

**Review of the Connecticut Department of
Environmental Protection FY 2006 State Enforcement
and Compliance Programs**

U.S. EPA Region 1 New England

September 24, 2007

EXECUTIVE SUMMARY

Overall Picture

The Connecticut Department of Environmental Protection (CT DEP) meets federal standards for implementing its federally delegated Clean Air Act (CAA) Stationary Source, Clean Water Act (CWA) NPDES and Resource Conservation and Recovery Act Subtitle C enforcement programs.

This means CT DEP is meeting federal program expectations.

Sources of Information Included in Review

EPA New England developed these findings from a review of CT DEP operations in Federal Fiscal Year 2006 (FY2006, October 1, 2005-September 30, 2006). EPA reviewers examined FY2006 CT DEP/EPA agreements, information in EPA and CT DEP databases, and 88 CT DEP files (29 Air files, 26 Water files and 33 RCRA files). EPA reviewers discussed all this information with CT DEP program managers and staff.

Inspection Implementation

One of the strengths of the CT DEP in FY06 was that it met or exceeded its inspection commitments in each of the programs. Region 1 is recommending improvements in documentation in each of its programs. In Air and Water, Region 1 recommends that inspection reports include descriptions of past compliance history. EPA notes that CT DEP makes extensive use of standardized inspection checklist tools to improve the efficiency of its inspectors. All programs complete their inspection reports quickly.

Enforcement Activity

Enforcement response is strong in all programs. CT DEP's Air, Water and Waste Programs are identifying significant violators at a rate higher than the national average. CT DEP successfully returns violators to compliance. When CT DEP identifies significant violations, it addresses them with an appropriate enforcement response. Region 1 recommends that Water and Waste Programs clarify procedures for calculating or documenting the timeliness of enforcement response. Region 1 recommends that each program address issues relating to accuracy in reporting the collection of penalties to EPA data systems.

Commitments in Annual Agreements

CT DEP's PPA describes its compliance and enforcement commitments.

Data Integrity

CT DEP maintains state data systems as well as providing information to EPA national systems. EPA is working with CT DEP to develop plans to improve data quality in each program.

Element 13

CT DEP submitted extensive information to Region 1 under Element 13 to provide a fuller understanding of the many innovations CT DEP has initiated in recent years. Many of these efforts are innovations in implementing core enforcement programs. There are descriptions of several cross-media compliance initiatives and significant enforcement actions. CT DEP's Element 13 submission includes sections on cross-media efforts, Air, Water and Waste Programs, and Innovations and Compliance Assistance, and Pollution Prevention Initiatives. As part of the Element 13 submittal, CT DEP has indicated that it may seek Recognition Credit under OECA's Element 13 Guidance. CT DEP has created a tool called the Enforcement Desk Reference, an electronic tool accessible through the intranet. It provides staff in all programs with enforcement-related guidance materials, policies, protocols, checklists and sample documents. In late 2007, EPA will include the CT Enforcement Desk Reference in a national report of "best practices" by states in implementing compliance and enforcement programs.

Implementing the Review

CT DEP hosted a kick-off meeting to begin the review on January 9, 2007 at its Headquarters in Hartford. The CT DEP Deputy Commissioner and managers and senior staff from Region 1 and CT DEP participated in the meeting. After the kick-off meeting, state and federal staff worked out their own schedules for data examinations, file reviews and meetings. On Wednesday June 10, 2007, Region 1 reviewers met with CT DEP program managers in Hartford to discuss preliminary review findings.

CT DEP Clean Air Act Stationary Source Enforcement Program

OVERVIEW

The Clean Air Act (CAA) portion of the Connecticut Department of Environmental Protection (CT DEP) State Review Framework (SRF) evaluation included the review of 15 inspection files and 15 enforcement files, all of which were randomly selected. CT DEP reported in the federal database for air compliance information – Air Facility System (AFS) – that it conducted some activity (inspection or enforcement) at these facilities in FY2006. For the inspections, CT DEP reported that it conducted full compliance evaluations (FCEs) at these 15 facilities. For the enforcement actions, CT DEP reported that it issued some type of enforcement action, ranging from notices of violation to consent orders, at these 15 facilities. One facility, American Wire Corporation, appears on both lists.

The Air Enforcement Program is organized into four functioning units:

- **Field Enforcement:** This group is responsible for on-site inspections of various sources, including major sources such as Title V sources and smaller facilities covered by the General Permit to Limit Potential (GPLPE). The Fuels Group audits Stage II testing at gasoline stations. The staff also responds to complaints on odors, wood burning, and conducts open burning inspections. The common thread running through this group is that they handle compliance through onsite inspections.
- **Compliance Analysis and Coordination Unit:** This group determines compliance through the in-house review of compliance certifications submitted by Title V and GPLPE sources. They also conduct compliance determinations as requested by DEP staff, coordinate with EPA on enforcement data, and handle CEM audit reviews.
- **Source Emission Monitoring:** This group audits emission testing at facilities and Continuous Emission Monitoring systems and determines compliance with associated emission and operation limits and testing deadlines.
- **Administrative Enforcement:** This group pursues and administers the appropriate enforcement response for state and federal high priority violations. This most often results in the drafting, negotiating and administering of formal enforcement actions, including state orders and referrals. Staff in this group works closely with the enforcement staff that identified the violation to ensure that the assembled enforcement case is sound and timely.

If CT DEP took a CAA action at a source in FY2006, EPA Region 1 also reviewed inspections or actions that preceded and/or followed-up on the FY2006 action even if these actions occurred in a different fiscal year. (See Table 1 for a list of the air inspection and enforcement files that EPA Region 1 reviewed.)

Of the 15 inspection files reviewed, 7 were major sources, and 8 were synthetic minor sources. Of the 15 enforcement files reviewed, 8 were major sources, 4 were synthetic minor sources, and 3 were minor sources. In addition, 5 of the 15 enforcement actions addressed HPVs.

The CAA evaluation also involved the review of data from AFS (primarily for FY2006), supplied by EPA Headquarters, which compared CT DEP's performance on certain metrics to national policy goals.

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Section 1: Review of Inspection Program Implementation

1) Degree to which state program has completed the universe of planned inspection/evaluations (covering core requirements and federal, state, and regional priorities).

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

EPA's Compliance Monitoring Strategy (CMS) of April 2001 creates a baseline requirement that states conduct a full compliance evaluation (FCE) at each of their major Title V sources at least once every 2 years, and at each of their synthetic minor sources – permitted at above 80% of the major source threshold – (SM80s) at least once every 5 years. Connecticut has adopted this inspection schedule.

To streamline FCEs, CT DEP issues a Pre-Inspection Questionnaire (PIQ) to all facilities prior to the inspection. The PIQ asks a series of detailed questions about the facility and its regulated emission units and processes. If a facility does not fill out the PIQ, CT DEP issues a notice of violation (NOV). After reviewing the PIQ, the inspector has a sense of what to expect on the day of the inspection and is better prepared to make a compliance determination. Because the PIQ essentially announces the inspection, the inspector can be assured that the appropriate facility personnel will be on-site the day of the FCE.

PIQs help inspectors prioritize and plan their FCEs. As a result, CT DEP is able to conduct hundreds of inspections every year. Because the CMS requires CT DEP to conduct FCEs at all major sources every two years (and at synthetic minors every five years), many of the facilities that receive PIQ inspections are expecting an inspector anyway.

Each year CT DEP conducts a number of unannounced PIQ inspections. In 2006, CT DEP conducted 6 unannounced PIQ inspections. In addition, CT DEP conducts a number of unannounced inspections every year, particularly follow-up inspections (which may be a PCE or a FCE) that determine a facility's compliance with an NOV or an order. Furthermore, CT DEP inspectors do not send out PIQs for inspections that result from a citizen complaint.

Region 1 has discussed the benefits of announced versus unannounced inspections with CT DEP several times over the years. CT DEP agreed that the date of the inspection does not need to be announced or near the date of the PIQ. Given this, CT DEP may consider sending the PIQ and then conducting an unannounced FCE at a small percentage of these facilities.

Metric 1A – Major Sources

To meet the two-year inspection cycle for major sources in FY2005 and FY2006, CT DEP should have conducted 99 FCEs. According to OTIS, CT DEP conducted 92 FCEs at major sources. However, an additional 3 FCEs were conducted at major sources by CT DEP, but they were not properly reported to AFS. Therefore, in the FY2005 and FY2006 timeframe, CT DEP conducted 95 FCEs at major sources. This means CT DEP conducted FCEs at 96.0% of the air major sources, which is well above the national average of 82.1%.

It is worth noting that CT DEP conducted FCEs at 95 major sources, but visited 30 of those major sources more than once. As a result, the total full compliance inspection count in Connecticut at major facilities between FY2005 and FY2006 is 125.

Two of the four major facilities not inspected during the two-year inspection cycle were inspected within 23 days of the end of the FY2006. To date Connecticut has reduced its major source universe to 96 and has conducted an inspection at each major source.

Metric 1B – SM80 Sources

The CT DEP realizes that their SM80 universe is not accurate in OTIS and is currently working to make corrections to their SM80 universe. Although it is a moving target, CT DEP will update the SM80 universe with current information before the end of FY2007.

CT DEP's data indicate that the current SM80 universe is 392. Using this universe, 392 FCEs should have been conducted between FY2002 through FY2006. In this time frame, CT DEP conducted FCEs at 325 SM80s. This means that CT DEP conducted FCEs at 82.9% of the SM80s, which is slightly below the national average of 85.1%.

It is worth noting that CT DEP conducted FCEs at 325 SM80s, but visited 102 SM80 facilities more than once. As a result, the total inspection count in Connecticut at SM80 facilities between FY2002 and FY2006 is 430.

Between FY2002 and FY2006, the CT DEP had 392 facilities registered as SM80 sources. Of those 392, only 333 of the facilities were registered as SM80 sources at the beginning of FY2002. Therefore, only 333 FCEs were required to be completed within the five-year period ending in FY2006. CT DEP inspected 325 SM80 facilities in that timeframe, or 97.6% of the SM80 universe. It should also be noted that during the 5-year period approximately 55 sources had their SM80 registrations revoked or the facility was shutdown/closed.

Metric 1C and 1D – Synthetic Minor Sources and Minor Sources

CT DEP considers all of their synthetic minor sources to be SM80s. Of the 2,058 minor sources, CT DEP has inspected 190, or 9.2%. CT DEP selects minor sources for inspection through a combination of citizen complaints, targeting and random selection.

Metric 1F – Review of Self-Certifications

CT DEP staff conducts a thorough review of every Title V certification that is received in the office. An initial screen is conducted of each certification when it is received to check the report for completeness and deviations. A more detailed review is then conducted by a staff engineer/analyst. This thorough review includes a verification of the data reported, a cross-check for compliance across all bureau programs and a compliance determination. It is not until this thorough review is complete that the review is entered in AFS.

CT DEP receives the Title V certifications by January 31 of each year. This date is four months into the fiscal year. As a result, when looking at the data in terms of the federal fiscal year, it appears that CT is not reviewing all the certifications that are received. Although reviews of all Title V certifications are not completed in the FY, CT DEP completes reviews of all certifications in the calendar year.

In FY2006, CT DEP received 82 self-certifications for Title V sources. Of the 82, CT DEP reviewed 57, or 69.5% of them. This is below the national average of 82.0%.

In the past year, the CT Bureau of Air Management has gone through several staffing and management changes. As a result, CT has put a new plan in place which streamlines the Title V Certification review process. In the past, CT used a multi-step procedure which included a final supervisor signoff, which often delayed the process even more. CT has now implemented a system that is similar to its inspection system whereby the review date can be entered prior to final sign-off; therefore, the reviews are entered in a timely manner. This new process has been implemented and seems to be working well.

CT DEP and Region 1 recognize the challenge for CT in trying to complete all Title V certification reviews in the remaining 8 months of the fiscal year. With the current procedure for Title V certification reviews, there will always be a delay in the reporting of results of Title V certification reviews. Region 1 prefers that CT DEP continue to conduct thorough reviews of the Title V certifications throughout the calendar year as opposed to the fiscal year as several violations are discovered as a result of these reviews.

Metric 1G – Unknown Compliance

CT DEP has one source that is in unknown compliance status. CT DEP made inspecting this source a priority for FY2007, and the inspection was completed on April 3, 2007.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

CAA Stationary Source Compliance Monitoring Strategy, April 25, 2001

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

2) Degree to which inspection / evaluation reports document FCE findings, including accurate identification of violations.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

All 15 inspection reports included a cover sheet that contained general information about the inspection, the inspector, and the facility. These cover sheets indicate whether the inspection was an FCE or a PCE. However, CT DEP uses an old terminology (Level 1 and Level 2 as opposed to PCE and FCE). CT DEP has agreed to update the forms.

In addition to the cover sheet, many inspection files contain the PIQ checklist. The PIQ checklist is one of the many tools that CT DEP inspectors use to streamline the inspection and report writing process. These checklists, when combined with the inspector's report, adequately document the necessary components of an FCE.

All 15 reports contained a detailed inventory of regulated emission units and processes and listed the applicable requirements. However, 2 of the reports did not discuss the underlying requirements of the permits.

It is clear from reading the reports that the CT DEP inspectors conducted appropriate compliance monitoring activities at these facilities, but 2 reports did not provide sufficient information to justify the inspector's conclusions that the facility is in compliance.

It is also clear from reading the reports that CT DEP inspectors reviewed the appropriate records (before, after, or during the inspection). However, in most of the reports, the inspectors do not identify specifically which records they reviewed. CT DEP has agreed to look into this issue.

All 15 reports contained a clear description of findings and recommendations, but CT DEP inspectors tend to make compliance determinations in inspection reports. EPA suggested that CT DEP inspectors use less definitive language such as "the facility appears to be in compliance."

With respect to including information on previous enforcement actions, CT DEP does not include a list of previous enforcement actions in their inspection reports. In part this is because inspection and enforcement activity is conducted in two different offices (see attached Bureau of Air Management Organization Chart). However, CT DEP inspectors meet with their counterparts in the administrative enforcement office to discuss recent enforcement actions before going in the field. Furthermore, CT DEP keeps track of the overall compliance history of a facility in a database. As a result, CT DEP inspectors routinely obtain, and can include in the file, a print-out of the enforcement history.

With the exceptions noted above, CT DEP inspection reports effectively address the seven basic elements of an inspection report as specified in the CMS.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

CAA Stationary Source Compliance Monitoring Strategy, April 25, 2001

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

- 1) By January 1, 2008, CT DEP should change the inspection report cover sheet to reflect the newer terminology of FCE or PCE.
- 2) By September 30, 2008, CT DEP should demonstrate to EPA the steps it has taken to ensure inspectors include a list of previous enforcement actions in the inspection file, and specify which records they reviewed in their inspection reports.

3) Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Although there are no strict deadlines for completing inspection reports, many states and EPA regional offices generally agree that inspection reports should be completed within 2-6 weeks of the on-site visit. Of the 15 inspection reports reviewed, all were timely and many were finalized within a week of the inspection. In the inspection reports, CT DEP inspectors identify problems at facilities and include appropriate recommendations for follow-up actions.

Of the 15 inspection files reviewed, all appeared to be correctly reporting HPV status, where appropriate.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

CAA Stationary Source Compliance Monitoring Strategy, April 25, 2001

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

Section 2: Review of State Enforcement Activity

4) Degree to which significant violations are reported to EPA in a timely and accurate manner.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Of the 15 enforcement files reviewed, 5 were HPVs. Of the 5 HPVs, 4 were reported to EPA in a timely manner.

Metric 4a – HPV Discovery Rate per Major FCE Coverage

CT DEP's HPV discovery rate per major FCE is 10.5%. This is above the national average of 9.6%.

Metric 4b – HPV Discovery Rate per Major Source

CT DEP's HPV discovery rate per major source is 5.5%. This is above the national average of 4.6%

Metric 4d – Percent of Enforcement Actions that are HPVs

In FY2006, CT DEP took 9 formal enforcement actions at major sources. Of these actions, 3 were HPVs (33.3%). The national average for this metric is 77.8%, but the goal is for states to be more than half the national average, which is 38.9%.

The remaining formal enforcement actions taken at major sources were not classified as HPVs for the following reasons. Two of the actions were at facilities where the violation was not related to the pollutants for which source was categorized as major. Three of the actions were at facilities where the violation was related to an opacity exceedence that did not meet the duration and magnitude conditions outlined in Matrix Criteria 5 of the HPV Policy.

The final action was a multi-media order in which the CT DEP Water Bureau had the lead. Because this particular action was not handled through the CT DEP Air Bureau, it did not follow the established protocol for identifying HPVs. Through the SRF process this action was identified as meeting General Criteria 7 of the HPV policy. CT DEP has addressed this oversight by identifying this violation as an HPV and updating AFS to reflect the change. This particular case was unique in the way it was handled, and as such the Region does not believe that there is a continual problem with HPV identification in CT. The Region believes that as a whole, CT DEP is applying the HPV policy and definitions correctly.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

Timely and Appropriate Enforcement Response to High Priority Violators (“the HPV policy”)
July 1999

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

5) Degree to which state enforcement actions include required injunctive relief, such as corrective or complying actions, that will return facilities to compliance in specified time frame.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Of the 15 enforcement files reviewed as part of the SRF, 13 enforcement actions had appropriate injunctive relief and compliance schedules that returned facilities to compliance in a timely manner. Two cases were referred to the AG's office because the facility did not return to compliance. Region 1 concluded that CT DEP is doing a good job of bringing facilities back into compliance quickly after violations are discovered.

CT DEP follows-up on all NOV's to make sure the facility complies with the NOV. This review includes a case file review, evaluation of corrective actions and a determination (through inspection and/or record review) of whether or not the violation was abated. If the facility has not fully returned to compliance, CT DEP pursues formal enforcement action (see Element 13 discussion).

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

Timely and Appropriate Enforcement Response to High Priority Violators ("the HPV policy")
July 1999

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

6) Degree to which the state takes enforcement actions, in accordance with national enforcement response policies relating to specific media, in a timely and appropriate manner.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Through the SRF, Region 1 concluded that CT DEP has a strong enforcement program that allows them to address noncompliance quickly and effectively. CT DEP is able to pursue timely and appropriate enforcement that is consistent with EPA enforcement policies (including the HPV policy) by relying on the following CT DEP policies: Enforcement Response Policy, Civil Penalty Policy, Compliance History Policy, and Compliance Assurance Policy.

CT DEP almost always issues an NOV before pursuing further enforcement. Although this is not a requirement of the state's Enforcement Response Policy, CT DEP finds that the NOV's serve as timely notice and help bring facilities back into compliance quickly. Because CT DEP follows up on all NOV's, they can easily take further enforcement if facilities fail to comply with NOV's. If facilities fail to comply with consent orders, CT DEP usually refers the case to the CT Attorney General.

CT DEP does not include a copy of the HPV notification form that it submits to EPA in the case file. Instead, CT DEP tracks all HPV's in a centralized database. However, to make it easier to follow the events in a particular case, CT DEP may want to consider including a copy in the case file.

Metric 6a – Percent of HPVs that are Unaddressed for More Than 270 days

Only 13.8% (or four cases) of CT’s HPVs were unaddressed for more than 270 days which is well below the national average of 46.1%. CT DEP is well aware of the HPV timelines and has committed to make every effort to address HPVs within 270 days of day zero.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

- Timely and Appropriate Enforcement Response to High Priority Violators (“the HPV policy”), July 1999
- Enforcement Response Policy, State of Connecticut, Department of Environmental Protection, June 1, 1999
- Civil Penalty Policy, Policy, State of Connecticut, Department of Environmental Protection, February 1, 2001

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

7) Degree to which the State includes both gravity and economic benefit calculations in penalty assessments.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

CT DEP evaluates economic benefit and gravity in all cases. However, a significant majority of the violations that CT DEP discovers are administrative in nature (recordkeeping, etc.). For these violations, it is difficult to assess economic benefit because it is typically so small. In accordance with CT Civil Penalty Policy, if the economic benefit is determined to be less than \$2,500, CT DEP documents that finding in the file and does not include the economic benefit in the penalty calculation. In those instances where the initial economic benefit estimation is determined to be greater than \$2,500, CT DEP uses the BEN model to calculate the economic benefit. Once the economic benefit has been calculated, CT DEP includes it in the final assessed penalty. CT DEP properly includes gravity in all penalty calculations.

Of the 15 enforcement files that EPA reviewed as part of the SRF, all included a penalty calculation and seemed to take timely and appropriate enforcement actions. Moreover, 7 of the actions were penalty actions, but had little or no economic benefit (and so the state determined that the economic benefit was negligible), and 3 are still on-going cases.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

- Clean Air Act Stationary Source Civil Penalty Policy, October 25, 1991

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

8) Degree to which final enforcement action settlements take appropriate action to collect economic benefit and gravity portions of a penalty, in accordance with penalty policy considerations.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

CT DEP does a good job assessing and collecting penalties. Of the 7 penalty actions reviewed as part of the SRF, penalties have been collected in 4 cases and the remaining 3 are still on-going cases. Of the files reviewed, all established penalties were consistent with the state's penalty policy.

Metric 8a – Actions with Penalties

Of the 11 consent orders that the CT DEP issued in FY2006, 10 (90.1%) were penalty actions. Note that the numbers above are not from the SRF webpage, as OTIS does not reflect the actual number of formal actions or penalties taken in CT during FY2006.

As part of the file review process, Region 1 discovered that penalty information is not always uploaded correctly through the Universal Interface (UI). CT DEP uses an internal Bureau of Air Management Enforcement Database (BAMED) database to track enforcement actions. The CT DEP uses another internal database called CADIS to track overall facility compliance. CADIS is linked to BAMED and other internal databases that include MDRs. AFS is updated using the UI which creates batch files from CADIS. Once an order is signed by the Commissioner and the date is entered into the BAMED database, it is available for upload to AFS. If the penalty amount is not immediately entered into the database, the consent order will get uploaded to AFS without the penalty information. Once the action is uploaded to AFS, it is not revised. Upon close review of the data, CT DEP thinks that in some cases penalty information may be added to the BAMED database after information about the order is sent to AFS. It also seems, however, that in other cases some type of data translation error is preventing the information from being properly uploaded to AFS. As a result, the penalty information in OTIS is not correct.

CT DEP has reviewed the procedures for entering consent orders into the BAMED database. New standard operating procedures have been implemented and all staff have been informed that the penalty amount must be entered into the BAMED database as soon as an order is signed by the Commissioner. This has effectively addressed any past procedural problems which prevented penalty information from being reflected in AFS.

Regarding the data translation errors preventing proper upload of information to AFS, CT DEP has been in contact with the Region, EPA HQ and the contractor TRC to evaluate and discuss a possible solution. A resolution and timelines have been agreed upon by all parties involved.

Once the penalty is paid, CT DEP sends another action for entry AFS with a regional action type code of “96,” which is not an MDR. The “96” action does contain the penalty information associated with the order. Because this “96” action type is not linked to a federal action type and the penalty is not on the consent order action, the penalty is not being counted. In FY2006, only those consent orders that were manually entered are being counted as having a penalty.

CT DEP’s Bureau of Air Management collected \$105,332.50 in administrative penalties and \$900 in judicial penalties. As a result of Bureau of Air Management enforcement actions, violating facilities undertook an additional \$104,944.50 of supplemental environmental projects (SEPs). Although not evident in the OTIS data, CT DEP is effectively assessing and collecting penalties.

Also, CT DEP’s referrals to the state Attorney General are being entered in BAMED, but when they are uploaded to AFS they are coded as consent orders in addition to being coded as referrals. CT DEP believes that this coding error is built in to queries used to create the batch files for the UI, which CT DEP uses to upload data to AFS. For some reason the UI is translating a referral in CT’s database as a referral and a consent order in AFS.

Metric 8b – Percent of Actions at HPVs with Penalties

Of the 11 formal enforcement actions, 4 were at HPVs, and all 4 of those actions were penalty actions. This exceeds the national goal that 80% of actions at HPVs should be penalty actions.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

- Clean Air Act Stationary Source Civil Penalty Policy, October 25, 1991
- Civil Penalty Policy, Policy, State of Connecticut, Department of Environmental Protection, February 1, 2001

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1) Assuming EPA HQ contractor support is available, by September 30, 2008 CT DEP should demonstrate to EPA that it is actively working to correct the data translation problems to ensure formal enforcement data is properly translated to AFS.

Section 3: Review of Performance Partnership Agreement

9) Degree to which enforcement commitments in the PPA are met and any products or projects are completed.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

In FY2006, CT DEP committed to inspect 1/2 of its major sources (i.e., conduct 47 FCEs at majors) and inspect 1/5 of its SM80s (i.e., conduct 90 FCEs at SM80s). The data in OTIS reveals that CT DEP has exceeded this commitment by conducting 59 FCEs at majors and 101 FCEs at SM80s.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

EPA's Performance Partnership Agreement with Connecticut

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

Section 4: Review of Data Integrity

10) Degree to which the Minimum Data Requirements (MDRs) are entered into AFS in a timely manner.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Although CT DEP has historically had some issues with timely HPV identification, CT DEP enters most all MDRs in a timely manner. Of the 15 enforcement actions reviewed by EPA, 5 were identified by CT DEP as HPVs. Four out of these 5 were reported to EPA in a timely manner. The remaining HPV was not identified in a timely manner. In fact, of the 22 HPVs entered in FY2006, 21 (95.5%) of CT DEP's HPVs were entered more than 60 days after day zero. However, a closer look at the drill down list of HPVs with delayed entry reveals that 12 of the 21 HPVs (57%) were entered 61 days after day zero. Region 1 has historically and continues to enter CT HPV information. As mentioned earlier, CT DEP uses the Universal Interface to upload data to AFS. Currently, the UI is not capable of linking all HPV data in AFS, requiring manual entry of some HPV information directly into AFS.

CT DEP has worked closely with Region 1 to develop a new HPV identification and tracking procedure. In FY2006 CT DEP recognized a trend of low HPV identification in the data. As a result, CT DEP reevaluated past cases for HPV status. CT DEP identified several past cases that were originally overlooked as HPVs. As a result, Region 1 encouraged CT DEP to enter these cases as HPVs despite the fact that they were identified late. The backlog of HPVs that was entered in FY2006 likely explains the significant number of HPVs entered more than 60 days after day zero.

A new procedure was implemented at CT DEP in FY2006 to avoid future delayed reporting of HPVs. As always, violations are first screened at the staff level for federal HPV applicability. All enforcement actions, whether formal or informal, are then screened by a supervisor for federal HPV applicability before the document is signed. All air inspection and enforcement staff have access to facility HPV information via CT DEP's internal database. However, one

person is designated as the CT DEP HPV contact. This person tracks all HPVs, reviews associated information for completeness, and communicates directly with the Region 1 state liaison to ensure timely data entry. Region 1 fully expects that CT DEP's new procedure for HPV identification and tracking will ensure complete and timely HPV reporting to EPA.

Metric 10a – Percent of HPVs Entered More Than 60 Days after Day Zero

95.5% of CT DEP's HPVs were entered more than 60 days after day zero.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

- Timely and Appropriate Enforcement Response to High Priority Violators (“the HPV policy”) July 1999
- Compliance and State Action Reporting for Stationary Sources of Air Pollution, Information Collection Request (66 Fed. Reg. 8588)

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

11) Degree to which the MDRs are accurate.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

There were four MDRs for which AFS data did not appear to be accurately reflecting CT DEP's performance due to data quality and translation issues, namely penalties in formal enforcement actions, referrals to the Attorney General, CMS classification, and marking sources as being in non-compliance.

Penalties in formal enforcement actions are not being reported correctly to AFS. With some investigation, CT DEP has been able to determine that a problem with the Universal Interface is the cause. CT DEP is entering penalty information; however, the UI is not properly translating penalty information from the CT database to AFS. As a result, penalties are not reported on the consent order and action and therefore are not recognized by AFS (see Element 8).

Referrals to the Attorney General are also not being reported correctly to AFS. As a result of another data translation error with the UI, referrals to the Attorney General are being incorrectly reported to AFS as consent orders. CT DEP is accurately entering this information in the state database, but the UI is translating them as consent orders. Therefore, a consent order shows up on the date of the referral (see Element 8).

For CMS classifications, CT DEP has been working closely with Region 1 to keep the major and synthetic minor source universe current. As a result, only 8 major source facilities are currently missing CMS codes. Reconciling state classification codes with federal CMS codes is an iterative process because the universe of facilities in the state is constantly changing. Region 1 recently sent CT DEP a list of all facilities that have a discrepancy between the CMS code and

the state classification. CT DEP is in the process of reviewing the status of all facilities with a discrepancy, making the necessary changes to the state classification code, and reporting the updates to Region 1. Region 1 will then make the CMS changes in AFS (see SM80 universe discussion in Element 1B).

With respect to compliance status, it appears that the most problems relate to the compliance status of HPV facilities. Compliance status is manually entered into CT's CADIS database. CT DEP will need to make changes to reflect the current compliance status for all facilities in violation. The Region and CT DEP will discuss the issue of compliance status at quarterly enforcement meetings and address specific cases as they arise.

Metric 11a –HPVs Compared to Non-Complying Sources

CT DEP identified 25 HPVs in FY2006. All of those 25 HPVs should have been identified in AFS as being in non-compliance, but only 5 were properly flagged in AFS as being in violation.

Metric 11b – Stack Test Results with Pass/Fail Code

Of the 174 stack tests the state conducted, only 18 are missing pass/fail codes (10.3%). As a result, CT DEP is below the national average of 15.7%.

All 18 stack tests identified as having missing pass/fail codes were coded with the new code "99" for pending results. The Region has discussed the use of the pending code during the review and CT DEP is aware of the established timelines that are associated with the pending code. All of the pending tests have been updated to include final pass/fail codes.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

- Timely and Appropriate Enforcement Response to High Priority Violators (“the HPV policy”) July 1999
- Compliance and State Action Reporting for Stationary Sources of Air Pollution, Information Collection Request (66 Fed. Reg. 8588)

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1) By September 30, 2008 CT DEP should demonstrate to Region 1 that it is actively working to ensure compliance status is appropriately updated for all enforcement actions.

12) Degree to which the MDRs are complete, unless otherwise negotiated by the Region and State or prescribed by a national initiative.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Metric 12A through J

- CT DEP has 94 Title V sources, and 93 have Title V air program codes (see Element 1).

- CT DEP has 61 sources with violations (see Element 11).
- CT DEP issued 112 NOVs in FY2006 to 93 different sources.
- CT DEP established 25 new HPV pathways in FY2006 at 25 different sources (see Element 4).
- CT DEP issued 11 formal enforcement actions in FY2006 at 11 different sources.
- CT DEP assessed administrative penalties of \$105,332.50, judicial penalties of \$900, and included \$104,944.50 in SEPs in settlements in FY2006 (see Element 8).
- CT DEP has 8 major sources without CMS codes (see Element 11).

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

- Timely and Appropriate Enforcement Response to High Priority Violators (“the HPV policy”), July 1999
- Compliance and State Action Reporting for Stationary Sources of Air Pollution, Information Collection Request (66 Fed. Reg. 8588)

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

Table 1: Air Files for SRF Review

Inspection Files					
ID Number	Facility Name	Street Address	City Name	Evaluation Type	Evaluation Date
901501128	ALGONQUIN - CHAPLIN COMPRESSOR STATION	539 TOWER HILL RD	CHAPLIN	STATE CONDUCTED FCE/ON-SITE	08/09/2006
900300004	CONN. NATURAL GAS CORP. - LNG PLANT	1376 CROMWELL AVENUE	ROCKY HILL	STATE CONDUCTED FCE/ON-SITE	07/31/2006
900100088	CONNECTICUT JET POWER - COS COB STATION	SOUND SHORE DR	GREENWICH	STATE CONDUCTED FCE/ON-SITE	06/19/2006
900300406	JACOBS VEHICLE SYSTEMS, INC	22 E DUDLEY TOWN ROAD	BLOOMFIELD	STATE CONDUCTED FCE/ON-SITE	03/14/2006
900100013	MOTIVA ENTERPRISES, LLC	250 EAGLES NEST ROAD	BRIDGEPORT	STATE CONDUCTED FCE/ON-SITE	11/28/2005
900100142	NORWALK HARBOR STATION	MANRESA ISLAND AVENUE	NORWALK	STATE CONDUCTED FCE/ON-SITE	02/15/2006
900900020	WATERFRONT STREET TERMINAL	280 WATERFRONT STREET	NEW HAVEN	STATE CONDUCTED FCE/ON-SITE	02/21/2006
900308445	AETNA LIFE INSURANCE COMPANY	570 PIGEON HILL RD	WINDSOR	STATE CONDUCTED FCE/ON-SITE	11/21/2005
900309118	ALPHA PLATING AND FINISHING	169 WEST MAIN ST	PLAINVILLE	STATE CONDUCTED FCE/ON-SITE	06/05/2006
900104110	AMERICAN WIRE CORPORATION	1 WIRE ROAD	SANDY HOOK	STATE CONDUCTED FCE/ON-SITE	08/30/2006
900500602	GIVAUDAN FLAVORS CORP	63 BOARDMAN RD	NEW MILFORD	STATE CONDUCTED FCE/ON-SITE	04/03/2006
900903372	LEX ATLANTIC / GATEWAY TERMINAL	400 WATERFRONT STREET	NEW HAVEN	STATE CONDUCTED FCE/ON-SITE	05/24/2006
900700105	MIDDLESEX HOSPITAL	28 CRESCENT ST	MIDDLETOWN	STATE CONDUCTED FCE/ON-SITE	04/17/2006

900100174	MOORE TOOL COMPANY, INC	800 UNION AVENUE	BRIDGEPORT	STATE CONDUCTED FCE/ON-SITE	08/28/2006
900108934	WESTERN CONNECTICUT STATE UNIVERSITY	53 LAKE AVE EXTENSION	DANBURY	STATE CONDUCTED FCE/ON-SITE	09/12/2006
Enforcement Files					
ID Number	Facility Name	Street Address	City Name	Violation Type	Violation Date
900100055	SPONGEX CORPORATION	6 BRIDGE ST	SHELTON	STATE ADMINISTRATIVE ORDER ISSUED	02/02/2006
901100005	MONTVILLE STATION	74 LATHROP RD	MONTVILLE	STATE ADMINISTRATIVE ORDER ISSUED	01/26/2006
900700107	CONNECTICUT DMHAS / CT VALLEY HOSPITAL	SILVER ST & SWEET DR	MIDDLETOWN	STATE ADMINISTRATIVE ORDER ISSUED	12/20/2005
901300615	UNIVERSITY OF CONNECTICUT STORRS CAMPUS	25 LE DOYT RD, U-38	MANSFIELD	STATE ADMINISTRATIVE ORDER ISSUED	11/18/2005
901100038	PFIZER GLOBAL MANUFACTURING	445 EASTERN POINT RD	GROTON	STATE ADMINISTRATIVE ORDER ISSUED	06/13/2006
900300499	DEBURRING LABORATORIES, INC.	73 WOODLAWN RD	BERLIN	STATE ADMINISTRATIVE ORDER ISSUED	09/19/2006
900104110	AMERICAN WIRE CORPORATION	1 WIRE ROAD	SANDY HOOK	STATE ADMINISTRATIVE ORDER ISSUED	03/24/2006
900100012	ROSS & ROBERTS, INC.	1299 W BROAD ST	STRATFORD	STATE NOV ISSUED	07/03/2006
900905421	NORTHEAST GRAPHICS	291 STATE STREET	NORTH HAVEN	STATE NOV ISSUED	01/25/2006
900900063	CYTEC INDUSTRIES, INC	S CHERRY & BALL STS	WALLINGFORD	STATE NOV ISSUED	08/25/2006
901102432	PHELPS DODGE COPPER PRODUCTS CO	41 WAWECUS ST	NORWICH	STATE NOV ISSUED	10/28/2005
900109051	BROADBRIDGE AUTO SERVICE, INC	2607 BROADBRIDGE AVE	STRATFORD	STATE NOV ISSUED	03/10/2006

900105979	O & G INDUSTRIES - STAMFORD PLANT	686 CANAL ST	STAMFORD	STATE NOV ISSUED	11/01/2005
900108980	RELIABLE PLATING & POLISHING CO., INC.	80 BISHOP AVENUE	BRIDGEPORT	STATE NOV ISSUED	07/31/2006
900903387	GETTY PETROLEUM MARKETING, INC	85 FORBES AVE	NEW HAVEN	STATE NOV ISSUED	09/22/2006

Clean Water Act [CWA] Enforcement Program

Organizational Structure and Introduction

The Connecticut Department of Environmental Protection's (CT DEP) Clean Water Act (CWA) industrial enforcement program is located in the Water Permitting and Enforcement Division of the Bureau of Materials Management and Compliance Assurance. The Bureau Chief is Yvonne Bolton, the Water Permitting and Enforcement Division Director is Oswald Inglese, Jr., and the Assistant Division Director is Kim Hudak. The CT DEP's CWA municipal enforcement program is located in the Planning and Standards Division of the Bureau of Water Protection and Land Reuse. The Bureau Chief is Betsey Wingfield, the Planning and Standards Division Director is Paul Stacey, and the Assistant Division Director is Lee Dunbar.

The Water Permitting and Enforcement Division is comprised of the Industrial Permitting and Enforcement Program, the Onsite Wastewater Management and Agriculture Program, and the Program Support and Data Management Program. The Industrial Permitting and Enforcement Program is further divided into three geographic sections - the Housatonic River and Southwest Coastal Basin, the Connecticut River Watershed Basin, and the Thames River and Central Coastal Basin; the Subsurface and Agricultural Section; and the Field Compliance Section. The supervisory position for the Connecticut River Watershed Basin is currently vacant and staff responsible for the geographic area are currently divided between the other two basins, with the upper portion of the basin included in the Housatonic River and Southwest Coastal Basin and the lower portion of the basin included in the Thames River and Central Coastal Basin. The Program Support and Data Management Program is further divided into two sections - the Data Management Section and the Program Support & Outreach Section. One administrative assistant position supports the entire division.

Including the Section supervisors, the Housatonic River and Southwest Coastal Basin, the Thames River and Central Coastal Basin, the Onsite Wastewater Management and Agriculture Section, and the Field Compliance Section are staffed by 8, 8, 6, and 6 full-time employees, respectively. These individuals are responsible for both industrial permitting and enforcement. There are two newly established, vacant full-time positions within the Onsite Wastewater Management and Agriculture Section. The Data Management Section and the Program Support & Outreach Sections within the Program Support and Data Management Program are staffed by 5 and 4 full-time positions, respectively.

The CT DEP's CWA municipal permitting and enforcement programs are specifically housed in the Municipal Water Pollution Control Section of the Planning and Standards Division. The Municipal Water Pollution Control Section is further subdivided into two geographic districts - the East and West. Each District is staffed by five full-time positions that report to the Engineer of the Water Pollution Control Facilities. Currently there is one vacancy in the West District. Similar to the Industrial Permitting and Enforcement Division, the Section is responsible for permitting and enforcement as well as for the administration of the State Revolving Loan and Operator Certification Programs.

Information Sources Included in the Review:

The CWA evaluation involved the review of one Stipulated Judgment resulting from a referral to the State Attorney General, one referral to the Office of the Connecticut Attorney General, three administrative formal enforcement action case files, eight informal enforcement case files and 12 inspection files generated during 2006 (See Table 1). Case and inspection file reviews involved major and minor municipal and industrial facilities that discharged process wastewaters to surface waters under the National Pollutant Discharge Elimination System (NPDES), facilities that discharged process wastewaters to publicly-owned treatment works (Pretreatment), as well as industrial facilities and construction sites that discharged stormwater to surface waters. In addition, Region I utilized EPA Headquarters’ data retrievals [metrics] generated from the Integrated Compliance Information System (ICIS), the Permit Compliance System (PCS) legacy system and EPA’s Online Tracking Information System (OTIS) as well as the CT DEP’s enforcement files, data bases, policies and guidance documents (see Attachment 1). Information gathered by EPA was used to provide information and analysis in reference to 12 specific questions or elements. The 12 elements address four specific topics: Annual Inspection Coverage; State Enforcement Activity; Performance Partnership Agreement and Work Plan Commitments; and Database Integrity.

EPA’s review was also assisted by the availability of a desktop, interactive computer program developed by the CT DEP in response to EPA’s last multi-media program review (June 1997). This program is referred to as the “Enforcement Desk Reference” and provided EPA with many of the current guidance documents, policies, protocols, checklists and enforcement models outlined in Attachment 1. The development of the desk-top reference program tool, which consolidated the CT DEP’s enforcement policies and guidance documents and provides sample enforcement documents for staff use, effectively addressed the issues of consistency, multimedia coordination, documentation of final penalty reductions made during negotiations, and the calculation of civil penalties raised in EPA’s prior review. The benefits of this tool were apparent during EPA’s file reviews.

Case and Inspection Files Reviewed:

Table 1: File Review Universe

Name	Permit #	Type of Action	City/Town	Program
*****	*****	Referral	*****	NPDES/Pretreatment
Stan Chem	SP0000073	Stipulated Judgment	Berlin	Pretreatment
O'Connor Brothers*		Admin. Consent Order	East Canaan	DWOP
The Metropolitan District	CT0100251	Admin. Consent Order	Hartford	NPDES
Sprague Paper Board	SP0002811	Admin. Consent Order	Sprague	Pretreatment
A. Aiudi & Sons		Admin. Consent Order	Plainville/Westbrook	Stormwater
Atlantic Wire Co.	CT0000159	NOVWRIN06013	Branford	NPDES
Unilever/Chesebrough Ponds	CT0000299	NOVWRIN06011MH	Clinton	NPDES
Brewer Yacht Haven Marina	GSI001098	NOVWRIN06018SWF&06005SWF	Stamford	Stormwater
Heritage Village	CT0101133	NOV	Southbury	Municipal
Naugatuck WPCF	CT0100641	NOV	Naugatuck	Municipal
Grower Direct Farms		NOVWRSW06016&06020	Somers	Stormwater
Derby, Town of		NOVWRSW06029	Derby	Stormwater
Kimberly Clark Corp	CT0003212	WRTX06002	New Milford	Toxicity
Stan Chem	CT0020346	Inspection	Berlin	Inspection - Minor Compliance
Stan Chem	SP0000073	Inspection	Berlin	Inspection - Minor Compliance
Sprague Paper Board	CT0003751	Inspection	Sprague	Inspection - Minor Sampling
Chromium Process	CT0000744	Inspection	Shelton	Inspection - Major Sampling
Chromium Process	SP0001259	Inspection	Shelton	Inspection - Major Sampling
Chesebrough Ponds/Unilever	CT0000299	Inspection	Clinton	Inspection - Minor Sampling
Meadow Brook - Haynes	CTU005025	Inspection - Construction	Oxford	Inspection - Stormwater
Specialty Minerals	CTU005004	Inspection - Industrial		Inspection - Stormwater
Waterbury	CT0100625	Inspection	Waterbury	Inspection - Municipal Major
Norwich	CT0100412	Inspection	Norwich	Inspection - Municipal Major
Round Hill Country Club	CT0100986	Inspection	Greenwich	Inspection - Private Sanitary
Reliable Plating & Polishing	SP0000106	Inspection	Bridgeport	Inspection - IU

Michael Fedak, Senior Enforcement Coordinator for EPA's Water Technical Unit [(617) 918-1766] conducted the review.

State/ Program: The Industrial Permitting and Enforcement Program and the Program Support and Data Management Programs within the Permitting and Enforcement Division. - **Main State Contact:** Oswald Inglese, Jr., Division Director.

The Municipal Water Pollution Control Section within the Planning and Standards Division - **Main State Contact:** Bill Hogan, Engineer of Water Pollution Control

Section 1: Review Area: State Inspection Implementation

1. Degree to which state program has completed the universe of planned inspections/evaluations (covering core requirements and federal, state, and regional priorities).

The review of the CT DEP's compliance programs covered various time periods, in part, due to the nature of inspection versus enforcement commitments, but also due to changes in EPA's compliance tracking systems, which have adversely affected the quality of data contained in EPA's compliance data bases. To the extent possible, the review covered the FY06 Federal

Fiscal Year (October 1, 2005 through September 30, 2006) compliance period. In August, 2006, the CT DEP transitioned its compliance data from the legacy PCS to the ICIS. Due to this conversion, the FY06 state metrics contained in EPA’s OTIS data base, which have been drawn from ICIS, appear to have been compromised. The source of the data problems is not known, but it is likely caused by a combination of errors introduced during the transition process as well as data entry errors and omissions. The time period used for each data metric, as well as a discussion of the impacts of using any alternate time frames, will be included in the review of specific data metrics.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Metric a (Inspection Coverage-NPDES Majors)

Traditionally the goal has been 100% coverage of the NPDES majors in each of the Region’s states. This coverage inspection commitment is a joint EPA/CT DEP commitment. However, increasingly states have begun to focus on more significant minor facilities that historically have not received the same level of review as NPDES major facilities. In recognition of these issues, the FY 06-07 Performance Partnership Agreement (PPA) between EPA and the CT DEP requires that the CT DEP inspect at least 50% of its NPDES majors’ universe. The inspection resources that remain were to focus on more environmentally-significant minor facilities, including industrial and construction storm water issues.

In lieu of using the FY06 metrics, which were based upon the July 1, 2005 through June 30, 2006 reporting period, the Region used the CT DEP’s Access inspection data base (industrials) and Excel spreadsheet (municipals) to determine the percentage of major coverage inspections performed by the CT DEP during the October 1, 2005 through September 30, 2006 time frame. This new time frame was used because it will be the basis of all future NPDES inspection commitments. Based upon this review, the CT DEP conducted the following coverage inspections:

Table 2: FY06 NPPDES Major Inspection Coverage

		Universe	Coverage	Percentage
	Federal	1	1	100.0%
	Industrial	38	34	89.5%
	Municipal	66	55	83.3%
	State	1	0	0.0%
Totals		106	90	84.9%

As evidenced by the results summarized in Table 2, the CT DEP exceeded both its FY 06-07 PPA commitment and the FY06 national metrics’ average of 61.1%. The CT DEP similarly exceeded the 65.9% FY 05 (July 1, 2004 through June 30, 2005) national metrics’ average, with the data metrics indicating a 76.4% coverage inspection rate. A cursory comparison of the FY05 supporting documentation and the CT DEP’s inspection data bases indicated several PCS omissions, which would have improved the percentage of coverage inspections in the FY05 metrics. Since the FY06 inspection coverage results (October 1, 2005 through September 30,

2006) have been based upon the CT DEP’s databases (separate databases track municipal and industrial inspections), it is likely that these data discrepancies continue to exist. The CT DEP agreed during the review to reconcile its inspection databases with ICIS in the future to ensure the accuracy of ICIS and the proper accounting of inspections performed by the CT DEP.

Metric b (Inspection Coverage-NPDES Minors)

For the reasons outlined above, EPA similarly used the CT DEP’s Access inspection data base (industrials) and Excel spreadsheet (municipals/private) to determine the percentage of minor inspections performed by the CT DEP during the October 1, 2005 thru September 30, 2006 time frame. Based upon this review, the CT DEP conducted the following inspections of its traditional NPDES minors’ universe:

Table 3: FY06 NPDES Minor Inspection Coverage

		Universe	Coverage	Percentage
	Federal	2	1	50.0%
	Industrial/Private	52	21	40.4%
	Municipal	23	17	73.9%
	State	4	2	50.0%
	Totals	81	41	50.6%

For FY05 (July 1, 2004 through June 30, 2005), the data metrics indicated that 33.3% of the CT DEP’s 81 NPDES minor NPDES facilities were inspected. Again, a cursory comparison of the FY05 supporting documentation and the CT DEP’s inspection data bases indicated several PCS omissions, which would have improved the percentage of minor inspections in the FY05 metrics. Since the FY06 NPDES minor inspection results have been based upon the CT DEP’s databases, it is again likely that these data discrepancies continue to exist. As noted in the discussion regarding NPDES major inspections, the CT DEP agreed during the review to reconcile its inspection databases with ICIS in the future to ensure the accuracy of ICIS and the proper accounting of inspections performed by the CT DEP.

Metric c (Other Inspections Performed (beyond the Major and Minor facilities coverage)

The 366 facilities that comprise this universe can be divided into four groups – municipal wastewater treatment facilities that operate sludge incinerators, categorical (CIU) and significant industrial users (SIU) that are regulated by the CT DEP, facilities subject to the CT DEP’s industrial stormwater general permit, and construction stormwater sites for which NPDES numbers were assigned to account for CT DEP construction stormwater inspections prior to FY05.

Inspections of industrial users (IU), which comprise the largest percentage of the Metric 1c universe, have been associated with the publicly-owned treatment works to which each facility discharges. This method of tracking IU inspections is consistent with EPA’s guidance. The CT DEP has assigned specific NPDES numbers to each CIU and SIU in order to track other compliance information. Again using the CT DEP’s Access data base for the October 1, 2005 through September 30, 2006 timeframe, the CT DEP conducted the following IU inspections:

Table 4: FY06 CIU & SIU Inspection Coverage

	Completed CIU inspections	CIU Universe	Completed SIU inspections	SIU Universe	Total Inspections	Geographic Universe	Inspection Percentage
CT River	21	43	3	7	24	50	48%
Thames River	15	21	19	21	34	42	81%
Housatonic River	16	31	2	8	18	39	46%
South Central	31	35	5	7	36	42	86%
SW Coastal	23	26	10	14	33	40	83%
Total	106	156	39	57	145	213	68%

Neither the FY06 nor the FY05 NPDES Data Metrics included construction stormwater inspections because the CT DEP did not enter this inspection information into EPA’s compliance tracking data base. During 2006, the CT DEP conducted 59 such inspections.

Metric r (Yearly Commitments or Multi-Year Plans)

Annually, EPA and the CT DEP discuss inspection leads for the upcoming year. In addition, overall inspection commitments are formalized in the PPA negotiated between the CT DEP and the EPA Regional offices. Although EPA’s national goal is to annually inspect 100% of the NPDES major facilities and 80% of the SIUs, the PPA includes an NPDES majors coverage commitment and SIU inspection commitment of 50% of each universe. The PPA further provides specific criteria that must be met to defer the inspection of specific facilities. The remaining resources have been redirected to conduct NPDES minor inspections, including facilities with toxic storm water discharges and construction sites known, or suspected to be, significant sources of erosion. The PPA also ensures that a compliance sampling or a compliance evaluation inspection is conducted at every NPDES Major and SIU at least once every two years, regardless of their compliance status.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

FY05 and FY06 Data Metrics, CT DEP’s Access and Excel inspection data bases, FY06-07 EPA/CT DEP Performance Partnership Agreement

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1) By October 15, 2007, it is recommended that the CT DEP reconcile its NPDES industrial, municipal, federal, state, stormwater, and pretreatment inspection data bases with ICIS.

2. Degree to which inspection/evaluation reports document inspection findings, including accurate descriptions of what was observed to sufficiently identify violations.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Metric a (Percentage of inspection reports that are adequately documented)

The CT DEP has developed a comprehensive set of checklists for use by its inspection staff during the conduct of pretreatment, NPDES municipal and industrial, and industrial stormwater

inspections. The Industrial Permitting and Enforcement Field Compliance Section staff maintains inspection files with copies of inspection reports, permits, correspondence, and NOV's for approximately a 5-year period. The inspection file is reviewed prior to conducting an inspection; however, the review is not documented. On, or before December 31, 2007, the Industrial Field Compliance Section will modify the CT DEP Inspection Checklist for the NPDES Industrial and Pretreatment permit discharges and Industrial Stormwater Checklist to include a section documenting whether the review of past inspection reports and NOV findings revealed ongoing noncompliance requiring further action. Each modified checklist will be dated such that the latest versions can readily be identified.

Virtually all of the CT DEP's compliance inspections are unannounced. The exceptions occur when security clearances are required or when there is a question whether company personnel will be on site. Completed inspection reports are routinely mailed to the inspected facility regardless of whether a follow-up NOV is being issued. The industrial inspection checklist, which is generally completed during the conduct of the actual inspection, includes questions that relate to the inspected facility's site, permit, record keeping and reporting programs, self-monitoring program, sludge disposal practices, operation and maintenance practices and the applicability of general permits. Sections of the checklist also require the determination of whether multi-media issues exist, and the status of the facility's compliance with any schedules included in its permit. Finally, the checklist also includes covers information regarding the sampling protocols that were followed during the conduct of any sampling that was performed during the inspection. A more detailed multi-media checklist is completed in the event that multi-media issues are discovered.

An EPA 3560 form was also completed for each industrial inspection. In those instances where sampling of process water discharges was conducted, all process water parameters that were listed in the NPDES, CIU or SIU permit were sampled. The EPA 3560 forms that were reviewed documented significant violations that were identified during the inspection. However, in four of the seven industrial inspections that were reviewed, the Industrial Permitting and Enforcement Program's inspection checklist was not fully completed. An inspection checklist was not completed for the eighth inspection, which was categorized as a reconnaissance inspection. The sections in the checklist that were most often incomplete related to the applicability of general permits, the existence of multi-media issues and the status of compliance with permit schedules. These sections address state rather than EPA requirements. The Industrial Permitting and Enforcement Field Compliance Section staff has already addressed the issue. All sections of the checklist are now fully completed, and if a section was not reviewed, staff will note in the margin as "Not Evaluated" or "NE". Finally, as noted above, the Industrial Permitting and Enforcement Program provides a copy of its inspection report to the inspected facility. In those instances where violations warranting further action were identified, NOV's were issued.

The municipal checklist includes questions that relate to the inspected facility's site, collection system, permit, record keeping and reporting, laboratory self-monitoring program, sludge disposal practices, operation and maintenance of specific unit operations and processes and the applicability of stormwater general permits. Sampling of municipal wastewater treatment effluents is typically not conducted due to the lack of composite sampling equipment. It was

also noted that the municipal checklist was not used for the less sophisticated small private wastewater treatment systems like the Round Hill Country Club in Greenwich. An EPA 3560 form was completed for all of the remaining municipal and private inspections that were reviewed. In some instances the Municipal Water Pollution Control Section included qualitative comments like those contained on the Norwich (“Overall Operation, Maintenance, Record Keeping & Laboratory are very good.”) and Round Hill Country Club (“Maintenance and housekeeping are very good. Good spare parts inventory.”) on the related EPA 3560 forms. During the review, the CT DEP agreed to refrain from the usage of subjective language in future reports.

Currently, a Field NOV with checklist items is used by staff as a guideline during construction stormwater inspections, whether or not an NOV is issued. A construction stormwater draft checklist has also been prepared, but needs to be finalized. A copy of EPA’s NPDES stormwater worksheet for construction activity has been obtained from EPA’s NPDES Compliance Inspection Manual for reference and will be considered in finalizing the construction stormwater inspection checklist. A formal state inspection form and/or 3560 Form are not completed to document stormwater construction inspections. Inspection notes and findings are typically maintained in field notebooks. In those instances where significant violations are identified during an inspection a memo to the file is written. These inspections are then followed up either immediately with a Field NOV or with a Notice of Violation subsequently issued from the office. The latter practice was noted during the review of the Meadow Brook – Haynes (April 10, 2006 NOV issued after April 4, 2006 inspection) and Grower Direct Farms (May 18, 2006 NOV issued after 4/28/06 inspection) compliance files. The CT DEP has also agreed to prepare formal inspection reports and to complete EPA 3560 forms for all future stormwater construction inspections. The CT DEP recently documented its updated practice of preparing formal inspection reports and preparing an EPA 3560 form for construction stormwater inspections during an EPA/CT DEP compliance agenda meeting.

All of the reviewed inspection reports, except for the report of the Round Hill Country Club inspection and the previously identified reconnaissance inspection, cited specific violations that were observed during each inspection. See the discussion in Metric 4a regarding the entry of single-event violations observed during inspections into EPA’s national compliance tracking data bases.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

EPA NPDES Compliance Inspection Manual, July 2004; CT DEP municipal, industrial, industrial stormwater and multimedia inspection checklists; completed EPA 3560 inspection report forms, CT DEP compliance files

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

- 1) By December 31, 2007, it is recommended that all of the Industrial Permitting and Enforcement Program’s and Municipal Water Pollution Control Section’s inspection checklists be modified to include a section that requires the inspector to document his/her review of the findings of prior compliance inspections as well as the facility’s compliance with previously issued inspection-related NOV’s.
- 2) By December 31, 2007, the Municipal Water Pollution Control Section should evaluate the

feasibility of including sampling capabilities during inspections at selected wastewater treatment facilities.

3. Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

As noted above, the CT DEP's inspection reports were generally found to be complete and listed the major violations. Future reports should include statements regarding the status of the findings of previous inspections and any prior inspection-related NOV's. Agency checklists are routinely completed in conjunction with the inspections (construction stormwater inspections being the exception). However, the timeliness of the finalization of the inspection reports ranged from reports being written on the day of the inspection to formal reports not being written (construction stormwater). Both the average and median time period for completing the seven industrial inspection reports that were reviewed was 113 days. The delay in completion of these industrial inspection reports has, in part, been attributed to waiting for additional information from the inspected facility, verifying information in the compliance files, waiting for sample results from the Connecticut Health Department Laboratory, shifting priorities based upon pending enforcement cases and delays in finalizing reports until completion of supervisory review. Inspection reports should be completed as soon as possible after returning from the field. If additional information becomes available based upon further staff investigations or interactions with the inspected facilities, the reports should be modified with care being given to dating each modification.

Prior to EPA's audit, the Industrial Permitting and Enforcement Field Compliance Section recognized the need to expedite the inspection report review process. Beginning in October 2006, the Field Compliance Section began a process of peer review by lead staff for compliance inspection reports. The Industrial Permitting and Enforcement Program has established a goal to complete EPA's 3560 inspection reporting forms within 30 days. Additionally, staff will immediately document the date the inspection report is completed and/or amended on EPA's 3560 form.

Municipal inspection reports were typically written on the day of the inspection and noted various deficiencies identified during the inspection. None of the inspections involved sampling of wastewater treatment facility effluents

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

Inspection checklists and completed EPA 3560 Forms and related narrative information contained in inspection and compliance files

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

- 1) It is recommended that by March 31, 2008, the Industrial Permitting and Enforcement Program report the effectiveness of the measures that it has implemented to expedite the preparation of inspection reports.

Section 2: Review of State Enforcement Activity

4. Degree to which significant violations (e.g., significant noncompliance/high priority violations) are reported to EPA in a timely and accurate manner.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

The CT DEP was authorized to administer the NPDES permitting and compliance programs in 1973. As part of its administration of the NPDES permitting and compliance programs, it is responsible for reissuing NPDES permits and coding compliance information into EPA's national compliance tracking database. Until August 2006, compliance information was entered into PCS. Since August 2006, the Program Support and Data Management staff began entering information into ICIS. Both ICIS and the legacy PCS system were designed to automatically identify facilities that are in significant non-compliance based upon specific national criteria. The quality of the SNC determinations is directly related to the quality of information contained in the compliance tracking data bases.

EPA's technical and legal staffs also meet bi-monthly with the Industrial Permitting and Enforcement Program and representatives of the Connecticut Attorney General's Office to collaborate in enforcement planning and case development. NPDES discharge monitoring data, NPDES permit compliance information, inspection findings, complaint investigations information, as well as facilities that meet EPA's significant non-compliance (SNC) criteria are discussed at these meetings and decisions are made regarding which agency will take the enforcement lead on specific cases.

Metric a (Single-event violations reported to the national system)

No single-event violations (i.e., violations other than those that are automatically tracked by EPA's national compliance data bases) at major or minor facilities were reported in PCS/ICIS in FY06 according to the Data Metric Results. Similarly, the FY05 Data Metrics indicated that no single-event violations at major or minor facilities were reported and tracked by EPA's legacy compliance data base - PCS. The PCS Policy Statement required that single-event violations for major NPDES facilities be entered into PCS and the draft ICIS-NPDES Policy Statement requires the single-event violations for minor facilities be coded into ICIS in accordance with the schedule that will be included in the ICIS-NPDES Policy Statement once it is finalized.

The CT DEP maintains several separate databases for tracking Sanitary Sewer Overflows (SSOs), wastewater treatment facility bypasses and the NOV's that were issued to resolve violations that are identified during compliance inspections. EPA has relied on the SSO and wastewater treatment facility bypass data bases in the past to target several of its judicial enforcement actions. The Field Compliance Section now includes single-event violations discovered during its compliance inspections on the EPA 3560 form for each inspection. The CT DEP also continues to maintain data bases to track NOV issuance and responses and sanitary sewer overflow reporting.

Metric b (Frequency of SNC)

The Discharge Monitoring Reports (DMRs) that are submitted by Connecticut's Major and Minor NPDES permittees as well as its CIUs and SIUs are entered into EPA's compliance data base by the Program Support and Data Management staff. Summary information contained on DMRs submitted by municipalities is supplemented by additional daily operating data that is provided on Monthly Operating Reports (MORs). CT DEP DMRs issued to industrial facilities also require the reporting of weekly data. Data entered into ICIS and previously entered into PCS is used to automatically generate the quarterly non-compliance report (QNCR), which lists all instances of NPDES major non-reporting, schedule violations as well as effluent violations that meet EPA's significant non-compliance (SNC) criteria. EPA publishes the QNCR for Connecticut in conjunction with the QNCR that is generated for all the states in accordance with the schedule contained in 40 CFR §123.45(d). Facilities that are in SNC with their NPDES permit conditions and effluent limits are discussed at the EPA/CT DEP bimonthly compliance agenda meetings.

The FY06 Data Metrics identified 18.9% (22) Major facilities as being in SNC for at least one quarter during FY06. The national average for the same time period was 19.6%. Due to data inconsistencies resulting from the CT DEP's August, 2006 transition from PCS to ICIS, the Region chose to use the FY05 Data Metrics to analyze the CT DEP's performance. The FY05 Data Metrics are not markedly different than those for FY06 with the SNC rate for Connecticut majors reported at 17% (18 facilities) compared to a national average of 17.4%. See discussions in Metric 6 regarding the type of violations that comprise the list of major facilities that are considered to be in SNC.

Metric c (Wet weather SNC placeholder)

The CT DEP continues to track the state enforcement actions that address combined sewer overflow (CSO) issues, and joint state and federal enforcement actions that address SSOs. During FY06, the CT DEP issued an administrative consent order to the Metropolitan District (District) requiring implementation of the District's Long-Term Control Plan, which will significantly reduce the volume and frequency of CSO discharges.

Metric d (Percentage of SNC determinations that are accurately reported)

SNC determinations (permit limits violations, compliance schedule milestones violations, violations of enforcement orders, or failure to provide a compliance schedule report for final compliance of a DMR within 30 days) are automatically flagged by the PCS/ICIS databases. The CT DEP's Program Support and Data Management staff is responsible for entering information into and maintaining information in EPA's national compliance tracking data bases. The accuracy of the automated SNC determination depends on the accuracy of the data input by the Program Support and Data Management Program. See Data Metric 11.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

FY05 and FY06 Data Metrics, PCS

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1) The Region will provide the CTDEP the necessary training regarding the entry of single-event violations into ICIS. See recommendations for Metric 10.

5. Degree to which state enforcement actions include required injunctive relief (corrective or complying actions) that will return facilities to compliance in a specific time frame.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

One stipulated judgment, three administrative consent orders and eight NOV's were reviewed. These facilities are identified in Table 1. Although originally included in the scope of the review, the O'Conner Family LLC administrative consent order, which was an Inland Water Resources Division lead, exclusively involved discharges to the ground and is not an NPDES or Pretreatment case. It was considered outside the scope of this NPDES program review audit.

Metric a (Percentage of formal state enforcement actions that contain a compliance schedule of required actions or activities designed to return the source to compliance. This can be in the form of injunctive relief or other complying actions)

With the exception of the administrative consent order that was issued to Sprague Paperboard, which assessed \$130,000 in penalties for past violations prior to a change in ownership, all of the administrative consent orders contained new injunctive relief and schedules required to remedy the violations that were cited in the findings of the enforcement action. In the case of Sprague Paperboard, ownership of the facility was transferred from Sprague Paperboard to another company subsequent to the issuance of the administrative consent order. CT DEP is negotiating an administrative consent order with the new company, which will include injunctive relief and a compliance schedule. In addition, with the exception of the A. Aiudi & Sons administrative consent order and the municipal consent order that was issued to the The Metropolitan District, all of the remaining enforcement actions were multimedia actions.

The files clearly documented interactions and negotiations between CT DEP staff and Respondents to ensure that violations were clearly defined and understood and that Respondents were returned to compliance as soon as possible. Final administrative orders incorporated compliance schedules to ensure that any outstanding violations are returned to compliance and penalties are paid. As noted in the findings of other media, EPA found that the model documents contained in the Enforcement Desk Reference (namely the Enforcement Strategy; Case Milestone Summary; Initial Penalty Calculation Worksheet; Penalty Summary Following Penalty Recalculation; and Consent Order Data Sheet) were consistently used by the Industrial Permitting and Enforcement Program's staff and were valuable in documenting case evolution and settlement. The Enforcement Desk Reference documents were not used for the administrative consent order that was issued to The Metropolitan District. Since no penalties were assessed, and due to the lack of multi-media issues, use of the Enforcement Desk Reference tool in this instance was not critical. However, it is recommended that the Municipal Water Pollution Control Section utilize these tools for any future multi-media or penalty actions.

Metric b (Percentage of actions or responses other than formal enforcement that return the source to compliance)

The NOV's that were reviewed all noted specific violations, required the company/municipality to remedy the violations within 30 days and to provide the CT DEP with a compliance statement listing the actions that were taken to resolve the violations. In the event that correction of the violations required more than 30 days, the company/municipality was required to provide a

schedule for correcting the violations. Informal enforcement actions, with corrective measures and/or schedules, were sufficient to return minor violators to compliance.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

File Reviews, Enforcement Desk Reference Documents

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1) It is recommended that the Municipal Water Pollution Control Section utilize the Enforcement Desk Reference tools for all future multi-media or penalty actions.

6. Degree to which a state takes timely and appropriate enforcement actions, in accordance with policy relating to specific media.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

In response to this question, EPA assessed whether the CT DEP complied with its June 1, 1999 Enforcement Response Policy (ERP) and EPA's CWA policies regarding the timeliness of formal enforcement actions. EPA's CWA timeliness policy criteria are not met if a facility is listed on the Quarterly Non-Compliance Report (QNCR) at least two consecutive quarters with unresolved effluent, reporting, or schedule SNC violations and no formal action was taken. Major facilities that meet any one of these criteria are automatically listed on the QNCR. Minor NPDES facilities that meet any one of these criteria are listed on the annual minors' compliance report. In addition, since much of the CT DEP's enforcement activities involve facilities that are not traditionally tracked on the automatically-generated QNCR, EPA's file reviews also evaluated the timeliness of enforcement in these areas.

The CT DEP's June, 1999 ERP establishes the following timeliness criteria:

- Issue a Notice of Violation within no more than 90 days of the date of the discovery of the violation and require that the violator achieve compliance or submit a compliance schedule within 30 days of issuance;
- If a formal enforcement response is appropriate:
 - a. Issue a unilateral order within 180 days of discovery of the violation; or
 - b. Issue a draft consent order within 180 days of discovery of the violation and obtain a consent order signed by all parties within 300 days of discovery. If consent order negotiations can not be completed within 300 days, complete an appropriate action – either a unilateral order or referral to the Attorney General's Office within 300 days of discovery of the violation; or
 - c. Complete a referral to the Attorney General's Office within 210 days of discovery of the violation.

The CT DEP's ERP further defines discovery of the violation as "the date when the investigating staff (typically field staff) responsible for administering and enforcing the statute or regulation at issue determines, through an inspection, record review, and/or data (e.g., laboratory reports), that a violation has occurred." Unlike EPA's Clean Water Act response policies that are triggered by

violations that meet EPA's significant non-compliance criteria, any violation, regardless of size or magnitude, constitutes a violation that meets the CT DEP's discovery of violation definition.

The seven NOV's that were reviewed are listed in Table 1. One of the seven NOV's exceeded the target time frame. One NOV was issued as a result of a file review and the date of discovery was unclear. The issuance of the remaining NOV's met the timeliness criteria established in the CT DEP's ERP.

Three administrative consent orders and one AG referral were reviewed. These facilities are again listed in Table 1. None of the administrative consent orders or the referral met the timeliness criteria identified in the CT DEP's ERP. The CT DEP's Consent Order Data Sheet, consistent with the ERP, requires the calculation of the number of days between the date of discovery of the initial violation addressed by the action and the date that the Respondent signed the consent order. The timeframes for finalizing the administrative consent orders ranged from 1278 to 1702 days, respectively. The Consent Order Data Sheet for each of the Industrial Permitting and Enforcement Program's cases also provided a narrative description of the delays. In most cases, the delays were attributed to follow up inspections conducted to further define the violations, the efforts that were required to return the facility to compliance, negotiation of consent order provisions, agency-wide retirements, multimedia coordination as well as shifting priorities. However, the lengthy time frames for finalizing the enforcement action are due to some extent to the Industrial Permitting and Enforcement Program's interpretation of the ERP's definition of the "discovery of the violation."

Using the definition of the discovery of the violation contained in the CT DEP's ERP, the CT DEP's decision to refer a case could, in some cases, violate the 210-day ERP criterion even before a decision is made to refer the facility to the Connecticut Attorney General's Office. This would occur when relatively "minor" violations that may not have initially triggered an enforcement response are subsequently included in the referral due to either their chronic nature, or the discovery of additional more significant violations. A specific example of the interpretation of the discovery of the violation and its effect on the perceived timeliness of an enforcement action occurred in the Sprague Paper Board case, where the administrative consent order was executed within 30 days after the Industrial Permitting and Enforcement Program made the decision to pursue an administrative consent order to seek penalties for past noncompliance prior to the transfer of the ownership of the company. However, the Consent Order Data Sheet for the case indicated that the consent order was signed 1278 days after the discovery of the initial violation.

The Industrial Permitting and Enforcement Program recognizes that the timeliness of its formal enforcement actions needs to be improved. It is in the process of developing an expedited settlement policy for construction stormwater violations that is expected to be a more efficient mechanism for addressing some construction stormwater violations. It is also evaluating organizational changes that are expected to consolidate stormwater permitting and enforcement activities and gradually transition oversight of enforcement cases under a single supervisor.

Metric a (Timely action taken to address SNC)

The national goal for this data metric is that <2% of the NPDES major facilities that are in SNC remain unaddressed. During FY06, the national average was 8.6% of the NPDES major facilities that were in SNC as not being addressed and the CT DEP's performance was 7.5% with 8 facilities not addressed. In light of the issues associated with the FY06 data, the Region again relied on the FY05 data metrics, which indicated a 7.6% national average of unaddressed facilities, with Connecticut's performance at 10.4% with 11 facilities not addressed.

Nine municipal facilities and two industrial facilities comprised the 11 facilities that were not addressed. Of the 11 facilities that were not addressed, nine were municipal facilities and two were industrial facilities. Of the nine municipal facilities, two involved violations of Nitrogen schedules, two involved facilities that returned to compliance without further enforcement, one involved a facility that was upgrading its wastewater treatment facility without receiving a formal enforcement action to provide Nitrogen removal and violated its final limits due to disruptions that occurred during construction of these modifications. The CT DEP and EPA view violations of Nitrogen schedules differently than other compliance schedule violations since those municipalities that choose not to construct, or delay construction, of the additional facilities necessary to denitrify their wastewater can comply with Nitrogen General Permit by purchasing Nitrogen credits under the Long Island Sound Nitrogen trading program. Those communities that construct denitrification facilities and discharge Nitrogen levels less than levels established in the Nitrogen General Permit receive monetary reimbursements for surpassing their permit limits. While all municipalities participate in the trading program, construction of denitrification facilities is voluntary. Under the program, a municipality may choose not to construct, or delay construction of, denitrification facilities and would then be required to purchase credits. Hence, provided that a municipal purchases credits, it is in compliance with the Nitrogen General Permit even though it may be violating a specific construction milestone that is included in a CT DEP administrative order.

Of the two industrial facilities that were noted in SNC for FY05, one returned to compliance without further enforcement and the second industrial facility is in the process of negotiating an administrative consent order with the CT DEP.

The CT DEP has chosen to focus its limited enforcement resources on other national wet-weather priorities, specifically stormwater and CSOs, as opposed to addressing violations that have already been resolved without a formal enforcement action, or those involving the Nitrogen trading program.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

Data Metrics, File Reviews, CT DEP ERP, EPA 40 CFR §123.45 and PCS

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

- 1) It is recommended that by December 31, 2008, the Industrial Permitting and Enforcement Program report the effectiveness of the measures that it has implemented to expedite the settlement of administrative consent orders.
- 2) It is recommended that by March 31, 2008, the CT DEP provide additional guidance regarding the identification of the date of "discovery of violation" and the consistent application of the

“discovery of violation” in multimedia cases and for those facilities that fall in and out of compliance (i.e., recidivism), as well as those enforcement actions that are initiated as a result of file reviews.

7. Degree to which a state includes both gravity and economic benefit calculations for all penalties.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

The February 1, 2001 CT DEP Civil Penalty Policy (the “Policy”) applies to penalties assessed in consent orders and recommended in referrals to the Connecticut Attorney General’s Office. The penalties calculated under the Policy consist of :1) calculating the amount of economic benefit, 2) determining a basic gravity-based penalty for each violation, 3) adding a “continuing violation” gravity-based penalty to account for the duration of a violation, and 4) penalty adjustment, upward or downward, in light of case-specific circumstances.

The A. Aiudi & Sons, LLC (“Aiudi”) administrative consent order (Total Penalty – \$150,000 + compliance audits) required Aiudi to obtain various permits for vehicle servicing, washing, and rinsing operations, for the discharge of wastewater containing interior or exterior concrete drum cleaning agents to the ground, implementation of pollution prevention measures, implementation of a wetlands remediation plan, and construction of permanent secondary containment structures. However, the Aiudi administrative consent order only included economic benefit for Aiudi’s failure to conduct monthly inspections for an extended period of time and maintain a hydraulic excavator used to excavate and maintain sedimentation basins. The CT DEP has indicated that economic benefit was not calculated for the vehicle servicing, washing and rinsing operation discharges because these discharges were only observed once and there was no information documenting the frequently that such discharges had occurred. The activities were subsequently ceased by the company. The CT DEP further pointed out that economic benefit associated with applying for the required permits was minimal, that the project that was actually implemented by the company went beyond compliance by constructing a recycle system, and that the penalty that was paid captured the economic benefit associated with non-compliance.

The Sprague Paperboard (Sprague) administrative consent order (Total Penalty - \$130,000) cited Sprague for its failure to operate and maintain its aeration systems during January, 2004 through March, 2004, its failure to perform annual sediment, water and fish tissue sampling at Versailles Pond and Little River in 2000, 2001, and 2004 that was required by a prior CT DEP AO, and the discharge of 15,000 gallons of contaminated vacuum seal water without a permit. The administrative consent order only included economic benefit for the failure to monitor Versailles Pond. EPA’s BEN model was not used to calculate the economic benefit.

Finally, The Metropolitan District’s administrative consent order did not include a penalty, but did require construction of the extensive recommended improvements of the CSO Long Term Control Plan by December 31, 2021.

The Stan Chem stipulated judgment (Total Penalty - \$100,000 plus \$400,000 SEP requiring the

elimination of the NPDES discharge and the granting of permanent easement to access a fishway), which was a joint water and waste case, contained an economic benefit component of \$8,105 associated with the failure to monitor specific parameters. The BEN calculation was performed using EPA's model. The consent agreement further noted that as of September 22, 2003 and continuing through the entry of the consent agreement on March 28, 2006, the company had substantially corrected the violations alleged by the CTDEP. The Agreement did include a provision that allowed for a \$350K SEP offset that would result in the elimination of up to 500,000 gallons per day of contact cooling water withdrawn from and discharged to the Mattabasset River. No NOVs were issued to this facility since 2000 following inspections that were conducted since that timeframe.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

File reviews including Enforcement Desk Reference Documents, CT DEP February 1, 2001 Civil Penalty Policy

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

It is recommended that the CT DEP's Water Enforcement programs document the method and bases for its economic benefit calculations when not using EPA's BEN Model for all future enforcement actions and that the CT DEP and EPA meet to discuss the application of EPA's BEN model in specific enforcement cases before December 31, 2007.

8. Degree to which final enforcement actions (settlements or judicial results) collect appropriate (i.e., litigation risk, ability to pay, SEPs, injunctive relief) economic benefit and gravity portions of a penalty.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Both EPA's and the CT DEP's ERPs consider an appropriate enforcement response as one that deters future non-compliance and incorporates economic sanctions in the form of penalties, or alternative punitive mechanisms (such as Supplemental Environmental Projects). Of the three administrative consent orders and one judicial stipulated judgment reviewed by EPA, two of the administrative consent orders and the judicial stipulated judgment included water-related penalties that were comprised of economic benefit and gravity. See EPA's comments in Metric 7 regarding the economic benefit calculations. The files also documented the bases of specific penalty reductions and accommodations, such as ability to pay issues, payment schedules, and adjustments for such items as willingness to comply or history of non-compliance. Accounts Receivable statements were provided for each of the penalty cases indicating that all penalties payments required by the CT DEP's enforcement actions had been paid.

Due to the data limitations of the legacy PCS system, none of the CT DEP's penalty assessments were coded into PCS. However, EPA's new compliance data system, ICIS, can accommodate this information. The CT DEP collected \$153,000 and \$610,946.50 in penalties under the CT DEP's judicial and administrative Water Permitting and Enforcement Division enforcement actions during the 2006 calendar year (Total -\$763,946). Similarly, \$350,000 and \$82,200 in SEPs were associated with the enforcement actions that were included in the CT DEP's judicial and administrative Water Permitting and Enforcement Division enforcement actions during the

same time period (Total - \$432,200). Although the CT DEP has not entered penalty data into PCS because its penalties were not collected pursuant to an administrative penalty process, the CT DEP has agreed to enter penalty information in ICIS provided it receives the necessary training from EPA.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

File review information, Permitting and Enforcement Division's 2006 Enforcement Summary Report

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

By December 31, 2007, the EPA shall provide the CT DEP specific training regarding the entry of penalty data into ICIS.

Section 3: Review Area: Agreements

9. Enforcement commitments in the PPA or State/EPA Agreement (written agreements to deliver product/project at a specific time), if they exist, are met and any products or projects are complete.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

The major quantitative FY 06-07 CT DEP/EPA PPA commitments involve the performance of NPDES major, minor and pretreatment inspections. The FY06-07 PPA commits the CT DEP to inspecting 50% of its NPDES major and SIU universes and using the remaining inspection resources to investigate facilities known or suspected to have highly toxic stormwater discharges, construction sites known or suspected to be significant sources of erosion, agricultural sites known or suspected to have potential for runoff problems containing significant levels of nutrients or human health-related contaminants, and facilities with poor compliance records. As noted in Metric 1a and 1c, the Industrial Permitting and Enforcement Program and Municipal Water Pollution Control Section significantly exceeded their PPA inspection commitments, and documentation on the accomplishments/metrics of the additional or redirected efforts can be found in the report prepared on the industrial stormwater general permit compliance initiative. The CT DEP will further document its redirected inspection efforts when it reconciles its inspection data bases with ICIS pursuant to the recommendations noted in Metric 1.

Pursuant to the PPA, the CTDEP has submitted the required semi-annual pretreatment reports. The annual NPDES minors compliance report that is required to be submitted pursuant to the PPA and 40 CFR § 123.45(c) is generated using EPA's national compliance tracking data base.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

CT DEP Access and Excel inspection data bases, FY06-07 CT DEP/EPA PPA

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

Section 4: Review of Database Integrity

10. Degree to which the minimum data requirements are timely.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

As part of EPA's review, it attempted to compare compliance data in ICIS and in OTIS to the information contained in specific enforcement actions, related compliance files and the inspection and compliance data bases maintained by the CT DEP. Unfortunately due to national data system issues, the most recent compliance information available in OTIS is for the January through March, 2006 quarter. The CT DEP's transition from PCS to ICIS in August, 2006 further complicated EPA's ability to conduct a review of the timely entry of required data elements. Absent this critical information, it is recommended that EPA and the CT DEP meet to discuss PCS/ICIS transitional issues.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

CT DEP inspection databases, OTIS, ICIS

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

- 1) By December 31, 2007, EPA and the CT DEP shall meet to discuss PCS/ICIS transitional issues and to schedule future follow-up discussions and training.
- 2) Within three months of the finalization of the ICIS-NPDES Policy Statement, the CT DEP shall submit a plan for complying with the Policy.

11. Degree to which the minimum data requirements are accurate.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Given the current data limitations articulated in Metric 10, the accuracy of the CT DEP's compliance data entry into EPA's national data bases can not be assessed at this time.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

ICIS, OTIS

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

See recommendations for Metric 10.

12. Degree to which the minimum data requirements are complete, unless otherwise negotiated by the region and state or prescribed by a national initiative.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Again, given the current data limitations articulated in Metric 10, the completeness of the CT DEP's compliance data entry into EPA's national data bases can not be assessed at this time. However, immediate attention should be directed to problems identified by several data metrics that are consistent for FY05 and FY06. The national goal for both Metric 12b - Majors with

correctly coded limits and Major – DMR Entry Rate is 95%. The CT DEP has consistently exceeded the data entry portion of the metric. However, the CT DEP has consistently not met the Majors with correctly coded limits metric. Under PCS, those NPDES facilities whose final limits end date did not coincide with the NPDES permit expiration date were considered as having been incorrectly coded. The practical implications of this “coding error” were minimal since permits that were administratively continued would still be measured against their final limits, even after the permit expiration date. Unfortunately, under ICIS, a facility’s final limits end date not only needs to be the same as the NPDES permit expiration date, but it must also occur on the last day of a month. If this does not, problems may occur in the printing of Discharge Monitoring Reports. The resolution of this issue may require modifications to NPDES permit language including the use of permit effective dates. The issue similarly affects the metrics for non-major facilities.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

ICIS, ICIS guidance documents, OTIS

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

See recommendations for Metric 10.

ATTACHMENT I

Documents Reviewed/Utilized by EPA Region I during the Review of the CT DEP CWA Management Programs

1. Final Multi-media Review of the Enforcement Programs of the Connecticut Department of Environmental Protection [CT DEP], June 1997;
2. Final Environmental Performance Partnership Agreement for FY06 and FY07, April, 2006;
3. CT DEP Computerized Enforcement Desk Reference for Compliance and Enforcement, and associated guidance/policy document links, including (but not limited to):
 - a. CT DEP Enforcement Response Policy, effective June 1, 1999;
 - b. CT DEP Civil Penalty Policy, effective February 1, 2001;
 - c. Policy on Supplemental Environmental Projects, revised February 15, 1996;
 - d. Models/Protocols/Standard Language modules for the issuance of Unilateral Orders, Consent Orders, and Supplemental Environmental Projects;
 - e. Compliance Assurance Policy, May 23, 1997;
 - f. CT DEP Enforcement Coordination Plan, revised September 2006;
 - g. Policy of Incentives for Self-Policing, updated July 12, 2004;
 - h. Policy on Inspecting a Facility Previously Subject to Formal Enforcement Action, February 1, 2002;
 - i. CT DEP Inspection Checklists for Industrial and Pretreatment discharges; Industrial Stormwater Discharges; Stormwater Pollution Prevention Plan Review; Multi-media; Municipal and private wastewater treatment discharges and collection systems;
4. Enforcement Action Worksheets: [Enforcement Strategy; Case Milestone Summary; Initial Penalty Calculation Worksheet; Penalty Summary Following Penalty Recalculation]; and Consent Order Data Sheet];
5. 40 CFR §123.45

[RCRA] Hazardous Waste Enforcement Program

Organizational Structure and Introduction

CT DEP's hazardous waste enforcement program is located in the Engineering and Enforcement Division of the Bureau of Materials Management and Compliance Assurance. The Bureau Chief is Yvonne Bolton, the Engineering and Enforcement Division Director is Robert Isner, and the Assistant Division Director is Diane Duva.

The Engineering and Enforcement Division is further subdivided into the Enforcement and Compliance Assurance Program [ECAP], the Permitting Program, and the Program Analysis Group. The Program Analysis Group supports both the enforcement [ECAP] and permitting programs by coordinating and overseeing activities such as RCRA authorization, regulation interpretation, enforcement case support, compliance assistance and financial assurance. EPA's review primarily concentrated on the work conducted by three ECAP Sections; specifically, the Hazardous Waste Field Section [George Dews, Supervisor], the RCRA Western Section [Peter Ploch, Supervisor] and RCRA Eastern Section [Mohamed Deria, Supervisor]. ECAP also has one full-time Processing Technician who works with all three Sections.¹

Including the Section Supervisors, the Hazardous Waste Field, the RCRA Western and the RCRA Eastern Sections are staffed by 7, 6 (4 full-time and 2 part-time) and 5 full-time employees, respectively. There are two vacant full-time positions within the Hazardous Waste Field Section (namely, an Environmental Compliance Specialist and an Office Assistant). The total CT DEP staff responsible for conducting RCRA compliance and enforcement work is 21, including the Division Director, Assistant Division Director, three Section Supervisors and the Processing Technician.

EPA Region 1 thanks the following CT DEP staff members for their assistance during this review: Robert Isner, Diane Duva, George Dews, Peter Ploch, Mohamed Deria, Julie Cubanski, Kevin Sullivan (Program Analysis Supervisor), and Nicole Lugli (Director of Enforcement Policy and Coordination).

Information Sources Included in the Review:

The RCRA evaluation involved the review of 9 administrative formal enforcement action case files, 1 referral to the Office of the State Attorney General, 3 complaint investigations, 8 informal enforcement case files, and 12 inspection files generated during federal fiscal year 2006 [FY2006]. Case and inspection file reviews covered one treatment, storage, disposal facility [TSDF] and several large quantity generators [LQGs]², small quantity generators [SQGs], and conditionally exempt small quantity generators [CESQGs]. In addition, Region I utilized EPA Headquarters' data retrievals [metrics] generated from national enforcement and compliance databases, more recent retrievals from RCRAInfo, and CT DEP records, spread sheets, policies and guidance

¹ There are three additional Sections within ECAP (namely, the Pesticide Program, the PCB Program and the Solid Waste Enforcement and Permitting Program) that were not addressed by this review.

² The CT DEP definition of a LQG encompasses the federal definition, plus any SQG that accumulates, at any given time, greater than 1000 kg of hazardous waste.

documents [see Attachment 1]. EPA's review was also assisted by the availability of a desk-top, interactive computer program developed by CT DEP in response to the last EPA multi-media program review (June 1997). This program is referred to as the "Enforcement Desk Reference," and it provided EPA with many of the current guidance documents, policies, protocols, checklists and enforcement models outlined in Attachment 1. Information gathered by EPA was used to address 12 specific questions or elements. The 12 elements address four specific topics: Annual Inspection Coverage; State Enforcement Activity; Performance Partnership Agreement and Work Plan Commitments; and Database Integrity.

Case and Inspection Files Reviewed:

The following randomly selected FY2006 case and inspection files were reviewed by Region I during February 27 through March 1, 2007:

3	LQG formal [administrative];	4	LQG informal enforcement case files;
1	CESQG referral to State Attorney General [judicial];	3	complaint investigations;
6	SQG formal [administrative];	4	SQG informal enforcement case files;
6	LQG inspection files	5	SQG inspection files; and
1	CESQG inspection files.		

The files reviewed were:

<u>ID No.</u>	<u>FACILITY NAME</u>	<u>GENERATOR STATUS IN RCRA Info</u>
Formal Enforcement Actions		
CTR000008169	ADVANCED ADHESIVES	SQG *
CTR000008417	HOME DEPOT USA INC. [HD 6201]	SQG *
CTR000005801	LEIPOLD, INC.	SQG *
CTD000117945	ROMATIC MFG. CO.	SQG *
CT5000001446	ROWLEY SPRING & STAMPING CORP	SQG *
CTD001168384	U.S. BAIRD CORP.	SQG *
CTR000504399	BUDNEY INDUSTRIES, INC.	LQG
CTD000604488	CLEAN HARBORS OF CT, INC	LQG and TSDF
CTR000504050	GIST & HERLIN PRESS, INC.	LQG
Referral to State Office of Attorney General		
CTR000504381	AKO INC. ref# AGWSWDH06003	CESQG
Complaints		
CTR000506022	SABAL PROPERTY/D&W AUTO ELECTRIC	#05-286
CTD991289331	OXBURY SANITATION	#06-065
NONE	NORWICH STRIP MALL	#06-183
Informal Actions		
CTD001181932	CHROMIUM PROCESS CO. INC.	LQG
CTD064832611	AUTO SWAGE PRODUCTS	LQG
CTD980673057	NELCOTE INC.	LQG
CTD983895624	WESLEYAN UNIVERSITY	LQG
CTR000505891	BERLIN HEAT TREATING CO., INC	SQG
CTD983887886	DEBURRING LABORATORIES	SQG
CTD000841171	NAVTEC INC.	SQG
CTD001157189	SMITH'S AEROSPACE CO.	SQG
Inspections		
CTR000505388	CYRO INDUSTRIES	LQG
CTD000791095	MANNKIND CORP.	LQG
CTD042279539	PRAXAIR SURFACE TECH.	LQG
CTD983895301	QUALA SYSTEMS	LQG
CTD065534323	SHERWIN WILLIAMS CO.	LQG
CTD983884305	UNIVERSITY OF CT EH&S	LQG

CTR000505701	ANDOVER AUTO PARTS	SQG
CTR000505750	BOWENS GARAGE	CESQG
CTR000003087	CRC CHROME CORP	SQG
CTR000506097	HEMINGWAY CUSTOM CABINETRY	SQG
CTR000004150	MICROBEST INC.	SQG
CTR000506006	THE WOOD DEN INC	SQG

* An inspection targeting mechanism used by the CT DEP is to review manifest and Biennial Report data in comparison to a facility's notified generator status (i.e., SQG notified facilities that shipped off-site LQG amounts of hazardous waste). The files indicated above were notified as SQGs and are recorded as such in RCRAInfo. Upon inspection, CT DEP found most of these facilities to be operating as state LQGs. CT DEP held these facilities accountable to LQG standards during inspections and subsequent enforcement actions. These facilities returned to SQG status post-enforcement.

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U. S. EPA Region I Office of Environmental Stewardship
 RCRA, EPCRA and Federal Programs Unit

State/ Program: CT DEP Enforcement and Compliance Assurance Program [ECAP] within the Engineering and Enforcement Division

Main State Contact: Robert Isner, Division Director

Discussion of EPA's Review of CT DEP's Hazardous Waste Program:

Section 1: Review Area: State Inspection Implementation

1. Degree to which state program has completed the universe of planned inspections/evaluations (covering core requirements and federal, state, and regional priorities).

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

TSDF Universe:

It is the national goal to inspect all operating Treatment, Storage and Disposal Facilities [TSDFs] every two years. During FY05 and FY06, the total number of operating TSDFs in Connecticut was eight [3 commercial TSDFs: Clean Harbors of CT, Bridgeport United Recycling and United Oil Recovery; and 5 non-commercial TSDFs: Hamilton Sundstrand, Dow Chemical, Pratt and Whitney, U.S. Naval Submarine Base, and Dyno Noble]. By the close of FY06, ECAP inspected 7 of the TSDFs (87.5% of the total), while EPA Region I inspected the remaining TSDF [U.S. Naval Submarine Base] for a total 100% inspection coverage. Therefore, CT DEP and EPA worked together successfully to achieve the national goal for this particular universe.

The EPA HQ metric for the TSDF inspection measure identified MacDermid Inc.

[CTD001164599] as an operating TSDF. MacDermid has been out of business for some time. The metric also failed to identify Dyno Noble as an active TSDF. Dyno Noble was, in fact, inspected by the state. EPA and ECAP have agreed to investigate why these two facilities are not appropriately represented in the metrics. ECAP has agreed to make corrections in RCRAInfo as necessary, pending findings.

Annual Large Quantity Generator [LQG] Inspection Commitment:

The national annual LQG inspection goal is to inspect 20% of the LQG universe each year, for 100% LQG inspection coverage over a 5-year period. The CT DEP hazardous waste regulations have an expanded definition of LQG which encompasses the federal definition, plus any Small Quantity Generators [SQGs] that accumulate more than 1000 kg of hazardous waste at any one time. The resultant LQG universe identified in the EPA HQ metrics was 445. More recent inquiries of RCRAInfo identified 446 and 447 LQGs.³ For discussion purposes EPA utilized the LQG universe size of 445 (20% of which equates to 89 generators). Excluding the TSDF inspections, a review of state records indicate that there were inspections at 71 LQG facilities in FY06. RCRAInfo identifies an additional 5 LQG inspections by EPA, for a total of 76 inspections at notified LQGs. This results in 16.0% state and 17% combined (EPA/state) coverage.

On the surface, these values are equivalent to the national state and combined percentages given in the EPA HQ metrics [15.6% and 17.0%, respectively]. However, the Region believes that ECAP easily met or exceeded the 20% commitment in FY06 by virtue of its unique SQG Manifest Initiative [see Element 13, Section V for details]. Specifically, this initiative targets inspections at notified SQGs whose manifests and/or biennial reports indicate off-site shipments of LQG amounts of hazardous wastes. Upon inspection, the state usually confirmed that these facilities were operating as state LQGs (in other words SQGs that accumulated more than 1000 kg of hazardous waste). These facilities are consequently held to LQG standards during inspection and in resultant enforcement actions. However, they generally come back into compliance with their original notified SQG status, remain notified as such in RCRAInfo, and are not picked up by the EPA HQ metrics. State records indicate that an additional 20 state-LQG facilities were inspected under this SQG Manifest Initiative, which would bring the state % coverage to 20.4% [71+20/445] and the combined coverage to 21.6% [71+20+5/445], both of which exceed the respective national results and meet the national inspection goal.⁴

Based on recent RCRAInfo retrievals, EPA recognizes that ECAP also conducted at least 37 SQG and 22 CESQG inspections in FY06 in response to other state initiatives [namely, aquifer and well-head protection, auto recyclers, furniture strippers, and construction/demo], and 76 complaint investigations. A slight impact on the number of LQG inspections that can be achieved by ECAP in any given year is a CT DEP-wide policy to re-inspect facilities previously subject to

³ At any given moment, normal business fluctuations, resultant notification changes and/or in-activations impact all generator classification universes reflected in RCRAInfo.

⁴ To further substantiate that ECAP met the 20% annual LQG inspection goal consider that, as part of the PPA process, CT DEP and EPA Region I have agreed to use the most recent BRS LQG universe [309] to plan the number of LQG inspections needed to meet the goal. Consequently, 20% of 309 equates to 62 LQG inspections. The combined effort in FY06, excluding those done under the SQG manifest initiative, is 60 LQG inspections. When including the SQG manifest initiative inspections, the total rises to 80.

formal enforcement. Specifically, such facilities must be re-inspected within three years following closure of the formal enforcement action in an effort to ensure continued compliance.

LQG Inspection Coverage in 5-year Period:

The 5-year inspection goal is 100% coverage of LQGs. The EPA HQ metrics indicate that the national state and combined percentages are 42.1% and 45.5%, respectively. The metrics further indicate that the Connecticut and combined percentages exceed the national averages at 50.8% and 53.0%, respectively. EPA Region 1 recalculated the Connecticut and combined averages at 53% and 57% using current RCRAInfo and state information, which significantly exceed the national averages.

The same factors that impact the annual 20% LQG inspection goal also impact the 5-year 100% inspection goal [namely, SQGs operating as state LQGs, state specific inspection initiatives, the post-enforcement re-inspection policy, and complaint investigations].

EPA did a rough analysis of Connecticut and combined annual LQG inspection rates for each fiscal year 2002-2006 using historical RCRAInfo LQG inspection numbers and universe sizes. [This estimate did not include SQGs operating as state LQGs at time of inspection.] EPA observed a slight increase in the number of LQG inspections conducted each year over the specified 5-year period, with a marked increase between FY05 and FY06. In addition to conducting increasing numbers of LQG inspections per year, ECAP also conducted significant numbers of SQG inspections (>270), CESQG inspections (>440), and 300+ complaint investigations over the same 5-year period.

Percentage of Planned Inspections Conducted in FY06:

ECAP provided EPA with a summary sheet of FY06 planned and achieved inspections for several categories of generator and inspection types. Basically, ECAP met its planned inspection goals of FY06, as summarized in Attachment II. [Also see PPA commitment discussion in Element 9.]

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo, EPA HQ metrics and CT DEP records were used in reviewing ECAP's performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

ECAP will work with EPA to develop a coding convention for use in RCRAInfo to indicate which SQG inspections [targeted by the SQG Manifest Initiative] were actually functioning as state LQGs at the time of inspection and enforcement. ECAP will then ensure that the total number of LQG inspections entered into RCRAInfo also reflects the number of inspections at state LQGs as, uncovered by the SQG initiative. ECAP will identify training needs and request such training from EPA as appropriate.

2. Degree to which inspection/evaluation reports document inspection findings, including accurate descriptions of what was observed to sufficiently identify violations.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT): Inspection reports were reviewed for all 33 facilities reviewed by EPA.

ECAP utilizes highly detailed checklists, augmented with detailed narratives when necessary, to record all inspection findings from unannounced RCRA inspections. Completed checklists constitute RCRA inspection reports for the CT DEP. These checklists were developed to foster consistent and expedited inspection report preparation. The checklists provide staff with a tool to quickly document findings, which allows them to dedicate more time to case development, additional field work or outreach to the regulated community. There are individual “RCRA Hazardous Waste Inspection Report” checklists for each of the following: LQGs, SQGs, CESQGs, TSDFs, and Transporters. There is also a “CT DEP Multi-media Checklist” that is often utilized during inspections.

EPA finds that the checklists successfully expedite report writing and establish a consistent and comprehensive reporting format from facility to facility, and from inspector to inspector. The transcription of violations from checklists, to the “Exit Meeting” section of each checklist, is usually consistent and accurate. In a few instances not all the violations in the body of the checklist were summarized in the Exit Meeting section; however, EPA viewed each checklist as a whole and found that they clearly documented all inspection findings. The checklists become valuable tools in the development of subsequent informal and formal enforcement actions, including referrals to other sections within CT DEP (with accompanying Multi-media checklists), to the State Attorney General’s Office and to EPA Region I. The transcription of violations from the RCRA reports to subsequent enforcement documents was found to be consistent, complete and accurate. Subsequent enforcement actions may include additional violations or delete previously noted violations based upon additional investigation by ECAP staff.

EPA noted that the checklists were not always suited to summarize the findings of complaint investigations and that often narrative summaries of these findings were usually sufficient. For example, for one of the three complaint investigations reviewed by EPA [Oxbury Sanitation], a simple memo to the file served to adequately describe and document the discussions between the inspector and owner/operator which ultimately corrected the minor violations. EPA concurs with ECAP’s approach of not using the checklist for such minor issues; however, EPA understands that an inspection checklist would be utilized if a complaint investigation uncovers significant RCRA violations.

In accordance with ECAP’s internal memo entitled “Description of the RCRA (Hazardous Waste) Inspection and Enforcement Process,” it is the policy of ECAP to always conduct unannounced inspections. However, the fact that inspections were unannounced was not documented in any of the checklists reviewed by EPA.

Finally, it appears that ECAP does not always take photographs during inspections. Inspection photographs were found in less than 1/3 of all reports reviewed. ECAP does take photographs where appropriate to document violations during inspections, and also during complaint investigations. ECAP stated that it is not aware of any enforcement cases that were impaired or compromised by the lack of photographs. However, the usefulness of photographs was clearly demonstrated during the review of the AKO, Inc. enforcement file. This case originated from a complaint investigation by the CT DEP Water Program. During the water inspection, photographs were taken of RCRA drums, which had been removed by the time of the follow-up RCRA inspection. The photographs and the Multi-media Checklist became the principal evidence

in a subsequent RCRA referral to the State Attorney General's Office.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

File review information was used in assessing ECAP's performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1. ECAP should continue to supplement, when appropriate, their violation findings with photographs taken in the field. ECAP will discuss the protocols for photographic documentation and retention, with its hazardous waste inspectors during regular, biweekly inspection staff meetings, and with EPA during monthly enforcement agenda meetings.

3. Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Greater than 95% of the inspection reports reviewed were completed in a very timely manner, and violations were accurately reflected within the reports. This timeliness is, in part, due to the expedited nature of the checklists. ECAP readily identifies all violations during or just after inspections and the initial inspection reports are usually written within ± 30 days from the date of the inspection. Inspection reports are often modified as staff conducts further investigations and interactions with inspected facilities. Report modification dates are noted in each report (if applicable) and final modifications are generally implemented very soon after the inspection date. As a matter of fact, of the 33 inspection reports reviewed, only one (Home Depot HD No. 6201) took longer than ± 30 days [i.e., approximately 14 months after inspection]. The Home Depot exception was due to the extreme complexity of the high profile, multi-facility, multi-media, state-wide and corporate enforcement initiative involving 11 Connecticut facilities and Home Depot Headquarters. The Home Depot Initiative is described in detail in Element 13, Section I.B.

During the file review, EPA noted that ECAP starts the timeliness clock for compliance and enforcement issues (i.e., Day Zero) on the last day of the inspection. EPA's national Enforcement Response Policy requires the use of the first day of the inspection. Consequently, EPA used the first day of each inspection when making assessments of timeliness. Regardless of when the timeliness clock started ticking [e.g., first day or last day of the inspection] and since most inspections only last on average 2 days, ECAP generally met inspection and enforcement measures of timeliness. However, EPA does acknowledge the state's concern that, under the National Policy, state inspectors feel pressed to artificially document all violation discoveries as occurring on the first day of multi-day inspections, when in fact many violations may have been uncovered later in the inspection process.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

File review information was used in assessing ECAP's performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1. ECAP should assess using the first day of the inspection as Day Zero if a violation is clearly identified on such day. In cases where Day Zero is not the first day of the inspection, ECAP

should justify why Day Zero varied from the first day of the inspection. The state has agreed to prepare an interpretation of its definition of “Date of Discovery” (i.e., Day Zero) as contained in the state’s current ERP and as it impacts all media, and has agreed to copy EPA representatives on the final memo.

Section 2: Review of State Enforcement Activity

4. Degree to which significant violations (e.g., significant noncompliance/high priority violations) are reported to EPA in a timely and accurate manner.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

SNC Identification Rate at Sites evaluated in FY06: The goal established for this measure is to achieve a new SNC identification rate that is at least ½ of the national average. According to the EPA HQ metrics (which only considered LQG and SQG inspections), the national state average and the national combined average are 3.0% and 3.3%, respectively. The EPA HQ metrics indicate that the Connecticut rate and the combined CT/EPA rate of identifying new SNCs are 6.3% and 6.6%, respectively, both of which are twice their respective national averages.

Using more recent RCRAInfo data and state records, EPA tallied the total number of state and EPA FY06 inspections at LQGs/SQGs, and the total number of state and EPA new SNC determinations in FY06. This tally refined the percentages to 7.9% for the state [10 new SNCs out of 126 inspections] and 8.0% for the combined effort [11 new SNCs out of 137 inspections]. Therefore, ECAP had a very active rate of identifying new SNCs during FY06, at almost 2.5 times the national average.

Based on information in RCRAInfo, the following table illustrates how soon the 10 new state identified SNCs were addressed by formal enforcement actions:

<u>Facility Name</u>	<u>SNY Date</u>	<u>SNN Date</u>	<u>Comment</u>
Clean Harbors of CT	12/13/05	7/25/06	SNC identified and formal enforcement action [310 Final Consent Order with penalties] both within FY06
Gist and Herlin	11/08/05	07/31/06	SNC identified and formal enforcement action [310 Final Consent Order with penalties] both within FY06
Rowley Spring & Stamp.	SNY missing	SNN missing	Inspected on 3/30/06, violations determined on 3/30/06, violations addressed by formal enforcement action [310 Final Consent Order with Penalties] on 9/27/06, all within FY06. SNY and SNN flags just not entered into RCRAInfo at the time of the review. The flags have since been entered.
The Wood Den	04/11/06	12/22/06	SNC identified in FY06 and formal enforcement action [310 Final Consent Order with penalties] in first quarter of FY07
Berlin Heat Treating	04/06/06	01/30/07	SNC identified in FY06 and formal enforcement action [310 Final Consent Order with penalties] in second quarter of FY07

TRI S Environmental	01/19/06	2/28/07	SNC identified in FY06 and formal enforcement action [310 Final Consent Order with penalties] in second quarter of FY07
Quala Systems	12/14/05	10/10/06	SNC identified in FY06 and Referral to State Attorney General on 10/10/06 [first month of FY07]
Chromium Process Co.	05/09/06		SNY identified in FY06. No settlement at time of review. [Referred to the Attorney General shortly after the EPA review team's file review, and court complaint filed 5-8-07. Still an active case (Clean Water Act lead).]
Active Oil	04/10/06		SNY identified in FY06. No settlement at time of review. [PCB & RCRA decontamination and site clean-up completed, Consent Order (\$115K penalty) agreed to and is pending signature by Respondent, expected by 7-15-07.]
Nelcote	03/21/06		SNY identified in FY06. No settlement at time of review. [NOV issued 8-14-06, currently in consent order negotiation with several technical issues (waste determinations & tank systems) that need resolution.]

The above table shows that not only were FY06 SNC violations readily identified by the state in FY06, but 7 out of 10 (70%) were either addressed by final consent orders or referrals to the State Attorney General within the same fiscal year or early in next fiscal year. [Rowley Spring and Stamping's SNC violations were identified and resolved all within FY06, but the SNY/SNN flags were just not entered in to RCRAInfo.]

The remaining 30% [namely, Chromium Process, Active Oil and Nelcote] remained unaddressed at the time of the review due to case specific complexities and, in part, by the fact that most formal enforcement actions are settled by consent between the State and the Respondent(s), many of which are multi-media, which can further delay the settlement process. Chromium Process was referred to the State Attorney General's Office shortly after EPA's file review and is still an active enforcement case. At the time of this report, PCB and hazardous waste decontamination and site clean up has been completed at Active Oil and an agreement in principle has been reached on the Consent Order. Nelcote exceeded timelines due to unusual resource constraints (complex personnel matter), and technical issues involving waste determination and tank management. Consequently, the ERP timeframes should begin anew from the case reassessment date of 7-13-06 (refer to ERP Section III regarding timeframes).

Based on the information from RCRAInfo and EPA's file reviews, state SNC identification usually happens well within 150 days of Day Zero. Since ECAP issues very timely inspection reports, it also promptly issues Notices of Violation (NOV). EPA confirmed that RCRAInfo SNC/SNY flags generally correspond to the dates of NOV issuance.

Of the nine formal enforcement actions reviewed by EPA:

- a) six had SNY flags corresponding to their NOV issuance dates and were well within 150 days of Day Zero;
- b) one SNC violator (Rowley Spring and Stamping) was inspected, received a NOV, and was settled (final consent order with penalties) all in FY06. This timely transaction was simply missing the SNY and SNN flags in RCRAInfo;
- c) one SNC violator [Home Depot HD No. 6201] failed all the standards of timeliness due to the complexities of the Home Depot Initiative discussed in Elements 1 and 13; and
- d) one secondary violator (Romatic Manufacturing) ended up receiving formal enforcement action with penalties. The EPA review team concurred with the secondary violator designation. As a secondary violator, the facility did not require the SNC [SNY/SNN] flags in RCRAInfo. Romatic Manufacturing is a good example of ECAP's willingness to pursue timely enforcement penalty actions against secondary violators, as well as against SNC/high priority violators.

EPA did note one significant inconsistency involving the SNN flag in RCRAInfo (i.e., the indication that a facility is no longer in SNC and has returned to compliance). ECAP may enter SNN flags into RCRAInfo on the dates that final consent orders are issued or on the date a case is referred to the Office of the State Attorney General. SNN flags should only be entered into EPA's national RCRA compliance data base when all prescribed compliance measures, including penalty payments, of an enforcement action are met and when all violations are returned to compliance. The date that a case is referred to the Attorney General's Office does not correspond to that facility's return to compliance (e.g., Quala Systems). EPA observed that most of the final consent orders contain compliance and penalty payment schedules; therefore, ECAP should only enter the SNN flag into RCRAInfo once all such conditions are met. EPA, however, does acknowledge that most of the reviewed enforcement action compliance schedules were fairly short, so actual SNN flags would not be significantly different than those currently entered into RCRAInfo. Finally, once a facility is validly coded as SNN, the state should make every effort to enter individual "return to compliance" dates for each violation coded into RCRAInfo. This will prevent the accumulation of "old and outstanding" violations for facilities that actually received formal enforcement and/or undertook steps to achieve compliance.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo, EPA HQ metrics and file review information were used in reviewing ECAP's performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1. ECAP agrees to no longer enter a SNN facility flag on the date when a consent or administrative order is issued, or when a case is referred to the State Attorney General [see footnote 8 in Element 12]. Further, ECAP agrees to only enter the SNN flag for facilities that have achieved full compliance with all prescribed compliance schedules and when all associated violations have been returned to compliance. That is, at the time an order or court ordered settlement is closed. A brief inter-office memo describing when SNN flags should be entered into RCRAInfo will be provided to applicable ECAP staff and a copy will be forwarded to EPA.
2. ECAP will ensure that, once a facility has returned to compliance, individual "return to compliance" dates are entered for all outstanding violations associated with SNC determinations.

Likewise, ECAP will work with EPA to go through the existing RCRAInfo database to identify and resolve “old and outstanding” violations for facilities that have been addressed by informal and formal enforcement and have since achieved compliance [also see comment 3 of Element 12]. ECAP agrees to make any necessary corrections in RCRAInfo.

5. Degree to which state enforcement actions include required injunctive relief (corrective or complying actions) that will return facilities to compliance in a specific time frame.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Most of the reviewed informal actions [NOVs] and final formal administrative actions [Consent Orders with penalties] contained adequate and effective requirements and schedules necessary to bring facilities back into compliance. In general, formal enforcement action files reviewed by EPA documented when eventual compliance was achieved; however, many of these files failed to document penalty payments [e.g., Leipold, Inc., Rowley Spring and Stamping, U.S. Baird Corp., Budney Industries, Gist and Herlin Press, and Clean Harbors⁵]. The files should document penalty payments. EPA recognizes that penalty payments are tracked electronically in 3 databases: RCRAInfo by RCRA program staff, DEP’s business office (Bureau of Financial and Support Services), and the enforcement module of DEP’s Permit Application Management System.

The files clearly documented interactions and negotiations between ECAP staff and Respondents to ensure that violations were clearly defined and understood and that Respondents were returned to compliance as soon as possible. Final Compliance Orders incorporated realistic and effectual compliance schedules to ensure that any outstanding violations, at the time of settlement, are returned to compliance and penalties are paid. Informal enforcement actions, with corrective measures and/or schedules, were sufficient to return minor violators to compliance.

EPA found that the Enforcement Action Worksheets of the Enforcement Desk Reference [namely the Enforcement Strategy; Case Milestone Summary; Initial Penalty Calculation Worksheet; Penalty Summary Following Penalty Recalculation; and Consent Order Data Sheet] are consistently used by ECAP and that these worksheets are immensely helpful in documenting case evolution and settlement. Region 1 believes that CT DEP’s Enforcement Desk Reference is an enforcement best practice.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo, EPA HQ metrics and file review information were used in reviewing ECAP’s performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

6. Degree to which a state takes enforcement actions, in accordance with national enforcement response policies relating RCRA, in a timely and appropriate manner.

⁵ Proof of payment was subsequently provided to EPA for all six cases.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

In response to this question, EPA compared the federal Hazardous Waste Civil Enforcement Response Policy [ERP] of December 2003 to the CT DEP Enforcement Response Policy of July 1999. EPA concluded that the state ERP is at least equivalent to, and often times more stringent than (particularly in the definition of timeliness), the federal ERP.

During the review of state formal enforcement action files, EPA was made aware of ECAP's adherence to state ERP guidelines for such elements as the appropriate classification of violations, type and degree of enforcement commensurate with the violation classification, and timeliness of responses. Variances with state ERP guidelines are usually well documented and justified in the case file Consent Order Data Sheets.

Of the 9 reviewed administrative formal actions, EPA encountered 4 cases that exceeded the federal and state definitions of timeliness for reaching final settlement [namely, Home Depot, Romatic, U.S. Baird and Budney Industries], and each case file and Consent Order Data Sheet provided highly justifiable reasons for the delays. Both federal and state ERPs make provisions for delayed timeliness, and the documented justifications for delays were usually consistent with these provisions. [For example, the state ERP does allow for the extension of the timeframe to 300 days for a referral to the Attorney General if a Consent Order was first attempted and negotiations failed. See ERP Section III.C.3.] Common documented reasons for delay were: involvement of more than one media, CT DEP Bureau or agency [Home Depot, AKO, and Budney]; required additional sampling [Home Depot]; resolution of complex technical and multi-media questions at multiple facilities [Home Depot]; unusual resource constraints such as medical leave by key ECAP staff or failure by Respondents to hire consultants and legal representation [Romatic]; and protracted negotiations for ability to pay issues, SEP development, Consent Order language, and final penalty amounts [Budney, Romatic, U.S. Baird and Home Depot]. [Refer to Element 13, Section I.B. for a discussion of the Home Depot case, which took up to +1800 days to reach final settlement due to the extreme complexity of the case involving multi-media violations at multiple state-wide facilities, corporate involvement, sampling, training, and SEP development.]

The one case reviewed by EPA that was referred to the State Attorney General [namely, AKO, Inc.] stands out in terms of how long it took to bring the referral. The state ERP requires that referrals be made within 210 days of Day Zero. However, DEP's ERP does allow extension of this timeframe to 300 days for a referral to the Attorney General if a consent order was attempted (most common scenario) and negotiations fail. [See ERP Section III.C.3, pg. 15). It took approximately 767 days to refer this case. However, this case was indicative of cooperation and coordination between CT DEP programs (Hazardous Waste, Clean Water Act, and Remediation). The case originated from a Clean Water Act inspector that observed 55-gallon drums stored outdoors, then documented and photographed the situation, and referred the information to ECAP. While ECAP developed its case, it took the necessary additional time to coordinate another discovery: AKO's potential connection to contamination in nearby drinking water supply wells. Protracted negotiations ensued over consent order language that included investigation and remediation of soil and area drinking water wells. The company ultimately refused to sign a consent order. In May 2006, the case was bifurcated as the Hazardous Waste and Clean Water

Act components of the case were referred to the Attorney General's Office. A court complaint was filed in October 2006. The Remediation program decided to pursue a unilateral administrative order, which was issued in March 2007.

For the reviewed formal and informal cases, EPA found that (with very little exception) violation determination dates and issuance of Notices of Violations were remarkably soon after Day Zero [date of the inspection] and well within the specified timelines of 90 days (state ERP) and 150 days (federal ERP). [See Element 3 for a discussion of the state's application of Day Zero.]

Of the enforcement actions reviewed, EPA agreed with the violation classifications assigned by ECAP [e.g., HPV vs. SPV]. Once ECAP declared a facility's violation classification, EPA noted that it proceeded with appropriate enforcement action per the guidelines described in the state ERP. For example, EPA reviewed the timeliness of the 25 FY06 administrative formal enforcement actions as reflected in RCRAInfo. Of these 25 actions, 12 corresponded to Home Depot facilities. The 13 non-Home Depot cases settled, on average, within 13 months (approximately 390 days), which is only 30 days and 90 days longer than the prescribed guidelines of the federal and state ERPs, respectively. These exceedences were due to case specific circumstances which are, in all probability, documented in the individual Consent Order Data Sheets. The 12 Home Depot cases settled on average within 47 months (approximately 1410 days) for the reasons described above [also see Element 13, Section I.B.].

Finally, ECAP's willingness to pursue administrative penalty actions against secondary violators (per the state ERP) was clearly illustrated in the case reviewed against Romatic Mfg.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo, EPA Headquarters' metrics and file review information were used in reviewing ECAP's performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

ECAP will, as resources allow, continue to ensure that referrals to the Office of the State Attorney General are expedited to meet the state ERP timeline of 210 or 300 days. If not, ECAP will clearly document the reasons for exceeding timeliness expectations on a case specific level.

7. Degree to which a state includes both gravity and economic benefit calculations for all penalties.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Since CT DEP's enforcement process is by consent, EPA focused on settled penalties in the final Consent Orders and on penalty evolution from proposed to final, as documented in the "Enforcement Action Worksheets." However, EPA did observe that proposed Consent Orders were usually issued in accordance with the state ERP timeframe [180 days] and in accordance with the Penalty Policy.

The February 1, 2001 CT DEP Civil Penalty Policy (the "Policy") applies to penalties assessed in consent orders and recommended in referrals to the State Attorney General. The penalties

calculated under the Policy consist of :1) calculating the amount of economic benefit, 2) determining a basic gravity-based penalty for each violation, 3) adding a “continuing violation” gravity-based penalty to account for the duration of a violation, and 4) penalty adjustment, upward or downward, in light of case-specific circumstances. All reviewed formal enforcement actions (administrative and the one State Attorney General referral package) considered and documented the above penalty elements pursuant to the Policy. CT DEP utilizes EPA’s BEN Model to assess economic penalty amounts and maintains BEN printouts in the enforcement files to document these calculations. Gravity and economic benefit penalties contained in proposed Consent Orders are documented in “Initial Penalty Calculation Worksheets.” Revised final penalties are documented in “Penalty Summary Following Penalty Recalculation Worksheets” and in “Consent Order Data Sheets.” All initial penalty calculations, adjustments and their justifications, and final penalties are well documented throughout the case files.

The Policy distinguishes between “Distinct” versus “Grouped” violations, defined as follows: A Distinct Violation is one that results from a violator’s independent act or failure to act and is distinguishable from any other violation [e.g., violation of a permit condition requiring regular inspections of a hazardous waste tank]. On the other hand, Grouped Violations, for which a single gravity-based penalty calculation is appropriate, result from a violation of a single requirement that derives from or leads to the violation of other requirements [e.g., failure to install a groundwater monitoring system that results in a failure to sample, analyze and report monitoring results, or a failure to establish a hazardous waste training program that results in the failure to maintain training program documentation]. Many of the reviewed formal enforcement action penalties contained “Grouped Violations.” EPA concurred with these grouping and found them to meet the intent of the state’s Penalty Policy and consistent with federal penalty policy.

Refer to Element 8 for a discussion on the appropriateness of the final penalties. Final settlement penalties, including SEP values, are also recorded in RCRAInfo.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo and file review information were used in reviewing ECAP’s performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

8. Degree to which final enforcement actions (settlements or judicial results) take appropriate action to collect economic benefit and gravity portions of a penalty, in accordance with penalty policy considerations.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Both federal and state ERPs consider an appropriate enforcement response as one that deters future non-compliance and incorporates economic sanctions in the form of penalties, or alternative punitive mechanisms (such as Supplemental Environmental Projects). Of the 9 final administrative consent orders reviewed by EPA [8 High Priority Violators and 1 Secondary Violator], all contained penalties that, at minimum, recovered the estimated economic benefit enjoyed by violators during periods of non-compliance, along with penalties addressing the

gravity of each violation [be they distinct or grouped, as described above]. Many of the actions incorporated Supplemental Environmental Projects [SEP] as part of the total penalty. The files generally documented all considerations that resulted in the final penalty and SEP, such as ability to pay issues, payment schedules, and adjustments for such items as willingness to comply or history of non-compliance.

The only concern EPA had regarding final penalty adjustments dealt with a penalty mitigation procedure that does not seem to be captured in the Penalty Policy. For example, Clean Harbors of Connecticut and Gist and Herlin Press both had limited justifications in their penalty documentation that accounted for why the continuing violation segments of their gravity-based penalties were “zeroed out” in the final assessed penalties. The explanation given for both cases was “due to the multi-day penalty being unrealistic, this total [a.k.a. the continuing gravity-based penalty] will not be used in the final penalty calculation.” EPA questions if this penalty mitigation mechanism is allowed by the Penalty Policy.

All FY06 administrative final consent orders with penalties have their settled penalty amounts recorded in RCRAInfo. The single referral reviewed by EPA [AKO Inc.] contained a draft proposed penalty document that factored in economic benefit and gravity penalties. This proposed penalty was transmitted to the State Attorney General via the referral package.

A review of the EPA HQ metrics and RCRAInfo data give slightly different values for the total amount of FY06 administrative Consent Order penalties. The EPA HQ metric indicates a total of \$714,995 in cash and SEP penalties. RCRAInfo data on the 25 FY06 final Consent Orders indicate a total of \$316,091.80 in cash and \$560,546.21 in SEPs [grand total of \$876,638.01].⁶

A review of the 9 FY06 judicial actions [8 with penalties and 1 without penalties] reflected in RCRAInfo indicates a total of \$360,400 in cash and \$2,500 in SEPs [grand total of \$362,900].⁷

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo and file review information were used in reviewing ECAP’s performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1. EPA recommends that the practice of zeroing out the continuing violation segment of a gravity-based penalty be carefully assessed. EPA and CT can discuss this further as necessary. If, after further consultation, the practice is not discontinued, then the validity and justification of zeroing out certain segments of a penalty should be based on documented allowances consistent with the state’s Civil Penalty Policy and federal policy. This practice, if continued, should be recognized somewhere within the state policy. Changes to be made to the enforcement policy or procedures to address the recommendation should be discussed with and copied to EPA.

⁶ The 25 actions considered by EPA were: UPS Freight, Budney, Torrey S Crane, Tube Bends, Advanced Adhesives, 12 Home Depot actions, American Heat Treatment, Romatic, U.S. Baird, Clean Harbors, Gist and Herlin, Bridgeport United/Hitchcock Gas and Rowley Spring and Stamping.

⁷ The 9 final judicial actions considered by EPA were: Stanchem, ADCO Services, Ward Leonard Electric, All Time Grinding, Custom Design Service, American Wire Corp., Yankee Furniture Restoration, Remlitho Inc., and B&L Finishing Shop.

Section 3: Review Area: Agreements

9. Enforcement commitments in the PPA or State/EPA Agreement (written agreements to deliver product/project at a specific time), if they exist, are met and any products or projects are complete.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Attachment III summarizes the FY06 commitments contained in the PPA and its associated documents listed in Attachment 1, items 3, 4 and 5. A majority of the PPA commitments are narrative statements while a few have associated quantitative elements. EPA was able to assess ECAP's ability to meet its PPA commitments during the preparation and actual conduct of this review. EPA concludes that the state has met its compliance and enforcement PPA commitments for FY06.

Regarding item 25 of Attachment III [namely, that of working towards the reduction of outstanding violations and enforcement actions], RCRAInfo lists numerous old and outstanding violations that need to be resolved. However, many of these individual violations are associated with facilities that had undergone formal enforcement or have otherwise returned to compliance, but had not been updated in RCRAInfo.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

Information from RCRAInfo, EPA HQ metrics, file review data and the FY06-FY07 PPA with associated documentation.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

Regarding the numerous old and outstanding violations recorded in RCRAInfo, see recommendation 2 in Element 4.

Section 4: Review of Database Integrity

10. Degree to which the minimum data requirements are timely.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

Inspection and enforcement data are generally entered into RCRAInfo in a very timely and complete fashion, which is commendable since it appears that only one person does this type of data entry for ECAP. Some exceptions to this have been discussed in Elements 1-9 and Element 11 below [see corresponding recommendations].

EPA's ERP and the national goal is that data should be entered when violation determinations are made, and that SNC/SNY flags should not be withheld until the actions are completed. In other words, EPA expects that SNC data to be entered into RCRAInfo within 60 days of determinations.

According to the EPA HQ metrics, new FY06 SNCs identified by the state were: Clean Harbors,

Chromium Press, Tri S Environmental Services, Active Oil, Inc., Nelcote, Inc., Quala Systems, Inc., Gist and Herlin Press, and Berlin Heat Treating Co. State records include the following as new FY06 SNCs: Rowley Spring and Stamping, and The Wood Den, Inc. It appears from a review of RCRAInfo that Quala Systems' SNY flag was entered into RCRAInfo after the lapse of 60 days [namely, 116 days after determination], and that the SNY/SNN flags for Rowley Spring and Stamping were not entered at all. Therefore, only 20% [2 out of 10] new SNCs were either entered "late" or missing in RCRAInfo. This is far better than the national "late entry" percentage of 43.6%.

Finally, EPA reviewed RCRAInfo to find out if any previous SNC determinations were missing SNC/SNY or return to compliance/SNN flags. The following facilities appear to be missing these flags: UPS Freight/Overland Transport Co. [missing SNY and SNN flags; final action dated 10/05/05]; and Home Depot/Middletown [missing SNY and SNN flags, final action dated 05/19/06]. Factoring in these two facilities, the adjusted "late SNY coding of RCRAInfo" is 33% [4 out of 12], which is still better than the national rate of 43.6%.

ECAP has agreed to make every effort to enter timely SNY and SNN codes into RCRAInfo and to correct the RCRAInfo records for Quala Systems, Rowley Spring and Stamping, UPS Freight/Overland Transport Co. and Home Depot Middletown.

For the SNY flag when cases are referred directly to the State Attorney General's Office (i.e., without previous consent order negotiations or administrative order issuance), ECAP will begin to turn on the SNY code when the complaint is filed in court. This will preserve enforcement confidentiality for the period between the referral and the complaint filing, yet still provide a timely SNY flag.

Finally, regarding the penalty amount discrepancies discussed in Element 8, EPA and ECAP have agreed to work together to ensure that final penalty values (in cash and SEPs) are accurately reflected in RCRAInfo.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo, EPA Headquarters' metrics and file review information were used in reviewing CT DEP's performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

11. Degree to which the minimum data requirements are accurate.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

When reviewing each formal and informal enforcement action, EPA compared the compliance and enforcement data contained in the files with that contained in RCRAInfo. In general, EPA found good concurrence between the two sets of information. Inspection dates, violation determination dates, NOV dates, SNC/SNY dates, final administrative and judicial enforcement action dates, referral dates, final penalty amounts (cash and SEPs), and incremental penalty

payment schedules all seemed to correspond well between the paper documentation and the federal database. Only two particular and universal anomalies existed in the way ECAP enters data into RCRAInfo, and these have been already discussed [see Elements 3 and 4]. ECAP consistently enters a Day Zero based on the last day of an inspection, as opposed to using the national standard of the first day of the inspection. Additionally, the SNN/returned-to-compliance indication for a violating facility is consistently entered on the date a case was either referred to the State Attorney General (violations still outstanding) or on the date that the final Consent Order was signed (even if a compliance schedule is incorporated into the Order).

Also, as previously mentioned, there are numerous old and outstanding violations in RCRAInfo [approximately 417 in total] that correspond to individual violations that need to have return-to-compliance dates entered into RCRAInfo. ECAP has agreed to review these violations with EPA and close them out in RCRAInfo accordingly. Many of the facilities corresponding to these violations have either returned to compliance or received enforcement actions (informal and formal) to specifically address the violations.

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo, EPA Headquarters’ metrics and file review information was used in reviewing CT DEP’s performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

None

12. Degree to which the minimum data requirements are complete, unless otherwise negotiated by the region and state or prescribed by a national initiative.

FINDINGS (INCLUDING SUCCESSFUL PERFORMANCE AND AREAS FOR IMPROVEMENT):

EPA and ECAP have reviewed the following data elements, and have found general concurrence between the information contained in RCRAInfo and in state records. The values associated with the EPA HQ metrics were often slightly different since they reflect an earlier snap-shot in time, and RCRAInfo is continually refined by both EPA and the states. Notable differences are highlighted in **bold** in the following table, and discussed in the comments below:

Element	Value: EPAHQ metric	Value: RCRAInfo pulled on 3/21/07	State concurs with 3/21/07 RCRAInfo	
[Y/N]				
# of operating TSDs	8	8	YES	[Comment 1]
# of active LQGs	445	446	YES	[Comment 1]
# of active SQGs	1677	1718	YES	[Comment 1]
# of active CESQGs	1161	1035	YES	[Comment 1]
# of total inspections	134	206	YES	[Comment 2]
# of sites inspected	126	125	YES	
# of sites with violations	578	estimated 161	***	[Comment 3]
# of sites receiving NOVs	57	69	YES	[Comment 4]
# of total NOVs issued	58	72	YES	[Comment 4]
# of new SNCs	8	8	YES	

# of sites in SNC	38	51	YES	[Comment 5]
# of sites with Enf. Actions	33	35	YES	
# of formal actions	34	35	YES	
Assessed penalties [cash only]	\$714,995	\$676,491.00	YES	[Comment 6]

Comment 1: Represents typical differences since universes fluctuate as facilities go in and out of business, or modify their operations and hazardous waste generation notifications.

Comment 2: The actual number of inspections (206) includes ECAP inspections of hazardous waste transporters and complaint investigations.

Comment 3: It is EPA’s opinion that this number contains approximately 417 old or outstanding violations that have not been coded as “returned to compliance” in RCRAInfo, even if ECAP either initiated informal or formal enforcement actions. A more realistic estimate of this value is 161 violations [578 minus 417] undergoing some stage of enforcement.

Comment 4: Difference between metric value and recent RCRAInfo retrieval probably corresponds to ongoing updates of RCRAInfo.

Comment 5: EPA assumes that 51 corresponds to any state administrative and judicial action where the SNC/SNY status was, or should have been, turned on in RCRAInfo anytime during FY06. Many of the facilities listed below have been addressed by some form of formal administrative or judicial action. EPA derived 51 by compiling SNC/SNY indicators, formal penalty enforcement actions, referrals and final judicial actions contained in the EPA HQ metrics, recent RCRAInfo retrievals, and state records. It is the Region’s opinion that the following facilities were in SNC sometime in FY06. ECAP has agreed to review this list with EPA and make any appropriate corrections in RCRAInfo, including entering SNY and SNN codes were applicable.

Administrative

- | | |
|----------------------------------|--|
| Clean Harbors of CT, Inc. | U.S. Baird Corp. |
| Chromium Process Co., Inc. | Tube Bends, Inc. |
| TRIS Environmental Services | Active Oil, Inc. |
| Nelcote | Bridgeport United Recycling [a.k.a. Hitchcock Gas Engine] |
| Family Garage | Quala Systems |
| Leipold Inc. | Advanced Adhesives System, Inc. |
| American Heat Treating Inc. | Gist and Herlin Press, Inc. |
| Kemper Construction Co., Inc. | Berlin Heat Treating Co. Inc. |
| Budney Industries | Torrey S. Crane |
| Romatic Mfg. | Rowley Spring and Stamping |
| UPS Freight /Overnight Transport | Home Depot Nos. 6201, 6203, 6204, 6206,
6208, 6209, 6210, 6214, 6218, 6221,
6226, 6233 |

Judicial ⁸

⁸ EPA noted that for most, if not all, referrals to the State Attorney General’s Office the SNC/SNY facility Flag was turned off [i.e.

ADCO Services, Inc
 Stanchem
 American Wire Corp
 Remlitho
 All Time Grinding
 B & L Finishing Shop
 East Coast Auto Parts
 AKO
 Plainfield [Town of]

Johnson Memorial Hospital
 Custom Design Service
 Yankee Furniture Restoration
 Ward Leonard Electric
 Deburring Laboratories Inc.
 Legere Group Ltd.
 CT Waste Oil
 Shoreline Painting
 Global Turbine Components

Comment 6: The actual amount of penalties collected by CT DEP [cash and SEP settlements] for both administrative and judicial settled cases is as follows:

Administrative Cash	=	\$316,091.80
Judicial Cash	=	\$360,400.00
<u>Total Cash</u>	=	<u>\$676,491.80</u>
Administrative SEP	=	\$560,546.21
Judicial SEP	=	\$2,500.00
<u>Total SEP</u>	=	<u>\$563,046.21</u>
 GRAND TOTAL	=	 \$1,239,538.00

CITATION OF INFORMATION REVIEWED FOR THIS ELEMENT:

RCRAInfo, EPA Headquarters’ metrics and state compliance/enforcement records were used in reviewing ECAP’s performance in this area.

RECOMMENDATIONS IF CORRECTIVE ACTION IS NEEDED:

1. ECAP and EPA agree to review the above statistics as they are reflected in state records and in RCRAInfo and to reconcile any differences between the two data sets. ECAP and EPA agree to conduct this type of review on an annual basis.
2. As discussed in Element 4, ECAP agrees to only turn on the RCRAInfo “SNN” code for facilities that have achieved full compliance with all prescribed compliance schedules and when all associated violations have been returned to compliance. This applies to referrals to the State Attorney General’s Office, administrative orders and consent orders. In addition, for the SNY flag when cases are referred directly to the State Attorney General’s Office (i.e., without previous consent order negotiations or administrative order issuance), ECAP will begin to turn on the SNY code when the complaint is filed in court.
3. ECAP and EPA agree to discuss a process for turning on the SNN code when continued non-compliance is no longer applicable. For example, when violations have not been corrected or enforcement has not been concluded, but the company has gone out of business and there is no viable entity from which to seek resolution.

RCRAInfo coded as SNN] on the date of the referral. The SNN flag should only be implemented when the final judicial action is undertaken, when all compliance measures have been met, and when ALL violations are returned to compliance.

ATTACHMENT I
Documents Reviewed/Utilized by EPA Region I during the Review of the CT DEP
Hazardous Waste Management Program.

1. Final Multi-media Review of the Enforcement Programs of the Connecticut Department of Environmental Protection [CT DEP], June 1997;
2. Final Environmental Performance Partnership Agreement for FY06 and FY07, April, 2006;
3. PPA Attachment A: CT DEP/Environmental Quality Branch Strategic Plan Fiscal Years 2002-2007;
4. PPA Attachment B: CT DEP Environmental Quality Branch Operation Plan FY06-07 [Work Plan];
5. PPA Attachment C: CT DEP Compliance Assurance Strategy FY06-07;
6. State of Connecticut RCRA Program Description, May 17, 2004;
7. State of Connecticut Department of Environmental Protection Hazardous Waste Regulation, Section 22a-449(c) - 100 through 119, and Sections 22a-449(c) - 11, Revised September 10, 2002;
8. EPA Hazardous Waste Enforcement Response Policy, May 15, 1996 [The 1996 EPA ERP];
9. EPA Washington D.C. April 18, 2000 Transmittal of Addendum to the 1996 EPA ERP;
10. EPA Hazardous Waste Civil Enforcement Response Policy, December 2003;
11. CT DEP Computerized Enforcement Desk Reference for Compliance and Enforcement, and associated guidance/policy document links, including (but not limited to):
 - a. CT DEP Enforcement Response Policy, effective June 1, 1999;
 - b. CT DEP Civil Penalty Policy, effective February 1, 2001;
 - c. Policy on Supplemental Environmental Projects, revised February 15, 1996;
 - d. Models/Protocols/Standard Language modules for the issuance of Unilateral Orders, Consent Orders, and Supplemental Environmental Projects;
 - e. Compliance Assurance Policy, May 23, 1997;
 - f. CT DEP Enforcement Coordination Plan, revised September 2006;
 - g. Policy of Incentives for Self-Policing, updated July 12, 2004;
 - h. Policy on Inspecting a Facility Previously Subject to Formal Enforcement Action, February 1, 2002;
 - i. CT DEP Inspection Checklists for CESQGs, SQGs, LQGs, Transporters, and TSDFs;
 - j. Enforcement Action Worksheets: [Enforcement Strategy; Case Milestone Summary; Initial Penalty Calculation Worksheet; Penalty Summary Following Penalty Recalculation]; and Consent Order Data Sheet];
12. CT DEP Administrative Hearing Practice, May 2003;
13. Protocols for Referrals to the State Office of the Attorney General;
14. Protocols for Referrals to EPA Region I;
15. Guidance Memo from the Chief State's Attorney to Commissioner of CT DEP Regarding Criminal Investigations of Environmental Violations, June 25, 1998;
16. CT DEP Bureau of Waste Management Small Quantity Generator Guidance, Revised March 2005;
17. CT DEP Bureau of Materials Management and Compliance Assurance Conditionally Exempt Small Quantity Generator Handbook, Revised February 1998; and
18. CT DEP Bureau of Waste Management, Management of Used Oils in Connecticut, January 1999 Draft.

ATTACHMENT II

Number of Planned Inspections Conducted in FY06:

<u>Type of Inspection</u>	<u>Planned</u>	<u>Actual</u>
<u>LQGs</u>		
Manifest Initiative	20	20
Never Inspected	10	6
Not inspected in >10 yrs	10	10
Special Initiatives	10	10
Aquifer protection		
Well-head protection		
Bare steel [UST]		
SM 80 sites [Air]		
Compliance Schedule Evaluations	30	30
Reinspection Sites (Focus)	8	9
<u>Others</u>	---	6
TOTAL	88	91
<u>SQGs [no commitments]</u>		
Never inspected		10
Seasonal re-inspection sites		4
Auto recyclers		5
Furniture strippers		5
Construction/demo		---
Marinas and others		5
TOTAL		29
Land Disposal Facilities [with detailed FRR]	5	5
Transporters	5	5
Complaints	50	76
Others	—	18 [i.e. title searches, sampling only]

ATTACHMENT III

PPA Commitments

Item	Description of FY06 Commitment	Achieved and Ongoing
1	Maintain communication between ECAP and EPA to evaluate progress, identify problem areas, adjust priorities and strategies.	Yes
2	Minimize impacts on public health and the environment by promoting proper storage, handling and usage. Minimize waste disposal by promoting recycling and beneficial use of waste	Yes
3	Continue a strong enforcement program that ensures the proper management of hazardous waste streams to protect human health and the environment	Yes
4	Use enforcement resources in an integrated manner to solve environmental problems	Yes
5	Achieve the highest level of environmental compliance through predictable, timely and consistent enforcement	Yes
6	Identify and reduce significant non-compliance, while maintaining strong enforcement presence in regulated areas	Yes
7	Implement expedited enforcement approaches	Yes
8	Conduct inspections to determine compliance with hazardous waste regulations	Yes
9	Initiate enforcement actions for violations of state and federal hazardous waste regulations	Yes
10	Maintain hazardous waste manifests and database and develop biennial reports on the generation of hazardous waste in CT	Yes
11	Make sure manifest database is available to public	Yes
12	Process hazardous waste complaints	Yes
13	Review financial assurance mechanisms for compliance with hazardous waste facility closure and post closure requirements. [Complete 35%, 35% and 30% of full enforcement universe over FY06-08, per 5-year planning cycle]	Yes
14	Maintain adequate inspection and monitoring capacity and activity	Yes
15	Maintain adequate capacity for enforcement response	Yes
16	Publicize CTDEP enforcement activities through publication of newsletters, press releases and postings of enforcement case summaries, policies and statistics on internet	Yes
17	Undertake targeting strategies and inspection protocols designed to identify SNC	Yes
18	Identify SNC in national enforcement database	Yes
19	Communicate and coordinate with EPA on enforcement actions undertaken in response to SNC	Yes
20	Address the identified SNC facilities with enforcement responses sufficient to ensure compliance and recovery of penalties [no less than economic benefit and consideration of an appropriate gravity based penalty sufficient to deter further compliance.]	Yes
21	Ensure consistent application of Department policies and practices.	Yes
22	Continue to address 20% of LQG universe, 50% non-commercial TSDFs and 100% of commercial TSDFs, conduct 175-250 inspections per year. [Note: Agreement has been reached between the Region and New England states that 20% LQG inspections are based on the most recent BRS LQG universes.	Yes
23	Focus inspections on areas of high potential SNC, such as Manifest Initiative, auto recyclers, furniture finishers/refinishers/strippers, seasonal inspections.	Yes
24	Re-inspect a facility not more than 3 years after closure of a formal enforcement action	Yes
25	Reduce the number of outstanding violations and enforcement actions	Yes
26	Inspect TSDFs in accordance with RCRA national goals [detailed focus inspection reviews of waste analysis plans and operational records on a rotational basis, with 1 full inspection at commercial TSDFs]	Yes
27	Conduct inspections at hazardous waste transporters.	Yes

Element 13/ Enforcement Practices and Compliance Initiatives

I. Introduction

The intent of the Department's submittal under Element 13 of EPA's State Enforcement Review Framework ("SRF") is to highlight some of the Department's innovative enforcement policies and practices; compliance initiatives; and significant enforcement cases that may not otherwise be captured or fully assessed as part of EPA's SRF under Elements 1-12. According to EPA's Guidance for Seeking and Approving Credit under Element 13 of the State Review Framework, December 2006, the Department will seek recognition credit or formal acknowledgment of results from alternative compliance and enforcement programs. The Department is also demonstrating to EPA a more complete picture of the breadth and scope of its activities to promote compliance.

The Element 13 chapter is organized according to cross-media, air management, water management and materials management related topics. One of the cross-media enforcement practices featured, for instance, is the Department's Enforcement Desk Reference ("EDR"). The EDR is an electronic enforcement resource library tool for all related enforcement documents that assists in implementation of a consistent and predictable enforcement program across all air, water and materials management programs. All staff can easily access the EDR through the Department's intranet site.

With regard to compliance initiatives that are highlighted in the Element 13 chapter, the Department utilizes a common approach that includes a measurement component; compliance assistance; and compliance monitoring with enforcement action follow-up as necessary. Some of the Department's compliance initiatives such as the Industrial Stormwater General Permit initiative rely upon the registration requirements and conditions of the general permit as a tool to ensure and measure compliance.

The Department will continue to negotiate and document Element 13-type activities as part of CT's Performance Partnership Agreement (PPA) with EPA New England.

II. Cross-media

A. Enforcement Policy and Practices

Enforcement Desk Reference

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

The EDR includes an enforcement process diagram that depicts the steps of the enforcement process and provides links to the available enforcement tools. As a result, employees are guided to

the right documents associated with a particular type of action. Staff is able to select the appropriate form and save it to their case file and immediately begin entering information with the confidence that it is the correct form.

For example, the Department has developed new case documentation forms to assure consistent application of enforcement policies. The EDR provides forms for the Enforcement Action Summary (“EAS”), Consent Order Data Sheet (“CODS”) and the Case Milestone Summary (“CMS”). The EAS is used to present the facts of the case and to recommend a course of action. It assures that all violations associated with a case are properly identified and classified and coordinated with other applicable programs and that the compliance history of the violator is evaluated. The CODS is used for consent orders to document any changes in the Department’s position as a result of negotiations such as changes in the final penalty amount or the injunctive relief required, inclusion of supplemental environmental projects, and explanation of any exceedance in the enforcement action issuance timeframe as specified in the Department’s Enforcement Response Policy. The CMS is used for documenting important information and dates associated with case development, issuance and closure. The CMS is intended to allow anyone who reviews the file to quickly determine the current status of the case.

Also included in the EDR are the most current enforcement action formats used by the Department, such as consent and unilateral orders and referrals to the Attorney General or Chief State’s Attorney. Boiler plate language is included to assure that all enforcement actions issued by the Department are consistent. There is formatted language regarding, for instance, dates of issuance, approval processes, compliance audits, supplemental environmental projects and corporate resolutions.

The EDR also provides links to EPA’s Online Tracking Information System and the BEN and ABEL computer models as well as the Secretary of the State’s website to obtain corporation information.

Response to Complaints

Complaint investigations remain a high priority for the agency. A high proportion of complaints result in the identification of violators, and pursuit of civil and criminal enforcement cases. Several recent significant enforcement cases such as Home Depot (2006), Sound Manufacturing (2006) and Walmart (2005) were initiated in response to complaints.

Bureau of Air Management

The Department’s Bureau of Air Management (“Air Bureau”) receives approximately 500 complaints per year from the public. All complaints are documented and subsequently entered into the Air Bureau’s database for tracking and recording purposes.

Complaints range from a variety of environmental concerns that include, but are not limited to smoke, fugitive dust, odor, motor vehicle exhaust associated with excessive idling, open burning, and soot. The Air Bureau’s field staff conducts inspections in a timely manner upon receiving a complaint. Complaint inspections often lead to the issuance of either informal or formal enforcement actions depending on the violation discovered.

Air Bureau staff receiving complaints are also responsible for directing the complainants, if appropriate, to other state or local agencies that may be more suitable for helping the complainant. The state or local branches of the Department of Public Health, for example, are often recommended when a complainant has specific health-related questions or concerns. Additionally, all staff has been provided with a phone call referral list, which is a brief directory of appropriate staff contacts within the Department (such as Hazardous Waste, Water, etc.) that can properly respond to the complainant's environmental concern.

The Air Bureau's Complaint Line is well advertised both in Connecticut's Government Section ("blue pages") of the phone book and on the Department's website, which also allows complainants to file complaints electronically by email. Complaints received by email are documented and investigated in the same fashion as those complaints received through the Complaint Line.

Bureau of Materials Management and Compliance Assurance

Similarly, the Department's Bureau of Materials Management and Compliance Assurance also places a high priority on responding to complaints. In FY 06 the Waste Engineering and Enforcement Division ("WEED"), for example, received and processed 89 complaints. Of the 89, WEED investigated 76 directly through inspection, sampling, etc. The remaining 12 were referred to municipalities, other state agencies or other Department Divisions. WEED had committed to processing 50 complaints in the FY 06 PPA. The Water Permitting and Enforcement Division ("PED") received 246 complaints overall and an additional 57 stormwater related complaints. As with WEED, all of the complaints were either handled directly by the Department or referred to municipalities, other state agencies or other Department Divisions as appropriate.

Planning and Pursuit of Enforcement Priorities

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

The Department's Office of Enforcement Policy and Coordination (OEPC) convenes enforcement, permitting and assistance managers on a monthly basis as part of the an Enforcement/Compliance Management Committee to assist in planning, coordinating and targeting inspections and compliance initiatives across the Air, Water and Materials Management and Compliance Assurance Bureaus. **In addition, DEP media enforcement programs meet individually on a monthly basis along with EPA and the Attorney General's Office to review tracking of**

existing enforcement cases, review inspection targets and to discuss proposed enforcement actions and make decisions in coordinating which agency is best suited to take the lead on a new case. The State works with EPA on necessary enforcement issues and seeks feedback from EPA on issues and priorities of particular concern and work cooperatively to address them. In addition, the Department attends and participates in monthly conference calls and quarterly EPA/NE States enforcement/compliance management meetings.

Delivery of Effective and Consistent Enforcement Actions through Continued Reliance on Enforcement Policies

The Department has continued to pursue the delivery of timely, consistent, predictable enforcement action through the reliance on the following Department enforcement policies: Enforcement Response Policy; Civil Penalty Policy; Supplemental Environmental Project Policy; Compliance History Policy and Compliance Assurance Policy. In FY 06 OEPC conducted training sessions for enforcement managers and staff on the Enforcement Response Policy, Civil Penalty Policy and Multi-Media Enforcement Coordination Plan. A total of approximately 100 employees were trained.

Administrative Civil Penalty Regulations

In FY 06 and FY 07 the Department developed pilot administrative civil penalty regulations for the Office of Long Island Sound Programs e.g. structures and dredging, tidal wetlands; Inland Water Resources Division e.g. stream channel encroachment, diversions, dam safety, inland wetlands; and the Pesticides management program. The proposed regulations will provide the Department with an additional formal enforcement tool (i.e., in addition to a consent order or Referral to the Office of Attorney General), which may be used in conjunction with an order if compliance actions are also needed. The penalty regulations are intended to provide an incentive for compliance and predictability. They are intended to improve program efficiency and effectiveness by reducing the time needed to negotiate and settle certain types of administrative enforcement actions. The draft regulations were approved on May 22, 2007 by the Regulations Review Committee in Spring, 2007.

NOV Follow-up

As a follow-up to the issuance of a Notice of Violation (NOV), Department staff will conduct a review of the Respondent's submittal. If the NOV response is not adequate or if no response is received, the Department may escalate the NOV to a formal enforcement action. If, however, the Respondent certified that compliance has been achieved, in some cases a compliance inspection will be needed before the NOV can be closed. Once it is determined that the response to the NOV adequately addressed the cited violation(s), an NOV closure letter is sent to the recipient. In cases where no compliance inspection is conducted, the closure of the NOV is based on the company's certification of compliance. (See also Air Management section)

Pre-Enforcement Information Gathering Legislation

Since FY 05 the Department has been seeking pre-enforcement information gathering authority from the CT General Assembly to provide the Department with the broad administrative authority that EPA has to ask facilities to respond to questions and provide records to aid in the identification of violations and the development of enforcement actions. Useful federal models for the proposal are Section 114 of the Clean Air Act, 42 USC 7414, Section 308 of the Clean Water Act, 33 USC 1318, and Section 3007 of RCRA, 42 USC 6927.

Self-Policing Policy

The Department's continues to support the use of the Self-Policing Policy to promote voluntary compliance. In FY 06-07, as a result of EPA's hospital and Health Care Initiative and specific agreements with several CT hospitals to conduct audits in FY 06, the Department received approximately four self- audit disclosures from major hospitals in Connecticut under EPA's and CT DEP's Self Policing Policy. The Department has been coordinating with EPA NE on the audit reviews and responses.

B. CROSS-MEDIA COMPLIANCE INITIATIVES AND SIGNIFICANT ENFORCEMENT ACTIONS

Auto Recycling Industry Compliance Initiative: - Targeting Industries with a High Potential for Environmental Problems

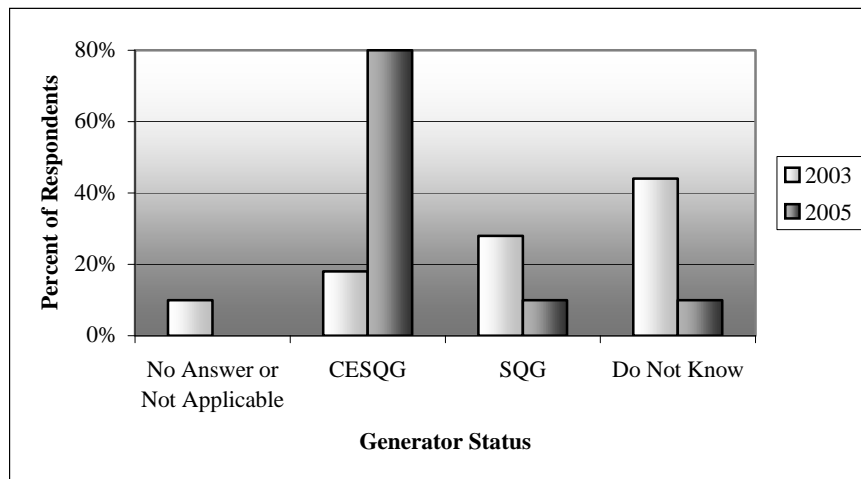
In FY 04-05, the Department began a coordinated compliance assistance initiative aimed at improving the environmental compliance of the Auto Recycling Industry. The next phase of the initiative in FY 06-07 has included compliance assessments, inspections and, if necessary, follow-up enforcement. It has also included the development of appropriate performance measures e.g. compliance rates, environmental improvements. (See also Industrial Stormwater General Permit Compliance Initiative below).

As part of the compliance assistance effort, the Department developed an environmental compliance guide specifically tailored for the auto recycling industry. The compliance guide was developed in coordination with the Automobile Recyclers Association to ensure that it would meet the information needs of the auto recycling industry. The guide includes items such as a template for a Stormwater Pollution Prevention Plan specific to auto recycling operations and guidance on the proper handling of vehicle fluids.

The Department's compliance education and outreach efforts included a four-part training program hosted by the Department. Each of the four training sessions focused on different regulatory topics, including hazardous waste identification and determination of operating status, proper management of hazardous waste and used oil, stormwater general permit requirements including development of a Stormwater Pollution Prevention Plan, responding to spills and best management practices for operation of vehicle crushers. The four training sessions, held from January 2004 through September 2004, were well received by auto recyclers in the state. The cost of the training sessions was paid for through an SEP established in a partial settlement of a RCRA consent order (Wallingford Used Auto Parts, 2003).

During FY 06 and 07, the Department has assessed the effectiveness of the compliance assistance through analysis of auto recycler responses to a voluntary survey and has been conducting targeted

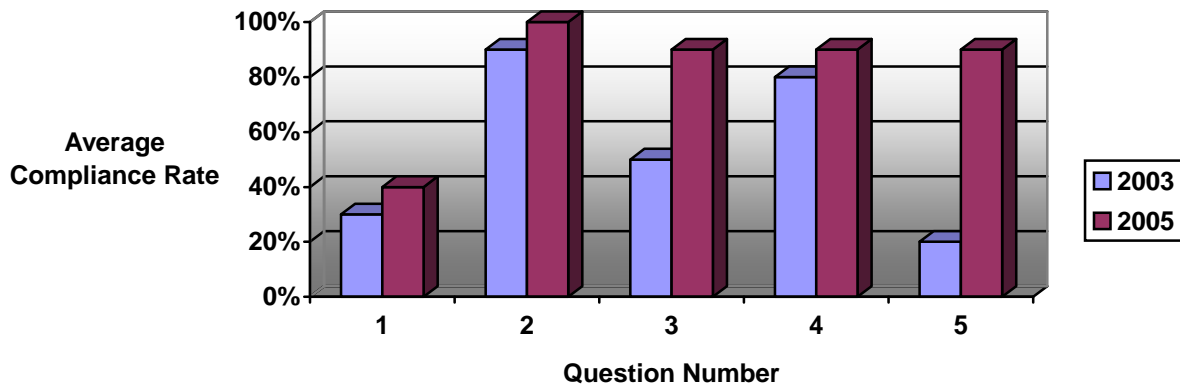
multi-media inspections. Prior to the training (2003), most of the auto recyclers did not have an understanding of what their operating status was related to their hazardous waste generator status. They did not know if they were operating as a large quantity, small quantity or conditionally exempt generator (“CESQG”). The graph below illustrates how following the training (2005), operators had a better understanding of their operating status and the applicable regulatory requirements. In 2005, 80% of the responders indicated they were operating as CESQGs. This determination is based on the amount of hazardous waste generated at the site. If an auto recycling facility properly manages vehicle fluids, many can be recycled or are non-hazardous, making the facility a CESQG. The regulatory burden for a CESQG is significantly less than for a large quantity generator of hazardous waste.



The following questions were used to determine the compliance rates for specific regulatory requirements:

- (1) Is crushing performed on an impermeable surface?
- (2) Are batteries stored on an impermeable surface?
- (3) Do you have a stormwater pollution prevention plan?
- (4) Are waste fluids stored on an impermeable surface?
- (5) Is waste antifreeze recycled?

The graph below illustrates the compliance rates for those requirements before and after the training. The results show that the compliance rates improved following the training. This indicates that the training sessions were an effective way to provide compliance assistance. As part of the initiative, the Department will pursue enforcement as necessary.



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inally, in FY 06 the RCRA and Stormwater programs performed a multi-media inspection initiative. The 2 programs developed and exchanged inspection checklists for auto recyclers. Each program performed 5 inspections using both checklists, for a total of 10 multi-media inspections.

Home Depot

The Department entered into consent orders with Home Depot in May 2006 under which this major national retail chain paid penalties of \$425,000 for numerous violations of environmental regulations at its stores in the state as well as making major improvements in its environmental practices. The violations found at 13 Home Depot stores in Connecticut involved the improper display of products, and the handling and disposal of wastes such as pesticides and fertilizers that contain hazardous materials. Home Depot was cited for failing to comply with the state’s hazardous waste, pesticide and storm water management requirements.

The consent orders require Home Depot to pay a civil penalty of \$99,000; pay \$326,000 to an agency fund for supplemental environmental projects (“SEP”); submit for approval a comprehensive future compliance plan to ensure that operations at all current and future stores meet with Connecticut’s environmental requirements, prevent pollution prevention and conserve resources; and hire a third party to audit ongoing compliance with environmental regulations at Home Depot stores in the state. The Department will use the SEP funds to further develop and implement outreach and compliance assistance strategies for the retail hardware store sector.

As a result of the settlement, Home Depot is putting a revised Environmental Management System in place in all of its stores, nationwide, that includes:

- Improved outdoor display and storage of various chemicals and products, such as pesticides, fertilizers, swimming pool additives, bags of concrete, deicing materials and pressure treated wood. These steps are designed to prevent spills and breakage that result in hazardous materials being caught up in storm water runoff.
- Improved indoor displays to prevent shopping carts and hand trucks from breaking open packages of products that contain hazardous materials
- Increased training for staff on proper handling and disposal of products containing hazardous materials

- New procedures – such as patches for broken bags – to prevent the unnecessary disposal of products
- Retrofitting existing stores and improved design of future stores to accommodate the environmentally safe management of products and hazardous materials

Home Depot has also worked with major manufacturers on improved bags and containers for pesticides and fertilizers. This will reduce breakage and the volume of hazardous materials that need to be managed and disposed and reduce the risk of exposure for workers, customers and the environment. Products packaged in this new manner are being sold at Home Depot stores in Connecticut and nationwide.

DEP recognizes that the Home Depot case exceeded standard ERP timeframes for enforcement follow-up. The inspection report timeline is as follows: the initial inspections were done in April and May 2001; the last submittal from Home Depot headquarters was received in January 2002; the draft inspection reports were completed in February and March 2002; the inspection reports were finalized in July 2002, along with a comprehensive summary for all of the inspections to that point, prepared for enforcement purposes, for a total of approximately 14 months. Consent orders were proposed to Home Depot in January 2004. This step was delayed due to the length of time it took to: finalize the initial inspection reports (July 2002); issue NOVs in July 2002; allow for Home Depot's response to the NOVs in August 2002 and Home Depot's subsequent revision of its EMS plan; conduct follow-up inspections and issue NOVs (April and July 2003, respectively) based on Home Depot's revised EMS plan. The remainder of the timeline through to settlement in May 2006 was to negotiate the penalty and SEP, and for revision and review of Home Depot's EMS. It is important to note that Home Depot returned to compliance by November 2003. That is, Home Depot had corrected all of the violations identified by DEP in its two rounds of inspections in April/May 2001 and April 2003.

DEP believes that the extensive refinement and nationwide institutionalization of the Home Depot Environmental Management System is another component of this case resolution that will result in significant environmental benefit not only in Connecticut but nationwide. DEP also believes the impact and publicity of the Home Depot enforcement action will increase regulatory awareness and compliance rates within the "big-box" retail sector. Such benefits demonstrate the merit of DEP's policy of systematically pursuing comprehensive, multi-media enforcement, and justifies the additional time needed to settle the case.

III. Air Management

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 majority of the Department's anti-idling education/outreach efforts have been administered through its air enforcement program. 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.

Through its air enforcement program, the Department has been successful in providing anti-idling signs to approximately 80 school districts, some of which are Regional School Districts heavily reliant on busing students. Air enforcement staff has also worked with the Connecticut Department of Transportation on this effort with anti-idling signs being posted at rest stops in the state to effectively target the on-road transport sector. Bradley International Airport, in Windsor Locks, has also been targeted as a critical location for anti-idling efforts and has also been provided with signage.

An additional sector that the Air Bureau has identified as a substantial target is waterfront ports. These ports for the transport of goods generate idling emissions from all sorts of engines including cargo handling equipment and drayage trucks as well as passenger vehicles in queues for ferries. Air enforcement staff is working with municipal staff and company representatives on efforts to reduce idling in these locations.

While air enforcement staff has concentrated education and outreach in various sectors, including the distribution of anti-idling brochures and fact sheets to bus and transportation companies, enforcement of the idling regulations is critical to increasing compliance rates and overall public awareness. Field staff continues to target locations where excessive idling persists, and continue to issue enforcement actions to violators, largely transportation companies, in an effort to improve compliance rates.

Response to Complaints (See Cross-media – Enforcement Policies and Practice section)

NOV follow-up

The Bureau of Air Management is committed to ensuring that the violations identified in its all Notices of Violation ("NVs") are resolved. The Bureau fully recognizes that a strong enforcement program must identify violations and ensure that identified violations are corrected in a timely and appropriate manner. Furthermore, the Department recognizes the importance of investigating proposed corrective actions and fully documenting that violations have been corrected through the Notice of Violation Closure Process.

The Bureau's Notice of Violation closure process is beneficial in two ways: First, the process provides the opportunity to re-evaluate the violations and be assured that the appropriate enforcement response has been taken or alter course if further action is required. Second, the Process generates a closure package that fully documents the alleged violation, the proposed corrective action, and the investigation to prove that the corrective actions resulted in compliance with applicable requirements.

The Bureau performs a closure review for NVs that are not initially referred to formal enforcement action. The review is conducted regardless of the violation classification (i.e. whether or not the violations are classified as a Federal High Priority Violations. The Notice of Violation Closure Process involves reviewing the case file, evaluating the violator's actions in response to the Notice of Violation, and determining, through inspections and/or Department record reviews, whether or not the violations have been abated. Staff documents its findings in a memo, attaches relevant

supporting documentation, and recommends either closing the Notice of Violation or escalating the matter to a formal enforcement action. The staff recommendation is reviewed at the supervisory, assistant director, and director level to ensure that the recommendation is consistent with the Department's enforcement response priorities. If closure is approved, then a closure package consisting of the staff recommendations, supervisory and managerial approvals, and a copy of the closure letter to the respondent is kept on file to memorialize the case. The entire process ensures that protected public that the Department is diligently seeking the resolution of identified violations and communicates the Department's disposition of violations to the Respondent. (See Cross-media – Enforcement Policies and Practice section)

IV. Water Management

Wet Weather/ Industrial Stormwater General Permit Compliance Initiative

Stormwater runoff from non-point sources of pollution and discharges have an adverse impact upon water quality and aquatic habitat. Mitigating sedimentation, erosion, and pollutants associated with stormwater runoff from impervious areas is a great challenge that the Department faces. As a result, the Department is continuing its efforts to improve compliance with its General Permit for the Discharge of Stormwater Associated with Industrial Activity (“industrial stormwater general permit”). In FY06-07 the Department has targeted facilities in the auto recycling, marina and construction sectors that have stormwater monitoring results that demonstrate their discharges to be in excess of discharge goals contained in the general permit. The universe of potential facilities was assessed, baseline data was evaluated and a checklist for inspections was revised to incorporate RCRA compliance issues as well as industrial stormwater general permit requirements. The Department has also taken into account and assessed compliance in the auto salvage and marina sector with regard to the previous compliance assistance that was performed by the Department for those two sectors. (See Auto Recycling Industry Compliance Initiative above and CT Clean Marina Certification Program below)

The compliance initiative will build upon previous FY 04-05 Department efforts whereby the Department provided compliance assistance to industrial stormwater general permit holders that substantially exceeded pollutant levels. The Department assisted those facilities in evaluating their stormwater pollution prevention plans and inspection procedures. Some sites were inspected to identify potential sources of stormwater pollution and to help determine whether improvements may be made through modifications.

In FY 06 and continuing in FY 07 multi-media inspections have and will be conducted for the above-referenced sectors. A total of 23 inspections were conducted and 30 Notices of Violation (“NOVs”) were issued. Many sites received NOVs for both failure to submit a Stormwater Pollution Prevention Plan and on-site violations.

CT’s Clean Marina Certification Program

Connecticut's Clean Marina Program is a voluntary program that encourages inland and coastal marina operators to minimize pollution by certifying as “Clean Marinas” those marinas, boatyards, and yacht clubs that operate at environmental standards above and beyond regulatory compliance. Using “green marketing” as an incentive, the program encourages pollution prevention in seven categories of marina operation: mechanical activities, painting and fiberglass repair, hauling and

storing boats, fueling, emergency planning, facility management, and boater education. This certification program will continue in FY 06-07. In FY 06-07 the Department will also continue its enforcement presence through multi-media inspections of the marina sector. (See Industrial Stormwater General Permit Compliance Initiative above.)

After working with the state's marina industry for over a year to develop the CT Clean Marina Guidebook and subsequent Clean Marina operations checklists, the DEP introduced the program to the state's 350 marina operators by hosting five Informational Sessions about the Clean Marina Program in Greenwich, Old Lyme, Essex, Groton and Brookfield. About 50 people participated in the workshops. To date, DEP has certified 10 marinas, and an additional 30 facilities have taken a pledge to become certified within one year.

Clean Marina certification is based on a self-assessment that is field-verified by DEP staff. Certified marinas must demonstrate that they are not only in compliance with all applicable environmental laws, regulations, and permits, but that they also meet 90% of the certification criteria applicable to their facility in the seven categories of operation. The Clean Marina certification criteria span a cross-section of marina operation, from taking measures to reduce drips and spills at the fuel dock and when performing boat maintenance, to keeping paint scrapings and sanding dust off the ground and out of the air at marinas, and from reducing overspray when spray painting boats to providing for the proper disposal of human and pet waste at a facility.

NPDES– Striving to Address Environmental Priorities

The existing measures and processes for NPDES permits do not effectively address environmental priorities. The current system places heavy emphasis on expired permits and does not take into account the environmental significance of other permit and compliance-related efforts conducted within the NPDES program that are not related to permit re-issuance, even if such efforts or the permits themselves may be more environmentally significant than an expired permit awaiting renewal.

Nevertheless, the Department has had success in terms of environmental improvements through the NPDES permitting processes that has resulted in reduction in discharge flow, reduced pollutant loading, resource conservation, and/or elimination of direct discharges. The following are examples of companies that have adopted measures to either reduce or eliminate their waste water discharges with closed looped systems: Unilever in Madison, is moving to a closed loop system at its cosmetic manufacturing plant as opposed to its proposal to discharge into the Hammonasset River; and Stan Chem in East Berlin has agreed to design and install a closed-loop system that will eliminate the company's cooling discharge to the Mattabessett River.

The Department is interested in continuing to encourage EPA to support the development of prioritization criteria and performance measures that acknowledge a broad array of NPDES program efforts that achieve meaningful environmental outcomes, in lieu of reissuing permits.

Construction Stormwater General Permit Compliance Initiative FY 07

Recognizing the ongoing need to protect streams, wetlands and other important habitats from construction related impacts, the Department has made substantial efforts to ensure that developers are aware of the need to employ appropriate erosion control and stormwater management measures at construction sites. Despite these efforts, the Department identifies many construction sites each year that have significant compliance problems. These cases are often times difficult and time-consuming to resolve, which can over burden limited staff resources.

In response to this, the Department began work on a compliance initiative during the fall of 2006 aimed at streamlining its efforts to respond more quickly to sedimentation problems, and to ensure compliance with erosion control and stormwater management requirements at construction sites greater than 5 acres. As part of the planning and development process for the initiative, the Department identified the most common and significant compliance problems observed in the field, and the compliance actions typically needed to remedy each of the compliance problems. In addition, the Department formulated a draft list of criteria pertaining to each violation, such as degree of environmental threat or compliance history that may be used to determine a probable enforcement response to one or more violations.

Based upon this work, the Department has drafted a customized penalty calculation worksheet to facilitate and standardize penalty calculations for stormwater construction cases. The worksheet is designed to consider numerous case-specific factors including the size of the site, whether sediment was discharged, the need for remediation, prior violations and whether construction is ongoing. In addition, the Department is developing standard administrative consent order format that may be easily and quickly modified to address any of the significant violations typically encountered. Lastly, the Department is drafting standard supporting enforcement case documents, such as the enforcement action summary. Once the planning and document development process for the initiative is complete, the Department will have the necessary framework in place to support a quicker, more streamlined response to construction-related stormwater violations.

V. Materials Management

Small Quantity Generators /Underground Storage Tank Compliance Initiative – Increasing Inspection Presence and Measuring Compliance

During FY 04-07 the Department developed and implemented an innovative inspection initiative to strategically increase the Department's inspection presence at Small Quantity Generators ("SQG"s) and facilities with underground storage tank systems ("USTs") that failed to meet the 1998 federal deadline for removal and upgrade of non-compliant tank systems.

These were two areas where additional information was needed to target compliance efforts effectively. The RCRA program, for example, primarily prioritizes its inspection resources on inspecting treatment, storage and disposal facilities and large quantity generators while the large numbers of small quantity generators are deemed a lower inspection priority. In previous years, the RCRA program inspected about 20 small quantity generators out of a universe of 1720.

During the summers of 2004 and 2005, Department staff conducted on-site compliance indicator surveys at a total of 1,173 SQGs and 2,168 UST facilities that included 10,562 USTs. The vast majority of the sites audited had not been inspected by the Waste Engineering and Enforcement Division (“WEED”). Outreach and informational materials are provided at the time of the audit. An audit report is generated and a copy is sent to the company. For FY 2006 the Department has assessed two years of data collected as a result of the site surveys and conducted 541 UST and 440 SQG site compliance indicator surveys.

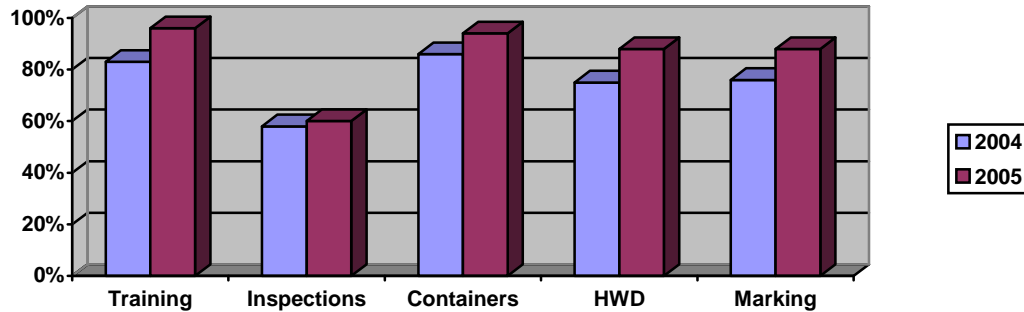
To date, these audits have assisted in establishing a more accurate SQG database, increased the Department’s presence to this part of the regulated community, and provided a “hands on” evaluation of the electronic data collection devices. The data collected has provided valuable information on rates of compliance by identifying areas where the Department can more effectively focus inspection and assistance resources to promote compliance as a path of least resistance. In addition, the Department has conducted full inspections at those sites that had problems identified and will conduct follow-up enforcement as necessary.

The Department used compliance indicator surveys that were designed to cover limited compliance areas that are indicators of overall compliance. The compliance indicator surveys were conducted at randomly selected SQGs and UST systems that failed to meet the 1998 deadline for removal or upgrade of non-compliant tank systems as well as those located in aquifer protection areas. In a period of approximately 10 weeks, 636 small quantity generators and 624 UST facilities were surveyed. Sites that were found in significant non-compliance were flagged for full inspection by program staff.

With regard to compliance at SQGs, the site surveys consisted of 10 questions designed to assess limited areas of compliance considered indicators of overall compliance. The average overall compliance rate for all 10 survey questions was 75% in 2004 and 81% for 2005. The graph on the next page depicts the average compliance rate for active facilities for specific regulatory requirements.

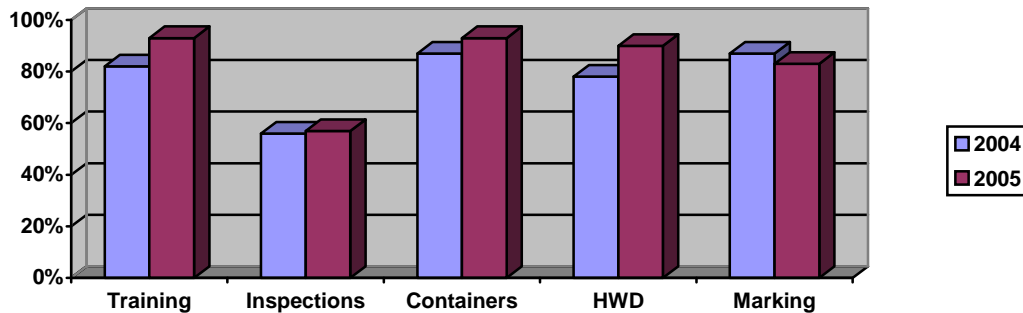
The compliance rates shown correspond to the following survey questions:
Training-Are employees trained to the level of their responsibility?
Inspections-Are inspections of hazardous waste storage area(s) being conducted and documented?
Containers-Is the hazardous waste being stored in containers that are closed and free of significant damage and deterioration?
HWD-Have hazardous waste determinations been performed on all waste

COMPLIANCE RATE AMONG ALL ACTIVE FACILITIES



The finding that those facilities actually operating as SQGs had compliance rates for each survey question greater than 50% and as high as 93% encouraged the Department.

COMPLIANCE RATE AMONG ACTIVE SQGS



The sites selected were assumed to be operating as SQGs based on their notification to EPA. Out of the 1,173 sites surveyed, only 869 were active. Out of the 869 active sites, 293 were actually operating as SQGs, 13 were operating as large quantity generators and 563 were operating as conditionally exempt small quantity generators. The amount of hazardous waste generated by a site is an indication of their operating status. Sites that generate more waste are subject to additional regulatory requirements. For both 2004 and 2005, there was a high percentage of active sites, 62% and 72% respectively, that provided the incorrect operating status. The data gathered from the on-site surveys provides valuable information as to the applicable regulatory requirements for the sites surveyed. This data also aided in improving the accuracy of the Department's database of active SQGs.

The benefits realized from continued implementation of the initiative include an increased field presence, the ability to screen sites for full inspections, the development of statistically valid compliance rates and measures, identification of areas where additional compliance assistance is needed as well as identification of where enforcement action for RCRA and UST violations is necessary. Part of this compliance initiative was funded through an EPA grant to develop compliance rates.

Financial Assurance

In FY 05, the Department 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 for FY06-07. The Department's participation was the result of long-time efforts by DEP and EPA New England to bolster oversight of financial assurance and training, and an invitation from EPA Headquarters. Through an EPA contractor review of 95 financial assurance mechanisms for RCRA TSDFs in Connecticut, many financial assurance mechanisms were found to be potentially deficient. In FY 06 through FY 07, the Department and EPA conducted detailed record reviews of deficient financial mechanisms to determine the cause of the deficiency. In FY 06, the Department reviewed 30 cases involving mechanisms providing almost \$9,000,000 of financial assurance. WEED had committed to completing review of 26 cases in FY 06 through the PPA. The detailed reviews found 17 cases with no violations, for a compliance rate of 57%. DEP has taken appropriate follow-up enforcement action as necessary to bring the mechanisms into compliance. In FY 06 this included 10 actions: 1 stipulated judgment, 2 consent orders, 5 notices of violation, and 2 informal letters. Of note is that 8 of 17 cases with no violations had received compliance assistance or financial assurance from DEP prior to the detailed file review. The compliance assistance was done in response to routine inquiries from the regulated community and reviews done as part of processing transactions such as mechanism replacement or cancellation, cost estimate reduction requests and termination of Interim Status. This program will assure that facilities have set aside funds in valid mechanisms to insure proper cleanup of releases to the environment is conducted.

CONTINUED UPDATING OF RCRA AUTHORIZATION

Connecticut continues to work toward authorization for new EPA Rules and incorporating changes and innovations specific to Connecticut's needs. Connecticut is among the nation's leaders in authorization percentage for EPA rules, and is working toward submitting another authorization update package to EPA in 2008. Connecticut's authorization includes a first-in-the-nation program for Corrective Action at RCRA Treatment Storage and Disposal Facilities ("TSDFs"). Owing to Connecticut's large number of TSDFs, Connecticut worked with EPA to adopt and obtain authorization for clean-up standards and the use of Licensed Environmental Professionals – both firsts for the Corrective Action program. The standards streamline clean-ups by establishing clear clean-up endpoints, and the ability to delegate oversight of less complex clean-up cases to LEPs significantly adds to the number of sites being actively worked-on.

RCRA MANIFEST INITIATIVE

The Department continues to utilize its manifest database to identify and inspect facilities operating beyond their notification status. In particular, the Department screened for SQGs shipping larger than anticipated quantities of hazardous waste without complying with the applicable requirements, and other manifest anomalies. Since the start of this data mining in 2001, an average of 20% of the RCRA Hazardous Waste scheduled inspections conducted annually were based on manifest data. Although the sites identified as non-compliant have been somewhat decreasing in the last couple of years, nonetheless this approach has been an invaluable tool for targeting potential violators for inspection.

As a result of this initiative, approximately 80% of the facilities inspected have received Notices of Violation (NOV's) requiring actions to come into compliance, often involving a change of notification status thus updating the regulated universe. Similarly, approximately 80% of those facilities receiving NOV's were subsequently escalated into further enforcement actions resulting in penalties and/or supplemental environmental projects, along with increasing the levels of awareness and compliance with the hazardous waste regulations.

Hazardous Waste Compliance Assistance efforts

The RCRA program has had a comprehensive compliance assistance program in place for over 10 years. The fundamental parts of this program are a toll-free telephone assistance line, written guidance materials and site specific consultations and voluntary compliance audits. The assistance line answers approximately 1,500 calls per year. The written guidance includes over 75 fact sheets, including those for: every major RCRA program area (i.e., e.g. waste determination, container management, etc.); numerous sectors (i.e., e.g. public works garages, dry cleaners, household hazardous waste, etc.); and numerous wastestreams (i.e., e.g. universal waste, used oil, etc.). In addition, the Department makes manifest data available electronically to the public. This fills a general informational need, but also supports the Department's Property Transfer Program ("PTP"). The PTP is a site clean-up program principally for any facility receiving hazardous waste from off-site, and any generator of > 100 kg of hazardous waste in any one month. This makes the PTP like a RCRA Corrective Action program for thousands of sites in the state.

In FY 06, the Department provided RCRA compliance assistance outreach, audits, and training to new hazardous waste generators and to the construction and demolition industry. For the most part, new industries coming into the hazardous waste system are small industries that are unfamiliar with the complex RCRA requirements. Outreach materials coupled with an inspector audit and audit report help these generators achieve full RCRA compliance.

Construction and Demolition Industry

The construction and demolition industry generates waste wood products contaminated with lead based paint or chemical residues. Commercial and industrial sites may have process chemicals, oils, cleaning products or other chemical products stored onsite. These products may be classified as hazardous waste or must be shipped to a permitted facility or require special waste disposal. DEP has provided outreach materials to this industry also with the opportunity for a DEP inspector audit, thereby ensuring safe waste management practices in the future. Prior to initiating this assistance all outreach materials was updated and made current. RCRA training for trade groups and other state group such as the park employees has also been provided.

VI. Additional Compliance Assistance and Pollution Prevention Initiatives

Mercury Action

The Department continues its efforts to eliminate the discharge of anthropogenic mercury to the environment including efforts to implement many of the provisions of the Mercury Reduction and

Education Act (Public Act 02-90) as well as development of other regulatory measures aimed at minimizing mercury emissions. Efforts for FY 06-07 include the following:

Dental mercury The Department in partnership with the Connecticut State Dental Association and Wastewater Treatment Facilities Operators finalized Best Management Practices (BMP) for Dental Offices Waste Handling in Connecticut in October 2003. This was done as part of an effort to help dental practitioners and dental schools meet the requirements of the Mercury Reduction and Education Act. Among other requirements, a primary component of the BMPs is the installation of an amalgam separator to trap and remove mercury amalgam at the dental practice. Amalgam separators are required to meet the ISO 11143 standards with a mercury amalgam removal rate of 95% or higher. . Effective January 11, 2006, the department modified its “Best Management Practices for Mercury Amalgam” in an effort to: 1) require dental offices to make available to patients information about mercury amalgam fillings by prominently displaying a brochure prepared by the DEP and 2) clarify the responsibilities of dental offices in the storage, handling and disposal of mercury amalgam.

The department has initiated a program requiring dental practitioners to certify that they are in compliance with the dental amalgam BMPs, especially the installation of amalgam separators that meet the ISO 11143 standards. To date, more than 70% of dental practitioners have either certified that they have complied with the dental amalgam BMPs, including the installation of amalgam separators, or that they do not use amalgam in their practice. In FY 06-07 the Department will be conducting follow-up activities to further assure compliance with the dental provisions of the Mercury Reduction and Education Act.

Phase-out of certain mercury containing products: According to the Mercury Reduction and Education Act, effective July 1, 2004, the sale or distribution of mercury-added products containing more than one gram or 250 parts per million of mercury is prohibited, unless the product is specifically exempted from the statutory phase-out requirements. In 2006 the phase-out requirements for mercury-added products became even more restrictive. Effective July 1, 2006, the sale or distribution of mercury-added products containing more than 100 milligrams or 50 parts per million of mercury is prohibited, unless the product is specifically exempted from the statutory phase-out requirements. The CT General Assembly also improved the states mercury reduction laws by adding enforcement provisions and additional banned items e.g., button cell batteries.

In FY 06-07 there will be an assessment of compliance of the manufacturers subject to the phase-out requirements for the sale or distribution of mercury-added products. Compliance assistance will be provided through the distribution of phase-out alert notices and guidance on meeting statutory obligations. Follow-up enforcement response will be pursued as appropriate for non-responsive manufacturers and non-compliant manufacturers. Measures will be developed to report compliance assistance activities, compliance rate of impacted manufacturers, enforcements activities and estimated environmental improvements.

Limiting Mercury Emissions: Based on the 2004 NESCAUM mercury inventory, the most significant source of mercury in Connecticut is Municipal Waste Combustors (MWC). Commensurate with the New England Governor’s Mercury Action Plan, the Department is working to reduce mercury emissions by 75% from the 1998 base year by 2010. Compliance

assurance activities support this by assessing the mercury stack testing done at both MWCs and Sewage Sludge Incinerators (SSI) on an annual basis. MWC mercury emissions have been reduced by over 90%. However, due to the nature of the emission stream from the sewage sludge incinerators mercury controls that have proven effective on coal burning plants are not effective on the sludge incinerators. DEP is continuing to work with one incinerator, pursuant to requirements of a supplemental environmental project (SEP) following an enforcement action, to explore the possible technologies available for reducing mercury emissions from these types of sources.

Toxics in Packaging Enforcement

The Department has been working with the Toxics in Packaging Clearinghouse and its member states since 1992 to eliminate the use of cadmium, lead, hexavalent chromium, and mercury used in packaging. In FFY05, the Department issued 4 first-in-the-nation NOV's to enforce Connecticut's Toxics in Packaging statute. One NOV was issued to manufacturer/distributor of a health supplement product that had an unacceptable level of lead in the package from a built-in blinking red light marketing feature. This product was found on retail drug and general merchandise store shelves across the United States. The manufacturer halted further use and distribution of its non-compliant packaging, and worked to remove the non-compliant packaging from its direct supply chain and store shelves across the United States. The manufacturer also posted information on its website for how consumers could return the non-compliant packaging for proper disposal. The manufacturer did not have control over its indirect supply chain, so DEP also inspected numerous stores to find the non-compliant packaging. Three more NOV's were issued to retail chain stores, which quickly removed the non-compliant packaging from their stores

Dry Cleaners

In coordination with the Korean-American Dry Cleaning Association the Department will utilize information gleaned from developed guidance manual and sponsored training workshops to develop performance measures and continue to update information to web site as necessary.

Vehicle service industry

The Department has developed Pit Stop guidance manuals and held numerous training sessions for the vehicle service industry and partnered with the Department of Motor Vehicles to distribute guidance and collect compliance data. These efforts will along with measures development continue in FY 06-07.

Schools

The Department will continue to provide outreach to schools through the High Performance Schools Initiative with the Connecticut Green Building Council and co-sponsors training on building or renovating schools to meet the high performance standards.

Hospitals/Healthcare

As a member of the Connecticut Hospital Environmental Round Table that includes CT DEP, Hartford Hospital and Hospitals for a Healthy Environment (H2E), the Department will co-sponsor two workshops for hospitals focusing on environmental compliance and pollution prevention. In addition, quarterly meetings are held for the Department to assist hospitals in identifying waste reduction and pollution prevention opportunities.

For hospital work done in 2006, the DEP's Pollution Prevention (P2) Office won an H2E's Champions for Change Award to recognize its efforts in promoting environmentally responsible health care.

Organic Land Care

In conjunction with one of the specific recommendations of the Climate Change Action Plan, the Department will promote awareness of organic land care practices and their environmental benefits. The Department in partnership with the CT Northeast Organic Farmers Association is interested in identifying a municipality interested in doing a pilot project to demonstrate alternative/organic land care methods on a school or municipal recreation field and measure the reduction in the amount of chemicals of concern used and reduction of greenhouse gas emissions from chemical fertilizers. An educational DVD was produced to introduce municipal officials and others to the concept of organic land care. Cooperative purchasing groups for municipalities are also including organic lawn products in their product list - this will make purchase of these products more cost competitive.

Greening DEP

The Department will continue to act as a model for others by incorporating sustainable practices and principles into the Department's operations. The Department will continue efforts to reduce waste, increase recycling and encourage the use of environmentally preferable purchasing and source reduction. In 2006, for example, the Department took action to become the first and only state agency in CT to take advantage of the clean energy option now available and is powering the Department with 100% renewable energy. The RCRA program also began using hybrid cars for 3 of its 5 field inspection staff as well as provides annual hazardous waste training to Department Park staff. In total, the DEP currently has 32 hybrid cars and 2 hybrid SUVs. Hybrid vehicles are about 10% of the DEP fleet at this time.

Climate Change

The Department continues its efforts, along with other members of the Governor's Steering Committee on Climate Change, to implement the prioritized recommendations of the CT Climate Change Action Plan 2005. Implementation of the recommendations will put CT on target to reduce green house gas emissions to 1990 levels by 2010 and to 10% below 1990 levels by 2020, as set forth by the New England Governors and Eastern Canadian Premiers in 2001 and adopted by state law in 2004. Efforts for FY 06-07 include the following: Climate Change Education Committee – promotes awareness in CT of climate change impacts and solutions; Climate Change

Seminars for Insurance & Financial Sector – series of workshops to help CT insurance and financial services industry understand climate change risks and opportunities.

Green “Less-Toxic” Cleaning – According to Executive Order No. 14, 2006, state agencies will be buying and using environmentally and health-friendly cleaners. The DEP along with the Departments of Administrative Services and Public Health will publish policy and guidelines to increase the use of environmentally preferable cleaning products at state agencies. The Green Seal™ standard has been adopted as that needed for green cleaning products at State agencies.