

Below is a list of outstanding issues regarding DEEP authority for the Agreement State with NRC. Answers to each issue can be found in blue. The document is split into the following categories:

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Surety

1. Connecticut needs to revise their statutory provisions, regulations and Standard Operating Procedures (SOPs) to ensure Connecticut has the authority to collect fees and surety from licensees.
2. Connecticut needs to deposit surety funds from licenses into a special fund instead of a general fund to ensure there are adequate funds to complete requirements if a licensee defaults. In addition for the surety for licensees, Vermont chose to deposit fees into a special fund so they would not have to request appropriations to operate their program.
3. Connecticut needs to deposit surety funds from licenses into a special fund instead of a general fund to ensure there are adequate funds to complete requirements if a licensee defaults.

Answer in sum:

- A. [Commissioner general powers. Section 22a-6\(7\) requires the posting of sufficient performance bond or other security to assure compliance with any permit or order.](#)
- B. [Regulations can require more specific surety requirements. This will be adopted in regulation. Please see RCRA/UST programs.](#)
 - a. [22a-449d-109 subsections \(f\) through \(n\): Means by which surety can be shown by a licensee.](#)
 - b. [Federal Requirements](#)
- C. [In general, the surety requirements work by requiring the surety to be put into a third-party trust fund and the Commissioner is the beneficiary of the fund. As such, the commissioner has the power over monies in the fund to use for remediation if necessary. There is no need for a specific appropriation, as with the General Fund, and there is no risk of a special fund \(VT model\) being swept. \(In 2010, Connecticut eliminated most special funds and swept much of the money into the general fund to cover debt obligations.](#)

Items that are Covered by Existing Laws

1. The Connecticut provision doesn't specifically request the ability to request a judicial review. Connecticut needs to provide additional information to explain how a license applicant can request judicial reviews.

A. UAPA 4-183: https://www.cga.ct.gov/current/pub/chap_054.htm#sec_4-183

Sec. 4-183. Appeal to Superior Court. (a) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision may appeal to the Superior Court as provided in this section. The filing of a petition for reconsideration is not a prerequisite to the filing of such an appeal.

2. Connecticut needs to show where there is a hearing right for denial of requests for licensing actions. They also need to mention that the hearing is on the record.

A. [4-166\(8\)](#): (8) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but does not include a license required solely for revenue purposes;

B. [4-177](#): Right to a hearing.

3. "The agency is authorized to require registration or licensing of other sources of radiation" Registration of GL's and specific licenses.

A. [22a-148 b and c](#)

(b) No person, firm, corporation, town, city or borough shall operate or cause to be operated any source of ionizing radiation or shall produce, transport, store, possess or dispose of radioactive materials except under conditions which comply with regulations or with orders imposed by the Commissioner of Energy and Environmental Protection for the protection of the public health and preservation of the environment. Such regulations or orders shall be based to the extent deemed practicable by said department on the regulations of the United States Atomic Energy Commission, issued under authority granted to said commission by the Atomic Energy Act of 1954 and entitled "Standards for Protection against Radiation", or, if such regulations should be deemed inappropriate by the Commissioner of Energy and Environmental Protection, on the latest recommendations of the National Committee on Radiation, as published by the United States Department of Commerce, National Bureau of Standards. No regulation pertaining to radiation sources and radioactive materials proposed to be issued by the commissioner shall become effective until thirty days after it has been submitted to the Coordinator of Atomic Development Activities unless, upon a finding of emergency need, the governor by order waives all or any part of said thirty-day period. In no case shall any source of ionizing radiation be utilized otherwise than at the lowest practical level consistent with the best use of the radiation facilities or radioactive materials involved.

(c) (1) Except as hereinafter provided, each person, firm, corporation, town, city and borough conducting or planning to conduct any operation within the scope of this section shall register with the Commissioner of Energy and Environmental Protection on forms provided for the purpose and shall reregister annually in January. Such registration shall be accompanied by a fee of two hundred dollars. The commissioner may require registrants to state the type or types of sources of radiation involved, the maximum size or rating of each source, the qualifications of the supervisory personnel, the protective measures contemplated by the registrant and such other information as it determines to be necessary. After initial registration, reregistration shall be required for any radiation installation or mobile source of radiation at any other time when any increase is contemplated in the number of sources, the source strength, the output or the types of radiation energy involved. The act of registration shall not be interpreted to imply approval by the commissioner of the manner in which the activities requiring registration are carried out. (2) The activities described below are exempted from the registration requirements of this section: (A) The production, transportation, storage, use and disposal of naturally occurring radioactive materials of equivalent specific radioactivity not exceeding that of natural potassium; (B) the production, transportation, storage, use and disposal of other radioactive materials in quantities insufficient to involve risk of radiologic damage to a person; (C) the operation of equipment that is primarily not intended to produce radiation and that, by nature of design, does not produce radiation at the point of nearest approach in quantities sufficient to produce radiologic damage to a person; (D) the transportation of any radioactive material in conformity with regulations of the Interstate Commerce Commission or other agency of the federal government having jurisdiction.

4. Is a registration covered under general licenses?

A. Yes. DEEP can request a letter from the AG Office if necessary.

5. Connecticut proposed legislation for Administrative Procedure and Judicial Review did not include “protect the public health and safety.” Connecticut needs to adopt the following: SSL Section 17(f), “Whenever the agency finds that an emergency exists requiring immediate action to protect the public health and safety, the agency may, without notice or hearing, issue a regulation or order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding any provision of this act, such regulation or order shall be effective immediately. Any person to whom such regulation or order is directed shall comply therewith immediately, but on application to the agency shall be afforded a hearing within [] days. On the basis of such hearing, the emergency regulation or order shall be continued, modified or revoked within [30] days after such hearing.”

A. 22a-7. Cease and desist authority.

6. Connecticut needs to clarify whether state personal will be available to participate in federal, state or interstate agencies programs. For example, SSL Section 15(b), “the agency may institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and may make said personnel available for participation in any program or programs of the

federal government, other states or interstate agencies in furtherance of the purposes of this act.”

A. **Sec. 22a-153. (Formerly Sec. 19-25d). Duties of Commissioner of Energy and Environmental Protection. Consultants to Governor.** (a) The Commissioner of Energy and Environmental Protection shall supervise and regulate in the interest of the public health and safety the use of ionizing radiation within the state.

(b) Said commissioner may employ, subject to the provisions of chapter 67, and prescribe the powers and duties of such persons as may be necessary to carry out the provisions of sections 22a-151 to 22a-158, inclusive.

(d) The Governor is authorized to employ such consultants, experts and technicians as he shall deem necessary for the purpose of conducting investigations and reporting to him on matters connected with the implementation of the provisions of said sections.

7. Connecticut needs to explain where they have the authority to enter into 274i agreements with the NRC and other states and governmental entities. NECESSITATES the ability for Commissioner to contract with NRC to perform inspections.

A. **22a-4: Sec. 22a-4. Agents, assistants, employees, consultants.** The commissioner may, subject to the provisions of chapter 67, employ such agents, assistants and employees as he deems necessary to carry out his duties and responsibilities. He may retain and employ other consultants and assistants on a contract or other basis for rendering legal, financial, technical or other assistance and advice.

16a-102(d): (d) Within amounts appropriated for the purposes of this section, the Commissioner of Energy and Environmental Protection may retain on a contractual or other basis such assistance as is required to carry out the purposes of this section.

B. See section 18 of the 2022 Legislative Proposal

Items Addressed in 2022 Legislative Proposal (See End of Document for Language)

1. Revise 22a-152 to include “discontinue” instead of “relinquish.”

[See Section 15 of the 2022 Legislative Proposal](#)

2. Connecticut needs to have the following: “(i) [All state, local, or other government agencies, shall be exempt from the requirements of subsections (a) and (c)].” Enforcement discretion does not count.

[See Section 16 of the 2022 Legislative Proposal](#)

3. Add language to licensure requirements - “[A]ny person having a license immediately before the effective date of an agreement under subsection (a) of this section from the federal government or agreement state relating to by-product material, source material, or special nuclear material and which on the effective date of this agreement is subject to the control of this State shall be considered to have a like license with the State of {Vermont} until the expiration date specified in the license from the federal government or agreement state or until the end of the 90th day after the person receives notice from the Department that the license will be considered expired.”

[See Section 17 of the 2022 Legislative Proposal](#)

4. CT must show authority to contract with any person to provide for decontamination, closure, decommissioning, reclamation, surveillance or other care of a site.

[See Section 18 of the 2022 Legislative Proposal](#)

5. Connecticut needs to review penalty provisions to ensure they cover the radioactive materials program. For example, 221-6b-8 method and schedule for calculating an administrative civil penalty chart does not seem to apply to Chapter 446a radiation control violations.

[See Section 20 of the 2022 Legislative Proposal](#)

Items that May Require Additional Legislative Amendments

6. Connecticut should be able to impound material quickly in an emergency. Please use the SSL Section 20 which states, “[T]he agency shall have the authority in the event of an emergency to impound or order the impounding of sources of radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of this act or any rules or regulations issued thereunder.”

7. The Connecticut inspection authority is too limited because it does not include private residences. The Connecticut statutory provision also fails to exclude areas under federal jurisdiction. The Connecticut provision also just fails to specifically mention licensees, but only mentions order and permits. The Connecticut provision would also need to include the ability to provide confidential information to the U.S. Nuclear Regulatory Commission.