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ACT 2 AND WHY IT'S IMPORTANT THE REDEVELOPER'S PERSPECTIVE

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ACT 2 HISTORY LESSON

- **Impetus for Act 2**
 - **Desire to reclaim old industrial sites**
 - **Lack of clear standards**
 - **Lack of standardized review times**
 - **Lack of liability relief**



ELECTION OF 11/94

- **Governor Ridge, Secretary Seif make Act 2 a priority of Environmental Agenda**
 - **Avtex Fibers site in Meadville**
 - **Legislative Action/Hearings**
 - **Adoption on May 19, 1995**





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DEPARTMENT MOBILIZATION

- **Outlining Tasks**
- **Act 2 Executive Board**
- **Regulatory Development Process**
- **Guidance Documents**
- **Roll-out to Regulated Community**



GAME CHANGER FOR SITE REDEVELOPMENT

- Real Estate Transactions involve potential environmental liabilities
- Buyers need to investigate and determine environmental conditions before buying any property
- The starting point is a Phase I Environmental Assessment



PHASE I SITE ASSESSMENT

- All Appropriate Inquiry
- ASTM Standard E-1527-2013 / Standard Practice of Environmental Site Assessments
 - Records Review
 - Site Reconnaissance
 - Interviews
 - Report



SCOPE OF WORK

- Areas Not Included in the Scope of Work for Phase I
 - Asbestos, lead paint, radon, wetlands delineation, compliance review
 - No sampling of water, soil, air or building materials
- Findings/Conclusions in Phase I Report
 - Recognized Environmental Conditions



PHASE II SITE ASSESSMENT

- Scope is Dictated by Results of Phase I
 - Sampling determines if any hazardous substances are present at levels exceeding PA Act 2 Standards
 - Helps define the vertical / horizontal extent of contamination
 - Allows parties to determine options for and potential costs of remediation



WHAT TO DO WITH RESULTS FROM PHASE I / PHASE II

- If No Contamination is found at levels exceeding PA Act 2 Standards
- If Contamination is found at levels exceeding PA Act 2 Standards



THE SITE DEVELOPER DECIDES TO GO THROUGH ACT 2 NOW WHAT?

- Notice of Intent to Remediate (NIR)
- Choose from 3 Clean Up Standards
 - Background, Statewide Health, Site Specific
 - Residential/Non-Residential



- Site Characterization
- Plans and Reports
- Demonstration of Attainment
- Approval Letter from PADEP
- Liability Protection
- Reopeners
- Environmental Covenant



WHAT KINDS OF ISSUES ARISE DURING THE ACT 2 PROCESS?

- How much Characterization is needed?
- Interface between Act 2 and other PADEP Regulatory Programs
- Vapor Intrusion
- Separate Phase Liquids



EPA ISSUES

- EPA reaction to Act 2 and other state Brownfield Programs
- Developers/Attorneys request for clarity regarding federal liability
- Federal Legislative Efforts to get state primacy
- Memorandum of Agreement



- Result is that EPA defers to DEP and Act 2 on everything other than Superfund, RCRA Corrective Action Sites and TSCA Sites.**
- For sites that are RCRA Corrective Action Sites, DEP and EPA work as a team as set forth in the MOA.**
- The MOA serves its purpose of identifying state and federal roles and providing comfort/certainty to developers.**



- **LESSONS LEARNED**

- Act 2 is a success
- Sites get remediated and made safe
- Industrial Sites get reused
- Jobs get created on Brownfield sites
- Lenders are protected
- Grant money is provided
- Continuing Need to educate the Public on Act 2
- Providing discretion is a blessing and a curse
- Final Thoughts



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