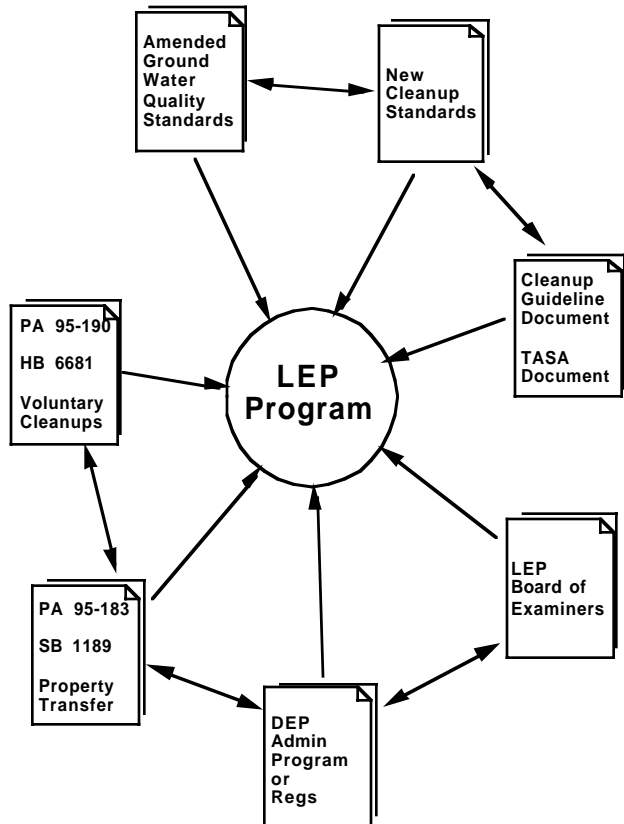
The purpose of this *INSIGHTS* is not to guess at specific LEP program details, but to share with you our practical view of how a property transaction would wend its way through the process outlined by these two acts, shepherded along by an LEP. We firmly believe in one-page explanations, so inside is a diagram of how we see the process working. Now, keep in mind what Einstein said ("everything should be as simple as possible, but not simpler") when you study this diagram. We've shown the essential parts of the process, but PA 95-183 is 24 pages



long, PA 95-183 is 23 pages, and the DEP information package (including the four property transfer forms) is 63 pages. Obviously some details are missing and nuances lost in condensing to one page. If you have a transaction in progress that could be substantially affected, we recommend you work your way through the full language of the Acts, and review the DEP property transfer package.

There are other factors besides these two acts that play into this new development and that will affect the LEP program and the property transaction process:

- DEP remediation standards for soils and groundwater were published in January 1996. The standards set specific numerical target levels for DEP and LEPs to use in assessing contamination cleanups. The levels differ by groundwater classification (GA, GB, GC) and by facility setting (residential, commercial, industrial). The standards also allow some flexibility to propose different target levels on a situational basis.



- A guideline document on how to conduct investigations and verify cleanups is being developed by DEP. An outside consultant will prepare the document, with a work product expected in late 1996. This document will tend to standardize the approach used by LEPs, and should make it easier for DEP to exercise their review and oversight role.

- The state groundwater quality standards have been amended. In cases where there is widespread historical contamination of a GA area but the groundwater is not used for a water supply (and not likely to be used in the future), a portion of such an area may be reclassified as GB upon petition to the DEP. LEPs thus could propose reclassification where appropriate to clean up a site to a (less stringent) GB target level.

- A LEP Board of Examiners has been appointed by the Governor and is meeting on a regular basis to define its role. The Board will assist DEP in the development of an exam, and will set up administrative regulations to oversee the LEP program.

The LEP program is an interesting new development, and we hope this information is useful to you. This *INSIGHTS* updates an earlier version published Labor Day, 1995; if you have that one it may be discarded. If you have any questions about the LEP program, or about site investigations and cleanups in general, please feel free to call us at (860) 349-3559. This is a new number, we recently moved to Middlefield.

