

STATE REVIEW FRAMEWORK

Connecticut

Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2016

**U.S. Environmental Protection Agency
Region 1, Boston**

**Final Report
May 24, 2018**

Executive Summary

Introduction

EPA Region 1 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Connecticut Department of Energy and Environmental Protection (CT DEEP).

EPA's SRF findings are based on data and file review metrics, and conversations with program management and staff. EPA's recommended actions from the review are tracked in the SRF Tracker on EPA's ECHO web site where the final SRF report will also be posted.

Areas of Strong Performance

- CT DEEP did an excellent job performing compliance evaluations under the Clean Water Act (CWA), Clean Air Act (CAA), and Resource Conservation and Recovery Act (RCRA) programs.
- CT DEEP's enforcement program consistently met the requirements of the CAA High Priority Violator (HPV) policy; and the CWA program identified Single Event Violations (SEV) in major facilities. Additionally, the RCRA program did an excellent job identifying violations at a high percentage of inspections.
- CTDEEP's RCRA, CAA and CWA programs consistently assessed penalties for significant violations that appropriately included gravity and economic benefit components; they provided clear documentation between initial and final penalty amount decisions; and verified collection of final penalties.

Priority Issues to Address

The following are the top-priority issues affecting the state program's performance:

- Accuracy of the minimum data requirements in ICIS-AIR has been identified as an area for state improvement. EPA identified two issues relating to the accuracy of the minimum data requirements.
 - CT DEEP had not created case files for federally reportable violations (FRV) in ICIS-AIR. Once EPA identified this as an issue, CT DEEP corrected the data for the current and previous years and has committed to create these case files in the future.
 - CT DEEP had not changed the pending code on some stack tests results in ICIS-AIR more than 60 days after the state completed its review of the final stack test report. Once EPA identified this as an issue, CT DEEP corrected the data for the current and previous years and has implemented a procedural change to ensure timely data entry in the future.
- Over half of the CT DEEP CWA Program's inspection reports reviewed were not finalized within 30 days of the inspection. EPA attributes this finding to the following:
 - A single CT DEEP inspector built up a large "batch" of inspection reports before sending them to the unit manager for final signature. Once EPA identified this as an issue, CT DEEP discontinued the practice of "batching" inspection reports for final signature and has implemented new procedures for staff who prepare and review storm water inspection reports.

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I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Water Act National Pollutant Discharge Elimination System
- Clean Air Act Stationary Sources (Title V)
- Resource Conservation and Recovery Act Subtitle C

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** — meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** — identification of violations, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three phases:

- Analyzing information from the national data systems in the form of data metrics
- Reviewing facility files and compiling file metrics
- Development of findings and recommendations

EPA builds consultation into the SRF to ensure that EPA and the state understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response.

Reports provide information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each state's programs are reviewed once every five years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and continued through FY 2017.

II. SRF Review Process

Review period: FY 2016

Key dates:

Kick-Off Meeting -- April 4, 2017 via Videoconference

Clean Air Act -- File Review at CT DEEP Office -- May 23-24, 2017

Clean Water Act – File Review at CT DEEP Office -- June 13-14 and June 21, 2017; follow up review for clarification September 27-28, 2017

Resource Conservation and Recovery Act – File Review at CT DEEP Office -- June 6-7, 2017

State and EPA key contacts for review:

Clean Water Act

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From BMMCA - WPED: Bureau of Materials Management & Compliance Assurance - Water Permitting and Enforcement Division. Responsible for industrial, stormwater, and agriculture.

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From BWPLR - WPMD: Bureau of Water Protection & Land Reuse - Water Planning & Management Division. Responsible for Publicly-Owned Treatment Works.

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Clean Air Act

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Resource Conservation and Recovery Act

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State Review Framework

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Lucy Casella, EPA, (617) 918-1759

III. SRF Findings

Findings represent EPA’s conclusions regarding state performance and are based on findings made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state’s last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue’s severity and root causes

There are three categories of findings:

Meets or Exceeds Expectations: The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

Area for State Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

Area for State Improvement: An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric:

- **Metric ID Number and Description:** The metric’s SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

Clean Water Act Findings

CWA Element 1 — Data																								
Finding 1-1	Meets or Exceeds Expectations																							
Summary	CT DEEP has entered permit limits for all of its major facilities and received from facilities the vast majority of the required Discharge Monitoring Reports (DMR).																							
Explanation	<p>Metric 1b1 indicates that all 90 of the major facilities had permit limits entered into ICIS (100%).</p> <p>Metric 1b2 indicates that 98% of the required reports were received. Five facilities were responsible for the 54 missing DMRs.</p> <p>Data obtained from EPA’s NPDES eRule Readiness and Data Completeness Dashboard shows that almost 97% of the major facilities are reporting their DMRs electronically through NetDMR.</p>																							
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>1b1 Permit limit rate for major facilities</td> <td>>= 95%</td> <td>91.10%</td> <td>90</td> <td>90</td> <td>100%</td> </tr> <tr> <td>1b2 DMR entry rate for major facilities</td> <td>>= 95%</td> <td>96.80%</td> <td>2,854</td> <td>2,908</td> <td>98.1%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	1b1 Permit limit rate for major facilities	>= 95%	91.10%	90	90	100%	1b2 DMR entry rate for major facilities	>= 95%	96.80%	2,854	2,908	98.1%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																			
1b1 Permit limit rate for major facilities	>= 95%	91.10%	90	90	100%																			
1b2 DMR entry rate for major facilities	>= 95%	96.80%	2,854	2,908	98.1%																			
State response	None.																							
Recommendation	None.																							

CWA Element 1 — Data

Finding 1-2	Area for State Attention																
Summary	The vast majority of inspection, violation, enforcement, and penalty information was correctly entered into ICIS.																
Explanation	<p>Metric 2b indicates that 42 of 45 files were correctly entered into ICIS, except for the following:</p> <ul style="list-style-type: none"> • A multi-media enforcement action that includes CWA displays only as CAA; • Two Reconnaissance Inspections were entered as Comprehensive Evaluation Inspections. <p>EPA recommends that CT DEEP make corrections to the ICIS database for the Metric 2b file issues identified in this review.</p>																
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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #												
2b Files reviewed where data are accurately reflected in the national data system	100%		42	45	93%												
State response	None.																
Recommendation	See Explanation Section.																

CWA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations																													
Summary	CT DEEP met or exceeded its inspection targets for most of the applicable facility types.																													
Explanation	<p>Recognition is warranted for CT DEEP’s efforts to expand inspection coverage. For SSO facilities and MS4 facilities, CT DEEP has launched a new annual inspection program in recent years (where inspections were only performed occasionally in previous years). For Industrial Stormwater and Construction Stormwater facilities, CT DEEP has increased inspection coverage in recent years.</p> <p>The performance numbers below reflect CT DEEP’s performance against negotiated Compliance Monitoring Strategy (CMS) plan commitments.</p> <p>Metric 4a1; Pretreatment Compliance Inspections and Pretreatment Audits, is denoted as N/A because Connecticut has not delegated the pretreatment program to any Publicly-Owned Treatment Works (“POTWs”).</p> <p>The commitment for Significant Industrial User (“SIU”) inspections and sampling (Metric 4a2) was not met, at least in part, due to no discharge to sample being present at some SIUs.</p> <p>The commitment for Combined Sewer Overflow (“CSO”) inspections (Metric 4a4) was not met due to an unexpected situation arising late in the fiscal year that required the diversion of staff attention to other matters.</p>																													
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>4a1 Pretreatment compliance inspections and audits</td> <td>100% of state CMS plan</td> <td></td> <td>N/A</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs</td> <td>100% of state CMS plan</td> <td></td> <td>136</td> <td>166</td> <td>82%</td> </tr> <tr> <td>4a4 Major CSO inspections</td> <td>100% of state</td> <td></td> <td>0</td> <td>1</td> <td>0%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	4a1 Pretreatment compliance inspections and audits	100% of state CMS plan		N/A	N/A	N/A	4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100% of state CMS plan		136	166	82%	4a4 Major CSO inspections	100% of state		0	1	0%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																									
4a1 Pretreatment compliance inspections and audits	100% of state CMS plan		N/A	N/A	N/A																									
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100% of state CMS plan		136	166	82%																									
4a4 Major CSO inspections	100% of state		0	1	0%																									

	CMS plan			
4a5 SSO inspections	100% of state CMS plan	2	2	100%
4a7 Phase I & II MS4 off-site desk audits	100% of state CMS plan	93	93	100%
4a7 Phase I & II MS4 on-site inspections	100% of state CMS plan	22	20	110%
4a8 Industrial stormwater inspections	100% of state CMS plan	172	148	116%
4a9 Phase I and II stormwater construction inspections	100% of state CMS plan	39	39	100%
4a10 Medium and large NPDES CAFO inspections	100% of state CMS plan	0	0	NA
5a1 Inspection coverage of NPDES majors	100% of state CMS plan	47	43	109%
5b1 Inspection coverage of NPDES non-majors with individual permits	100% of state CMS plan	22	14	157%
5b2 Inspection coverage of NPDES non-majors with general permits	100% of state CMS plan	231	209	111%
State response	None.			

Recommendation	None.
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CWA Element 2 — Inspections

Finding 2-2	Meets or Exceeds Expectations
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Summary	CT DEEP’s inspection reports are sufficiently thorough.
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Explanation	Metric 6a indicates that all 34 inspection reports reviewed included a combination of checklists, narratives, and photographs that clearly document conditions.
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Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a Inspection reports complete and sufficient to determine compliance at the facility	100%		34	34	100%

State response	None.
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Recommendation	None.
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CWA Element 2 — Inspections

Finding 2-3	Area for State Improvement																	
Summary	Over half of the CT DEEP inspection reports reviewed were not finalized within 30 days of the inspection.																	
Explanation	<p>Metric 6b indicates that CT DEEP met the timeliness standard of 30 days from inspection to finalization of a report in 11 out of 25 reports reviewed. The median time from inspection to finalization was 40 days.</p> <p>While many inspection reports were drafted in a timely way, a single inspector built up a large “batch” of inspection reports before sending them to the unit manager for final signature. EPA recommends that CT DEEP CWA management actively discourage the practice of “batching” inspection reports for final signature.</p>																	
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>6b Inspection reports completed within prescribed timeframe</td> <td>100%</td> <td></td> <td>11</td> <td>25</td> <td>44%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	6b Inspection reports completed within prescribed timeframe	100%		11	25	44%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
6b Inspection reports completed within prescribed timeframe	100%		11	25	44%													
State response	<p>CT DEEP: CT DEEP believes the appropriate category for this finding should be “Area for State Attention.” CTDEEP WPED has instituted new procedures for staff who prepare and review storm water inspection reports. Staff are instructed to no longer accumulate several weeks’ worth of inspections before preparing the inspection reports for review and sign off by the supervisor (“batching”). In addition, staff created an internal notification procedure through Outlook that provides several prompts to both staff and the supervisor of the due date of each completed inspection report. If the inspectors cannot complete the inspection reports in the prescribed timeframe, the inspectors may be required to decrease the numbers of inspections they perform until their inspection reports can be completed within the prescribed timeframe.</p> <p>In addition, CT DEEP shall submit to EPA via email, as the reports are completed, its CWA program inspection reports for inspections performed from April 1, 2018, through September 30, 2019, eliminating the need to prepare the 3 semi-annual summaries of inspection report timeliness for inspection performed during the time period from April 1, 2018 through September 30, 2019.</p> <p>EPA Region 1: We appreciate that CT DEEP has acted expeditiously to remedy the “batching” issue identified during this review. Further, we</p>																	

	appreciate the streamlined, real-time approach CT DEEP has suggested for forwarding completed inspection reports to EPA.
Recommendation	CT DEEP shall submit to EPA via email, as the reports are completed, for its CWA program inspection reports for inspections performed from April 1, 2018, through September 30, 2019. EPA will perform quarterly reviews of inspection report timeliness.

CWA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations						
Summary	CT DEEP is identifying Single Event Violations (SEV) in its major facilities and has equal or lower non-compliance rates than the national averages in these metrics.						
Explanation	<p>Metric 7a1 indicates that CT DEEP is identifying SEVs in its major facilities.</p> <p>Metric 7d1 indicates that major facilities in Connecticut have approximately the same noncompliance rate as the national average.</p> <p>Metric 7e indicates that CT DEEP accurately makes compliance determinations based on its inspection reports.</p> <p>Metric 8a2 indicates that major facilities in Connecticut have a lower rate of Significant Non-Compliance (SNC) than the national average.</p> <p>Metric 8b indicates that CT DEEP correctly identified its four SEVs as non-SNC.</p> <p>Metric 8c is non-applicable since none of the SEVs were identified as SNC.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	7a1 Number of major facilities with single event violations				13		
	7d1 Major facilities in noncompliance			73%	65	90	72%
	7e Inspection reports reviewed that led to an accurate compliance determination		100%		33	33	100%
	8a2 Percentage of major facilities in SNC			20%	11	100	11%
	8b Single-event violations accurately identified as SNC or non-SNC		100%		4	4	100%
	8c Percentage of SEVs identified as SNC reported timely at major facilities		100%		0	0	NA
State response	None.						
Recommendation	None.						

CWA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	CT DEEP’s enforcement actions returned or will return facilities to compliance.					
Explanation	Metric 9a indicates CT DEEP’s enforcement files included injunctive relief, documentation of return to compliance, and an enforceable requirement that compliance be achieved by a certain date. The enforcement files included both major and non-major facilities.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Percentage of enforcement responses that return or will return source in violation to compliance	100%		18	18	100%
State response	None.					
Recommendation	None.					

CWA Element 4 — Enforcement

Finding 4-2	Meets or Exceeds Expectations					
Summary	CT DEEP's enforcement actions were occasionally outside the timeliness standards of its Enforcement Response Policy.					
Explanation	<p>Metric 10a1 indicates that for major facilities, all enforcement actions at major facilities were timely.</p> <p>Metric 10b indicates that for enforcement files reviewed (which include both major and non-major facilities), violations were addressed in an appropriate manner.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	10a1 Major facilities with timely action as appropriate	100%		3	3	100%
	10b Enforcement responses reviewed that address violations in an appropriate manner	100%		18	18	100%
State response	None.					
Recommendation	None.					

CWA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	CT DEEP’s penalty calculations meet all of the required standards.					
Explanation	<p>Metric 11a indicates that all penalty calculations reviewed include, where appropriate, gravity and economic benefit.</p> <p>Metric 12a indicates that all penalty calculations reviewed include, where appropriate, the rationale for the final value when it was lower than the initial calculated value.</p> <p>Metric 12b indicates that there was documentation of penalty collection for all enforcement files reviewed.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		5	5	100%
	12a Documentation of the difference between initial and final penalty and rationale	100%		5	5	100%
	12b Penalties collected	100%		5	5	100%
State response	None.					
Recommendation	None.					

Clean Air Act Findings

CAA Element 1 — Data						
Finding 1-1	Meets or Exceeds Expectations					
Summary	CT DEEP improved the timeliness of its data entry from SRF 2 to SRF 3 and is now ranked above the national average for the relevant metrics.					
Explanation	CT DEEP performed higher than the national average for Metrics 3a2, 3b1, 3b2, and 3b3. This is a significant improvement from SRF Round 2, where CT DEEP’s performance on Metric 3b1 was 22.6% and performance on metric 3b2 was 48.5%.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	3a2 Timely reporting of HPV determinations	100%	16.8%	5	7	71.4%
	3b1 Timely reporting of compliance monitoring MDRs	100%	80.9%	141	151	93.4%
	3b2 Timely reporting of stack test dates and results	100%	77.1%	74	90	82.2%
	3b3 Timely reporting of enforcement MDRs	100%	77.2%	63	76	82.9%
State response	None.					
Recommendation	None.					

CAA Element 1 — Data

Finding 1-2	Area for State Improvement					
Summary	EPA identified two issues relating to the accuracy of the MDR data in ICIS-AIR during the review. CT DEEP responded expeditiously to correct the erroneous data and to modify the underlying procedures that caused the errors to occur.					
Explanation	<p>EPA has identified Metric 2b and the accuracy of the minimum data requirements in ICIS-AIR as an “Area for State Improvement.” EPA noted the following discrepancies:</p> <ul style="list-style-type: none"> • CT DEEP was not entering Federally-Reportable Violations (FRV) as case files in ICIS-AIR: this was a result of a misunderstanding regarding how FRVs should be reported in ICIS-AIR. CT DEEP was entering actions, such as NOV, that reflected the enforcement activities that had occurred in the state air program. However, DEEP was not taking the additional step to create a case file. This procedural oversight makes up the bulk of the discrepancies EPA observed. If the nine FRVs were entered into ICIS-AIR, CT DEEP’s FY16 performance for Metric 2b would have risen from 65.4% to 85%. • Within two weeks of EPA identifying this issue, CT DEEP had entered FRVs for FY16 and FY17 into ICIS-AIR. • CT DEEP has also committed to continue to create FRV case files in the future. <p>1. The file review revealed that due to the complex nature of CT DEEP’s enforcement data system, some stack test results remained pending in ICIS-AIR more than 60 days after CT DEEP had reviewed the stack test reports.</p> <ul style="list-style-type: none"> • To correct this issue, in 2017 CT DEEP reviewed all the pending stack test data in ICIS-AIR and updated the pending results to reflect the correct status. • To ensure timely data entry in the future, CT DEEP now sends a letter with the official stack test results to the facility. In addition, CT DEEP sends a copy of these letters to its data entry group, which then inputs the results into ICIS-AIR. 					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #

State response

CT DEEP: CT DEEP does not contest the fact that case files were not created for Federally Reportable Violations (FRV) and that some stack test results remained pending in ICIS-AIR more than 60 days after stack test reports were approved, but does contest EPA’s conclusion regarding Connecticut’s performance. CT DEEP believes the appropriate category for this finding should be “*Area for State Attention*” for the following reasons.

Discrepancy #1: Between 2014 and 2016, EPA began its transition from AFS to ICIS-AIR and also began updating/revising the following corresponding policies: Stationary Source Compliance Monitoring Strategy (7/14/14); Guidance on Federally-Reportable Violations for CAA Stationary Sources (9/23/14); and Enforcement Response Policy for High Priority Violations (8/25/14). This included the creation of a brand new national database (ICIS-AIR), data migration from AFS to ICIS-AIR, ICIS-AIR training and the implementation of new minimum data requirements (MDRs) through an Information Collection Request (1/14/15). The majority of these changes were happening simultaneously and hastily due to the budgetary pressure to shut down and replace AFS by December 27, 2014, which created considerable confusion and uncertainty for delegated state agencies. CT DEEP, through NESCAUM’s 7/25/14 letter to Mr. Rob Lischinsky, voiced its concerns about the new FRV Policy and that the creation of a case file would lead to inconsistencies in implementation due to the lack of concrete guidance. CT DEEP’s misunderstanding of how FRVs were to be entered in ICIS-AIR was in large part due to the confusion that existed during the transition to ICIS-AIR and the new enforcement policies.

As mentioned in the SRF findings, CT DEEP has historically entered all applicable enforcement actions into AFS/ICIS-AIR that reflect the enforcement activities occurring in Connecticut. With the new data system, the majority of the data CT DEEP enters for the enforcement action activity is reentered when the associated case file is created. CT DEEP finds this redundant data entry wasteful. As stated in the NESCAUM letter dated 7/25/14, “entering data elements into ICIS-AIR will require using multiple screens and additional data element requirements...which states are not prepared for...”. The creation of the case file for a FRV is an extra step that creates a record that CT DEEP will most likely never access again, since no linking to the record to show the resolution of the FRV is required. It appears as though the requirement to create a case file only exists to provide the data for the query that creates an ECHO data metric. A simple FRV check box on

the enforcement action screen is a more efficient way to provide the data to run the query.

The SRF findings correctly indicate that CT DEEP corrected the MDR issue within two weeks of EPA first identifying it as an issue and that CT DEEP has fully implemented processes to create case files for all FRVs moving forward. CT DEEP considers the issue minor since all of the necessary data was entered in ICIS-AIR with the exception of the FRV classification in the case file. The data provided in ICIS-AIR, regardless of the lack of a case file, sufficiently allowed EPA to (1) Manage the national CAA compliance and enforcement program to ensure effectiveness and consistency; (2) Oversee Connecticut's efforts and assess progress in achieving protection of the environment and public health; (3) Target compliance activities and enhance ability to use advanced monitoring tools; (4) Improve efforts to achieve health and environmental benefits envisioned by EPA regulations and permits; (5) Increase transparency and meet public expectations for readily accessible and detailed information; and (6) provide complete and timely responses to inquiries as stated in the *Air Stationary Source Compliance and Enforcement Information Reporting (Renewal)*, EPA ICR Number 0107.11, OMB Control Number 20060-0096, EPA-HQ-OECA-2014-0523.

Discrepancy #2: CT DEEP administers a very robust stack test and emission monitoring program that is committed to reviewing all testing protocols, observing tests onsite and reviewing all test reports. The number of sources required to stack test and the frequency of those tests have increased immensely in the past decade. CT DEEP maintains an antiquated database to assist with the implementation of its air emissions testing program. The database does not readily identify which test results have been recently approved, so the individual records for the list of pending test results have to be reviewed to get that information. The arduous process of mining the antiquated database to get the necessary approved test information has resulted in occasionally failing to meet the 60-day data entry requirement. When the discrepancy was identified during the audit, CT DEEP expeditiously corrected the problem by putting permanent procedural processes in place to ensure that pending stack tests are updated in a timely matter.

In summary, Element 1 should be re-categorized to “*Area for State Attention*” from “*Area of State Improvement*” because discrepancy #1 occurred during a nationally recognized period of transition from an archaic database to ICIS-AIR; was identified to EPA in 2014 as a probable issue for New England States; and was corrected expeditiously once identified. Discrepancy #2 was also corrected expeditiously when it

was identified. If EPA retains the categorization of “*Area for State Improvement*”, it will require the expenditure of EPA’s and CT DEEP’s limited resources to create, implement, monitor and track a corrective action plan for issues that have already been corrected. EPA can easily track CT DEEP’s continued compliance with the subject data accuracy requirements by simply logging into ECHO.

EPA Region 1: EPA recognizes and appreciates that CT DEEP promptly put in place corrective actions to rectify the issues identified in this finding. EPA also agrees that the root cause that resulted in discrepancies in the accuracy of the MDRs for FRV data appears to be largely because of a misunderstanding of how to meet MDR. As such, this area of the finding can be considered not to require further oversight.

However, regarding the stack test data issue, the discrepancies in the accuracy of the MDRs for test data were related to CT DEEP’s data flow procedures. While EPA appreciates that CT DEEP has set up procedures and processes to ensure that pending stack tests will now be updated in a timely manner, it is important to monitor that the corrective actions put in place are effective. This means that the Finding 1-2 will remain an Area for State Improvement. On a quarterly basis, for the next four quarters, CT DEEP and EPA will discuss the results of an ICIS-AIR *Compliance Monitoring Report* that documents the status of stack test results for the prior and current fiscal years.

Recommendation

1. CT DEEP will continue to enter FRVs in case files. On a quarterly basis, for the next four quarters, CT DEEP will discuss with EPA the results of an ICIS-AIR *Enforcement Activity Report* for the current fiscal year and an *FRV Report* for the same time period to ensure that FRVs are being created.
 2. CT DEEP will continue its new procedure to ensure stack test results are updated in a timely way. On a quarterly basis, for the next four quarters, CT DEEP will discuss with EPA the results of an ICIS-AIR *Compliance Monitoring Report* that documents the status of stack test results for the prior and current fiscal years.
-

CAA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations																																				
Summary	CT DEEP did an excellent job meeting the FCE coverage requirements of its CMS plan and documenting FCE requirements in the inspection files reviewed.																																				
Explanation	<p>For Metric 5a, the facility identified as not covered by an FCE closed prior to FY16. CT DEEP removed the facility from the CMS plan as soon as it noticed that it was still included, and flagged the error in ECHO during the end of year review process for FY16. In the frozen FY16 Metric 1a1 “State - Number of Active Majors,” the facility is not listed.</p> <p>For all other metrics, CT DEEP met the national goal.</p>																																				
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>5a FCE coverage: majors and mega-sites</td> <td>100%</td> <td>84.5%</td> <td>36</td> <td>37</td> <td>97.3%</td> </tr> <tr> <td>5b FCE coverage: SM-80s</td> <td>100%</td> <td>91.3%</td> <td>44</td> <td>44</td> <td>100%</td> </tr> <tr> <td>5e Review of Title V annual compliance certifications</td> <td>100%</td> <td>69.6%</td> <td>70</td> <td>70</td> <td>100%</td> </tr> <tr> <td>6a Documentation of FCE elements</td> <td>100%</td> <td></td> <td>18</td> <td>18</td> <td>100%</td> </tr> <tr> <td>6b Compliance monitoring reports (CMR) or facility files reviewed that provide sufficient documentation to determine compliance of the facility</td> <td>100%</td> <td></td> <td>18</td> <td>18</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a FCE coverage: majors and mega-sites	100%	84.5%	36	37	97.3%	5b FCE coverage: SM-80s	100%	91.3%	44	44	100%	5e Review of Title V annual compliance certifications	100%	69.6%	70	70	100%	6a Documentation of FCE elements	100%		18	18	100%	6b Compliance monitoring reports (CMR) or facility files reviewed that provide sufficient documentation to determine compliance of the facility	100%		18	18	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																																
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5e Review of Title V annual compliance certifications	100%	69.6%	70	70	100%																																
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6b Compliance monitoring reports (CMR) or facility files reviewed that provide sufficient documentation to determine compliance of the facility	100%		18	18	100%																																
State response	None.																																				
Recommendation	None.																																				

CAA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations																								
Summary	Based on the files reviewed, CT DEEP’s enforcement program appears to consistently make accurate compliance and HPV determinations.																								
Explanation	For Metric 13 “Timeliness of HPV Determinations,” CT DEEP believes it is prudent to collect and assess all relevant information to accurately determine a violation has occurred. The state treats this process as ongoing up to the point an NOV is issued. To that end, CT DEEP believes the date when the NOV is issued reflects the true day zero for making an HPV determination. In one instance during FY16, CT DEEP needed 99 days to make its assessment and draft and issue an NOV. The recommendation is 90 days. The average time for all the other determinations made in FY16 was only 27 days. In addition, CT DEEP performed above the national average for Metric 13.																								
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>7a Accuracy of compliance determinations</td> <td>100%</td> <td></td> <td>26</td> <td>26</td> <td>100%</td> </tr> <tr> <td>8c Accuracy of HPV determinations</td> <td>100%</td> <td></td> <td>17</td> <td>17</td> <td>100%</td> </tr> <tr> <td>13 Timeliness of HPV determinations</td> <td>100%</td> <td>83.6%</td> <td>6</td> <td>7</td> <td>85.7%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7a Accuracy of compliance determinations	100%		26	26	100%	8c Accuracy of HPV determinations	100%		17	17	100%	13 Timeliness of HPV determinations	100%	83.6%	6	7	85.7%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																				
7a Accuracy of compliance determinations	100%		26	26	100%																				
8c Accuracy of HPV determinations	100%		17	17	100%																				
13 Timeliness of HPV determinations	100%	83.6%	6	7	85.7%																				
State response	None.																								
Recommendation	None.																								

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	CT DEEP met the national goal for each metric in this element.					
Explanation	Prior to the SRF3 Review, CT DEEP was not able to address HPVs within 180 days and subsequently developed case management plans that meet the requirements of the HPV policy. Based on this file review, it appears that CT DEEP’s enforcement program pursues appropriate enforcement responses.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.	100%		9	9	100%
	10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.	100%		7	7	100%
	10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy.	100%		6	6	100%
	14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements	100%		7	7	100%
State response	None.					
Recommendation	None.					

CAA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	CT DEEP met the national goal for each metric in this element.					
Explanation	Based on the files reviewed, CT DEEP clearly documented initial penalty calculations and adjustments, and included this information as part of a case summary document located in each file. These calculations clearly documented gravity and economic benefit separately.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations reviewed that document gravity and economic benefit	100%		7	7	100%
	12a Documentation of rationale for difference between initial penalty calculation and final penalty	100%		4	4	100%
	12b Penalties collected	100%		6	6	100%
State response	None.					
Recommendation	None.					

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data						
Finding 1-1	Meets or Exceeds Expectations					
Summary	CT DEEP does an excellent job maintaining accurate data and reporting data in a timely manner into the RCRA Info database. During the time period reviewed, inspection counts, documentation of violations and enforcement actions were accurate according to file reviews, file review metrics and the Data Metric Analysis (DMA).					
Explanation	Thirty files were selected and reviewed to determine completeness of the minimum data requirements. All of the selected files were accurately represented in the national RCRA database.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Complete and accurate entry of mandatory data	100%		30	30	100%
State response	None.					
Recommendation	None.					

RCRA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations
Summary	CT DEEP has taken advantage of the LQG Flexibility that is offered through RCRA Compliance Monitoring Strategies (CMS). CT DEEP completed all of its mandatory inspections.
Explanation	<p>CT DEEP has taken advantage of the LQG Flexibility for the past several years (FY 13-17). For FY 2016, CT DEEP chose the LQG Flex Alternative and deviated from the national inspection goal of inspecting 20% of the LQG universe by inspecting 10% of the traditional LQG universe and inspecting 5% of the Pharmaceutical LQG universe and redirected remaining resources to inspect manifest initiative sites and a mix of other inspection types. CT DEEP performed three LQG inspections that were not reported by these metrics because the LQGs were not on the 2013 BR list. Those LQGs included three retail pharmacies.¹</p> <p>CT DEEP has identified small quantity generators that are acting out of status, high risk, or repeat violators. The reduction of LQG inspections and LQG five-year coverage as a result of LQG Flexibility is reflected in the data. Overall CT DEEP inspected 97 facilities in FY16, from the RCRA Rep evaluation count report. CT DEEP also conducted the following six additional inspections: inspections at sites without EPA identification numbers and one Non-Record Review and five Financial Record Reviews. Therefore, CT DEEP inspected 103 facilities in FY16. Also, the two-year inspection coverage of operating TSDFs is performed by both CT DEEP and EPA, where CT DEEP inspected seven TSDFs and EPA inspected one TSDF, thereby achieving 100% combined coverage of the eight operating TSDFs.</p> <p>Thirty files were reviewed to determine if CT DEEP inspection reports were written with sufficient detail to determine compliance, and within prescribed timeframes. CT DEEP performance met the national goal of 100% for metric 6a, completeness and sufficiency of inspection reports; and CT DEEP nearly met the national goal of 100% for metric 6b by completing 29 of 30 inspection reports in a timely fashion.</p> <p>The single inspection report that was not timely is due to an extensive fact-finding process to further understand the relationship between the site owner and the site operator, and to determine the responsible party.</p>

¹ From the State Comments on Frozen Data -2016 ECHO

All fact-finding was documented in a single inspection report. See further discussion at SRF Element 4-1 in this report.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
5a Two-year inspection coverage of operating TSDFs	100%	90.3%	7	8	87.5%
5a1 Two-year inspection coverage of operating TSDFs Combined Connecticut and EPA	100%	90.3%	8	8	100%
5b Annual inspection coverage of LQGs	20%	17.1%	39	418	9.3%
5c Five-year inspection coverage of LQGs	100%	54.8%	165	418	39.5%
5d Five-year inspection coverage of active SQGs		9.9%	67	1501	4.5%
5e1 Five-year inspection coverage of active conditionally exempt SQGs					121
5e2 Five-year inspection coverage of active transporters					13
5e3 Five-year inspection coverage of active non-notifiers					5
5e4 Five-year inspection coverage of active sites not covered by metrics 5a through 5e3					128
6a Inspection reports complete and sufficient to determine compliance at the facility	100%		30	30	100.0%
6b Inspection reports completed within prescribed timeframe	100%		29	30	96.6%

State response

CT DEEP: CT DEEP recommends SRF metric 5b be modified or an additional SRF metric be added to reflect inspections completed under an approved LQG Flex Alternative. Current metric 5b could be misunderstood to appear that the 20% national was not met goal without recognition that an approved alternative goal was met.

EPA Region 1: We support CT DEEP’s recommendation to modify metric 5b or to add an additional metric to reflect inspections completed under an approved LQ flex alternative plan. CT DEEP should get credit for achieving their approved flex alternate goal.

CT DEEP has been operating under the Flex Alternative Plans from FY 13- FY 17. CT DEEP chose the Flex Alternative and inspected 10% of the traditional LQG universe and directs their resources to their Manifest Initiative where they screen DEEP’s manifest database to identify generators (non-notifiers, SQG’s, CESQG’s) generating greater than 1,000 kg of hazardous waste and these facilities are inspected.

	<p>CT DEEP found that the Manifest Initiative has a higher non-compliance rate compared to the traditional LQG sites:</p> <p>FY 17 Non-compliance Rate - Manifest Initiative: 40%; Traditional LQGs: 30%</p> <p>FY 16 Non-compliance Rate - Manifest Initiative: 38%; Traditional LQGs: 20%</p> <p>FY 15 Non-Compliance Rate - Manifest Initiative: 36%; Traditional LQGs: 27%</p> <p>CT DEEP has also inspected 5% of the LQG Retail Pharmacy sector.</p>
Recommendation	None.

RCRA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations																																				
Summary	CT DEEP does an excellent job identifying violations at a high percentage of inspections and identifying SNCs where appropriate. SNCs were identified within 150 days of the first day of the inspection (Day Zero).																																				
Explanation	<p>CT DEEP finds violations regularly during their inspections.</p> <p>Each of the 30 files reviewed had accurate and complete descriptions of the violations observed during the inspection and had adequate documentation to support CT DEEP compliance determinations. The data metric shows that the SNC dates were all within 150 days of Day Zero.</p> <p>There has been a long-standing agreement between Region 1 and CT DEEP that cases are not entered as SNC until the consent order is finalized since the specifics of the violations may not be final until the Consent Order is issued.</p>																																				
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>8b Timeliness of SNC determinations</td> <td>100%</td> <td>84.2%</td> <td>1</td> <td>1</td> <td>100%</td> </tr> <tr> <td>7a Accurate compliance determinations</td> <td>100%</td> <td></td> <td>30</td> <td>30</td> <td>100%</td> </tr> <tr> <td>7b Violations found during inspections</td> <td></td> <td>35.9%</td> <td>33</td> <td>74</td> <td>44.6%</td> </tr> <tr> <td>8a SNC identification rate</td> <td></td> <td>2.1%</td> <td>1</td> <td>74</td> <td>1.4%</td> </tr> <tr> <td>8c Appropriate SNC determinations</td> <td>100%</td> <td></td> <td>21</td> <td>21</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	8b Timeliness of SNC determinations	100%	84.2%	1	1	100%	7a Accurate compliance determinations	100%		30	30	100%	7b Violations found during inspections		35.9%	33	74	44.6%	8a SNC identification rate		2.1%	1	74	1.4%	8c Appropriate SNC determinations	100%		21	21	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																																
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8c Appropriate SNC determinations	100%		21	21	100%																																
State response	None.																																				
Recommendation	None.																																				

RCRA Element 3 — Violations

Finding 3-2	Area for State Attention												
Summary	There is a backlog of secondary violators (sites with secondary violations open for more than 240 days) that have not been returned to compliance in RCRAInfo.												
Explanation	<p>There are 112 sites which appear to be in violation for greater than 240 days. Many of these sites represent a delay in entry of “return to compliance” (RTC) date for sites that received enforcement. Some of the sites included in this metric are old informal enforcement actions, with no final compliance assessment. Less than 10% of the 112 sites are in the process of enforcement escalation and are appropriately not assigned RTC. This group of secondary violators is mostly comprised of open retail pharmacy cases where DEEP continues to evaluate reverse distribution issues.</p> <p>CT DEEP has been working on addressing the backlog but has limited resources to devote to data clean-up. CT DEEP continues to commit limited staff resources to perform file reviews for those sites. CT DEEP anticipates that RTC for many of these sites can be reconciled with a file review.</p> <p>EPA suggests that CT DEEP run a RCRAInfo report of unaddressed secondary violators every year so that they can be resolved in a timely manner, and avoid increasing the backlog further.</p>												
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>2a Long-standing secondary violators</td> <td></td> <td></td> <td></td> <td></td> <td>112</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2a Long-standing secondary violators					112
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
2a Long-standing secondary violators					112								
State response	EPA has appropriately noted the majority of these cases involve retail pharmacies, which are linked to finalization of the pending federal pharmaceutical rule for this sector. DEEP continues to run RCRAInfo reports and has already reduced the list of open violations. DEEP agrees to run a RCRAInfo report of unaddressed secondary violators every year so that the list can be included for prioritization of work as part of the PPA resource assessment with the goal of eliminating the list as resources allow.												
Recommendation	See Explanation Section.												

RCRA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations						
Summary	CT DEEP took appropriate action for all of the cases reviewed and brought actions that returned facilities to compliance. CT DEEP's goal is to issue enforcement actions within 360 days of Day Zero.						
Explanation	<p>The file review showed that CT DEEP is bringing actions for cases that represent RCRA Significant Noncompliance. CT DEEP set compliance measures and timeframes for return to compliance in its actions.</p> <p>The data metric shows that the one of the two cases did not meet the 360-day timeframe. CTDEEP provided supporting information to EPA regarding the complexity of the case and the reason that this case exceeded 360 days. There were two inspections (CEI and CDI) conducted at the facility in August 2014. The fact finding for this case continued through March 2015 to further understand the relationship between the site owner and the site operator; and to determine the responsible party for this case. At the request of CT DEEP, EPA issued an Information Request to the facility, to gather more information for the development of the enforcement case. This increased the time of the issuance of the enforcement action.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	10a Timely enforcement taken to address SNC		80%	84.2%	1	2	50%
	10b Appropriate enforcement taken to address violations		100%		21	21	100%
	9a Enforcement that returns violators to compliance		100%		21	21	100%
State response	<p>This case referenced above originated from observations made by an EPA SPCC program inspector and referred to DEEP for investigation and enforcement. This complex and contentious case was discussed for enforcement strategy with both EPA and Connecticut's Office of the Attorney General. Case support by EPA through a formal information gathering request was important in coalescing the case facts as DEEP does not have this authority. DEEP briefed EPA and the other New England state's RCRA enforcement leads several times on this case which resulted in one of the largest penalties assessed and collected through a DEEP RCRA program consent order.</p>						

Recommendation	None.
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RCRA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations
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Summary	CTDEEP is assessing penalties for significant violations that include gravity and economic benefit component and provides clear documentation of how it arrived at an amount for economic benefit and initial and final gravity amounts. CT DEEP documents the collection of the final penalty.
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Explanation	The files reviewed showed that CT DEEP is assessing, and collecting penalties and economic benefit where there is significant noncompliance. Penalties are consistent with CT DEEP’s policies and consider economic benefit where applicable and/or when appropriate. During the file reviews, the formal action data sheets clearly justified changes in penalties and how the case team arrived at the number for economic benefit. Documentation that penalties were collected was present in all files reviewed. CT DEEP’s Site Information System (SIMS) includes a database report that tracks penalty payments.
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Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations include gravity and economic benefit	100%		5	5	100%
	12a Documentation on difference between initial and final penalty	100%		5	5	100%
	12b Penalties collected	100%		5	5	100%

State response	None.
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Recommendation	None.
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Appendix

CT DEEP Background Information on State Program and Review Process General Program Overview

circa 09/28/17

Agency Structure

The Connecticut Department of Energy and Environmental Protection (CT DEEP) was created by [Public Act 11-80](#). Effective July 1, 2011, CT DEEP brings together the former Departments of Environmental Protection (DEP) and Public Utility Control (DPUC) along with the energy policy group from the Office of Policy and Management (OPM).

CT DEEP provides for the integration of energy and environmental policies and programs in a more systematic, proactive, and coherent manner. Many pollution problems are a function of energy choices, particularly the burning of fossil fuels. The integration of energy and environmental policymaking will provide a valuable structure for decision-making and position Connecticut as a national leader on these issues.

The Environmental Branch of CT DEEP has two sections, referred to as Environmental Quality and Environmental Conservation. The Environmental Quality section includes the Bureaus of Air Management, Materials Management and Compliance Assurance, and Water Protection and Land Reuse. This is primarily the section of CT DEEP where the compliance/enforcement programs reside. The Environmental Quality section is led by an appointed Deputy Commissioner who reports to the Commissioner. Each bureau, in turn, is led by a Bureau Chief and consists of multiple divisions managed by division directors. The typical division consists of multiple programs or similar subunits, each with its own supervisor and staff. Most divisions also include one or more assistant directors or equivalent positions.

CT DEEP also has a Bureau of Financial and Support Services, plus a group of five independent agency-wide support offices that are referred to collectively as the Office of the Commissioner. The Commissioner's senior staff is called the Commissioner's Cabinet. It consists of the Deputy Commissioners for Environmental Quality, Environmental Conservation and Energy Branches, the seven Bureau Chiefs, the Agency's Legal Counsel, plus the directors of the following independent offices: Planning and Program Development, Information Management, and Adjudications.

Compliance/Enforcement program structure and resources

CT DEEP continues to experience a significant decline in available resources to administer its regulatory programs, which are spread across an increasing regulated universe and changing regulatory requirements, many of which are federally-mandated. The funding through the Performance Partnership Grant (PPG) has remained level for a number of years. The weakened value of the PPG combined with the significant reduction in CT DEEP staff resulting from continued attrition has necessitated the ongoing reevaluation and realignment of both grant and non-grant commitments.

CT DEEP continues to work with EPA to evaluate commitments and to reach concurrence on program priorities. With regard to compliance efforts, CT DEEP has advanced innovative approaches to assure compliance in light of the growing gap caused by shrinking resources, the expanding universe of sources, and emerging environmental and health priorities. While there is a need to continue to improve compliance and overall performance of the regulated community, CTDEEP has undertaken a paradigm shift in how it compels compliance within its permits and regulatory programs by advancing initiatives such as electronic reporting with automated compliance evaluations; improved transparency; self-certification; and third-party certification and verification. This paradigm shift has allowed its limited enforcement resources to fulfill a critical role of regulatory enforcement in a way that will be better aligned with the environmental and health priorities.

CT DEEP still seeks flexibility from EPA to apply appropriate compliance strategies and tools to address priority environmental or health risks. In particular, CT DEEP seeks the ability to reduce the number or frequency of inspections for major facilities (Title V air, NPDES water, RCRA waste) that demonstrate a high rate of compliance to focus on other areas of concern, including facilities not otherwise inspected or regulated.

Clean Air Act [CAA] Enforcement Programs

Field Enforcement – The Major Stationary Sources Field Enforcement Group is responsible for on-site facility-wide inspections of various sources, including major sources such as Title V sources, smaller industrial, commercial and institutional sources. The Minor Stationary Sources Inspection Group audits Stage I testing at gasoline stations and responds to complaints on odors, wood burning, and conducts open burning inspections. The common thread running through both field enforcement groups is that they handle compliance through on-site inspections.

Compliance Analysis and Coordination Unit - This group is responsible for receiving, processing, reviewing and analyzing the majority of compliance reports (e.g., Title V and GPLPE) that are submitted to the Air Bureau. Based upon these reviews, staff determines the compliance status and may initiate enforcement action. This group is also responsible for development and implementation of compliance assistance initiatives which include educational workshops and programs, educational materials, guidance documents and other written materials for the regulated community. Additionally, this group assists with the planning, coordination, assessment and evaluation of the Air Bureau's enforcement and inspection programs to determine regulatory and enforcement practice improvements to enhance compliance and

environmental results. The group is also responsible for reporting enforcement and compliance data to EPA's national database and data stewardship for OTIS/ECHO.

Source Emission Monitoring - This group audits emission testing and Continuous Emission Monitoring (CEM) relative accuracy testing conducted at stationary sources of air pollution. The group determines compliance with associated emission and operational limits and ensures that facility owners and operators adhere to prescribed testing deadlines and requirements.

Administrative Enforcement - This group pursues and administers the appropriate enforcement response for state and federal high priority violations. This most often results in the drafting, negotiating and administering of formal enforcement actions, including state orders and referrals. Staff in this group works closely with the enforcement staff that identified the violation to ensure that the assembled enforcement case is sound and timely. Staff also monitors and manages the violating source's return to compliance in accordance with resulting notice of violation, order and/or judgment. Finally, this group drafts and administers orders to implement single source Reasonably Available Control Technology (RACT) determinations in accordance with federally mandated requirements to implement RACT for emissions of Nitrogen Oxides and Volatile Organic Compounds.

Including section Supervisors, the field enforcement unit; compliance analysis and coordination unit; source emission monitoring; and administrative enforcement are staffed by 8, 6, 5 and 4 full-time employees, respectively. The total CT DEEP staff responsible for conducting Air compliance and enforcement work is 27, including the Division Director, Assistant Division Director and four Section Supervisors.

Clean Water Act [CWA] Enforcement Program

CT DEEP's Clean Water Act (CWA) industrial enforcement program is located in the Water Permitting and Enforcement Division of the Bureau of Materials Management and Compliance Assurance. CT DEEP's CWA municipal enforcement program is located in the Planning and Standards Division of the Bureau of Water Protection and Land Reuse.

The Water Permitting and Enforcement Division (WPED) is comprised of the following sections: Industrial NPDES Enforcement; Industrial NPDES Permitting; Pretreatment Permitting and Enforcement, Storm Water Permitting and Enforcement; Field Compliance and Enforcement; Subsurface and Agriculture Permitting and Enforcement; and Program Support and Data Management. There is a total of 31 full time equivalents (FTEs) in WPED, including the Division Director, Assistant Division Director, and the Division's Secretary.

Due to continuing staff attrition, each Supervisor currently leads two sections and the Assistant Director supervises one section. Including the supervisors and the Assistant Director, the sections within the Water Permitting and Enforcement Division are staffed with the follow number of full-time employees: Industrial NPDES Enforcement (1.5), Industrial NPDES Permitting (2.5), Pretreatment Permitting and Enforcement (3.5), Storm Water Permitting and Enforcement (6), Field Compliance and Enforcement (4.5), Subsurface and Agriculture Permitting and Enforcement (4.5), and Program Support and Data Management (5.5). Of these

staff, the total CT DEEP full-time equivalents (FTEs) responsible for conducting CWA industrial compliance and enforcement work is 18 FTEs, including the Division Director, Assistant Division Director, and the Division's Secretary. Approximately 40% of WPED's FTE resources are directed to compliance monitoring and enforcement activities in WPED.

The CT DEEP's CWA municipal permitting and enforcement programs are specifically located in the Municipal Water Pollution Control Section of the Water Planning and Management Division. The Municipal Water Pollution Control Section is further subdivided into two geographic districts – the East and West. Each District is staffed by seven full-time positions that report to the Engineer of the Water Pollution Control Facilities. Similar to the Water Permitting and Enforcement Division, the Section is responsible for permitting and enforcement, but is also charged with the administration of the State Revolving Loan and Operator Certification Programs.

RCRA Hazardous Waste Enforcement Program

CT DEEP's hazardous waste enforcement program is located in the Engineering and Enforcement Division of the Bureau of Materials Management and Compliance Assurance. The Engineering and Enforcement Division issues and renews permits for facilities and transporters, conducts inspections at RCRA facilities, generators, and transporters, investigates complaints and issues the appropriate enforcement actions in accordance with CT DEEP's Enforcement Response Policy. This division also coordinates, processes, and oversees activities such as RCRA program authorization, regulation interpretation, regulatory revisions, compliance assurance and assistance, biennial reporting, multi-media enforcement case support, and oversight of RCRA financial assurance obligations and mechanisms, and the RCRA manifest program. This division is also responsible for the Solid Waste Management Program and the Pesticides Management Program.

The CT DEEP staff responsible for conducting RCRA compliance and enforcement work is 14.2 FTEs. The RCRA enforcement program is comprised of a field compliance group, two administrative enforcement groups, and support staff for program development, technical assistance, and planning. and on or engineer. Additional staff involved in assuring RCRA compliance and supporting core enforcement work, include the division management and supervision, financial assurance and management, one permitting analyst and two processing technicians, as well as clerical and data tracking resources, including manifest processing and biennial report processing.

Enforcement and Compliance Tools, Processes and Strategic Approach

CT DEEP strives to achieve the highest level of environmental protection by use of traditional regulatory controls - a combination of establishing standards, authorizing activities and enforcing compliance with those standards and authorizations - together with financial, regulatory, and technical compliance assistance. CT DEEP is committed to enforcing applicable law by means of administrative orders and lawsuits when serious violations or chronic or recalcitrant violators are involved, while at the same time promoting compliance assistance in its planning, permitting, and enforcement programs.

The goal of CT DEEP's enforcement programs is to improve and protect the environment by accomplishing the following: (1) prevention and prompt cleanup of pollution and its sources; (2) protection and restoration of natural resources at the site where a violation occurs and at other sites; (3) protection of public health and safety; (4) prompt compliance with legal requirements that have been violated; (5) deterrence specific to the individual violator and to the regulated community as a whole; (6) removal of any economic advantage or savings realized by noncompliance; and (7) punishment of violators.

CT DEEP is committed to using its enforcement authority wisely, at all times seeking to produce the maximum benefit to the environment with each action taken by the agency. The enforcement and/or compliance tools the Department employs include inspections, data tracking and monitoring, compliance assistance, and administrative enforcement. Through its Enforcement Response Policy, the Department prioritizes its enforcement resources by focusing on the most significant environmental, human health and noncompliance problems. Two categories of violators deserve and get the most attention from enforcement staff. The first category of violators are those whose violations pose the greatest risk to public health and the environment within the State. The second category of violators subject to heightened enforcement is the chronic or recalcitrant violator. Chronic or recalcitrant violators are those demonstrating a pattern or practice of noncompliance with environmental laws; review of a chronic or recalcitrant violator's compliance history indicates a general unwillingness or inability to comply with applicable requirements. Repeated violations or failure of a violator to quickly correct violations in the past or present may also characterize a particular violator as a high priority for enforcement action.

CT DEEP utilizes a strategic problem-solving approach that defines the issues and environmental footprint upfront, outlines the compliance tools that will be applied and the performance measures that will be used to evaluate compliance and communicate measurable environmental and performance results. An analysis of compliance patterns and rates, environmental data, EPA national program guidance and EPA NE identified strategic priorities is conducted across the Department's compliance programs to identify sectors or geographic areas where there are environmental problems or areas of high noncompliance that need to be addressed. Available permitting, assistance and enforcement tools are then evaluated to determine the appropriate application and integration of tools to resolve the problem. To the extent possible, CT DEEP incorporates the EPA guidance into inspection targeting and formally negotiates with EPA on the use of federal funds to meet mutually agreeable objectives through planning inspections.

CT DEEP's Office of Enforcement Policy and Coordination within the Commissioner's Office convenes enforcement, permitting and assistance managers on a monthly basis to assist in planning, coordinating and targeting inspections and compliance initiatives across the agency's compliance programs. In addition, CT DEEP media enforcement programs meet individually on a monthly basis along with EPA and the Attorney General's Office to review tracking of existing enforcement cases, review inspection targets and to discuss proposed enforcement actions and make decisions in coordinating which agency is best suited to take the lead on a new case. CT DEEP works with EPA on necessary enforcement issues and seeks feedback from EPA on issues and priorities of particular concern and works cooperatively to address them. In addition, CT DEEP attends and participates in the monthly conference calls and quarterly EPA/NE States enforcement/compliance management meetings including an Annual Planning meeting.

In addition to the Enforcement Response Policy, several other key enforcement policies in use by CT DEEP have been designed to assure consistent enforcement throughout the agency:

- **Civil Penalty Policy** sets forth a process for calculating civil penalties in cases where a penalty is warranted.
- **Supplemental Environmental Project Policy** outlines criteria for projects that may serve in addition to a monetary penalty as the basis for the consensual settlement of an enforcement case. The Department believes that these projects, if carefully crafted and executed, provide useful environmental benefits beyond what can be secured solely through administrative orders.

The following enforcement tools may be used to obtain compliance and/or assess penalties for environmental violations, in accordance with the Enforcement Response Policy:

- **Notice of Violation** - A Notice Violation is an informal enforcement action that puts a violator on written notice of a violation and requires compliance within 30 days. A Notice of Violation may be used alone or in combination with any of the actions listed below.
- **Cease and Desist Order** – A Cease and Desist Order is an administrative action issued when a violation is causing actual or substantial harm or is threatening to cause such harm imminently.
- **Consent Order** - A Consent Order is an administrative action in which a violator agrees in writing to pay penalties and/or perform compliance actions.
- **Unilateral Order** - A Unilateral Order is an administrative action in which the Commissioner orders a violator to comply with the relevant environmental requirements. Unilateral Orders are subject to both administrative and judicial appeal. Currently penalties are not assessed through this mechanism at the administrative level. To seek penalties, the matter is referred to the Office of Attorney General

- **Penalty Notice** - A Penalty Notice is an administrative action in which the Commissioner assesses civil penalties. The Department adopted regulations in May 2007 that allow the Department to issue a Penalty Notice for violations in three programmatic areas: inland water resources, tidal wetlands structures and dredging, and pesticide management. Penalty Notices are subject to both administrative and judicial appeal. The regulations may be revised in the future to expand to more programs.
- **Referral to the Office of Attorney General** – A Referral to the Office of Attorney General is a formal request by the Commissioner that the CT Attorney General institute an action state court to obtain penalties and/or injunctive relief against a violator. A referral to the Attorney General is made when the violation is particularly egregious, when consent order negotiations fail to resolve the case in a timely manner, when the violator is unwilling or unlikely to comply with an order or consent order, or when the violator has not complied with a past order or consent order and thus is unlikely to comply with a subsequent order or consent order.

Staffing/Personnel Qualification and Training

General Personnel Qualifications

CT DEEP, as an executive branch state agency, must adhere to an extensive set of laws, regulations, and other policies and procedures that control the hiring, ongoing employment, and promotion of its employees. The CT Department of Administrative Services (DAS) is the lead state agency for all personnel-related policies and procedures. Within CT DEEP, the Human Resources Division is the lead office for personnel-related policies and procedures.

All executive branch employees have standardized job titles (often referred to as class titles or positions) and all job titles have associated Job Descriptions. DAS develops and publishes these generic Job Descriptions for all classified positions within the executive branch. The descriptions include "Example of Duties," and "Minimum Qualifications Required."

When CT DEEP receives approval to fill a particular position, the appropriate program or division staff prepare a Job Announcement, which is then reviewed by Human Resources and published. The content of these individual Job Announcements must be consistent with the information and requirements contained in the generic DAS Job Descriptions, but the details are much more specific, as they are tailored to the requirements of particular jobs. The Job Announcement format allows CT DEEP to specify more detailed hiring requirements related to "Experience and Training," and "Special Requirements."

Agency Training Policy

CT DEEP has issued a directive related to training. The directive is titled "Staff and Organization Development and Job Enhancement through Training and Career Services." The basic policy reads as follows: "The Department is committed to employ and retain talented staff by supporting and providing meaningful on-the-job and other training opportunities so employees may continuously improve their performance and contribute to the agency's mission of protecting the environment and conserving natural resources. To accomplish this goal, the Department's Human Resources Division, in conjunction with the Office of Affirmative Action, has developed a comprehensive staff and

organization development program. Additional excerpts from the directive:

- Supervisors and employees are encouraged to work together to design the most appropriate training plans for the individuals' job duties, skills, abilities, and career goals.
- Managers and supervisors are encouraged to support employees' attendance and on-the-job application of both mandatory and elective training relating to their primary job responsibilities, logical career progressions, upward mobility, lateral, or other opportunities, job enrichment, legal requirements, or certification or licensure maintenance requirements.
- Employees are strongly encouraged to take personal responsibility for their own education, training, and career growth through active participation in various development opportunities both within and outside the Department, including financing some of the programs themselves.
- At a minimum, supervisors and managers are strongly encouraged to discuss employees' staff development issues during required annual performance appraisal reviews per current agency procedures and collective bargaining agreements.

Announcements about upcoming agency-sponsored training opportunities typically are made via email. There is no single agency funding source for training. Funds for most training and associated professional development must come from program or division budgets, grants, union funds, etc.

With respect to enforcement and compliance training opportunities, CT DEEP takes advantage of opportunities for training offered in-house, sponsored by EPA Region I or interstate organizations.

Data System Architecture/Reporting

As required by EPA, CT DEEP reports the necessary compliance information into EPA's national data system. RCRA program enters inspections and enforcement actions into RCRAInfo, the Air program enters their compliance information into the ICIS-AIR system and the water program enters their compliance and enforcement data into the Integrated Compliance Information System (ICIS).

Simultaneously, CT DEEP maintains separate state databases for each of the programs referenced above for inspection and enforcement activity. In addition, these programs also enter data into CT DEEP's centralized, Site Information Management System (SIMS) for permitting and enforcement activity. The duplicative data entry and maintenance for multiple system is resource-intensive for the agency.

As part of CT DEEP's Information Technology transformation, in the future, CT DEEP intends to move towards a centralized state information management data system. CT DEEP would also like to work with EPA to eliminate the need for double data entry of the same information into

both EPA and the state's information management system through the use of the exchange network. CT DEEP's recent Information Technology transformation is focused on investing in technology to improve the agency's business process to be more responsive, efficient and transparent.

Compliance Monitoring via Electronic Reporting and On-line Training

With regard to compliance monitoring, CT DEEP has made strides to make it easier for businesses to report electronically on environmental performance of Air Compliance Monitoring reports for Air Title V emissions (Emission Monitoring Information Technology) and Water Discharges (NetDMR) for NPDES and pretreatment discharge permittees as well as for hazardous waste manifests. NetDMR is a Web-based tool developed by a consortium of EPA and state environmental regulatory agencies that allows National Pollutant Discharge Elimination System (NPDES) permittees to electronically file their DMRs directly into EPA's Integrated Compliance Information System (ICIS). NetDMR reduces the burden on EPA, states, and the regulated community; improves data quality; and expands the ability of both states and EPA to target their limited resources to meet environmental goals.

For the Underground Storage Tank program, CT DEEP relies on electronic tablets to document inspections in the field with seamless data entry into the agency's database. As part of the Information Technology Transformation, the Department will explore expanding this capability to other programs. Also, for registrants of industrial stormwater general permits, CT DEEP is developing an electronic registration capability that will serve as a pilot for other agency general permits and individual permits to be submitted electronically. In addition, the CT DEEP has launched an on-line hazardous waste management training course. This has expanded the agency's compliance assistance capability. The Department is also developing web based Stationary RICE NESHAP training modules for specific types of units.

Enforcement Desk Reference – Best Practice

Finally, with regard to internal training and resources, CT DEEP has developed an electronic enforcement resource library for all enforcement-related documents that assists in the implementation of a consistent and predictable enforcement program across all air, water and materials management programs. The Enforcement Desk Reference ("EDR") is a valuable enforcement tool that is located on the Department's intranet site to give all staff immediate access to the most current enforcement policies, formats, forms and instructions needed to complete enforcement actions.

The EDR includes an enforcement process diagram that depicts the steps of the enforcement process and provides links to the available enforcement tools. As a result, employees are guided to the right documents associated with a particular type of action. Staff is able to select the appropriate form and save it to their case file and immediately begin entering information with the confidence that it is the correct form.

Also included in the EDR are the most current enforcement action formats used by the Department, such as consent and unilateral orders and referrals to the Attorney General or Chief State's Attorney. Boiler plate language is included to assure that all enforcement actions issued

by the Department are consistent. There is formatted language regarding, for instance, dates of issuance, approval processes, compliance audits, supplemental environmental projects and corporate resolutions. The EDR also provides links to EPA's Online Tracking Information System (OTIS) and the BEN and ABEL computer models as well as the Secretary of the State's website to obtain corporation information.

***Identification of Opportunities for EPA to Assist CTDEEP
Development of Meaningful Compliance/Enforcement Measures and Alternative Compliance/
Monitoring Strategies)***

Although CT DEEP is committed to continue to report and track traditional measures of enforcement such as orders issued and closed and referrals to the Office of the Attorney General, CTDEEP would appreciate EPA's support of CT DEEP's efforts to develop more quantitative measures that demonstrate the success of enforcement and compliance assistance activities, such as tons of emissions reduced, compliance rates and regulatory requirements avoided through the implementation of pollution prevention. EPA and CT DEEP need to develop more effective measures that support CT DEEP's ability to explore innovative approaches developed by both EPA and the states. The CT DEEP is currently exploring pro-active systematic compliance approaches intended to reduce threats posed by mismanaged mercury-containing products, auto recycling operations and marinas, among others. The primary goal for the development of such additional measures is that they more accurately reflect the impact of enforcement and compliance efforts on the environment and public health.

EPA has recently expressed support to advance innovative approaches to improve compliance in light of the growing gap caused by shrinking resources, the expanding universe of sources and the emergent environmental and health priorities. While there is a need to continue to improve compliance and overall performance of the regulated community, EPA has also recently promoted a vision to shift the paradigm of enforcement towards permits and regulations that compel compliance by advancing initiatives such as electronic reporting with automated compliance evaluations; improved transparency; self-certification; and third-party certification and verification. This paradigm shift will necessitate that the limited enforcement resources be utilized to enable states to fulfill a critical role of regulatory enforcement in a way that will be better aligned with environmental and health priorities.

The types of initiatives EPA has identified will provide states with the flexibility and necessary capacity to apply appropriate compliance strategies and tools to address priority environmental or health risks. This paradigm shift in compliance may afford states the opportunity to reduce the number or frequency of inspections for major facilities (Title V air, NPDES water, RCRA waste management facilities) that demonstrate a high rate of compliance to focus on other areas of concern, including facilities not otherwise inspected.

State and EPA E-Enterprise

Just as growing demands and shrinking resources call on States and EPA to collaborate for efficiency, environmental data management requires the same mutual effort. States and EPA are cooperatively implementing the E-Enterprise. In addition, CT DEEP works with the National Environmental Information Exchange Network (Exchange Network) to improve the accuracy and transparency of environmental information. The Exchange Network enables States and EPA to use the internet to electronically share and publish their information, including data related to pollutant discharge and enforcement activities.

For example, CT DEEP participates with other State environmental agencies and EPA on a jointly-developed product called NetDMR that allows NPDES permittees to electronically sign and submit their discharge monitoring reports (DMRs). The Exchange Network allows EPA and State regulators to automatically share these electronic records. This helps ensure consistency among data sets and offers opportunities to improve access to information, streamline data management efforts, and create new efficiencies in the enforcement process.

However, there remain many obstacles that still need to be addressed. For example, State data and the compiled data in EPA's databases often do not match. This data needs to match in order for States and EPA to agree on courses of action, and for the public to be correctly informed. EPA has acknowledged that this reconciliation process is necessary and is underway through the work of the Exchange Network (www.exchangenetwork.net). Until that is complete, State databases are still the primary sources of data, especially for specific sites.

Data system improvements should be designed to allow EPA and States to evaluate the significance of noncompliance, for example, both for discharging facilities and water quality of receiving water bodies, and prioritize the most serious environmental problems. The Exchange Network also holds the potential to help aggregate information from disparate State and EPA sources and make it available on the internet in a common format. More timely access to higher quality information will give both environmental managers and the public the power to make better decisions.

Compliance and Enforcement Priorities and Accomplishments

According to CT DEEP's FY 14 – 17 Compliance Assurance Strategy submitted to EPA as part of CT DEEP/EPA's Performance Partnership Agreement (PPA), CT DEEP works with EPA NE to support priorities set by EPA's Office of Enforcement and Compliance Assurance (OECA) as identified in the National Program Manager's Guidance.

CT DEEP's Compliance Assurance goal is to maintain and further enhance environmental protection in CT by using permitting, assistance and enforcement resources in an integrated manner to solve the environmental problems identified as priorities. It is within the context of the priorities and transformation initiatives referenced below that CT DEEP decides how to best deploy its compliance tools.

- Climate and Energy
- Water Quality, including Sustainable Water and Wastewater Infrastructure
- Air Quality, including Interstate Transport Pollutants and Mercury
- Materials Management & Site Clean-up
- Working for Environmental Justice
- Identification of Emerging Contaminants

With the merger of environmental protection with energy, CT DEEP is poised to demonstrate that a sound and integrated approach to environmental, natural resource and energy policy can lead to sustainable economic growth and job creation. As part of its transformation, the Department is focused upon becoming more efficient, effective, responsive, predictable and transparent through initiatives such as a focus upon process improvements (LEAN); information system reform; metrics enhancement and development; and expansion of professional development opportunities.

Cross-media Compliance Assurance Targets and Initiatives: The Department applies an integrated problem-solving approach that defines compliance problems up front, outlines the most effective compliance assurance tools to address the problem and identifies the measures that will be used to evaluate compliance and demonstrate environmental and performance improvements as a result of the initiative. For some sectors the Department delivers traditional compliance assistance in the form of outreach and education e.g., guidance materials, workshops and training. For other sectors that have more widespread compliance problems, the Department has developed cross-media compliance assurance initiatives that include a broad range of compliance assurance components including compliance assistance, inspection, compliance assessment, enforcement follow-up and measurable results e.g., compliance rates, environmental benefits.

Over the last several years the Department has continued to strive towards the development of compliance rates. Compliance rate analysis moves the agency one step away from output measures and towards outcome measures by reflecting behavioral changes within specific industrial sectors or facility types within the regulated community at large. Data reflecting the underlying rate of compliance by sector and facility type will allow the Department to make better, more effective use of existing resources.

The following are sectors or areas where the Department has developed broader cross-media compliance assurance initiatives. Each compliance initiative is comprised of multiple phases. The following initiatives will be pursued as Compliance Assurance priorities for FY 14-17. CT DEEP recognizes that each media program has EPA specified targets or core program commitments they must meet: e.g., **number of inspections for CWA- NPDES majors and Significant Industrial Users; RCRA- LQG's, SQG's; CAA – Title V, etc.** Within those parameters, CT DEEP makes a determination regarding either the tools that may be applied to achieve compliance or the geographic area or sector where those tools may be deployed. Some of the areas identified below are not reported to EPA through the national databases for RCRA, Air Title V sources or the NPDES program. Nevertheless, they are valuable efforts focused on areas in need of attention that CT DEEP encourages EPA to recognize as resource commitments that can be balanced against other commitments through the PPA negotiation process:

- ***Environmental Justice:*** The CT DEEP's Environmental Justice Program is one of the oldest environmental justice programs in the nation. Since its creation in 1993, CT DEEP has developed a policy and strategies in response to the needs identified by local community groups, residents and the municipalities it serves. The Environmental Justice Program strives to ensure that minorities and historically excluded communities have meaningful access to the Department as well as to ensure a healthy environment and that opportunities to enjoy natural resources are available in urban neighborhoods. The CT DEEP is committed to incorporating the principles of environmental justice into its program development and implementation, its policy making and its regulatory activities. One of the primary objectives of CT DEEP's environmental justice program is to educate communities regarding their rights to ensure they have opportunities to participate in CT DEEP's ongoing operations and program development, including but not limited to inclusion on the agency's advisory boards and commissions, regulatory review panels, and planning and permitting activities.

In support of CT DEEP's Environmental Justice Policy which maintains "that no segment of the population should, because of its racial, ethnic or economic makeup, bear a disproportionate share of the risks and consequences of environmental pollution or be denied equal access to environmental benefits," it has been the Department's past practice as part of the notice requirement for certain facilities to require submittal of an Environmental Equity Plan. Conn. Gen. Stat. section 22a-20a "An Act Concerning Environmental Justice Communities" was implemented by CT DEP in 2009. This Act expands the notice requirements of CT DEEP to provide more meaningful public participation for specifically defined permit applications for new facilities and expansions of such facilities located in environmental justice communities.

- ***Small Commercial Businesses:*** In FY 14-17 CT DEEP will continue to offer a compliance assistance program directed at small businesses improve awareness of and compliance with environmental regulatory requirements. CT DEEP will continue to promote and electronically disseminate the RCRA Small Quantity Generator Guidance Document and other compliance assistance.

In FY 14, CT DEEP adopted with US EPA-NE approval, a pilot RCRA Small Business Enforcement Policy. This new pilot policy provides relief from penalties resulting from hazardous waste management violations if certain requirements are met for first-time violators that are small businesses. The policy allows for a full-waiver of the gravity-based portion of the civil penalty in return for prompt correction of the violations and a demonstrated investment in future compliance. In FY 14-17 CT DEEP will continue to implement as appropriate, and assess this policy for more permanent adoption.

- ***Auto Recycling Compliance Initiative:*** Approximately five years ago the Department began a coordinated compliance assistance initiative aimed at improving the environmental compliance with the Auto Recycling Industry. It has been CT DEEP's experience that auto recyclers are frequently found to be out of compliance with environmental regulations and best management practices. These violations include soils stained with petroleum products, improper storage of used oil, waste gasoline and spent batteries on soil, containers and tanks of waste in poor condition run-off of petroleum-contaminated rainfall, and large stockpiles of scrap tires in wetlands. As part of the compliance assistance effort, the Department developed an environmental compliance guide specifically tailored for the auto recycling industry. As a follow-up to the compliance assistance efforts, CT DEEP has consistently pursued multimedia inspections using a multi-media checklist at auto recyclers and enforcement actions in pursuit of achieving compliance within this sector. For FY 14, DEEP will complete the multimedia inspections at all licensed auto recyclers that did not proactively participate in the compliance assistance initiative and CT DEEP will continue to follow-up with enforcement at auto recyclers in accordance with our ERP.
- ***Generator Status Checks/Manifests Initiative:*** For many years CT DEEP has utilized readily available data to identify indicators of noncompliance. Specifically, CT DEEP uses the hazardous waste manifest database to screen for companies that are shipping LQG amounts of hazardous waste and are not notified in RCRIS as a LQG. CT DEEP has found this to be an effective and efficient approach to schedule use of limited inspector resources at locations where there is a greater likelihood for noncompliance rather than relying on a random selection of generators to be inspected.
- ***Wet Weather - Industrial Stormwater General Permit Compliance Initiative:*** CT DEEP is continuing its efforts to improve compliance with its General Permit for the Discharge of Stormwater Associated with Industrial Activity ("industrial stormwater general permit"). Several years ago, the Department began targeting facilities in the **auto recycling, marina and construction sectors** that had stormwater monitoring results that demonstrated their discharges to be in excess of discharge goals contained in the general permit. Multi-media

inspections were conducted for the above-referenced sectors and follow-up compliance action will be taken in FY 14-17 as necessary.

- **Marina Compliance Initiative:** In FY 14-17 the CT DEEP will continue to support CT's *Clean Marina Certification Program*. Connecticut's Clean Marina Program is a voluntary program that encourages inland and coastal marina operators to minimize pollution by certifying as "Clean Marinas" those marinas, boatyards, and yacht clubs that operate at environmental standards above and beyond regulatory compliance.
- **Pharmaceutical Disposal: Universal waste rule, regulations & outreach** Appropriate handling standards and disposal methods for pharmaceuticals need to be established and enforced across all states. Pharmaceuticals discharged to POTWs are subject to variability in their treatment. The majority are passed through the POTW system untreated and discharged directly into public waters, threatening both human drinking water supplies and aquatic organisms. Disposing of prescription and nonprescription medications down the sink or toilet, for instance, causes water pollution and has adverse effects on septic systems, sewage treatment plants, fish and other aquatic life. Casual disposal prescription and nonprescription medications into the Subtitle D solid waste system can lead to diversion into illegal sale and abuse, and thereby creating adverse effects and risk to public health. These problems persist within both distribution/retail sales, as well as within the hospitals and healthcare sectors.

On December 2, 2008, EPA proposed but did not finalize adding hazardous pharmaceutical wastes to the Universal Waste Rule. In 2013, EPA announced that they were in the process of developing a new proposal for healthcare facility specific management standards. However, it is uncertain when such a rulemaking will become final, therefore in FY 14 – 16 CT DEEP will continue to advocate for this issue as a national enforcement and compliance priority as there are thousands of pharmaceutical retail locations, and hospitals and health care facilities throughout the country.

In FY 14, CT DEEP will convene a stakeholders group to State-list hazardous pharmaceuticals as a universal waste in Connecticut. The stakeholders group is comprised of professionals with broad pharmaceutical expertise to assist in this rulemaking effort, including individuals from the CT Department of Public Health, the CT Department of Consumer Protection Drug Control Division, the retail sector, pharmaceutical manufacturing, collection and transportation sector, pharmaceutical distribution, consulting, environmental law, and hospitals, pharmacy practice, and veterinary medicine.

In FY 14-16 CT DEEP will continue to hold stakeholder group meetings, develop draft regulations and formally propose to State-list hazardous pharmaceuticals as a universal waste. CT DEEP will develop on its own or in conjunction with other US EPA_NE region states, a grant-flex option as an alternative to inspecting the pharmaceutical segment of the LQG universe. The grant-flex option will shift compliance monitoring and enforcement resources to the higher priority task of working to revise the regulations applicable to hazardous waste pharmaceuticals.

CT DEEP will also continue to work on the issue of consumer pharmaceutical disposal with CT Department of Consumer Protection (“DCP”), water companies, and businesses by posting information about medicine collection events and instructions for disposing of pharmaceuticals safely on the CT DEEP’s website. CT DEEP will continue the open dialog with the DCP Drug Control Division concerning the avoidance of flushing as a method of witness destruction to meet the “non-retrievable standard” for controlled substances.

- **Recycling:** The RCRA hazardous and solid waste program has institutionalized and will continue to use an abbreviated recycling inspection checklist as a supplement to certain RCRA and Solid Waste Facility inspections. The checklist developed and piloted during FY 09-10 and provides a quick assessment of whether the inspected sites have compliant recycling programs in place, and whether mandated recyclables are being properly managed. Use of the checklist will not add a substantive amount of time to inspections, so it should not affect RCRA or Solid Waste inspection goals. This project is intended as a pilot for later use Department-wide.

CT DEEP’s RCRA hazardous and solid waste programs will continue to use a template for requiring a recycling business profile or audit as part of enforcement settlements. This initiative will continue in FFY 14-17, to increase the regulated entities understanding of the recycling requirements and increase compliance with the state’s recycling requirements. Recycling information will also continue to be updated and promoted on the Department’s website in order that outreach efforts reach beyond the generators and facilities that the RCRA hazardous and solid waste program normally inspects such as institutions, large office buildings and businesses, shopping malls and other retail establishments.

CT DEEP has been working with several cities (e.g., Hartford, New Haven Waterbury) and organizations like BOMA (Building Owners and Managers Association) to educate property managers and owners of residential and commercial office building about mandatory recycling laws. CT DEEP inspection and enforcement staff will continue to support outreach events, site inspections, and provide technical assistance and have also issued many Notices of Violation in order to gain improved compliance.

- **Electronic Equipment Recycling:** In FY 14-17, CT DEEP will continue to implement the electronic equipment recycling law that was passed in 2007. Under the CT law, residents will have convenient and free opportunities for recycling their computers, televisions and monitors. The financial burden for recycling electronic waste will rest with the manufacturers while the towns will have their electronic waste picked up and recycled at no expense. In FY 14-17, CT DEEP will focus on outreach and education to improve public awareness and participation with the EWaste recycling. CT DEEP will also include EWaste facilities within its compliance monitoring and enforcement program to ensure compliance with RCRA and CT EWaste law requirements.

- ***Financial Assurance:*** In FY 05, the CT DEEP was the first state to volunteer to participate in an EPA pilot program to review potential compliance issues with RCRA Subpart H financial assurance requirements. The pilot was spurred by notable recent corporate defaults and scandals, such as Safety-Kleen and Enron, and has resulted in a national enforcement priority. In FFY 14-17 CT DEEP will continue specific financial record reviews (FRR) to ensure compliance with the financial assurance requirements. **FRRs are limited to** within available resources in coordination with EPA to ensure proper cleanup of releases to the environment is conducted.
- ***Air Toxics - Anti-Idling Strategy: Diesel emission reductions:*** As a complement to the Department's Clean Diesel Plan, the Department is implementing an anti-idling strategy to address the problem of excessive motor vehicle idling. Key elements of this strategy involve educating the public, improving enforcement tools and targeting key sectors. The major effort in this area is the Department's anti-idling signage program, which provides notice to drivers and is critical to educating the public and improving compliance rates.

Additional Compliance Assistance and Pollution Prevention Initiatives in Priority Sectors:

Mercury Action (dental mercury; phase-out of certain mercury containing products; limiting mercury emissions from MWC and SSI's); Hospitality-CT Green Lodging (voluntary self-certification); Toxics in Packaging Compliance; Dry Cleaners; Vehicle Service Industry; Schools (energy efficiency - high building performance standards); Hospitals (Roundtable and coordination with EPA on self-audits); Organic Land Care; Greening DEP Conservation Plan; and Green "less toxic" Cleaning.