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ENVIRONMENTAL & LAND USE ADVISORY - WINTER 2012

Circulate to:

DEEP Proposes Overhaul of Remediation Programs

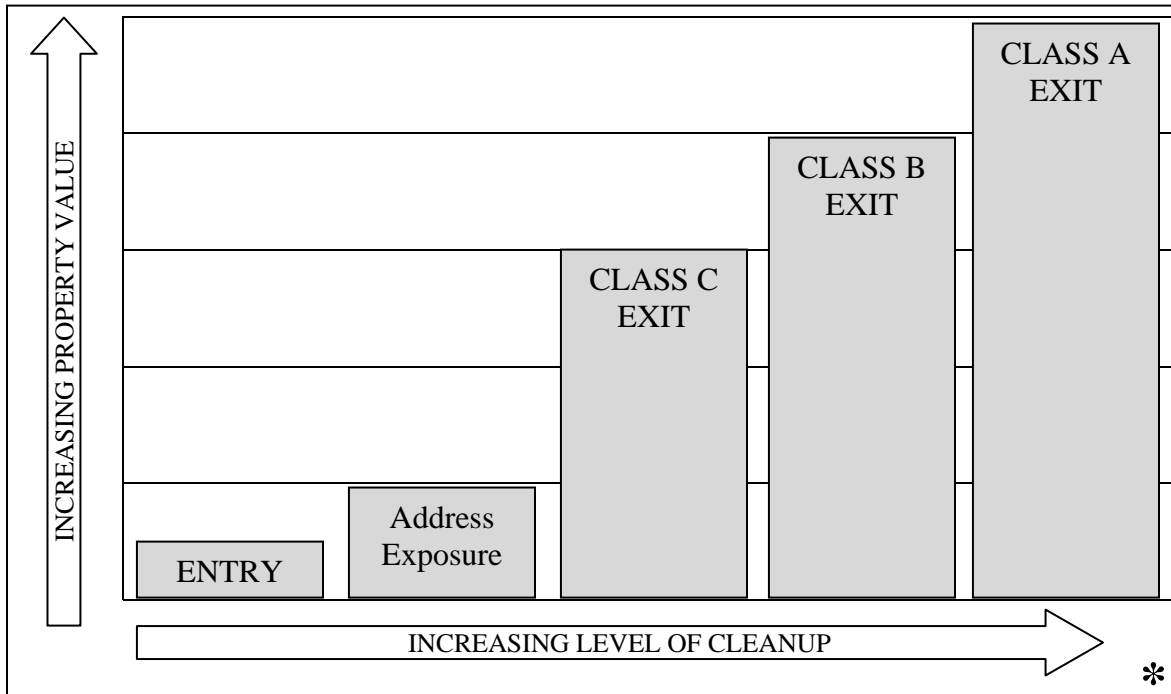
by Thomas M. Armstrong

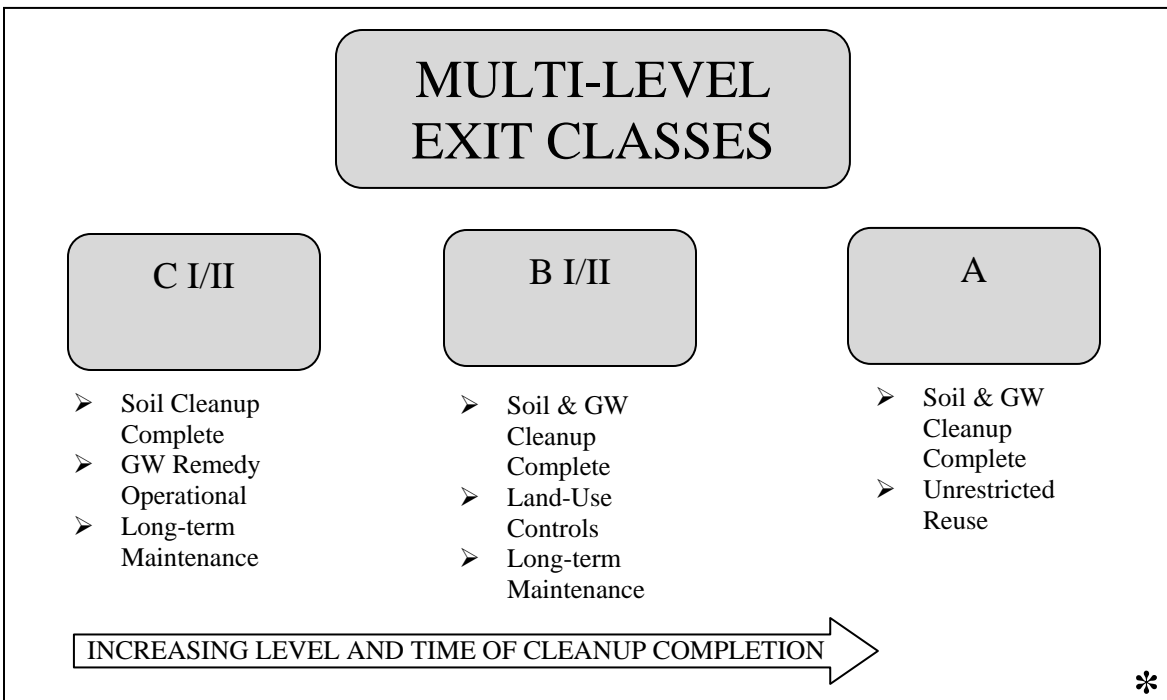
In February 2012 the Department of Energy and Environmental Protection (“DEEP”) intends to submit to the General Assembly a major proposal to unify and overhaul Connecticut’s 14 remediation programs, including the Transfer Act, Brownfields, Underground Storage Tanks, Voluntary Clean-up, RCRA and Spill Reporting. These programs contain various entry triggers and end points. Commissioner Esty’s goal is to create a single cleanup program “aligned with economic, environmental and public health realities”

During 2011, DEEP met with a number of stakeholder groups to discuss possible changes to the State’s remediation programs, and a report was issued to the General Assembly and Governor on December 21st. A *guiding principle is to “unlock property value” by allowing property owners/responsible parties to make business decisions regarding the level of cleanup and program exit strategy. However, any decision must be protective of human health and the environment.*

The DEEP Report proposes to create three exit strategies dependent on site use. The degree of cleanup, and projected property value, increases from Class C to Class B to Class A (see diagrams below). The multiple Classes allow the property owner/responsible party to select the Class of remedy corresponding to the cost of remediation and the resulting value added to the property. For example, a property owner may choose a Class C option and forego or defer a Class A or B option until cessation of operations. Alternatively, if the goal is to sell the property for commercial development, the same property owner could choose a Class A or B option.

DEEP will expend considerable resources to complete and submit proposed statutory revisions to the General Assembly by the end of February. There appears to be a consensus for change to Connecticut’s remediation programs. The real challenge will be whether Commissioner Esty can negotiate support from both the regulated and environmental communities, *and then* obtain legislative approval. Our view is that there is not enough time available for passage of broad remediation legislation, but DEEP could move forward on a piecemeal basis. Tighten your





seatbelts as DEEP puts the pedal to the metal to meet the February deadline! For more information on key features of the DEEP Cleanup Program go to the “Newsletters & Client Alerts” section at www.rrlawpc.com.

Business Commentary

Want to lower unemployment? “Reduce the U.S. trade deficit,” says Edward Guay of Wintonbury Risk Management. The deficit represents overseas job creation and dollars that do not return to the United States. Guay’s solution is to increase overseas exports. *CB Richard Ellis Annual Real Estate Review*, January 13, 2012.

Welcome



We are pleased to welcome Mary E. Mintel to the Environmental Practice Area. Mary is admitted to practice in Connecticut and Massachusetts, as well as before the U.S. Patent and Trademark Office. She graduated with a B.A. in English and Biology from Swarthmore College and earned her J.D. from William & Mary Law School.

The Reid and Riege Environmental & Land Use Advisory is a publication of Reid and Riege, P.C. It is designed to provide clients and others with a summary of legal developments which may be of interest or helpful to them. While this Advisory provides readers with information on recent developments which may affect them, they are urged not to act on this Advisory without consultation with their counsel.

The Environmental Practice Area at Reid and Riege, P.C. represents companies, financial institutions, commercial developers, municipalities, property owners and individuals on a variety of environmental, land use and worker safety matters. Lawyers in this Practice Area assist clients in administrative and litigation proceedings, due diligence investigations, permitting, remediation projects, local and state land use matters and employer/employee safety issues.

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