

# **STATE REVIEW FRAMEWORK**

## **Connecticut**

**Clean Water Act, Clean Air Act, and  
Resource Conservation and Recovery Act  
Implementation in Federal Fiscal Year 2022**

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

**Final Report  
March 13, 2024**

# I. Introduction

## A. Overview of the State Review Framework

The State Review Framework (SRF) is a key mechanism for EPA oversight, providing a nationally consistent process for reviewing the performance of state delegated compliance and enforcement programs under three core federal statutes: Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. Through SRF, EPA periodically reviews such programs using a standardized set of metrics to evaluate their performance against performance standards laid out in federal statute, EPA regulations, policy, and guidance. When states do not achieve standards, the EPA will work with them to improve performance.

Established in 2004, the review was developed jointly by EPA and Environmental Council of the States (ECOS) in response to calls both inside and outside the agency for improved, more consistent oversight of state delegated programs. The goals of the review that were agreed upon at its formation remain relevant and unchanged today:

1. Ensure delegated and EPA-run programs meet federal policy and baseline performance standards
2. Promote fair and consistent enforcement necessary to protect human health and the environment
3. Promote equitable treatment and level interstate playing field for business
4. Provide transparency with publicly available data and reports

## B. The Review Process

The review is conducted on a rolling five-year cycle such that all programs are reviewed approximately once every five years. The EPA evaluates programs on a one-year period of performance, typically the one-year prior to review, using a standard set of metrics to make findings on performance in five areas (elements) around which the report is organized: data, inspections, violations, enforcement, and penalties. Wherever program performance is found to deviate significantly from federal policy or standards, the EPA will issue recommendations for corrective action which are monitored by EPA until completed and program performance improves.

The SRF is currently in its 4th Round (FY2018-2022) of reviews, preceded by Round 3 (FY2012-2017), Round 2 (2008-2011), and Round 1 (FY2004-2007). Additional information and final reports can be found at the EPA website under [State Review Framework](#).

# II. Navigating the Report

The final report contains the results and relevant information from the review including EPA and program contact information, metric values, performance findings and explanations, program responses, and EPA recommendations for corrective action where any significant deficiencies in performance were found.

## A. Metrics

There are two general types of metrics used to assess program performance. The first are **data metrics**, which reflect verified inspection and enforcement data from the national data systems of each media, or statute. The second, and generally more significant, are **file metrics**, which are derived from the review of individual facility files in order to determine if the program is performing their compliance and enforcement responsibilities adequately.

Other information considered by EPA to make performance findings in addition to the metrics includes results from previous SRF reviews, data metrics from the years in-between reviews, multi-year metric trends.

## B. Performance Findings

The EPA makes findings on performance in five program areas:

- **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, accuracy of compliance determinations, and determination of significant noncompliance (SNC) or high priority violators (HPV)
- **Enforcement** - timeliness and appropriateness of enforcement, returning facilities to compliance
- **Penalties** - calculation including gravity and economic benefit components, assessment, and collection

Though performance generally varies across a spectrum, for the purposes of conducting a standardized review, SRF categorizes performance into three findings levels:

**Meets or Exceeds:** No issues are found. Base standards of performance are met or exceeded.

**Area for Attention:** Minor issues are found. One or more metrics indicates performance issues related to quality, process, or policy. The implementing agency is considered able to correct the issue without additional EPA oversight.

**Area for Improvement:** Significant issues are found. One or more metrics indicates routine and/or widespread performance issues related to quality, process, or policy. A recommendation for corrective action is issued which contains specific actions and schedule for completion. The EPA monitors implementation until completion.

## C. Recommendations for Corrective Action

Whenever the EPA makes a finding on performance of *Area for Improvement*, the EPA will include a recommendation for corrective action, or recommendation, in the report. The purpose of recommendations are to address significant performance issues and bring program performance back in line with federal policy and standards. All recommendations should include

specific actions and a schedule for completion, and their implementation is monitored by the EPA until completion.

### **III. Review Process Information**

#### **Clean Water Act (CWA)**

Kickoff Meeting for Connecticut DEEP Round 4 Review: April 20, 2023

Connecticut DEEP CWA Contacts: Graham Stevens (860) 424-4166; Audra Dickson (860) 424-3056

EPA CWA Regional Reviewer: Jack Melcher (617) 918-1663

#### **Clean Air Act (CAA)**

Kickoff Meeting for Connecticut DEEP Round 4 Review: April 20, 2023

Connecticut DEEP CAA Contact: Jake Felton (860) 424-3658

EPA CAA Regional Reviewer: Tom McCusker (617) 918-1862

#### **Resource Conservation and Recovery Act (RCRA)**

Kickoff Meeting for Connecticut DEEP Round 4 Review: April 20, 2023

Connecticut DEEP RCRA Contact: Gabrielle Frigon (860) 424-3795

EPA RCRA Regional Reviewer: Linda Brolin (617) 918-1876

#### **State Review Framework (SRF) Contacts**

Camille Fontanella, CT DEEP, (860) 424-3074

James Chow, EPA Region 1, (617) 918-1394

Tom McCusker, EPA Region 1: (617) 918-1862

# Executive Summary

## Introduction

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### Clean Water Act (CWA)

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 CWA Round 4 SRF review included files selected to capture activities conducted by CT DEEP in Federal Fiscal Years (FFYs) 2022 (22 files), 2021 (1 file), 2019 (3 files), and 2018 (1 file). EPA reviewed files provided electronically and performed hard-copy file reviews and conversations with CT DEEP managers and staff on May 24 and 25, 2023.

For purposes of this report, EPA has highlighted the most important metrics that demonstrate CT DEEP's program performance. The EPA will track recommended actions from the review in the SRF Manager database and will publish final reports and recommendations in EPA's ECHO database.

### Clean Air Act (CAA)

The Air Program, regarding the Clean Air Act (CAA) specifically, conducted a SRF review of the CT DEEP pertaining to activities conducted by CT DEEP in Federal Fiscal Years (FFYs) 2022 (26 files), 2021 (2 files), and 2020 (2 files). In order to review a representative sampling of federally-reportable violations (FRVs), stack test failures and enforcement case files, the review extended into the years preceding FFY 2022, as described above. The review entailed analyzing both data metrics and file metrics in order to evaluate CT DEEP's strengths and areas for attention in carrying out its compliance and enforcement responsibilities under the CAA. The report will provide findings under these five major headings: Data, Inspections, Violations, Enforcement, and Penalties. Under each heading, EPA will evaluate whether CT DEEP is meeting or exceeding expectations or, as necessary, point out areas where EPA will request that CT DEEP focus further attention. In cases where there is only a minor concern, EPA will merely point out the issue.

In conducting the file review portion of this SRF, EPA looked at 30 case files (23 Title V major sources, 2 Mega sources and 5 SM80 sources). Mega sources are a subset of Title V sources that are considered more complex and require more time to conduct full compliance evaluations/inspections. SM80 sources are sources where air emissions are capped at, or above, 80 percent of the major source threshold for a given air pollutant.

## **Resource Conservation and Recovery Act (RCRA)**

The RCRA Program regarding the Resource Conservation and Recovery Act (RCRA) specifically, conducted a SRF of the CTDEEP pertaining to activities conducted by CTDEEP in Federal Fiscal Years (FFYs) 2022 (25 files) 2021 (4 files) and 2020 (1 file). In order to review a representative sampling of formal enforcement case files, the review extended into FFY 2020 and 2021 for the enforcement program oversight review of the CTDEEP.

EPA bases SRF findings on numerous data and file review metrics, summaries of which are included in this report, as well as conversations with program management and staff.

For purposes of this report, EPA has highlighted the most important metrics that demonstrate CT DEEP's program performance. The EPA will track recommended actions from the review in the SRF Manager database and will publish final reports and recommendations on EPA's ECHO web site.

## **Areas of Strong Performance**

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The following are aspects of the programs that, according to the review, are being implemented at a high level:

### **Clean Water Act (CWA)**

- CT DEEP exceeds the national goal for data entry on permit limits and Discharge Monitoring Reports.
- CT DEEP performed at least the amount of compliance monitoring activities (including off-site Desk Audits and on-site inspections) provided in its Compliance Monitoring Strategy for most program areas.
- CT DEEP's inspection reports were completed and sufficient to determine compliance at the facility.
- CT DEEP's files reviewed generally provided accurate compliance determinations. CT DEEP enters Single Event Violations into ICIS.
- Facilities in Connecticut generally have lower non-compliance rates than national averages.
- CT DEEP provided enforcement responses for most program areas that returned, or will return, sources in violation to compliance.
- CT DEEP addressed Significant Noncompliance ("SNC") at major NPDES facilities at a greater rate than the national average.
- CT DEEP generally documents its penalty calculations, including both gravity and economic benefit penalty components.
- CT DEEP generally documents the rationale for difference between initial penalty calculation and final penalties.
- CT DEEP generally collects assessed penalties.

## **Clean Air Act (CAA)**

- CT DEEP inspection reports, for Title V sources, contain Attachment C, which is a “Permit Review” section that includes all applicable requirements for each air emission source found at a facility. This provides for extremely comprehensive inspection reports with a streamlined procedure for inspectors to use to evaluate compliance and to document compliance determinations made at facilities.
- CT DEEP does an excellent job of documenting violations and making accurate compliance and HPV determinations.
- CT DEEP does an excellent job of providing early warning notice, through informal enforcement actions, to facilities with violations to expedite their return to compliance and does an excellent job of taking formal enforcement when necessary.
- CT DEEP does an excellent job of calculating and documenting the “gravity” portion of penalties that it assesses, according to its Penalty Policy and also does a good job of documenting economic benefit, with a couple of minor exceptions. CT DEEP also does an excellent job of documenting that penalties have been collected.
- Both the file review metrics and the data metrics indicate that CT DEEP does a very good job regarding the timely entry of minimum data requirements (MDRs) into ICIS.

## **Resource Conservation and Recovery Act (RCRA)**

- CT DEEP does an excellent job maintaining current accurate data and reporting it in a timely manner into the national database. During the time periods reviewed, inspection counts, documentation of violations and enforcement actions were accurate.
- CT DEEP’s enforcement actions are generally brought in a timely manner and return facilities to compliance in a timely manner.
- CT DEEP prepares inspection reports that document compliance status and determine violations and document the observed violations in their inspection records and enforcement responses. Each of the files reviewed that identified violations had accurate and complete descriptions of the violations observed during the inspection and had adequate documentation to support CT DEEP’s compliance determinations.
- CT DEEP completed 6/8 of its Treatment, Storage and Disposal Facilities (TSDF) inspections in FFY 2021 and 2022. CTDEEP conducted 9 Large Quantity Generator (LQG) inspections, conducted 7 Small Quantity Generator (SQG) inspections, and conducted 11 other inspections (which included an off-site record review (NRR) and an on-site Focused Compliance Inspection (FCI) of the facility’s hazardous waste storage area). CT DEEP also provided inspection targets as requested to the EPA, some of which included LQGs. CT DEEP also inspects generator categories other than LQGs.
- CT DEEP exceeded the national average for 62.1% violations found during CEI and FCI compliance evaluations.
- CT DEEP exceeded the national average for 5.4% SNC identification rate at sites with CEI and FCI.

## **Priority Issues to Address**

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The following are aspects of the programs that, according to the review, are not meeting federal standards and should be prioritized for management attention:

### **Clean Water Act (CWA)**

The following aspect of the CWA program, according to the review, could use further attention by CT DEEP:

- Occasionally, CT DEEP did not finalize inspection reports in a timely manner. All of the non-timely inspection reports identified were in the stormwater programs.
- For the construction stormwater program area, CT DEEP occasionally failed to provide an enforcement response that returned, or will return, facilities in violation to compliance.

The following aspect of the CWA program, according to the review, is an Area for Improvement by CT DEEP:

- CT DEEP did not meet its goal for compliance monitoring of Municipal Separate Storm Sewer Systems (MS4).
- CT DEEP did not provide enforcement responses that returned, or will return, facilities in violation to compliance for the MS4 program area.

### **Clean Air Act (CAA)**

A review of the file review metrics and the data metrics (Data Metric Analysis and Data Verification) indicate that CT DEEP had some minor issues regarding the completeness and accuracy of data entered into ICIS, including, in one instance, not reporting an informal enforcement action in ICIS, which also resulted in not creating a FRV case file for this activity in ICIS. In addition, the following items were noted: the date of one inspection reported to ICIS was inconsistent with the actual inspection date; three penalties were not properly reported to ICIS (the amount of penalty paid to the CT DEEP SEP account was unaccounted for in two cases and one penalty was not reported at all); and, one stack test was reported as a “pass” when the actual result was a “fail”.

### **Resource Conservation and Recovery Act (RCRA)**

- CT DEEP needs to address the SNY evaluation with timely enforcement within 360 days.
- CT DEEP needs to address the 90 long-standing secondary violators.



# Clean Water Act Findings

## CWA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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### Recurring Issue:

No

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### Summary:

Connecticut DEEP exceeds the national goal for data entry on permit limits, Single Event Violations, and Discharge Monitoring Reports.

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### Explanation:

Subpart C of the NPDES Electronic Reporting Rule (40 C.F.R. Part 127) provides responsibilities for Connecticut DEEP to electronically transfer to EPA information listed in Appendix A to Part 127, the Minimum Set of NPDES Data. The Minimum Set of NPDES Data include limit information and Single Event Violations. Forty C.F.R. § 122.41(l)(4) requires that all reports and forms must be submitted electronically by the permittee. File reviews under Metric 2b include the entry of Single Event Violations when non-compliance is documented in case files.

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### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
1b5 Completeness of data entry on major and non-major permit limits. [GOAL]	95%	98%	147	147	100%
1b6 Completeness of data entry on major and non-major discharge monitoring reports. [GOAL]	95%	97%	3890	3942	98.7%
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		19	22	86.4%

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### State Response:

**Water Permitting & Enforcement Division (WPED):** With respect to the completeness of data entry to comply with the eRule, including the data entry for all SEVs, WPED strives for 100%

timely, accurate, and complete data entry; we have continually reevaluated our internal processes governing ICIS data stewardship and have developed new business rules in this area.

**Water Planning & Management Division (Municipal Wastewater Program):** Program staff expects to achieve this element based on existing resources and program functions. We agree with EPA's above findings. Our ability to meet the commitments in our CMS/PPA and exceed the national average over the past many years is a direct result of our staff's hard work and commitment to our mission.

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## **CWA Element 2 - Inspections**

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### **Finding 2-1**

Meets or Exceeds Expectations

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### **Recurring Issue:**

No

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### **Summary:**

Connecticut DEEP performed at least the amount of compliance monitoring activities (including off-site Desk Audits and on-site inspections) provided in its Compliance Monitoring Strategy for most program areas. Inspection reports were completed and sufficient to determine compliance at the facility.

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### **Explanation:**

See metrics table, below. For purposes of this review, off-site Desk Audits were included in counts of facilities inspected. SRF Metric 4a1 (pretreatment compliance inspections and audits at approved local pretreatment programs) is not included in the table because CT DEEP has elected to assume responsibility for implementing the pretreatment program pursuant to 40 C.F.R. § 403.10(e). SRF Metric 4a11 (biosolids) is not included in the table because CT DEEP has not been authorized by EPA to implement the biosolids program.

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### **Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to non-authorized POTWs. [GOAL]	100% of commitments		143	154	92.9%
4a4 Number of CSO inspections. [GOAL]	100% of commitments		1	1	100%
4a5 Number of SSO inspections. [GOAL]	100% of commitments		4	4	100%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of commitments		86	84	102.4%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments		16	10	160%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments		2	0	100%
5a1 Inspection coverage of NPDES majors. [GOAL]	100% of commitments		31	29	106.9%
5b1 Inspections coverage of NPDES non-majors with individual permits [GOAL]	100% of commitments		16	15	106.7%
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%		22	22	100%

**State Response:**

**Water Planning & Management Division (Municipal Wastewater Program):** Municipal program staff expect to achieve this element based on existing resources and program functions.

**Water Permitting & Enforcement Division:** We thank EPA for its thorough review of our performance with respect to meeting our Compliance Monitoring Strategy inspections. We agree with EPA's above findings.

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**CWA Element 2 - Inspections**

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**Finding 2-2**

Area for Attention

**Recurring Issue:**

No

**Summary:**

Occasionally, CT DEEP did not finalize inspection reports in a timely manner. All of the non-timely inspection reports identified were in the stormwater programs.

**Explanation:**

EPA's NPDES Compliance Inspection Manual provides a standard of 30 days following an inspection to complete an inspection report. CT DEEP does not have a policy that provides a different standard.

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6b Timeliness of inspection report completion [GOAL]	100%		16	22	72.7%

**State Response:**

**Water Planning & Management Division (Municipal Wastewater Program):** Municipal program staff expect to achieve this element based on existing resources and program functions.

**Water Permitting & Enforcement Division (WPED):** It is our intention to complete all inspection reports within the identified standard of 30 days. Due to the extended leave of one staff member, the departure of one working level staff, and the retirement of two long-standing senior staff members within the stormwater program during the period of review, we were unable to meet the national goal. We strive for 100% timely and accurate inspection reports; with additional staff recently hired and the re-evaluation of our internal processes governing our inspection reports, we expect to meet the 30-day deadline for future inspection reports.

**CWA Element 2 - Inspections****Finding 2-3**

## Area for Improvement

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### **Recurring Issue:**

No

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### **Summary:**

CT DEEP did not meet its goal for compliance monitoring of Municipal Separate Storm Sewer Systems.

CT DEEP did not meet its goal for inspection coverage of NPDES non-majors with general permits, which are defined for this review as the sum of municipal stormwater, industrial stormwater, and construction stormwater goals.

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### **Explanation:**

EPA's Compliance Monitoring Strategy provides that, unless an Alternative Compliance Monitoring Strategy is submitted, authorized programs will determine compliance at least every five years, with onsite audit or inspection at least every seven years. For FY2022, CT DEEP planned to perform 80 off-site Desk Audits and three on-site inspections; CT DEEP's end-of-year report stated that seven off-site Desk Audits and five on-site inspections were performed. This performance is summarized in Metric 4a7, below.

In addition, EPA reviewed CT DEEP's performance using the year-over-year metrics provided in the Compliance Monitoring Strategy. During the seven-year period from FY2016 through FY22, CT DEEP performed 82 on-site inspections of MS4s, 62% of the Compliance Monitoring Strategy goal. During the five-year period from FY2018 through FY2022, CT DEEP performed 63 compliance evaluations (Desk Audits or inspections), 47% of the Compliance Monitoring Strategy goal.

Although CT DEEP met its goals for industrial stormwater and construction stormwater, the low number of municipal stormwater Desk Audits caused the coverage of non-majors with general permits to be significantly below the total goal for these categories.

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### **Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of commitments		12	83	14.5%
5b2 Inspections coverage of NPDES non-majors with general permits [GOAL]	100%		114	177	64.4%

**State Response:**

**Water Permitting & Enforcement Division:** We generally agree with EPA’s above findings, Due to an extended leave of one staff, the departure of one working level staff and the retirement of two long standing senior staff members within the stormwater program during the period of review, we were unable to meet this goal. With the recent return from leave of a senior level staff and the hiring of several new staff, we are committed to providing and meeting an ACMS commitment moving forward.

**Recommendation:**

Rec #	Due Date	Recommendation
1	07/15/2024	Provide a plan for MS4 compliance monitoring during federal FY2025. The plan should either provide for performing compliance monitoring on a pace to achieve the national goal (19 on-site inspections and 27 off-site desk audits) or provide an Alternative Plan, as provided for in the Compliance Monitoring Strategy guidance.
2	11/30/2025	Provide an end-of-year report for federal FY2025 describing MS4 compliance monitoring activities and comparing performance to CT DEEP's plan.

**CWA Element 3 - Violations**

**Finding 3-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

CT DEEP's files reviewed generally provided accurate compliance determinations. CT DEEP enters Single Event Violations into ICIS. Facilities in Connecticut generally have lower non-compliance rates than national averages.

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**Explanation:**

See metrics table, below.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
7e Accuracy of compliance determinations [GOAL]	100%		23	24	95.8%
7j1 Number of major and non-major facilities with single-event violations reported in the review year.			28		28
7k1 Major and non-major facilities in noncompliance.		16%	137	2557	5.4%
8a3 Percentage of major facilities in SNC and non-major facilities Category I noncompliance during the reporting year.		6%	24	2556	.9%

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**State Response:**

**Water Planning & Management Division (Municipal Wastewater Program):** Program staff expects to achieve this element based on existing resources and program functions.

**Water Permitting & Enforcement Division (WPED):** We are currently performing a resource assessment to determine if additional resources are needed to continuously meet these commitments and strive to work with the regulated community to achieve compliance with the regulations.

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**CWA Element 4 - Enforcement**

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**Finding 4-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

Connecticut DEEP provided enforcement responses for most program areas that returned, or will return, sources in violation to compliance. Connecticut DEEP addressed Significant Noncompliance ("SNC") at major NPDES facilities at a greater rate than the national average. Enforcement responses reviewed addressed violations in an appropriate manner.

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**Explanation:**

See metrics table, below.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
9a (CAFO) Enforcement responses that returned, or will return, sources in violation to compliance (CAFO)	100%		2	2	100%
9a (IMWW) Enforcement responses that returned, or will return, sources in violation to compliance (Industrial and Municipal WW)	100%		6	6	100%
9a (ISW) Enforcement responses that returned, or will return, sources in violation to compliance (Industrial SW)	100%		2	2	100%
10a1 Percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations		21%	1	2	50%
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%		13	13	100%

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**State Response:**

**Water Planning & Management Division (Municipal Wastewater Program):** Municipal program staff require additional resources for enforcement and the Division is planning to recruit for a new enforcement position with a focus on municipal wastewater and dams safety programs.

**Water Permitting & Enforcement Division:** We are currently performing a resource assessment to determine if additional resources are needed to continuously meet these commitments.



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## CWA Element 4 - Enforcement

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### Finding 4-2

Area for Attention

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### Recurring Issue:

No

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### Summary:

For the construction stormwater program area, CT DEEP occasionally failed to provide an enforcement response that returned, or will return, facilities in violation to compliance.

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### Explanation:

See metrics table, below.

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### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
9a CSWCOW Enforcement responses that returned, or will return, sources in violation to compliance (Construction SW- COW)	100%		3	4	75%

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### State Response:

**Water Permitting & Enforcement Division:** We continuously strive to achieve the 100% goal. With additional resources in the stormwater program, we expect to meet this goal moving forward.

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## CWA Element 4 - Enforcement

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### Finding 4-3

Area for Improvement

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**Recurring Issue:**No

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**Summary:**

CT DEEP did not provide enforcement responses that returned, or will return, facilities in violation to compliance for the MS4 program area.

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**Explanation:**

In the two MS4 files reviewed, CT DEEP did not provide a formal enforcement response, although it appears that such a response would have been appropriate. One facility was in SNC for failing to submit a DMR with its Annual Report attached; the Annual Report had not been written for the previous two years. The other facility was found during an MS4 inspection not to have an MS4 program. ICIS reflects that CT DEEP's last formal MS4 enforcement action was issued in October 2010.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
9a (MS4) Enforcement responses that returned, or will return, sources in violation to compliance (MS4)	100%		0	2	0%

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**State Response:**

**Water Permitting & Enforcement Division (WPED):** Due to an extended leave of one staff member, the departure of one working level staff, and the retirement of two long standing senior staff members within the stormwater program during the period of review, we were unable to meet the goal. With additional resources in the stormwater program, we expect to meet this goal moving forward.

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**Recommendation:**

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Rec #	Due Date	Recommendation
1	09/30/2024	CT DEEP will provide a summary of known non-compliance in its MS4 program area, including a plan, with an implementation schedule, for providing enforcement responses.

## CWA Element 5 - Penalties

### Finding 5-1

Meets or Exceeds Expectations

### Recurring Issue:

No

### Summary:

CT DEEP generally documents its penalty calculations, including both gravity and economic benefit penalty components. CT DEEP generally documents the rationale for difference between initial penalty calculation and final penalties. CT DEEP generally collects assessed penalties.

### Explanation:

See metrics table, below.

### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%		5	5	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		4	4	100%
12b Penalties collected [GOAL]	100%		5	5	100%

### State Response:

**Water Planning & Management Division (Municipal Wastewater Program):** Program staff expects to achieve this element based on existing resources and program functions.

**Water Permitting & Enforcement Division:** We agree with EPA's above findings.

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# Clean Air Act Findings

## CAA Element 1 - Data Timeliness

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### **Finding 1-1**

Meets or Exceeds Expectations

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### **Summary:**

Both the file review metrics and the data metrics indicate that CT DEEP does a very good job regarding the timely entry of minimum data requirements (MDRs) into ICIS.

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### **Explanation:**

A review of Metric 3a2 of the Data Metric Analysis (DMA) indicates that CT DEEP reported five newly identified HPVs into ICIS in a timely manner (100%).

A review of Metric 3b1 of the DMA indicates that 97 out of 99 compliance monitoring activities (98.0%) were entered into ICIS in a timely manner (within 60 days of the activity). Two annual compliance certification reviews were reported to ICIS in an untimely manner.

A review of Metric 3b2 of the DMA indicates that 65 out of 83 stack tests (78.3%) were reported into ICIS in a timely manner (within 120 days of the activity). Of the 18 stack tests reported in an untimely manner, 11 were entered into ICIS less than one month late and seven were entered into ICIS between one and two months late. In addition, based on the file review, it was found that the result code for one stack test was erroneously entered as a “pass” for the test in ICIS when it should have been reported as a “fail.”

A review of Metric 3b3 of the DMA indicates that 35 out of 38 enforcement related MDRs were entered into ICIS in a timely manner (92.1%). Of the three untimely enforcement-related MDRs, two were entered 4 days late and one was entered 26 days late. In addition, based on the file review, it was found that one informal enforcement action was not entered into ICIS and one penalty was not entered into ICIS.

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### **Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
3a2 Timely reporting of HPV determinations [GOAL]	100%	43.9%	5	5	100%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	78.2%	97	99	98%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	66.8%	65	83	78.3%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	78.1%	35	38	92.1%

**State Response:**

See state response to Finding 1-2.

**CAA Element 1 – Data – Accuracy and Completeness**

**Finding 1-2**

Area for Attention

**Summary:**

The file review metric, the DMA, and the data verification metrics indicate that CT DEEP has had some issues regarding the accuracy and completeness of data entered into ICIS. CT DEEP has since entered all missing data or revised data reported inaccurately.

**Explanation:**

A comparison of Metric 1h1 of the Data Verification Metrics (Total Amount of Assessed Penalties) for FFYs 2020 - 2022 (formal enforcement actions where penalties were assessed and collected were reviewed for all three of these fiscal years) with the CT DEEP information reviewed for this metric for FFYs 2020 - 2022 reveals some inconsistencies. The comparison showed that one penalty in the amount \$8,125 was not reported to ICIS and that the penalties collected for two other cases only reflected the amount paid as a civil penalty and not the amount paid to CT DEEP's supplemental environmental project (SEP) account, which EPA Region I advised be added in ICIS under the civil penalty amount. CT DEEP has since entered the proper penalty information into ICIS for the three sources.

A review of Metric 5e of the DMA (Reviews of Title V Annual Compliance Certifications Completed) indicates that CT DEEP conducted reviews of 62 out of 63 sources (98.4%) where Title V annual compliance certifications were due in FFY 2022. The one annual compliance certification not reviewed in FFY 2022 was not received by CT DEEP and CT DEEP took enforcement action against the source to address the failure to submit the certification. The delinquent certification was received and reviewed by CT DEEP in FFY 2023.

A review of Metric 7a1 (FRV Discovery Rate Based on Evaluations of Active CMS Sources) indicates that, per EPA Policy, CT DEEP identified 18 FRVs in FFY 2022. Based on the file review, one additional FRV should have been identified, but this was for FFY 2023, based on an inspection conducted in FFY 2022. A total of 18 out of 19 FRVs were timely reported to ICIS (94.74%). The one instance where CT DEEP didn't identify the FRV was just an oversight. CT DEEP has since entered the missing FRV into ICIS.

A review of Metric 8a of the DMA (Discovery Rate of HPVs at Major Sources) indicates that, for FFY 2022, CT DEEP identified 4 HPVs at major sources (an additional HPV was identified for a minor source (a sewage sludge incinerator) required to obtain a Title V operating permit). EPA's review of 22 Title V major source files and 2 Mega source files did not identify any additional HPVs.

Based on the file review, it was also noted that one informal enforcement action (Notice of Violation) issued in FFY 2022 was not reported in ICIS, and one stack test result was erroneously reported as a "pass" in ICIS when it should have been reported as a "fail." CT DEEP has since entered the missing NOV into ICIS and changed the stack test result in ICIS to "fail." In addition, the date entered into ICIS for the completion of one inspection was inconsistent with the actual inspection date found in the files by three weeks.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		24	30	80%

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**State Response:**

We thank EPA for its thorough review of our performance with respect to the timeliness, accuracy, and completeness of ICIS-Air data entry. We generally agree with EPA's above findings and promptly resolved all data entry anomalies as soon as they were brought to our attention. We are committed to facilitating a transparent enforcement process by timely, accurately, and completely reporting enforcement data into ICIS-Air pursuant to EPA's Minimum Data Requirements (MDR) and Information Collection Request (ICR). To meet the MDR/ICR objectives, we have devoted approximately one-quarter of a senior-level engineer FTE to ICIS data stewardship. We strive for 100% timely, accurate, and complete data entry; we have continually reevaluated our internal

processes governing ICIS data stewardship and have developed new business rules in this area. However, occasional anomalies are bound to occur given the huge universe of data that we are responsible for managing within ICIS.

As for the stack test that was reported as a pass but, in actuality, was a fail, we wish to offer important context. This test, which occurred in April 2020, was handled internally by our staff as a fail. We issued an NOV to address the failed test in December 2020. The violation was cured via a June 2021 NSR permit modification that increased the BACT limit for which the source had failed the test program at issue. Additionally, upon issuance of the June 2021 NSR permit modification, we required that the facility conduct another round of stack testing to verify compliance with the new BACT limit. This retest took place in September 2021 and indeed demonstrated compliance with the new BACT limit. Therefore, though the pass/fail status of the initial stack test was inputted into ICIS incorrectly, this oversight was purely a data entry error and had no impact on our handling of the case, the enforcement process, actual emissions, or environmental harm. Meanwhile, in FFY 2022, we implemented new business rules with respect to the internal processing of stack test data that have enhanced the timeliness and accuracy of the entry of such data into ICIS.

The other discrepancies identified in EPA's findings were, similarly, data entry errors that were administrative in nature and had no effect on our handling of the underlying cases or actual emissions or environmental harm. For example, for the FRV and informal action that we did not report into ICIS timely (which we emphasize pertain to the same discrete violation), the underlying NOV was issued and processed timely. The NOV involves three emission units that already operate under Title V permit but for which the owner/operator never obtained preconstruction permits; we are diligently working with the respondent to ensure that the proper minor NSR permits are obtained. Likewise, for the two under-reported penalties with SEPs, we accounted for the value of the civil penalty only and excluded the SEP portion of the penalty when inputting the penalty amounts into ICIS; however, the penalties (civil and SEP) that we sought were appropriate, were calculated in accordance with our Civil Penalty Policy, and were properly documented as part of the administrative record for each case. We also note that the under-reported penalties originated from pre-FFY 2022 cases, at which time we and EPA had not yet established consistent guidance on reporting SEPs into ICIS-Air. Finally, the missing penalty that EPA referenced in its findings was, again, a clerical oversight – but it is important to note that the penalty was assessed properly and paid promptly.

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## **CAA Element 2 - Inspections**

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### **Finding 2-1**

Meets or Exceeds Expectations

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#### **Summary:**



CT DEEP met all its CMS Plan full compliance evaluation (FCE) commitments for Title V major sources, Mega-site sources and SM-80 sources for FFY 2022. CT DEEP reviewed all annual compliance certifications received during FFY 2022.

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**Explanation:**

A review of Metric 5a of the Data Metric Analysis (DMA) (FCE Coverage at Majors and Mega-Sites) indicates that CT DEEP conducted onsite FCEs at 32 out of 32 (100%) Title V major and Mega-Site sources required to be inspected with an FCE in FFY 2022.

A review of Metric 5b of the DMA (FCE Coverage at SM-80s) indicates that CT DEEP conducted FCEs at six out of six (100%) SM-80 sources required to be inspected with an FCE in FFY 2022 (the data describes that two required FCEs were not conducted; however, these were not actually required to be conducted in FFY2022 since they were conducted in FFY 2020 but not accounted for in ICIS because they were compliance evaluations done during the COVID pandemic when EPA allowed the States flexibilities to use specific offsite partial compliance evaluations (PCEs) as “in lieu of FCEs” that ICIS is incapable of capturing). The remaining four FCEs were onsite FCEs.

A review of Metric 5e of the DMA (Reviews of Title V Annual Compliance Certifications Completed) indicates that CT DEEP conducted reviews at 63 out of 63 sources (100%) where Title V annual compliance certifications were due in FFY 2022 (one annual compliance certification was not submitted during the FFY and CT DEEP took enforcement action against the source for failing to submit it, subsequently the certification was received and reviewed by CT DEEP in FFY 2023).

A review of Metric 1j1 of the Data Verification Results for FFY 2022 (Number of Facilities with a TVACC) reports that Title V annual compliance certifications were reviewed for 62 sources in FFY 2022. Metric 1j2 of the Data Verification Results (Number of Facilities with a TVACC Due) reports that 63 sources were due a Title V annual compliance certification review in FFY 2022 (as reported in the last paragraph, one annual compliance certification was not received and reviewed by CT DEEP until FFY 2023).

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
5a FCE coverage: majors and mega-sites [GOAL]	100%	85.7%	32	32	100%
5b FCE coverage: SM-80s [GOAL]	100%	94.1%	6	6	100%
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan [GOAL]	100%	74.4%	0	0	N/A
5d FCE coverage: minor facilities that are part of CMS plan. [GOAL]			0	0	N/A
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	82%	63	63	100%

**State Response:**

We thank EPA for its thorough review of our performance with respect to FCE/PCE coverage. We agree with EPA's above findings. Our ability to meet all FCE/PCE commitments in our CMS/PPA over the past many years is a direct result of our staff's hard work and commitment to our mission.

**CAA Element 2 - Inspections**

**Finding 2-2**

Meets or Exceeds Expectations

**Summary:**

CT DEEP inspectors write excellent and extremely comprehensive compliance monitoring reports (CMRs) and should be commended for this work.

The CMRs were excellent at identifying all applicable state and federal regulations at a facility and providing for past enforcement history.

The CMR reports were excellent in describing both state and federal regulations that apply to a facility, with two minor exceptions.

**Explanation:**

Of the 30 files reviewed, 22 contained CMRs (15 for Title V sources, two for Mega-site sources and five for SM80 sources). Of the remaining eight files, the files were reviewed due to

informal/formal enforcement actions taken that were not based on inspections (two were based on failed tests and five were based on in-house record reviews). In one instance, a CMR from FFY 2021 was reviewed for continuity purposes where follow-up enforcement occurred in FFY 2022.

Based on the file reviews, it was found that CT DEEP inspectors write excellent and extremely comprehensive CMRs that describe and evaluate compliance for both state and federal regulations. The CMRs for Title V sources and Mega-site sources incorporate a “Permit Review” inspection checklist template (Attachment C of the CMRs) within the body of the CMRs, which include all applicable requirements for each air emission source found at a facility, as well as, a narrative portion that includes other inspection findings made during inspections, including but not limited to process and control parameters observed during the course of inspections and descriptions of all air polluting equipment. The inclusion of Attachment C in the CMRs provides for more comprehensive inspection reports with a streamlined procedure that enhances the inspectors’ ability to evaluate compliance and to document compliance determinations made for all state and federal regulations applicable to facilities. The use of CMRs that contain both a narrative section and a “Permit Review” section is excellent and makes for a more comprehensive CMRs. This was deemed a “good practice” in past SRF rounds.

Although the SM80 source CMRs do not include the “Permit Review” inspection template (unlike Title V sources that have one permit that covers all applicable requirements, SM80 sources can have several permits covering various equipment that makes it unmanageable to include an inspection template), they too were found to be comprehensive and did a very good job of evaluating compliance for applicable state and federal regulations, with a couple of minor exceptions.

In two of the 22 files reviewed where an FCE was reported as being done (although one CMR didn’t identify the inspection as an FCE this was confirmed to be the case by CT DEEP), the CMR reports lacked some documentation to indicate that the inspectors had evaluated applicability to and/or compliance with applicable federal regulations. These two CMRs were for SM80 sources. In one instance, the CMR neglected to discuss the applicability to and compliance status of two boilers subject to the federal New Source Performance Standards for small steam generating units, NSPS Subpart Dc. In the other instance, six diesel engines maintained by a source were identified in the CMR as either being “Tier 1” or “Tier 2” certified engines, but there was no discussion regarding their applicability to the federal New Source Performance Standards for stationary compression ignition internal combustion engines, NSPS Subpart III; however, in this case, the NSPS Subpart III compliance requirements (i.e., recordkeeping and maintenance) were evaluated for compliance.

Minor deficiencies were also found in two CMRs for SM80 sources where one CMR neglected to report both the size classification and the type of inspection conducted (FCE or PCE) and one report neglected to report just whether the inspection was an FCE or PCE.

EPA has a general policy that inspection reports be completed within 60 days of conducting an inspection, but in no case later than 90 days. EPA Region I's Air Compliance Section has had a 30-day policy in effect for several years. Of the 22 CMR reports reviewed, only four were completed within 90 days of the inspection date, with one not completed for 500 days from the

date of the inspection. EPA discussed these findings with CT DEEP and was informed that, in most cases, the inspectors have most of the inspection reports completed, awaiting additional information from the source or other sections of CT DEEP's Air Program, within a week of the inspection, and they wait to finalize the reports until all information is provided and complete. In addition, CT DEEP informed EPA that much of the delay in finalizing the CMRs was due to the COVID-19 pandemic and reductions in staff. Due to the delay in doing inspections in FFY 2020 due to the pandemic, and the resulting backlog of inspections, a portion of CT DEEP's FFY 2020 inspections rolled into FFY 21, which created a larger than normal number of inspections and subsequent reports that needed to be completed in FFY 2021. For FFY 2021, CT DEEP's goals were to ensure that the onsite portion of FCEs that were due in FFY 2020 were completed, along with the main record reviews and data requests for these outstanding inspections, and to ensure that these outstanding inspections for FFY 2020 and all FFY 2021 inspections were completed by the end of FFY 2021. In order to meet these goals, CT DEEP chose to prioritize inspections at the expense of report writing. The inspection backlog continued into FFY 2021, as the pandemic continued, causing a domino effect. In FFYs 2021 and 2022 CT DEEP were able to complete the onsite inspections on time, but the completion of many reports continued to lag behind the inspection dates themselves. The completion of CMRs were prioritized such that sources where violations were identified were given higher priority than those where no issues were identified. Adding to the backlog issue was the fact that CT DEEP lost most of its senior field inspector staff just prior to the pandemic and the new field inspector staff only had one to two years of experience. Additionally, EPA was informed that one inspector, during this timeframe, was out on extended leave.

Notwithstanding the above, EPA suggests finalizing the CMRs shortly after the inspections occur, while the information ascertained during the inspections is still fresh in the inspectors' minds, and provide addendums to the CMRs, as necessary, as information is provided by the inspected facility or by other CT DEEP programmatic staff. The CMRs should be a description of the findings and observations made during the inspection itself. Completing inspection reports in a timely manner is an area for further state attention and focus.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
6a Documentation of FCE elements [GOAL]	100%		22	22	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		28	30	93.3%

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**State Response:**

We thank EPA for its thorough review of our performance with respect to compliance monitoring reporting practices. We particularly thank EPA for taking note of the comprehensiveness of our

inspection reports, which is directly attributable to our staff's hard work and attention to detail in conducting and documenting compliance evaluations. We pride ourselves on the high quality of our CAA inspections, and we strive to write CMRs that illustrate as much. Moving forward, given that the COVID-related inspection report backlog has been cleared, we will continue to make a concerted effort to complete each CMR shortly after the corresponding inspection occurs.

For each of the two SM-80 CMRs with a missing reference to an applicable federal NSPS, we will make note of the applicable NSPS in future inspection reports. For the SM-80 CMR in which we failed to note the applicability of NSPS subpart Dc to two small boilers, we wish to offer that the requirements of the NSPS are, in this case, administrative in nature given that the boilers fire exclusively on public utility-quality natural gas (which was verified upon inspection) and have no direct impact on emissions or environmental harm. We also note that one of these boilers operates under an NSR permit that incorporates by reference subpart Dc and was addressed during this inspection; the other boiler is permit-exempt. For the SM-80 CMR in which we failed to note the applicability of NSPS subpart IIII to small engines but did verify compliance with the requirements thereof, we wish to note that Connecticut accepted delegation of this NSPS only at Title V sources.

Finally, it is worth noting that Connecticut is overly conservative in its categorization of SM-80 sources and that the two SM-80 sources identified in EPA's above findings have a premises-wide PTE below 80 percent of the major source thresholds; therefore, they technically do not meet the SM-80 description provided in EPA's CAA CMS policy and, applying the framework set forth in such policy, would be categorized as SM-50s.

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### **CAA Element 3 - Violations**

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#### **Finding 3-1**

Meets or Exceeds Expectations

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#### **Summary:**

CT DEEP does an excellent job of documenting violations and making accurate compliance, FRV and HPV determinations

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#### **Explanation:**

In 20 out of the 30 files reviewed, there were actionable violations noted. In all 20 files with actionable violations, and the remaining 10 files where no violations were found, CT DEEP made accurate compliance and HPV determinations, based on inspections, stack test report reviews, and various other types of report reviews. HPV determinations are a collaborative effort between CT DEEP and EPA. On an ongoing basis, at a minimum of once per quarter, CT DEEP and EPA discuss the enforcement actions (informal and formal) taken by CT DEEP to determine whether any of the violations meet the HPV criteria. The ultimate HPV determination is mutually agreed

by both CT DEEP and EPA. In the 10 files reviewed without violations, the compliance determinations that were made appeared accurate based on the CMR reports, where applicable, or other information found in the file.

CT DEEP identified five HPVs in FFY 2022. Four HPVs were for Title V major sources and one HPV was for a minor source (a sewage sludge incinerator required to obtain a Title V operating permit). A total of nine files were reviewed where HPVs were identified by CT DEEP between FFYs 2018 – 2022 for continuity purposes.

CT DEEP identified 18 FRVs in FFY 2022 that were not considered to be HPVs.

With regards to one Title V source with a failed test reported to ICIS for FFY 2022, additional information provided to CT DEEP resulted in the stack test result code being changed from a “fail” to a “pass” and this information wasn’t made available until the FFY 2022 data was frozen. CT DEEP has since revised ICIS to reflect the accurate results code of “pass.”

With regards to one Title V source with a failed test reported to ICIS for FFY 2022, CT DEEP and EPA mutually agreed that the failed test for hydrogen chloride (HCL) did not meet the HPV criterion since the permit limit for HCL was not associated with major new source review, new source performance standards or national emissions standards for hazardous air pollutants.

With regards to one SM80 source with a failed test reported to ICIS for FFY 2022, this was not deemed an HPV since the facility was not a major source and the facility retested and demonstrated compliance.

A review of support Metric 7a1 related to the discovery rate of FRVs based on inspections at active CMS sources as well as support Metric 8a related to the HPV discovery rate at major sources indicates that CT DEEP is above the national average for both of these metrics.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
7a Accurate compliance determinations [GOAL]	100%		30	30	100%
7a1 FRV ‘discovery rate’ based on inspections at active CMS sources	81.1%		18	80	22.5%
8a HPV discovery rate at majors		2.5%	4	61	6.6%
8c Accuracy of HPV determinations [GOAL]	100%		20	20	100%
13 Timeliness of HPV Identification [GOAL]	100%	87.8%	5	5	100%

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**State Response:**

We thank EPA for its thorough review of our performance with respect to HPV and FRV identification. We agree with EPA's findings, these results are directly attributable to the staff's diligence in identifying and properly categorizing deviations from state and federal statutory, regulatory, and permit- and order-based air quality requirements.

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**CAA Element 4 - Enforcement**

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**Finding 4-1**

Meets or Exceeds Expectations

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**Summary:**

CT DEEP does an excellent job of taking appropriate informal and formal enforcement that includes corrective actions to get a non-complying facility back into compliance expeditiously. Providing "early warning notice" to violating facilities, through the informal enforcement process, expedites their return to compliance and was considered a "Good Practice" in past SRF rounds.

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**Explanation:**

CT DEEP took informal and/or formal enforcement actions against 20 out of the 30 sources for which files were reviewed. For continuity purposes, some of the informal and/or formal enforcement actions were taken in preceding or subsequent years to FFY 2022. Informal enforcement was taken against all 20 sources found in violation and formal enforcement was taken against 11 sources found in violation. The informal and formal enforcement actions included corrective actions to be taken to return the violating source to compliance expeditiously. CT DEEP should be commended for its use of an early warning notice, through its use of informal enforcement actions issued to violators, to help expedite their return to compliance. This has been considered a Good Practice in earlier SRF Reviews.

Based on file reviews of the 20 sources where enforcement was taken, CT DEEP was found to take appropriate enforcement and to address HPVs according to EPA's HPV Policy, with case management plans in place, as necessary.

A total of nine files reviewed were for sources identified as HPVs by CT DEEP (four identified in FFY 2022, one identified in FFY 2021, one identified in FFY 2020, one identified in 2019 and two identified in FFY 2018). The older HPVs were reviewed for continuity purposes when associated formal enforcement was taken in subsequent years.

Although CT DEEP didn't address the one HPV identified in Metric 10a1 within 180 days of Day 0 (the date the HPV was identified), the HPV was addressed on Day 279 and a case management plan was in place by Day 225, as required by EPA's HPV Policy. With regards to the other eight files where HPVs were identified, none of the HPVs were addressed within 180 days; however, all had case management plans in place by Day 225 and all have since been addressed.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
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 [GOAL]	100%		11	11	100%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		9	9	100%
10a1 Rate of Addressing HPVs within 180 days		36.1%	0	1	0%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		9	9	100%
10b1 Rate of managing HPVs without formal enforcement action		7.2%	0	1	0%
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%		8	8	100%

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**State Response:**

We agree with EPA's findings, which reflect our commitment to promptly addressing noncompliance, resolving excess emissions, and deterring future noncompliance.

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**CAA Element 5 - Penalties**

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**Finding 5-1**

Meets or Exceeds Expectations



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**Summary:**

CT DEEP does an excellent job of calculating the gravity portion of its penalties, based on its penalty policy.

CT DEEP usually provided sufficient documentation regarding economic benefit, but in two cases, where it was determined that there was no economic benefit, it was unclear if economic benefit was determined for all applicable violations alleged.

CT DEEP's process for calculating penalties is to set a high – low range and as long as the case settles within the range established in its “enforcement action summary” then the penalty is not assumed to be reduced. Based on this, CT DEEP didn't reduce any of its proposed penalties associated with the 11 files reviewed where formal enforcement was taken, and penalties were assessed.

CT DEEP does an excellent job of documenting that penalties have been collected.

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**Explanation:**

A total of 11 out of the 30 files reviewed included formal enforcement actions with penalties (nine were for HPV case files reviewed). In all 11 cases, the penalties have already been assessed and collected.

CT DEEP did an excellent job of calculating and documenting the gravity and economic benefit components of the penalties they assessed, for most of the case files reviewed, using their “Enforcement Action Summary” (EAS), which is a detailed description of the violating source, the violations alleged and the rationale for the gravity component and economic component of the penalty, as applicable, that CT DEEP is seeking, based on their penalty policy.

With regards to economic benefit for two case files reviewed where penalties were assessed and collected and where it was determined that economic benefit was zero or insignificant such that no economic benefit was being sought by CT DEEP, the EASs were lacking in information regarding economic benefit. In these two case files reviewed, the EAS for each source described numerous violations associated with two or more separate informal enforcement actions (Notices of Violation or NOVs) that were previously taken that prompted the formal enforcement action. The EAS, in each case, described the violations associated with each NOV in detail and did a great job of describing how the gravity portion of the penalty was assessed for each group of violations associated with each NOV, but with regards to economic benefit, it was only discussed within one group of violations associated with one of the NOVs and was not discussed at all in the other areas of the EAS where other groups of violations associated with other NOVs were described so that it was unclear if economic benefit was even looked at for these other groups of violations associated with these other NOVs.

EPA suggests that CT DEEP, in their future EASs, provide a more detailed description regarding economic benefit for all violations. CT DEEP can do this by discussing economic benefit for each group of violations described in the EASs, which are associated with each specific NOV, or provide a more detailed description of economic benefit at the end of the EASs where there is a heading for “Additional Comments”.

CT DEEP’s process for calculating penalties in its EASs is to set a high – low range and as long as the case settles within the range established in its EASs then the penalty is not assumed to be reduced (the penalty range considers the severity of the gravity component of any violations). Based on this, CT DEEP didn’t reduce any of its proposed penalties associated with the 11 files reviewed where formal enforcement was taken and penalties were assessed.

For all 11 files where formal enforcement was taken and a penalty was assessed, documentation was found in the files that the penalties had been collected.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		11	11	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		0	0	N/A
12b Penalties collected [GOAL]	100%		11	11	100%

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**State Response:**

We thank EPA for its thorough review of our performance with respect to the assessment and collection of penalties. Our staff effectively develops and settles fair, equitable penalty cases that are proportional to the gravity of the underlying violation(s). Moving forward, for cases with only a gravity-based penalty and no economic benefit-based penalty, we will be sure to document the assumptions that we make in determining that there is no, or only a nominal, economic benefit.

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# Resource Conservation and Recovery Act Findings

## RCRA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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#### Summary:

CT DEEP does an excellent job maintaining accurate data and reporting it in a timely manner into the national database. During the time period reviewed (FY2022), the inspection dates, inspection types, the inspection counts, documentation of violations, significant noncompliance (SNC) status and the enforcement actions were accurate.

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#### Explanation:

Thirty files were selected and reviewed to determine the completeness of the minimum data requirements. All of the selected files were accurately represented in the national RCRA database. 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. There are 90 sites which appear to be in violation for greater than 90 days. It appears that many of these sites represent a delay in entry of return to compliance date for sites that received enforcement actions. Some of these sites included in this metric are old informal enforcement actions, with no final compliance assessment. CT DEEP has been working on addressing the back log but has limited resources to devote to data clean up. CT DEEP continues to commit limited staff resources to perform file reviews for these sites. CT DEEP anticipates that RTC for many of these sites can be reconciled with a file record review. CTDEEP should run a RCRAInfo report for the unaddressed secondary violators every year and assign staff to resolve the outstanding secondary violators and avoid increasing the backlog.

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2a Long-standing secondary violators			0	90	0%
2b Accurate entry of mandatory data [GOAL]	100%		30	30	100%

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#### State Response:

We thank EPA for its thorough review of our performance with respect to the completeness of data entry and reporting. We agree with EPA's above findings.

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## **RCRA Element 2 - Inspections**

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### **Finding 2-1**

Area for Attention

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#### **Summary:**

CT DEEP met the national goal of 100% for the two-year inspection coverage of operating TSDs. CTDEEP proposed to inspect 2-4 TSDs for FFY2022 and completed 2 TSDs.

For FY 2022, CT DEEP inspected 18 LQG facilities which meets their FY 2022 Alternate Compliance Monitoring Strategy of Inspecting 10% of the LQG universe or 15-23 LQG inspections.

They also conducted 10 SQG inspections, which meets their FY 2022 Compliance Monitoring Strategy of inspecting 7-10 SQG inspections.

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#### **Explanation:**

CTDEEP proposed to inspect 2-4 TSDs for FY2022. These inspections were proposed as full on-site CEI inspections as appropriate within the COVID-19 safety protocols. CT DEEP inspected 2 TSDs in FY2022 and inspected 4 TSDS in FFY2021 which is 75% of the goal. DEEP requested that EPA conduct 2 TSDF inspections. The two-year inspection coverage of operating TSDF's is performed by both CT DEEP and EPA, where CT DEEP inspected 6 TSDFs and EPA inspected 2 TSDFs inspections, thereby achieving 100% combined coverage of the 8 operating TSDFs.

For FY 2022, CTDEEP used the Large Quantity Generators (LQG) flex alternative plan, where CT DEEP would inspect 10% of the LQG universe. The flex alternative plan proposed to conduct 15-23 LQG inspections. For the first and second quarter of FY 2022, because of the COVID-19 safety protocols, CT DEEP expected to conduct on-site inspections, as well as reviewing an off-site questionnaire that they considered a full CEI.

For FY 2022, CTDEEP inspected 9 LQGs which were CEIs and also conducted 9 LQGs on site Focused Compliance Inspections (FCIs) and 10 Off-site Record Reviews (NRRs) for the same LQG facilities as part of the Covid-19 response protocols. CT DEEP inspected 18 LQG facilities which meets their FY 22 Alternate Compliance Monitoring Strategy of Inspecting 15-23 LQG inspections. It should be noted that CT DEEP did not inspect 10% of their LQG universe. It is also noted that had CTDEEP implemented pharmaceutical inspection flexibility the size of the LQG universe not inspected would have likely decreased.

Also, CTDEEP conducted manifest reviews of Small Quantity Generators (SQGs) that may be operating as LQGs out of their SQG status. CT DEEP inspected 7 SQGs and also conducted Focused Compliance Inspections and NRRs at 2 SQGs.

In October 2021, CT DEEP had two experienced RCRA Inspectors and one Environmental Intern in training. One of the two experienced RCRA Inspectors retired in the third quarter of FY 2022, which reduced the RCRA inspection staff by one third for the second part of the fiscal year.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%		6	8	75%
5b Annual inspection of LQGs using BR universe [GOAL]	20%		18	392	4.6%
5d1 Number of SQGs inspected			7		7
5e7 One-year count of sites not covered by metrics 5a - 5e6 with inspections	100% of commitments		13		13
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100%		30	30	100%
6b Timeliness of inspection report completion [GOAL]	100%		30	30	100%

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**State Response:**

Two-year inspection coverage for operating TSDFs is a combination of inspections performed by CT DEEP and US EPA Region 1 (8 total). As described in the narrative, the overall goal of 100% of TSDFs in CT inspected in the two-year cycle was achieved with EPA’s assistance.

With unprecedented staff turnover, CT DEEP continues the process of recruiting and maintaining at least 1.0 additional FTE to meet inspection goals.

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**RCRA Element 3 - Violations**

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**Finding 3-1**

Meets or Exceeds Expectations

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**Summary:**

CT DEEP prepares inspection reports that document compliance status and determine violations and document the observed violations in their inspection records and enforcement responses. CT DEEP does an excellent job identifying violations at a high percentage of inspections and identifying SNC's where appropriate. SNC's were identified within 150 days of the first day of the inspection (Day Zero).

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**Explanation:**

Each of the 30 enforcement files reviewed had accurate and complete descriptions of the violations observed during the inspection and had adequate documentation to support CT DEEP's compliance determinations. CTDEEP finds violations regularly during their inspections. A review of Metrics 7b of the DMA and relevant RCRAInfo data shows that CTDEEP exceeded the national average in violations found during CEI and FCI compliance inspections. A review of Metrics 8a of the DMA and the relevant RCRAInfo data shows that CTDEEP (5.4%) exceeded the national average in the SNC identification rate (1.8%) at sites with CEI and FCI compliance inspections. A review of Metric 8b of the DMA and the relevant RCRAInfo data shows that CTDEEP also achieved the timeliness of the SNC determination for all three cases.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7a Accurate compliance determinations [GOAL]	100%		30	30	100%
7b Violations found during CEI and FCI inspections		39%	18	29	62.1%
8a SNC identification rate at sites with CEI and FCI		1.8%	3	56	5.4%
8b Timeliness of SNC determinations [GOAL]	100%	90%	3	3	100%
8c Appropriate SNC determinations [GOAL]	100%		11	11	100%

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**State Response:**

We agree with EPA's above findings.

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**RCRA Element 4 - Enforcement**

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**Finding 4-1**

Area for Attention

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**Summary:**

CTDEEP has a very strong enforcement program where enforcement actions are brought in a timely manner and return facilities to compliance in a timely manner.

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**Explanation:**

The file reviewed 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.

CT DEEP's practice of issuing a Notice of Violation (s) (where there are outstanding violations that need to be corrected), in advance of formal enforcement, helps to achieve timely compliance to the violations cited, often before the formal enforcement is issued.

CT DEEP issues formal enforcement actions to Facilities deemed as High Priority Violations ("HPVs") or SNC violations. CT DEEP issues Administrative Consent Orders with penalties. CT DEEP can also refer cases to the Connecticut Attorney General for Civil Penalties. Informal enforcement actions include a Notice of Violation.

Of the 30 files reviewed (which included 2 cases in FY22, 2 cases in FY21 and 1 case in FY20) CT DEEP issued five Administrative Consent Orders with penalties.

A facility was inspected on 3/24/2021 in response to a referral by the DEEP's Industrial Wastewater Section and the Emergency Response and Spill Prevention Division. CT DEEP RCRA staff issued an NOV on July 29, 2021 to this facility to address the violations. This facility responded on December 7, 2021 indicating substantial compliance with the NOV, including the removal of all noncompliant containers stored outside. The proposed Consent Order was written as a multimedia order. Subsequent to staff discussion with other Departments, the Commissioner's Office determined the Order should be single media with multimedia relief. The Consent Order was issued on June 6, 2022. For this case to be timely, this Consent Order should have been issued by March 19, 2022. This case was issued 79 days late.

In FY22, CTDEEP issued two Administrative Consent Orders with penalties. In FY 22, only one of the two Administrative Consent Orders with penalties was timely, while second one delayed only 2 months. The metric 10(a) relies on a small sample size of two with one case potentially skewing the overall result for this element. Thus, EPA is recommending area of state attention and not area of state improvement.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
9a Enforcement that returns sites to compliance [GOAL]	100%	78.6%	18	19	94.7%
10a Timely enforcement taken to address SNC [GOAL]	80%		1	2	50%
1d2 Number of informal enforcement actions			17		
1f2 Number of formal enforcement actions			2		
10b Appropriate enforcement taken to address violations [GOAL]	100%		18	19	94.7%

**State Response:**

As noted above, the enforcement response was drafted as a multi-media action and was subsequently required to be modified to be single media with multi-media relief, meaning that DEEP’s Waste Engineering and Enforcement Division (WEED) staff carried the action through redrafting to issuance, thereby allowing other agency programs to meet their commitments at the expense of the RCRA program’s timeliness. During the enforcement process between issuance of the NOV and issuance of the consent order, WEED staff worked closely with the respondent to correct the outstanding violations alleged in the notice. Upon issuance of the consent order, respondent had reportedly corrected all but two (2) of the alleged violations.

In accordance with Page 10 and 11 of EPA’s Hazardous Waste Civil Enforcement Response Policy (2003), an implementing agency has the ability to modify a facility’s designation from a secondary violator (“SV”) to a significant non-complier (“SNC”) when the agency makes the determination to designate a facility as SNC, as long as that determination is made by 150 days of the original date of inspection or discovery (“day zero”). This allows for day zero to be set to the date the facility is reclassified as SNC.

For the multi-media case discussed above, WEED determined the need for formal enforcement to resolve these violations and reclassify the facility as SNC on July 29, 2021, when it issued an NOV accompanied by additional correspondence notifying the facility of the agency’s decision to escalate and seek penalties.

Additionally, Page 19 of EPA’s “SRF RCRA Plain Language Guide” (the current guide 2018-2022 and the draft 2024 guide), also provides for updating day zero to the date of the facility’s SNC reclassification if the determination is made by 150 days. WEED made its determination at 127 days.



With this guidance in mind, day zero would then become July 24, 2022, instead of March 19, 2022. Therefore, a Consent Order should be issued on or before July 23, 2022 (rather than March 19, 2022) to be within the allotted timeline. WEED issued its Consent Order on June 6, 2022.

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## RCRA Element 5 - Penalties

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### Finding 5-1

Meets or Exceeds Expectations

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#### Summary:

CT DEEP has a strong administrative and Civil enforcement program that assesses and collects monetary penalties from SNC violators.

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#### Explanation:

CT DEEP uses a penalty matrix approach to determine and document the potential for harm and extent of deviation and brief narratives are included to explain the matrix selected. CT DEEP includes the rationale for changes in penalties between the initial penalty and the final penalty collected is very specific and fully explains the reason and extent of the reduction was determined. In FY22, there were two Administrative Consent Orders with penalties of \$19,150 and \$26,400 for a total of \$45,550.

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Gravity and economic benefit [GOAL]	100%		7	7	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		2	2	100%
12b Penalty collection [GOAL]	100%		2	2	100%

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#### State Response:

The penalty amount reported includes the total penalty component.

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# Appendix A

## CT DEEP Background Information on State Program and Review Process

***NOTE:*** *The background information provided below was provided by the Connecticut Department of Energy and Environmental Protection. EPA included this information in this report without any programmatic edits.*

### General Program Overview

#### *Agency Structure*

The Connecticut Department of Energy and Environmental Protection (CTDEEP) is comprised of three branches – Energy, Environmental Conservation, and Environmental Quality. The Environmental Quality branch (EQ) includes the Bureaus of Air Management, Materials Management and Compliance Assurance, and Water Protection and Land Reuse. The state-delegated compliance/enforcement programs reside in EQ, which 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 units, each with its own supervisor and staff. Most divisions also include one or more assistant directors or office directors.

The Office of the Commissioner at CT DEEP consists of the Bureau of Central Services, plus a group of nine 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: Innovative Partnerships and Planning, Environmental Review and Strategic Initiatives, Communications, Adjudications, Environmental Justice and Equity, and Climate Planning.

CT DEEP provides for the integration of energy and environmental policies and programs in a 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 provides a structure for collaboration and a holistic approach to decision-making that has made Connecticut a national leader on these issues.

#### ***Compliance and Enforcement Program Structure and Resources***

CT DEEP experienced a significant decline in resources available to administer its regulatory programs, largely due to retirements in 2020-2022. Staffing has increased to replace those that have left. However, many of these staff are entry-level and are undergoing training. The funding through the Performance Partnership Grant (PPG) for most programs has remained flat for at least ten years. The weakened value of the PPG combined with the retirements of CT DEEP staff has necessitated the ongoing reevaluation and realignment of both grant and non-grant commitments.

CT DEEP works with EPA to evaluate commitments and to reach concurrence on program priorities. CT DEEP has advanced innovative approaches to compliance assurance to address changes in resources, the expanding universe of sources, emerging environmental and health priorities, and the COVID pandemic. While there is a need to continue to improve compliance of the regulated community, CT DEEP now compels compliance within its permits and regulatory programs by advancing initiatives such as electronic reporting with automated compliance evaluations; improved data transparency; self-certification; and third-party certification and verification. This paradigm shift has allowed CT DEEP's limited enforcement resources to be better aligned with its environmental and health priorities.

CT DEEP seeks flexibility from EPA to apply appropriate compliance strategies and tools to address priority environmental or health risks. 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 and facilities located in environmental justice areas. EPA has provided flexibility through its approval of alternative CMS for CAA and CWA.

### ***Clean Air Act [CAA] Enforcement Programs***

The Field Enforcement Unit, Source Emissions Monitoring Unit, Investigations Unit, and Compliance Analysis and Coordination Unit conduct compliance evaluations through on- and off-site compliance monitoring activities, including facility inspections, public complaint response, stack test audits, public complaint response, and mobile air quality monitoring. The Compliance Analysis and Coordination Unit administers the compliance assurance functions of CT DEEP's emission trading programs. The Administrative Enforcement Unit pursues formal enforcement actions to address violations of state and delegated federal air quality requirements. The Administrative Enforcement Unit also issues orders to memorialize and enforce case-by-case RACT demonstrations.

**Field Enforcement Unit** – This group is responsible for on-site facility-wide inspections of various sources, including Title V/major, synthetic minor, and true minor sources such as smaller industrial, commercial, and institutional sources. This group also audits Stage I testing at gasoline stations, responds to public complaints regarding air quality, and conducts open burning 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 synthetic minor, NSPS, NESHAP/MACT) 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, including 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 ICIS/ECHO. Lastly, this

group administers emission trading programs such as major NSR emission offsetting, SO<sub>2</sub> trading under Acid Rain, SO<sub>2</sub> trading under RCRA section 22a-174-19a (power plants), and CO<sub>2</sub> trading pursuant to the Regional Greenhouse Gas Initiative (RGGI) regulation.

**Source Emission Monitoring Unit** - 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 methodologies and deadlines.

**Administrative Enforcement Unit** - 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 work closely with the enforcement staff that identified the violation to ensure that the enforcement case is sound and timely. Staff also monitors and manages the violating source's return to compliance in accordance with the resulting notice of violation, order, and/or judgment. Finally, this group drafts and administers orders to implement single-source RACT determinations for NO<sub>x</sub> and VOC.

**Investigations Unit** - This group is responsible for searching for and identifying sources of air pollution that may have gone undetected using traditional source identification techniques through the launching of the geospatial measurement of air pollution ("GMAP") program, a vehicle modified with advanced air pollution detection and monitoring technologies on a mobile platform. CT DEEP will use the GMAP vehicle to conduct emission surveillance throughout the state, with an emphasis on surveillance in environmentally overburdened communities. The GMAP vehicle will also be used as an inspection tool to screen stationary sources with a high potential for fugitive emission or with short stacks and poor dispersion parameters, to assist staff in identifying fugitive emissions and understanding the fence-line impacts of such sources.

Including section Supervisors, the field enforcement unit, compliance analysis and coordination unit, source emission monitoring unit, administrative enforcement unit, and investigations unit are staffed by 7 (down from 8 in the Round 3 report), 5 (down from 6), 6 (up from 5), and 4 (no change), and 3 (up from zero) full-time employees, respectively. The total CT DEEP staff responsible for conducting Air compliance and enforcement work is 27 (no change), including the Division Director, Assistant Division Director, and five 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 (WPED) of the Bureau of Materials Management and Compliance Assurance. CT DEEP's CWA municipal enforcement program is located in the Water Planning and Management Division (WPMD) of the Bureau of Water Protection and Land Reuse.

WPED was reorganized in FY23 and is comprised of the following sections: Program Support, Wastewater Compliance and Enforcement & CAFO Program; Industrial Wastewater NPDES Permitting Program; Industrial Pretreatment Permitting, Compliance and Enforcement Program; Storm Water Permitting, Compliance and Enforcement Program; and Underground Injection

Control Permitting, Compliance and Enforcement Program. There are 37 (up from 31 during Round 3) full time equivalents (FTEs) in WPED, including the Division Director, Assistant Division Director, and the Division's Secretary.

There are 5 (up from 4) Supervisors currently leading these sections. Including the supervisors, the sections within the Water Permitting and Enforcement Division are staffed with the following number of full-time employees: Program Support, Wastewater Compliance & Enforcement & CAFO Program is staffed by 4 (up from 1.5); Industrial Wastewater NPDES Permitting Program is staffed by 3 (up from 2.5); Industrial Pretreatment Permitting, Compliance and Enforcement Program is staffed by 10 (up from 3.5); Storm Water Permitting, Compliance and Enforcement Program is staffed by 6 (no change); Underground Injection Control Permitting, Compliance and Enforcement Program is staffed by 4 (down from 4.5).

The CT DEEP's CWA municipal permitting and enforcement programs are located in the Municipal Water Pollution Control Section of WPMD. The Municipal Water Pollution Control Section is staffed by 12 full-time positions (one of which is currently in recruitment; this is up from 7) reporting to 2 supervisors. These 14 positions report to an Assistant Director of the Municipal Wastewater program which is responsible for permitting and enforcement but is also charged with the administration of the State Revolving Loan, including implementation of the Bipartisan Infrastructure Law, and Operator Certification Programs.

### ***RCRA Hazardous Waste Enforcement Program***

CT DEEP's hazardous waste enforcement program is located in the Waste Engineering and Enforcement Division (WEED) of the Bureau of Materials Management and Compliance Assurance. WEED 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 for permitted sites, and the RCRA manifest program. This division is also responsible for the Solid Waste Management Program and the Pesticides Management Program.

WEED staff responsible for conducting RCRA compliance and enforcement work is 9 FTEs (down from 14). 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. 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 one processing technician and one license and applications analyst, as well as clerical and data tracking resources, including manifest processing and biennial report processing.

DEEP's Remediation Division in the Bureau of Water Protection and Land Reuse (WPLR) manages the issuance and renewal of Stewardship Permits for RCRA sites that are subject to

Corrective Action. Such permits also have a financial assurance mechanism. Remediation staff responsible for this aspect of the program is 2.5 FTEs.

### ***Enforcement and Compliance Tools, Processes, and Strategic Approach***

CT DEEP achieves environmental protection by using 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 enforcement and uses administrative orders and lawsuits to address serious violations or chronic or recalcitrant violators. These formal enforcement actions are complimented by promoting compliance assistance in 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 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.

The enforcement and/or compliance tools CT DEEP employs include inspections, data tracking and monitoring, compliance assistance, and administrative enforcement. Through its **[Enforcement Response Policy \(ERP\)](#) (effective since June 1, 1999 and currently being updated)**, CT DEEP prioritizes use of its enforcement resources by focusing on the most significant environmental, human health, and programmatic noncompliance problems. Enforcement staff focus on two categories of violators: those whose violations pose the greatest risk to public health and the environment and those who are chronic or recalcitrant violators. 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's ERP utilizes a strategic problem-solving approach that defines the issues and environmental footprint upfront, outlines the compliance tools that will be applied, and describes 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 Region 1 identified strategic priorities is conducted across CT DEEP'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, compliance, and enforcement tools are then evaluated to determine the appropriate application and integration of tools to resolve problematic areas. 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 joint inspections.

CT DEEP's Office of Innovative Partnerships and Planning convenes enforcement, permitting, and compliance assistance managers on a monthly basis to assist in planning, coordinating, and targeting compliance and enforcement initiatives for consistency across the agency. In addition, many CT DEEP media enforcement programs meet individually on a monthly or quarterly basis with EPA R1 OECA and the Connecticut Attorney General's Office to review tracking of existing enforcement cases, review inspection targets, 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 enforcement by seeking feedback from EPA on issues and priorities of particular concern and working cooperatively to address them. In addition, CT DEEP attends and participates in the monthly, virtual enforcement/compliance meetings with EPA Region 1 states, including an annual planning meeting.

In addition to the ERP, several other key enforcement policies in use by CT DEEP have been designed to assure enforcement consistency throughout the agency:

- The [Civil Penalty Policy](#) sets forth a process for calculating civil penalties in cases where a penalty is warranted and where the Department proposes to resolve the matter by issuing a Consent Order.
- The [Supplemental Environmental Project Policy \(SEP\)](#) outlines criteria for projects that may serve in addition to, or in partial replacement of, a monetary penalty as the basis for the consensual settlement of an enforcement case. CT DEEP believes that these projects, if carefully crafted and executed, provide useful environmental benefits beyond what can be secured solely through administrative orders. The SEP, effective March 25, 1993, and revised February 15, 1996, is currently being updated.

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

- **Notice of Violation** - A Notice of Violation is an informal enforcement action that puts a violator on written notice of a violation and requires compliance or a schedule for achieving compliance within 30 days. A Notice of Violation may be used alone, or as a precursor to any of the formal enforcement actions listed below.
- **Cease and Desist Order** – A Cease and Desist Order is an administrative action that becomes effective upon issuance and is subject to hearing only after it is issued. Cease and Desist Orders are used in certain, statutorily prescribed circumstances to address violations causing actual or substantial harm or threatening to cause such harm imminently.
- **Consent Order** - A Consent Order is an administrative order issued with the consent of a violator to memorialize and make enforceable an agreement to pay penalties and/or perform compliance actions.

- **Administrative Order** - An administrative order is one in which the Commissioner orders a violator to comply with the relevant environmental requirements. Unilateral Orders are subject to both administrative and judicial appeal. The Department cannot assess penalties through this mechanism at the administrative level. To seek penalties, the matter is referred to the Office of the Attorney General to seek penalties through litigation.
- **Penalty Notice** - A Penalty Notice is an administrative action in which the Commissioner assesses civil penalties. CT DEEP adopted regulations in May 2007 that allow issuance of 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.
- **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 in 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 (CT DAS) is the lead state agency for all personnel-related policies and procedures. Human Resources staff dedicated to CT DEEP are located in the CT DAS Agency Business Partners Pod. All executive branch employees have standardized job titles, referred to as job classes, and all job classes have associated job descriptions. DAS develops and publishes these job descriptions for all classified positions within the executive branch. The descriptions include “Example of Duties,” “Knowledge, Skill, and Ability,” and “Minimum Qualifications.” When CT DEEP receives approval to fill a particular position, the hiring manager prepares 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 CT DAS Job Descriptions, but the details are more specific and tailored to the requirements of particular jobs. The job announcement format allows CT DEEP to specify more detailed hiring requirements related to “Position Highlights,” “Preferred Qualifications,” 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 are included below:

- 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.
- At a minimum, supervisors and managers are strongly encouraged to discuss employees' staff development issues during required annual performance evaluations 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 Integrated Compliance Information System (ICIS)-AIR system, and the water programs enter their compliance and enforcement data into the 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 systems is resource-intensive for the agency.

As part of CT DEEP's Information Technology transformation, CT DEEP intends to move towards a centralized 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 EPANeT. 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.

Additionally, CT DEEP's Air Bureau is designing and building a cloud-based platform that integrates all of the capabilities of its existing Access databases and that introduces certain new functionalities. This is a unique opportunity to build a database owned and operated exclusively by DEEP's Air Enforcement that will serve the division's data and records management needs for years to come. The scope of work for this project was written by and will be designed in close coordination with division staff. User acceptance testing will be conducted by division staff. Some new functionalities in the database will include:

- Ability to generate violation notices and certain orders within the database;
- Ability to complete certain inspection reports (e.g., stage I) within the database;
- Ability for all enforcement staff to see all enforcement data, including inspection, testing, reporting, and enforcement history;
- Ability to assign and route tasks (e.g., field audits, report reviews) within the database;
- Ability for synthetic minor and Title V sources to submit regulatorily required reports online, in a CROMERR-complaint manner, and reports will automatically be logged into database;
- Ability for regulated entities to submit stack test protocols and results online, in a CROMERR-complaint manner, as applicable, and reports will automatically be logged into database; and
- Ability for the general public to submit complaints online, with complaints automatically logged into the database.

### ***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 National Pollutant Discharge Elimination System (NPDES) and pretreatment discharge permittees, as well as for RCRA hazardous waste manifests. NetDMR is a Web-based tool developed by a consortium of EPA and state environmental regulatory agencies that allows NPDES permittees to electronically file their Discharge Monitoring Reports (DMRs) and Stormwater Monitoring Reports (SMRs) directly into EPA's 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.

CT DEEP has developed electronic permit application and registration capabilities for certain programs, such as Underground Storage Tanks, Construction Stormwater General Permits, EMIT Emissions Inventory and Compliance Reporting, through ezFILE, that will serve as a template for

other agency general permits and individual permits to be submitted electronically. In addition, CT DEEP has an on-line hazardous waste management training course. This has expanded the agency's compliance assistance capability. CT DEEP will be developing other training and compliance modules for specific types of units.

As part of Information Technology process improvements, CT DEEP will explore technologies and tools that can aid staff in completing inspections in an efficient manner. For the Underground Storage Tank program, CT DEEP uses electronic tablets to document inspections in the field with direct, automatic data entry into the agency's database. WPED is exploring cell phone apps that can assist them in conducting and recording data from their inspections.

### ***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 CT DEEP's intranet site to give all staff immediate access to the most current enforcement policies, templates, forms, and instructions needed to complete enforcement actions.

The EDR includes an enforcement process diagram that depicts the steps of the enforcement process, provides links to enforcement tools, and guides employees to the right documents associated with a particular type of action. These enforcement templates include boiler plate language for dates of issuance, approval processes, compliance audits, supplemental environmental projects, W-9 submittal, 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, CT DEEP 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 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, emergent environmental and health priorities, including environmental justice and equity

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. EPA's paradigm shift in compliance may support 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 or in compliance, particularly those in environmental justice communities.

### ***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 mutual effort in implementing the E-Enterprise. In addition, CT DEEP works with the National Environmental Information Exchange Network (Exchange Network or EPANeT) 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](http://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 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 18 – 22 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, [compliance 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
- Energy
- Water Quality, including Sustainable Water and Wastewater Infrastructure
- Air Quality, including Interstate Transport Pollutants and Mercury
- Materials Management
- Site Cleanup and Brownfields
- Environmental Justice and Equity
- Identification of Emerging Contaminants

CT DEEP is focused on becoming more efficient, effective, responsive, predictable, and transparent through initiatives such process improvements; information system reform; metrics enhancement, development, and transparency; expansion of professional development opportunities; and communication with stakeholders.

**Cross-media Compliance Assurance Targets and Initiatives:** CT DEEP applies an integrated problem-solving approach that defines compliance issues up front, outlines the most effective compliance assurance tools to address the problem, and identifies the metrics that will be used to evaluate compliance and demonstrate the resulting environmental and performance improvements. For some sectors, CT DEEP delivers traditional compliance assistance in the form of outreach and education, such as guidance materials, workshops, and training. For other sectors that have more widespread compliance problems, CT DEEP has developed cross-media compliance assurance initiatives that include compliance assistance meetings, inspections, compliance assessments, enforcement follow-up actions, and measurable results, such as compliance rates and environmental benefits.

Compliance rate analysis moves the agency beyond 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 areas are those in which CT DEEP 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 18-22. CT DEEP recognizes that each media program has EPA-specified targets or core program commitments they must meet, such as **number of inspections for CWA- NPDES majors and Significant Industrial Users, RCRA- LQGs, SQGs; CAA Title V, etc.** Within those parameters, CT DEEP determines 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 and Equity:***

Created in 1993, DEEP's [Environmental Justice Program](#) is one of the oldest environmental justice programs in the nation. CT DEEP is committed to incorporating the principles of environmental justice into its program development and implementation, policy making, and regulatory and enforcement activities.

In 2022, CT DEEP published a more user friendly and accessible suite of webpages that comprehensively explains and provides avenues for communicating with CT DEEP and participating in the rule making and permitting processes. As part of these enhanced webpages, one can [learn more about environmental justice communities](#) through a map of distressed municipalities and Environmental Justice Census Block Groups, as well as a map of affecting facilities in the state and how such facilities relate spatially to environmental justice areas.

*Upcoming Initiatives:*

In August 2023, CT DEEP and University of Connecticut's Center for Land Use Education and Research (UCONN CLEAR) will publish CT's Environmental Justice Mapping Tool, which identifies areas and or communities with high environmental burdens from pollution. CT EJ Screen uses a variety of data from CT DEEP, CT DPH, and EPA to create a GIS map that can be used by residents, community leaders, and rule and policy makers for positive community impact by looking at indicators of environmental burden in four categories: potential pollution sources, potential pollution exposure, socioeconomic factors, and health sensitivity. Based on this data, each indicator is assigned a percentile range and normalized ranking for each census tract. The combination of these ranges and rankings generates a score for environmental impact.

One major component of DEEP's EJ work is related to permitting. Conn. Gen. Stat. section 22a-20a ("An Act Concerning Environmental Justice Communities," effective in 2009) imposes a public notice requirement on the permitting of certain so called "affecting facilities," including the submittal and execution of an Environmental Equity Plan. Conn. [Public Act 23-202](#) amended this statute in 2023. This revision expands the notice requirements to provide more meaningful public participation for specifically defined permit applications. This act also allows the Commissioner to consider the cumulative impact of

environmental and health stressors in evaluating certain permit applications and requires the agency to create a tool for stakeholders to conduct this analysis. To implement the new provisions, DEEP will develop a robust rulemaking process, to be pursued through 2024 and 2025, with substantial stakeholder input. Stakeholder engagement will occur through CEEJAC and other venues.

- ***Small Commercial Businesses:*** In FY 17-22 CT DEEP has continued to offer a compliance assistance program directed at small businesses to 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 policy, now in effect, 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. CT DEEP also developed a [Model Hazardous Waste Management Compliance Plan](#) to be used for RCRA facilities.

CT DEEP offers information on many opportunities for [pollution prevention for businesses](#), such as chemical management for climate risk, garment care and dry cleaning, lawn care, metal finishing, and most recently, sustainable breweries.

- ***Auto Recycling Compliance Initiative:*** Auto recycling compliance violations typically include soils impacted by 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, CT DEEP developed *Pit Stops* an [environmental compliance guide for the Auto Recycling Industry](#) and multimedia inspection checklist. In FY 22, CT DEEP worked with CT DMV to update CT DEEP's forms required for submittal to DMV through their licensure process. CT DEEP provides factsheets on potential hazards in the shop to assist the licensee in identifying areas of compliance and best management practices for pollution prevention. In FY 23, CT DEEP will update its webpages with this information.
- ***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 of 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”). CT

DEEP continues to target facilities in the **auto recycling, transfer stations, 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.

- **Marina Compliance Initiative:** The Connecticut Marine Trades Association (CMTA) currently manages the Clean Marina Certification Program in Connecticut. The 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. CT DEEP continues to support the Clean Marina Program by providing technical assistance through appropriate DEEP programs.
- **Pharmaceutical Disposal: Universal waste rule, regulations & outreach:** Appropriate handling standards and disposal methods for pharmaceuticals have been the subject of federal rulemaking. CT has addressed the appropriate end of life management of pharmaceutical wastes generated by residents and commerce/industry. CT partnered with US DEA to establish bi-annual Drug Take Back events and worked with designated disposal facilities to allow the receipt and destruction of all types of pharmaceuticals. CT is in the process of updating the hazardous waste regulations to incorporate with some changes the federal pharmaceutical waste rule. The appropriate management of pharmaceuticals is essential to maintaining the state’s natural resources. Safe management practices need to be established and enforced across all states to mitigate the disposal of such materials through their discharge into POTWs which are subject to variability in their treatment. The majority of pharmaceuticals discharged to POTWs are passed through the system untreated and subsequently 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.
- **Recycling:** The RCRA hazardous waste and solid waste programs have 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 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:*** CT DEEP will continue to implement the covered electronic devices under the 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 rests with the manufacturers while the towns will have their residentially generated covered electronic devices waste picked up and recycled at no expense. CT DEEP will focus on outreach and education to improve public awareness and participation with the E-waste recycling law. CT DEEP will also include E-waste facilities within its compliance monitoring and enforcement program to ensure compliance with RCRA and CT E-waste 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. CT DEEP will continue specific financial record reviews (FRR) to ensure compliance with the financial assurance requirements. **FFRs 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.
- ***Off-Site CAA Partial Compliance Evaluation:*** CT DEEP targets sources for evaluation through its off-site partial compliance evaluation (PCE) program, which was developed around the onset of the COVID-19 pandemic to provide enhanced compliance monitoring of true and synthetic (<50%) minor sources, especially those in disadvantaged communities. Under the off-site PCE program, CT DEEP uses its statutory and regulatory information request authority to collect records pursuant to the targeted minor NSR permit(s) and the synthetic minor "permit by rule." CT DEEP staff subsequently reviews the responsive records and makes a finding of compliance or noncompliance. As warranted, noncompliance is addressed via the issuance of a Notice of Violation and may be further pursued via CT DEEP's administrative enforcement process or a civil or criminal referral. If further information is needed to make a compliance

demonstration, the targeted source would be flagged for an on-site PCE or full compliance evaluation (FCE).

- ***Property Transfer Act Compliance Project:*** CT DEEP has reinitiated a compliance project to ensure that Certifying Parties (CPs) are achieving their statutory obligations to investigate and cleanup environmental pollution at properties subject to Connecticut's Property Transfer Act (Sec. 22a-134 CGS). CP's have an obligation to complete the environmental investigation of the subject establishment within two years of a Property Transfer Act filing, initiate cleanup within three years, and present a verification stamped by a Licensed Environmental Professional within eight years.
- ***Environmental Use Restriction Compliance Project:*** CT DEEP's Remediation Standard Regulations allow recording of environmental use restrictions (EURs) to minimize the risk of human exposure to pollutants and hazards to the environment by preventing specific uses or activities at a property or a portion of a property when contaminated soil or groundwater will be left in place on the property. There are approximately 600 EURs recorded in Connecticut. Pursuant to the Regulations of Connecticut State Agencies § 22a-133q-8, CT DEEP requires owners of property with EURs to conduct annual inspections to ensure that the EURs remain effective. DEEP also requires property owners to provide plain language factsheets which explain the requirements of the environmental use restrictions for either the general public or the person responsible for maintenance of the parcel, and any person responsible for overseeing the health and safety of workers who may be exposed to pollution. DEEP staff are also authorized to conduct inspections to verify compliance with EUR requirements. This compliance project requires retention of an environmental consultant (utilizing BIL funding) to conduct outreach to property owners with EURs to ensure that annual inspection reports are being completed, and to track property use for consistency with associated activity restrictions.
- ***GMAP:*** GMAP is the use of precise global positioning system data and fast-response instruments mounted within a motor vehicle to spatiotemporally resolve air pollution patterns in a variety of use scenarios (EPA Other Test Method 33). DEEP took delivery of its GMAP vehicle in August 2021. Given the high priority associated with GMAP program, DEEP recently established a work unit dedicated to GMAP and filled the unit's supervisory position as well as two staff-level positions. Since receiving the GMAP vehicle, DEEP staff has been training on operation of the analyzers and calibration equipment, data acquisition, and data mapping. Staff has used the GMAP vehicle in connection with investigating public complaints, performed preliminary monitoring and trial runs to challenge the various analyzers and meteorological instrumentation, and collocated the GMAP vehicle with regulatory/National Ambient Air Quality Standards (NAAQS) monitors. Furthermore, staff has successfully mapped data gathered by the GMAP vehicle.

DEEP, alongside EPA, held a press event to mark the public launch of its GMAP program during Air Quality Awareness Week in spring 2023. During the press event, DEEP announced that it would conduct focused, community-level air quality monitoring using the GMAP vehicle in Hartford and East Hartford in the fall and winter of 2023, into 2024. In August 2023, DEEP noticed and held a very productive community meeting with residents of Hartford and East Hartford to solicit their feedback as to where the GMAP should be deployed and any

areas or sources of concern. DEEP also participated in community group meetings to spread the word about GMAP.

Using the GMAP vehicle, DEEP staff has the ability to investigate emissions of 16 different air pollutants – including criteria pollutants and their precursors, hazardous air pollutants, and greenhouse gases – using the following analyzers: Duvas 3000, Picarro Cavity Ring-Down Spectrometer, and Teledyne T640. The GMAP vehicle also includes an aethalometer, which can discriminate between black/elemental carbon from fossil fuel combustion and brown/organic carbon from biomass combustion, as well as a photoionization detector (PID) that can measure the ambient concentration of total VOC, as isobutylene, and a Summa canister sampling system. Ambient air samples can be analyzed at a contract laboratory. Additionally, the GMAP vehicle is equipped with meteorological instrumentation that can measure wind speed and direction, air temperature, wind chill, relative humidity, and barometric pressure. Specific pollutants monitored by the GMAP analyzers include benzene; toluene; ethylbenzene; m-, o-, and p-xylene; ozone; nitrogen oxide; nitrogen dioxide; sulfur dioxide; formaldehyde; ammonia; styrene; 1,3-butadiene; particulate matter (both 10 and 2.5 microns in diameter and smaller); black carbon; carbon dioxide; and methane.

DEEP intends to utilize the GMAP vehicle to search for and identify sources of pollution that may have gone undetected using traditional source identification techniques. By allowing DEEP to better understand emissions and exposure at a hyperlocal level, the GMAP vehicle will fill the gap between the data obtained through DEEP's regulatory monitoring network (consisting of 14 air monitoring stations that primarily measure criteria pollutant concentrations) and emission testing of point sources.

DEEP will use the GMAP vehicle to conduct emission surveillance throughout the state, with an emphasis on surveillance in environmental justice and historically overburdened communities (such as Hartford and East Hartford). DEEP intends to conduct outreach to community groups in the areas where the GMAP will be deployed to better understand residents' air quality concerns prior to conducting surveillance and subsequently to share monitoring results. DEEP will also use the GMAP vehicle as an inspection tool to screen stationary sources with a high potential for fugitive emissions or with short stacks and poor dispersion parameters to assist staff in identifying fugitive emissions and understanding the fence line impacts of such sources.

Use of the GMAP vehicle will provide the benefits of a "Next Generation Compliance" tool and further DEEP's public commitment to protecting air quality and public health and promoting environmental justice.

- ***Additional Compliance Assistance and Pollution Prevention Initiatives in Priority Sectors:*** Identification of sources affected by the 2008 Ozone non-attainment reclassification (serious to severe for Middlesex and New Haven counties); Assessing compliance of Phase 2 NOx RACT subject sources; 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.

- ***Advanced monitoring and detection of air emissions:*** CTDEEP has procured a number of advanced monitoring and detection tools, including a handheld flame ionization detector, photoionization detector, infrared camera, and lower explosive limit monitor. CTDEEP employs these analyzers during certain inspections of VOC and methane sources and is working to fully integrate these tools into its inspection program at applicable source categories. Additionally, CTDEEP utilizes the Digital Opacity Compliance System to conduct lawful and reliable visible emission evaluations, even if the observer – or in the case of DOCS evaluations, the photographer – is not certified under EPA Method 9 at the time of the evaluation.
- ***Participation in EPA’s GMAP enforcement initiative.*** In October 2021, CTDEEP participated with EPA Headquarters and Region 1 staff in an enforcement initiative involving NEIC’s GMAP vehicle as well as DEEP’s infrared camera and LEL monitor. EPA and DEEP staff evaluated a number of fugitive VOC/HAP sources throughout Connecticut, including bulk terminals; chemical manufacturing plants; and hazardous waste treatment, storage, and disposal facilities. As a result of the fugitive emissions visualized or otherwise documented during this initiative, EPA and DEEP staff followed up with several of the targeted sources. In one such example, EPA and DEEP staff observed fugitive emissions from an internal floating roof tank (IFRT) at a bulk terminal using the infrared camera. Upon climbing the tank and inserting an LEL monitor into its headspace, staff noted that the LEL reading of the space between the floating roof and fixed roof was higher than expected during typical “standing loss” conditions. EPA and DEEP facilitated a meeting with the terminal’s management to explain the observations made during the investigation and to discuss next steps. Terminal staff conducted a visual inspection of the IFRT and shared the results with EPA and DEEP; terminal staff agreed to conduct additional monitoring, which showed neither excess LEL readings nor visual defects in the roof or seals. DEEP conducted an FCE of the facility later in the fiscal year to verify compliance with applicable regulatory and permit requirements; DEEP staff did not document any fugitive emissions during this FCE but did discover an IFRT that appeared to be operating without a minor NSR permit, for which enforcement action is pending. In a similar example, EPA and DEEP staff observed emissions from a vent at a chemical manufacturing plant. DEEP staff visited the facility again several months later and were unable to observe the fugitive emission plume; however, a number of permit violations were documented as a result of the FCE, and enforcement action has been initiated to this effect.
- ***Implementation of synthetic minor permits by rule.*** In the past, synthetic minor sources were generally registered under DEEP’s State Implementation Plan (SIP)-approved synthetic minor General Permit to Limit the Potential to Emit (GPLPE), which established a legally enforceable limitation on facility-wide emissions. On November 8, 2020, upon expiration of the GPLPE, DEEP elected not to renew the general permit and instead implemented a permit-by-rule regulatory scheme for the synthetic minor source universe. Regulations of Connecticut State Agencies (RCSA) section 22a-174-33a and -33b now regulate SM-50% and SM-80% sources, respectively, and establish a legally enforceable limitation on an affected stationary source’s potential to emit (PTE). On March 11, 2022, EPA published in the Federal Register (FR) a

final rule to approve the incorporation of RCSA 22a-174-33a and -33b into the Connecticut SIP (87 FR 13936).

Throughout FFY 2021 and 2022, DEEP's Air Enforcement Division conducted substantial compliance outreach to the synthetic minor regulated community regarding the transition from the GPLPE to the permits by rule. Specific compliance assistance activities included two presentations at meetings of Connecticut's SIP Revision Advisory Committee (SIPRAC), one presentation at a meeting of the Connecticut Business and Industry Association, and extensive one-on-one outreach to individual sources that were previously registered under the GPLPE and had not yet indicated their intentions moving forward. As of the writing of this letter, of the 174 registered under the GPLPE upon its expiration, all but two sources had notified DEEP that they would operate under the permits by rule or that they no longer required coverage under a synthetic minor limitation (e.g., facility shut down or reduced its PTE to below the major source thresholds absent a synthetic minor limitation). The successful transition to the permits by rule is a direct result of the compliance assistance that DEEP staff offered.

- ***Implementation of NOx RACT – phase 2.*** As Connecticut is nonattainment for various ozone NAAQS, DEEP is required under sections 182 and 184 of the CAA to implement a RACT program for major sources of NOx. Connecticut's NOx RACT program is codified at RCSA 22a-174-22e (for major sources of NOx that are not municipal waste combustors) and RCSA 22a-174-38 (for municipal waste combustors). RACT under RCSA 22a-174-22e is a multi-phase program. Affected emission units are currently subject to phase 1 emission standards, which apply from June 1, 2018, to May 31, 2023; phase 2 requirements take effect on June 1, 2023. The Air Bureau's Enforcement Division administers Connecticut's NOx RACT program, generally through the issuance of administrative consent orders.

Certain administrative deadlines for phase 2 compliance options have already passed. The deadline to petition the Commissioner for a source-specific RACT determination under RCSA 22a-174-22e(h) was January 1, 2021; DEEP received and acted on one such petition in 2020. The deadline to notify the Commissioner of intended operation under an alternative compliance option at RCSA 22a-174-22e(g) was September 1, 2021; in FFY 2022, DEEP reviewed one such notification and drafted an administrative order to implement the requested alternative compliance option: to allow three dual-fuel industrial boilers to operate as gas-only units, as defined in the EPA's generally available control technology standard for boilers, and continue meeting the phase 1 NOx limit on natural gas in lieu of complying with the phase 2 NOx limits on natural gas and oil. The order was executed early in FFY 2023. Also, in FFY 2022, DEEP assisted a company in modifying its case-by-case RACT order to accommodate a transfer of ownership.

- ***Implementation of single-source VOC RACT.*** As Connecticut is nonattainment for various ozone NAAQS, DEEP is required under sections 182 and 184 of the CAA to implement a RACT program for major sources of VOC and for certain minor VOC sources covered by EPA's Control Techniques Guidelines (CTGs). Connecticut's VOC RACT program is codified at RCSA 22a-174-20 (for sources belonging to specific source categories, generally those covered by a CTG published by EPA) and RCSA 22a-174-32 (generally applicable to major sources of VOC).

In FFY 2022, DEEP executed a VOC RACT order at a shipbuilding and ship repair facility that provides for the continued use of technically necessary coatings and solvents (consistent with EPA's CTG and MACT for the shipbuilding and ship repair source category) in lieu of compliance with Connecticut's default metal parts and products coating and solvent VOC content limits at RCSA 22a-174-20(s). This order has been submitted to EPA as a revision to the Connecticut SIP; as of the writing of this letter, EPA has yet to propose action on the SIP revision. Also, in FFY 2022, DEEP reviewed an application to modify a single-source VOC RACT order at an aerospace manufacturing facility; the resulting consent order was drafted in FFY 2022 and executed early in FFY 2023. Notably, the modified order allows the facility to evaluate in its test rigs the performance of aircraft components handling sustainable aviation fuel (SAF), which is physiochemically similar to but less carbon-intensive than traditional jet fuel. The facility previously used only traditional, petroleum-based jet fuels and calibration fluids in its test rigs, and the narrow definition of "aviation fuel" in the prior version of the order precluded the use of SAF. As with the traditional jet fuels currently in use, SAF is not combusted at the facility; rather, the performance and reliability of fuel-handling components is evaluated using SAF, resulting in fugitive losses of VOC. This modified order serves to advance Connecticut's climate goals by providing for the use of less carbon-intensive transportation fuels while setting forth reasonably achievable work practice standards to minimize the evaporative loss of VOC. Submission of a SIP revision to accommodate the modified order is pending.

- ***Open Burning Official certification program.*** The Air Bureau administers Connecticut's open burning program, which is codified at section 22a-174(f) of the Connecticut General Statutes. This program plays a critical role in minimizing the air quality impacts and potential for public nuisance associated with open burning by (i) restricting the types of materials that may legally be burned, (ii) placing conditions on the time and air quality index when such materials may be burned, and (iii) establishing work practice standards and a permitting mechanism for open burning. Pursuant to the open burning statute, municipal chief executive officers (CEOs) are authorized to nominate local Open Burning Officials, who may issue permits for the following types of burns on non-state-owned property: residential brush; fire-training exercises; eradication or control of insect infestations or disease; agricultural; clearing of vegetative debris following a natural disaster; and vegetative management or enhancement of wildlife habitat or ecological sustainability on municipal property or on any privately owned property permanently dedicated as open space. Furthermore, pursuant to this statute, the Commissioner is responsible for certifying Open Burning Officials who are nominated by the municipal CEOs.

To uphold the consistency, reliability, and integrity of the Open Burning Program across the state, DEEP established an expiration date applicable to all local Open Burning Officials' certifications. Prior certifications were originally set to expire on January 31, 2021; however, due to the challenges posed by the COVID-19 pandemic, the certification period was extended for one year, to January 31, 2022. In order to be recertified, the Open Burning Official must complete an online training program, and his/her CEO must submit a renomination affidavit.

This federal fiscal year, DEEP made a number of streamlining enhancements to the recertification process, including paperless processing and a simplified nomination affidavit. These changes were described in letters to the municipal Open Burning Officials and CEOs. Furthermore, DEEP revamped the test that prospective Open Burning Officials must successfully complete as a condition of recertification in order to better reflect recent issues that DEEP has come across in the administration of its open burning program.

In total, DEEP issued 288 Open Burning Certifications in FFY 2022.

- ***IFRT calculations.*** In FFY 2022, Air Bureau staff greatly enhanced their knowledge of IFRT modeling and calculations for all phases of tank operations, including standing and working losses, roof landings, and tank degassing and cleaning. As a result, staff determined that gasoline IFRTs generally have potential VOC emissions in excess 100 tons per year, which exceeds DEEP's 15 tpy-VOC minor NSR threshold. Consequently, staff discovered that a number of gasoline IFRTs have been installed since the promulgation of Connecticut's minor NSR program without having obtained a permit and satisfied the requisite elements of preconstruction review (including best available control technology and public notice). DEEP has taken enforcement action to this effect and has a number of pending enforcement actions, as well.
- ***Compliance outreach and assistance.*** In addition to the day-to-day compliance assistance that field- and office-based staff provide in the normal course of their job duties, the Air Bureau conducted five targeted outreach campaigns in FFY 2022.
  1. DEEP issued a compliance assistance letter to the regulated community (including SIPRAC) regarding the listing of 1-BP as a HAP and attendant major source requirements. Staff is currently following up with sources believed to have potential single HAP emissions in excess of the 10 tpy major source threshold by virtue to the listing of 1-BP.
  2. DEEP issued a compliance assistance letter, with responses to frequently asked questions, to the regulated community (including SIPRAC) regarding EPA's lifting of the formaldehyde standard stay in NESHAP subpart YYYY and attendant testing requirements.
  3. DEEP issued a compliance assistance letter to the synthetic minor community, in addition to the regulated community/SIPRAC at large, regarding the impacts of EPA's reclassification of the Southwest Connecticut nonattainment area (Fairfield, Middlesex, and New Haven Counties) as severe nonattainment for the 2008 ozone NAAQS. This letter provides guidance to affected facilities on how to modify their synthetic minor status, as necessary, or apply for a Title V operating permit. The letter also provides relevant guidance to true minor sources.
  4. DEEP issued a press release with guidance on wood burning.
  5. DEEP issued letters to municipal Opening Burning Officials and CEOs regarding recertification requirements (see "Open Burning Official certification program" above).
- ***CEMS rulemaking.*** In FFY 2022, Air Bureau staff finalized a rulemaking that will enhance the clarity and enforceability of state requirements pertaining to CEMS at stationary sources. Notably, the rule will require that all sources operating a CEMS for regulatory compliance purposes file an updated CEMS plan with the Department; such plans are to include an overview of the source, a detailed description of the monitoring equipment on site, and an overview of the performance specifications and quality assurance audits applicable to the CEMS at issue. The

new RCSA 22a-174-4a is structured to include provisions that are missing or are not clearly set out in the old RCSA section 22a-174-4, including a distinct separation of opacity monitoring provisions from other pollutant monitoring provisions as well as performance specifications and quality assurance requirements that are consistent with current federal standards and common industry practice.

- ***State enforcement strategy for SM-50% and true minor sources.*** In FFY 2021, DEEP developed its State Inspection Targeting Strategy to prioritize compliance evaluations of SM-50% and true minor sources – which are not covered under the CMS – based on defined targeting criteria. Specifically, DEEP will target for evaluation sources that have an increased potential to adversely affect human health and the environment and/or have a higher likelihood of non-compliant activity. To achieve this goal, DEEP must utilize its resources effectively by thoughtfully targeting sources, choosing an appropriate compliance evaluation type, and leveraging available tools. Compliance assurance activities under the State Inspection Targeting Strategy may consist of some or all of the following investigatory elements: information requests and records reviews, FCE/PCE on-site inspection, and GMAP surveillance. Using the framework established in the State Inspection Targeting Strategy, DEEP staff from all units of the Air Enforcement Division are currently identifying specific SM-50 and true minor sources that will be evaluated over the coming fiscal year. This strategy gives special consideration to those sources located in environmental justice communities.
- ***Alternative CAA CMS.*** With EPA’s approval, DEEP implemented an alternative CAA CMS in FFY 2023. Furthermore, DEEP has submitted to EPA a proposed alternative CAA CMS for FFY 2024-26. The alternative plan, in contrast with the default framework set forth in EPA’s CAA CMS policy, would more closely reflect the Department’s enforcement priorities over the forthcoming fiscal years, including but not limited to: (i) the continued implementation of the Department’s geospatial measurement of air pollution program, fully integrating GMAP into the Department’s enforcement program; (ii) consistent with EPA’s Justice40 initiative, an enhanced focus on compliance evaluations of synthetic minor 50% and true minor sources in environmental justice areas, which are not subject to the federal CMS framework or to a federally mandated minimum inspection frequency; (iii) a continued focus on minor source stack testing; (iv) a continued focus on responding to the public’s air quality concerns and complaints; (v) successful implementation of a regulatory framework to implement the reclassification of the Connecticut portion of the New York, Northern New Jersey, Long Island ozone nonattainment area to severe nonattainment under the 2008 National Ambient Air Quality Standard for ozone; and (vi) successful implementation of Phase 2 of Connecticut’s reasonably available control technology rule for nitrogen oxides. Furthermore, this alternative CMS would allow the Department to more efficiently and effectively leverage existing resources to achieve Connecticut’s air quality compliance goals. The plan contains a number of environmentally beneficial alternative compliance assurance commitments as well as safeguards to mitigate risk to the Department’s regulatory program.