

## NEWS ALERT

# ENVIRONMENTAL LAW



## New CTDEEP Regulations Create Obligations For Properties With Existing ELURs

By Patricia L. Boye-Williams | March 19, 2021

The Connecticut Department of Energy & Environmental Protection (“DEEP”) has issued revised, final regulations for both Remediation Standard Regulations and Environmental Use Restrictions (“EURs”) (which include both Environmental Land Use Restrictions (“ELURs”) and Notice of Activity and Use Limitations (“NAULs”). While we are continuing to evaluate impacts of these regulations on on-going remediation projects, we want to make sure you are aware of more immediate impacts. We expect to send additional updates in the future.

If you currently have an ELUR recorded on the land records for property you own (regardless of who was responsible for the remediation of the property), there are certain new obligations with which you will be required to comply:

- Inspections (of both the property itself and EUR-related documents) must be conducted by the property owner on an annual basis between April 1 and July 31 of each year. DEEP will provide a form that must be used for this inspection.
- Every five years, beginning in 2025, a Licensed Environmental Professional (LEP) shall conduct an inspection between April 1 and September 30. It need not be the LEP who prepared the original ELUR application.
- If the owner has knowledge of non-compliance with the EUR (whether through inspection or otherwise), the owner must notify DEEP within 30 days and correct the non-compliance within 90 days.
- Owners must prepare an ELUR factsheet on a DEEP-issued form. This factsheet will either need to be posted in a conspicuous location on the property (visible by the general public) or be in the possession of the person responsible for maintenance or operation of the property. While this obligation becomes effective April 17, 2021 for existing ELURs, DEEP has yet to issue the form that must be used for the factsheet. Stay tuned for more information on this point.
- If any work is to be performed in an area subject to any restriction other than a non-residential use restriction, a copy of the ELUR factsheet and the ELUR itself must be provided to the person overseeing the health and safety of workers who may be exposed to pollution from such work.
- Owners must retain copies of all records, documents, and reports which pertain to the ELUR and which are currently in the property owner's possession (this includes copies of the ELUR itself, the survey, and inspection reports as well as the underlying application and related supporting documents if still in the owner's possession as of February 17, 2021).
- At least 30 days prior to transferring any non-ownership interest in the property subject to the ELUR, the owner must provide the transferee with a copy of the ELUR and the ELUR factsheet. The transferee is required to retain copies of all documents received. If 30 days is impractical due to the nature or terms of the transfer, the owner is only required to provide the documents prior to the transfer.

- At least 30 days prior to the transfer of ownership of the property, the owner shall provide copies of all documents that are required to be prepared and maintained by the ELUR regulations (including EUR, EUR factsheet, and all inspection reports). Like with the transfer of a non-ownership interest, if 30 days is impractical due to the nature or terms of the transfer, the owner is only required to provide the documents prior to the transfer.
- Finally, within 30 days after transfer of ownership, the transferee must notify DEEP of the transfer.

*If you have any questions about these obligations that pertain to you as a property owner, please do not hesitate to contact Patti Boye-Williams at 860.240.6168 or [pboyewilliams@murthalaw.com](mailto:pboyewilliams@murthalaw.com) or Al Smith at 203.772.7722 or [asmith@murthalaw.com](mailto:asmith@murthalaw.com).*

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