



**Connecticut**  
Department of Energy &  
Environmental Protection

**Connecticut Department of Energy and Environmental Protection's  
Draft Request for  
US Nuclear Regulatory Commission  
Agreement State Status**

Date Submitted: Draft 02/2/2024

# **1 Preface**

## **Formal Request for an Agreement State of Connecticut**

This document is prepared as the submittal for the State of Connecticut's request to become an Agreement State as authorized by the Atomic Energy Act (AEA) of 1954, as amended. This Agreement will provide for the State of Connecticut's assumption of regulatory authority over radioactive materials not involved in energy production or in use on federally recognized tribal lands or at federally facilities in the State of Connecticut from the United States Nuclear Regulatory Commission (NRC).

## 2 Introduction

On December 10, 2020, Governor Ned Lamont sent NRC Chairperson Kristine Svinicki a letter of intent for the State of Connecticut to enter into an Agreement with the NRC. Since that time, the Radiation Control Program has been granted authority by the Connecticut General Assembly for entering into an Agreement and establishing a regulatory program for certain types of Radioactive Materials, promulgated regulations for purposes of entering into an Agreement, trained and qualified staff for licensing and inspection responsibilities to be assumed under the Agreement, and developed this Request with the procedures, forms, and other content to meet the criteria and information needs in the NRC's Handbook for Processing an Agreement (SA-700). References to the content are provided throughout this request. Key documents are available here in their entirety:

- Enabling statutory authority as amended as found in Appendix 4.1-1
  - Connecticut General Statutes (C.G.S.) Chapter 10 Code of Ethics, Sections 1-79 through 1-89a (revised to January 1, 2023)
  - C.G.S. Chapter 54, Connecticut's Uniform Administrative Procedure Act, Sections 4-166 through 4-189 (Revised to January 1, 2023)
  - C.G.S. Chapter 298a Atomic Energy Sections 16a-100 through 16a-107, inclusive. (Revised to January 1, 2023)
  - C.G.S. Chapter 439, Sections 22a-1 through 22a-7, inclusive. (Revised to January 1, 2023)
  - C.G.S. Chapter 446a Radiation and Radioactive Materials, Sections 22a-148 through 22a-160, inclusive. (Revised to January 1, 2023)
  
- Public Act No. 23-153, An Act Concerning Minor Revisions to the State's Authority to Regulate Certain Nuclear Materials (Effective June 26, 2023) found in Appendix 4.1-2
  
- Correspondence on legislative authority found in Appendix 4.1-3
  - Letter from Mr. Brendan Schain, Esq. Legal Director, Environmental Quality Branch CT DEEP to Mr. Brian Anderson State Agreement and Liaison Programs Branch Office of Nuclear Material Safety and Safeguards U.S. Nuclear Regulatory Commission, Re: Open Legal Issues – Agreement State dated October 11, 202.
  - Letter from Mr. Joshua Perry Solicitor General, Office of the Attorney General for the State of Connecticut to Ms. Bethany K Cecere, Acting Chief State Agreement and Liaison Program Office of Nuclear Material Safety and

Safeguards US Nuclear Regulatory Commission, Re Connecticut DEEP's Existing Statutory Authority to Perform Inspections, Seek Warrants, and Issue Cease and Desist Orders dated April 17, 2023.

- The Regulations of Connecticut State Agencies (R.C.S.A.) found in Appendix 4.2-1
  - Sections 22a-153-1 to 22a-153-150, inclusive Part A Radioactive Material (regulations)
  - Sections 22a-6b-1 to 22a-6b-15, inclusive Civil Penalty regulations.

## 3 Overview

This document is prepared using the guidance in the NRC Office of Nuclear Material Safety and Safeguard's SA-700 *Handbook for Processing an Agreement* dated June 17, 2022. The Information Needed and Evaluation Criteria specified in Section 4 of the Handbook are addressed herein to ensure that the State of Connecticut has a compliant and compatible program for the control of licensees who possess, use, store, transfer, and dispose of radioactive materials in the State of Connecticut.

The State of Connecticut seeks to enter into an Agreement with the NRC assuming regulatory authority over by-product materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass. In addition, the State seeks to regain regulatory authority over those materials transferred to the NRC by the Energy Policy Act of 2005. The following information is provided in support of this application to become an Agreement State.

## 4 Information Needed and Evaluation Criteria

This section addresses the information that the NRC requires to review an Agreement request and the evaluation criteria that NRC staff will use as a baseline. This is based on *Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement*, known as the Criteria Policy Statement, and described in Section 4 of the SA-700 *Handbook for Processing an Agreement*.

## 4.1 Legal Elements

In this section is found the information needed to meet the evaluation criteria in SA-700 *Handbook for Processing an Agreement* Subsections:

- 4.1.1 Authority to Establish a Program and Enter into an Agreement
- 4.1.2 Organization of the Proposed Program; and
- 4.1.3 Content of the Proposed Agreement.

The documents listed below are attached as appendices to this section of the application.

| Appendices | Title  |
|------------|--|
| 4.1-1      | Applicable Connecticut General Statutes  |
| 4.1-2      | Public Act No. 23-153  |
| 4.1-3      | Interpretation Letters   |
| 4.1-4      | NRC Final Legislation Review Letter  |
| 4.1-5      | Code of Ethics Training Certificates for DEEP Radioactive Materials Staff                |
| 4.1-6      | Connecticut Public Officials and State Employees Guide to the Code of Ethics             |
| 4.1-7      | DEEP Code of Ethics Directive  |
| 4.1-8      | Delegation of Authority  |
| 4.1-9      | New England Compact on Radiological Health Protection Interstate Radiation Incident Plan |
| 4.1-10     | DEEP Air Bureau Radiation Division Values & Principles                                   |

## ***4.1.1 Authority to Establish a Program and Enter into an Agreement.***

### SA-700 Section 4.1.1.1

For all categories of materials for which the State is requesting authority, the following State law is submitted.

**a. Establishes the Agreement materials program, defines its structure, and authorizes the Governor to enter into an Agreement with the Commission.**

The Connecticut Department of Energy and Environmental Protection (“DEEP”) statutory authority to establish the Agreement State program and define its structure is provided in the Connecticut General Statutes (C.G.S.):

- *Chapter 298a, Atomic Energy, Section 16a-100. (as amended by Public Act No. 23-153, Sec. 1(a)) Declaration of policy. (a) The state of Connecticut endorses the action of the Congress of the United States in enacting the Atomic Energy Act of 1954 to institute a program to encourage the widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefore declares the policy of the state to be (1) to cooperate actively in the program thus instituted; (2) to develop programs for the control of ionizing and nonionizing radiation compatible with federal programs for regulation of by-product, source and special nuclear material; and (3) to the extent that the regulation of special nuclear materials and by-product materials, of production facilities and utilization facilities and of persons operating such facilities may be within the jurisdiction of the state, to provide for the exercise of the state's regulatory authority so as to be compatible with the Atomic Energy Act of 1954 and regulations issued thereunder, to the end that there may, in effect, be a single harmonious system of regulation within the state.*
- *Chapter 446a, Radiation and Radioactive Materials, C.G.S. Section 22a-153(a) through C.G.S. Section 22a-153(g). Duties of Commissioner of Energy and Environmental Protection. Regulations. Consultants to Governor. Deposit of fees into General Fund. Radiation exposure guidelines for emergency responders and the public. (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; (c) Said commissioner shall adopt regulations, in accordance with the provisions of chapter 54, concerning sources of ionizing radiation and radioactive materials, including, but not limited to, regulations:(1) Necessary to*



*secure agreement state status from the United States Nuclear Regulatory Commission pursuant to section 274 of the Atomic Energy Act of 1954, 42 USC 2021, as amended from time to time;*(2) *Relating to the construction, operation, control, tracking, security or decommissioning of sources of ionizing radiation, including, but not limited to, any modification or alteration of such sources;*(3) *Relating to the production, transportation, use, storage, possession, management, treatment, disposal or remediation of radioactive materials;*(4) *Relating to planning for and responding to terrorist or other emergency events, or the potential for such events, that involve or may include radioactive materials;*(5) *Necessary to carry out the provisions of sections [22a-151](#) to [22a-158](#), inclusive;*(6) *Establishing fees for the licensure of sources of ionizing radiation, that, in conjunction with the fees collected pursuant to section [22a-148](#), shall be sufficient for the administration, implementation and enforcement of an ionizing radiation program; and* (7) *To reciprocate in the recognition of specific licenses issued by the United States Nuclear Regulatory Commission (NRC) or another state that has reached agreement with the NRC pursuant to 42 USC 2021(b), as amended from time to time;*(d) *The Governor, or the commissioner, is authorized to employ such consultants, experts and technicians as are necessary for the purpose of conducting investigations and reporting on matters connected with the implementation of the provisions of sections [22a-148](#) to [22a-158](#), inclusive;* (e) *Any fees collected in accordance with section [22a-148](#) or [22a-150](#), or any regulations adopted pursuant to subsection (c) of this section, shall be deposited in the General Fund;* (f) *The commissioner may establish radiation exposure guidelines for emergency responders and the public for the management of emergencies involving radioactive materials. Any such guidelines shall be compatible with the recommendations of the federal government and the National Council on Radiation Protection and Measurements;* (g) *This section shall not be construed to confer authority to regulate materials or activities reserved to the United States Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR Part 150*

The structure of the Agreement Materials Program is provided below in Section 4.1.2.

C.G.S. Section 22a-152 provides statutory authority for the Governor to enter into an agreement to regulate certain radioactive materials.

*The Governor, on behalf of this state, is authorized to enter into agreements with the United States Nuclear Regulatory Commission providing for discontinuance of certain of the programs of the government of the United States with respect to sources of ionizing radiation and the assumption thereof by this state, as provided for in the Atomic Energy Act of 1954, as amended.*

**b. Authorizes the program to issue licenses, including the following:**

C.G.S. Section 22a-154(a) authorizes the program to issue licenses:

*The Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, for the general or specific licensing of sources of ionizing radiation or devices or equipment utilizing such sources. The commissioner may issue, deny, renew, modify, suspend or revoke such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary. Nothing in this section shall be construed to confer authority to the commissioner to regulate materials or activities reserved to the Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR 150.*

**b.1. Authorizes the program to impose additional license requirements:**

C.G.S. Section 22a-154a provides such authority [emphasis added]:

*The commissioner may issue, deny, renew, modify, suspend or revoke such licenses and **may include such terms and conditions in such licenses that the commissioner deems necessary.** Nothing in this section shall be construed to confer authority to the commissioner to regulate materials or activities reserved to the Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR 150.*

**b.2. Authorizes the program to give exemptions from licensing requirements:**

C.G.S. Section 22a-154(b) provides authority for licensing of sources of radiation:

*Said commissioner may exempt certain sources of ionizing radiation or kinds of uses or users from the licensing requirements set forth in this section when he makes a finding that the exemption of such sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the occupational and public health and safety.*

**b.3. Authorizes the program to recognize the licenses of other jurisdictions (that is reciprocity):**

C.G.S. Section 22a-153(c)(7) provides such authority by regulation:

*(c) Said commissioner shall adopt regulations, in accordance with the provisions of chapter 54, concerning sources of ionizing radiation and radioactive materials, including, but not limited to, regulations:*

...

*(7) To reciprocate in the recognition of specific licenses issued by the United States Nuclear Regulatory Commission (NRC) or another state that has reached agreement with the NRC pursuant to 42 USC 2021(b), as amended from time to time*

R.C.S.A. Section 22a-153-150, Reciprocal Recognition of License, incorporates this statutory requirement to recognize licenses of other jurisdictions. The State is incorporating NRC regulations by reference. R.C.S.A. Section 22a-153-1(b)(5) provides reconciliation with the incorporated sections of Federal regulations to ensure references other jurisdictions includes both NRC and other Agreement States where appropriate.

**b.4. Makes it unlawful to acquire, possess, store, use, transfer, or dispose of materials without a valid license, or to violate the conditions of a license:**

C.G.S. Section 22a-157 defines prohibited acts related to radiation and radioactive materials:

*No person shall construct, operate, use, manufacture, produce, transport, transfer, receive, acquire, decommission, own or possess any source of ionizing radiation, unless such activity is in compliance with all requirements of this chapter, including any regulation adopted, or registration or license issued pursuant to this chapter. No person shall produce, transport, store, possess, manage, treat, remediate, distribute, sell, install, repair or dispose of any radioactive materials, unless such activity is in compliance with all requirements of this chapter, including any regulation adopted, or registration or license issued pursuant to this chapter. No person shall fail to register a source of ionizing radiation required to be registered under this chapter, including as required by any regulation adopted, or registration or license issued pursuant to this chapter.*

**b.5. Authorizes the program to recognize licenses transferred from the NRC under the Agreement as State licenses:**

C.G.S. Section 22a-154(d) provides recognition of licenses transferred from the NRC to the State under the Agreement:

*Any person that has a license prior to the effective date of an agreement pursuant to section 22a-152 [Agreements with federal government] from the federal government or agreement state relating to by-product material, source material or special nuclear material and which license will be subject to the control of this state upon the effective date of such agreement, shall be considered to have a like license with this state until the*

*expiration date specified in such license from the federal government or agreement state or until the end of the ninetieth day after such person receives notice from the Department of Energy and Environmental Protection that such license will be deemed expired.*

This section does not affect NRC or Agreement State licensees based outside of Connecticut or NRC licensees that remain under NRC jurisdiction. The State of Connecticut understands that if and when an Agreement between the NRC and Connecticut goes into effect, the state will assume regulatory authority for those NRC licensees based in Connecticut. Any licensees from other Agreement States or NRC licensees not based in Connecticut that are operating in Connecticut on the effective date of an Agreement would be subject to reciprocity under Connecticut's statutes and regulations. NRC jurisdiction will remain with NRC for activities on federal land.

**c. Authorizes the program to adopt regulations:**

C.G.S. Section 22a-6(a) as amended by PA 23-153 provides the commissioner of the Department of Energy and Environmental Protection with the general authority to “*adopt, amend or repeal, in accordance with the provisions of chapter 54, such environmental standards, criteria and regulations, and such procedural regulations as are necessary and proper to carry out his functions, powers and duties.*”

C.G.S. Section 22a-153 provides specific authority to the Commissioner to “*adopt regulations, in accordance with the provisions of chapter 54, concerning sources of ionizing radiation and radioactive materials*” addressing seven categories of activity.

**c.1. Specifies the procedures and requirements for adoption of regulations, including public participation:**

The commissioner has adopted Rules of Practice to address all proceedings of the Department including regulation adoption. Section 22a-3a-3 of the R.C.S.A. generally refers to the processes set out in Connecticut's Uniform Administrative Procedure Act (C.G.S. sections 4-166 through 4-189), which governs regulation adoption in all state agencies. The Uniform Administrative Procedure Act sets out all the procedures governing regulation adoption, including public participation.

Prior to adoption a regulation, the Department posts a notice of the intended regulatory action that provides for a minimum of 30 days for interested parties to submit comments, describes the intended action in sufficient detail, states the purpose of the intended action, identifies the statutory authority, describes how interested parties may obtain a copy of the proposal and related documents and describes how comments may be submitted. *See*, C.G.S. section 4-168(a). All actions in the regulation adoption process are required by C.G.S. section 4-168 to be set out in the Connecticut eRegulations System, an electronic filing cabinet designed to facilitate

public access to the Regulations of Connecticut State Agencies and the regulation-making records. The Department is required to hold a public hearing on the proposal “if requested by fifteen persons, by a governmental subdivision or agency or by an association having not less than fifteen members” (C.G.S. section 4-168(b)). Following the close of the public comment period, the Department prepares a written response to all comments received and may revise the proposal based on considerations raised in public comment.

The proposal is then reviewed by the Attorney General for legal sufficiency. (*See*, C.G.S. section 4-169). Once approved by the Attorney General, the proposal is submitted to the Legislative Regulation Review Committee for review and approval. The process is completed by the publication by the Office of the Secretary of the State in the Connecticut eRegulations System.

**c.2. Allows the program to impose requirements in the form of other generic legally binding requirements, such as license conditions or orders:**

The commissioner has authority to impose other generic legally binding requirements in the form of:

- License conditions pursuant to C.G.S. Section 22a-154 as amended by Public Act No. 23-153, Sec. 4(a), Licensing of sources of ionizing radiation.  
*The commissioner may issue, deny, renew, modify, suspend or revoke such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary.*
- Orders pursuant to C.G.S. Section 22a-155 Issuance, modification or revocation of orders re radiation and radioactive materials. Service of orders. Hearing request. Modification or extension of order. Appeal.  
*(a) The Commissioner of Energy and Environmental Protection may issue, modify or revoke any order to correct or abate any violation of sections 22a-148 to 22a-158, inclusive, including any license issued pursuant to said sections and any regulation adopted pursuant to said sections. Any such order may include remedial measures that are necessary to correct or abate such violations.*

The commissioner has the authority to issue orders in emergency situations as stated in C.G.S. Sections 22a-158a which invokes authority under 22a-7, Cease and desist orders. Additional clarification was provided by the Office of Attorney General (OAG) on how this state law is implemented such that it assures immediate compliance with such order as required by suggested state legislation section 17(f) (letter from the Conn. Office of the Attorney General (OAG) dated April 17, 2023, App 4.1-3b). The OAG notes, “The only “investigation” that is required is that which is necessary to gather the facts needed to satisfy the standards identified” such that it “will not cause unnecessary delay or impede the Commissioner’s ability to act when needed.”

- (a) The commissioner, whenever he finds after investigation that any person is causing, engaging in or maintaining, or is about to cause, engage in or maintain, any*

*condition or activity which, in his judgment, will result in or is likely to result in imminent and substantial damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapters ... 446a... or whenever he finds after investigation that there is a violation of the terms and conditions of a permit issued by him that is in his judgment substantial and continuous and it appears prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, or whenever he finds after investigation that any person is conducting, has conducted, or is about to conduct an activity which will result in or is likely to result in imminent and substantial damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapters ...446a... for which a license, as defined in section 4-166, is required under the provisions of chapter ...446a... without obtaining such license, may, without prior hearing, issue a cease and desist order in writing to such person to discontinue, abate or alleviate such condition or activity.*

**d. Authorizes representatives of the program to enter premises and conduct inspections:**

Authority for representatives of the program to enter premises and conduct inspections and investigations is provided in C.G.S. Section 22a-6 as amended by Public Act No. 23-153, Sec. 2(a)(5):

*(a) The commissioner may: ...*

*(5) in accordance with constitutional limitations, enter at all reasonable times, without liability, upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of any statute, regulation, order or permit administered, adopted or issued by the department and the owner, managing agent or occupant of any such property shall permit such entry, and no action for trespass shall lie against the commissioner for such entry, or the commissioner may apply to any court having criminal jurisdiction for a warrant to inspect such premises to determine compliance with any statute, regulation, order or permit administered, adopted or enforced by the department, provided any information relating to secret processes or methods of manufacture or production ascertained by the commissioner during, or as a result of, any inspection, investigation, hearing or otherwise shall be kept confidential and shall not be disclosed except that, notwithstanding the provisions of subdivision (5) of subsection (b) of section 1-210, such information may be disclosed by the commissioner to the United States Environmental Protection Agency and the Nuclear Regulatory Commission pursuant to the federal Freedom of Information Act of 1976, (5 USC 552) and regulations adopted thereunder or, if such information is submitted after June 4, 1986, to any person pursuant to the federal Clean Water Act (33 USC 1251 et seq.);*

The OAG has also provided information on inspection on private residences consistent statutory limitations but concludes that they would not “impact the Department’s ability to timely inspect premises for sources of ionizing radiation.” (See, letter from the Conn. Office of the Attorney General (OAG) dated April 17, 2023, App 4.1-3b).

**e. Authorizes the program to require compliance with regulatory requirements by both licensees and unlicensed individuals.**

C.G.S. Section 22a-151, provides the definition:

*(5) “Person” means any individual, corporation, limited liability company, partnership, firm, association, trust, estate, public or private institution, group, agency, other than any federal agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of any of the foregoing, other than the United States Nuclear Regulatory Commission or any successor thereto, and other than agencies of the government of the United States licensed by the United States Nuclear Regulatory Commission or any successor thereto; used to include both licensed and unlicensed individuals.*

Using this definition of “person,” C.G.S. Section 22a-148(b) applies to both licensed and unlicensed individuals to ensure compliance with regulatory requirements [emphasis added]:

*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 compatible with the regulations of the United States Nuclear Regulatory Commission, issued under authority granted to said commission by the Atomic Energy Act of 1954, as codified in 42 USC 2014, as amended from time to time.***

C.G.S. Section 22a-157 further describes prohibited act for both licensed and unlicensed individuals [emphasis added].

***No person shall construct, operate, use, manufacture, produce, transport, transfer, receive, acquire, decommission, own or possess any source of ionizing radiation, unless such activity is in compliance with all requirements of this chapter, including any regulation adopted, or registration or license issued pursuant to this chapter. No person shall produce, transport, store, possess, manage, treat, remediate, distribute, sell, install, repair or dispose of any radioactive materials, unless such activity is in compliance with all requirements of this chapter, including any regulation adopted, or registration or license issued pursuant to this chapter. No person shall fail to register a source of ionizing***

*radiation required to be registered under this chapter, including as required by any regulation adopted, or registration or license issued pursuant to this chapter.*

**f. Authorizes the program to impose sanctions for violations of the regulations, orders, or license conditions.**

DEEP has broad authority to impose sanctions for violations of regulations, orders, or license conditions. Enforcement and sanctions are risk informed based upon the potential or actual severity and frequency of violations. Such actions can also be adjusted based upon the economic and financial conditions of a licensee, any economic benefit derived as a result of the violation, and any other factors the commissioner deems appropriate, including voluntary measures taken by the violators.

C.G.S. Section 22a-6s provides the commissioner the authority to issue warning notices (non-cited) minor violations. It defines “minor violation” as those not intentionally committed, do not avoid costs either by a reduction in cost or by gaining a competitive advantage, are not repeat violations (no history of non-compliance), do not pose a significant risk to human health or the environment, and can be corrected (or have a plan for compliance) within thirty calendar days. If several potentially minor violations are detected in the course of an inspection or review the totality of which the commissioner determines to be more serious, then such violations would be cited.

C.G.S. Section 22a-153-(c)(5) gives broad authority to the commissioner to adopt regulations...that are "*Necessary to carry out the provisions of sections 22a-151 to 22a-158, inclusive.*" For enforcement, this is accomplished in R.C.S.A. Section 22a-153-5, Enforcement, which provides DEEP the authority to issue written Notices of Violations.

C.G.S. Section 22a-6b provides authority to impose civil penalties to achieve or restore compliance. The statute requires that the commissioner establish, "*a schedule setting forth the amounts, or the ranges of amounts, or a method for calculating the amount of the civil penalties.*" This is accomplished in R.C.S.A. sections 22a-6b-1 through 22a-6b-15, inclusive a copy of which is provided as an attachment in section 4.2 of this application. C.G.S. 22a-6b provides civil penalty authority for the violations of permits (including licenses), regulations, orders, discharge requirements, and cease and desist orders:

*The civil penalties established for each violation shall be of such amount as to insure immediate and continued compliance with applicable laws, regulations, orders and permits. Such civil penalties shall not exceed the following amounts:*

*(1) For failure to file any registration, other than a registration for a general permit, for failure to file any plan, report or record, or any application for a permit, for failure to obtain any certification, for failure to display any registration, permit or order, or file any other information required pursuant to any provision of ...sections 22a-148 to 22a-162a, inclusive..., or any regulation, order or permit adopted or issued thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than one thousand dollars for said violation and in addition no more than*



*one hundred dollars for each day during which such violation continues*

*(2) For deposit, placement, removal, disposal, discharge or emission of any material or substance or electromagnetic radiation or the causing of, engaging in or maintaining of any condition or activity in violation of any provision of section ... sections 22a-148 to 22a-162a, inclusive... or any regulation, order or permit adopted thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;*

*(3) For violation of the terms of any final order of the commissioner, except final orders under subsection (d) of this section and emergency orders and cease and desist orders as set forth in subdivision (4) of this subsection, for violation of the terms of any permit issued by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;*

*(4) For violation of any emergency order or cease and desist order of the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues*

Additionally, DEEP has the authority under C.G.S. Section 22a-154(a) as amended by Public Act No. 23-153, Sec. 4(a) to, “...issue, **deny**, renew, modify, **suspend or revoke** such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary.” [emphasis added]

This is further enforced in C.G.S. Section 22a-155(a) which provides authority to take necessary action to abate such violations.

*The Commissioner of Energy and Environmental Protection may issue, modify or revoke any order to correct or abate any violation of sections 22a-148 to 22a-158, inclusive, including any license issued pursuant to said sections and any regulation adopted pursuant to said sections. Any such order may include remedial measures that are necessary to correct or abate such violations.*

C.G.S. Section 22a-157a. provides the commissioner with the authority to investigate, mitigate and contain hazards from radioactive materials, to hold the responsible party liable, and to seek reimbursement of costs for abatement, containment, mitigation, or removal of any exposure hazard. It also provides authority for the Attorney General to pursue civil action to recover associated costs and expenses. Such actions are generally pursued through consent orders in which the responsible party agrees to a settlement.

Additional authorities for sanctions are provided in:

- C.G.S. Sec. 16a-105. “Whenever, in the opinion of the Attorney General, any person is violating or is about to violate section 16a-104 [requires license for radioactive material], the Attorney General may apply to the appropriate court for an order enjoining the

*person from engaging or continuing to engage in the activity violative of this chapter and, upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent or temporary injunction, restraining order or other order may be granted.”*

- C.G.S. Section 22a-158a. *“The Commissioner of Energy and Environmental Protection may issue a cease and desist order in accordance with section 22a-7 for any violation of sections 22a-148 to 22a-158, inclusive, and may suspend or revoke any registration issued by the commissioner pursuant to section 22a-148 or 22a-150, upon a showing of cause after a hearing held in accordance with chapter 54.”*  
[see discussion in section 4.1.1.1.c.2 of this application]
- C.G.S. Section 22a-158b as amended by Public Act No. 23-153, Sec. 5. *“Action to enjoin act, practice or omission that constitutes violation. (a) Whenever, in the judgment of the Commissioner of Energy and Environmental Protection, any person has engaged in or is about to engage in any act, practice or omission that constitutes, or will constitute, a violation of any provision of this chapter, or any regulation adopted or order issued pursuant to this chapter, the Attorney General may, at the request of the commissioner, bring an action in the superior court for the judicial district of New Britain for an order enjoining such act, practice or omission. Such order may require remedial measures and direct compliance. Upon a showing by the commissioner that such person has engaged in or is about to engage in any such act, practice or omission, the court may issue a permanent or temporary injunction, restraining order or other order, as appropriate.”*

In Connecticut, the Attorney General has authority over civil matters and actions. Actions which the commissioner in consultation with legal counsel determines to be “criminally negligent” would be referred to the Chief States Attorney who has lead for criminal violations in the state. This authority is provided in C.G.S. Section 22a-158c:

*Criminally negligent violations. Knowingly making false statements. Fines. Imprisonment. Subsequent convictions. (a) Any person who, with criminal negligence, violates any provision of this chapter, including, but not limited to, any regulation, license or order adopted or issued pursuant to this chapter, or who, with criminal negligence, makes any false statement, representation or certification in any application, registration, notification or other document filed or required to be maintained pursuant to this chapter, shall be fined not more than twenty-five thousand dollars per day for each day of violation or be imprisoned not more than one year, or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than two years, or both. (b) Any person who knowingly makes any false statement, representation or certification in any application, registration, notification or other document filed or required to be maintained pursuant to this chapter shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years, or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty*

*thousand dollars per day for each day of violation or imprisonment for not more than ten years, or both.*

**g. Establishes conflict of interest and ethics regulations or procedures applicable to those portions of the State Radiation Control Program covered by the Agreement.**

C.G.S. Chapter 10 Code of Ethics Sections 1-79 through 1-89a establish code of ethics regulations and procedures and conflict of interest applicable to those portions of the State Radiation Control Program covered by the Agreement. Connecticut public officials and State employees, except for judges, are governed by a code of ethics as expounded in C.G.S. Sections 1-79 through 1-89a. Public officials and State employees are respectively defined in Sections 1-79(11) and 1-79(13) “The Regulations of Connecticut State Agencies (R.C.S.A.) is the official codification of the administrative regulations of Connecticut State Agencies.” C.G.S. Section 1-80 established the Office of State Ethics, which is authorized under Public Act 05-183 to interpret and enforce the regulations of the Connecticut State Agencies, as well as issue opinions and declaratory rulings. These rules extend to appointees of the Governor, which includes the Commissioner of the Connecticut Department of Energy and Environmental Protection (DEEP). C.G.S. Section 1-79 (11) expressly applies to employees of the Radiation Division within DEEP as they are State employees.

Connecticut public officials and State employees are prohibited from engaging in any conduct that creates a conflict of interest. Specifically, C.G.S. Sections 1-84 mandates that State employees and public officials shall not “have any financial interest in, or engage in, any business, employment, transaction or professional activity, which is in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed in the laws of this state, as defined in section 1-85.” C.G.S. Section 1-85 provides that:

*A public official, including an elected state official, or state employee has an interest which is in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed in the laws of this state, if he has reason to believe or expect that he, his spouse, a dependent child, or a business with which he is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. A public official, including an elected state official, or state employee does not have an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed by the laws of this state, if any benefit or detriment accrues to him, his spouse, a dependent child, or a business with which he, his spouse or such dependent child is associated as a member of a profession, occupation or group to no greater extent than any other member of such profession, occupation or group. A public official, including an elected state official or state employee who has a substantial conflict may not take official action on the matter.*

C.G.S. Section 1-84a addresses former State employees' and public officials' disclosure of confidential information by providing that, "No former executive or legislative branch or quasi-public agency public official or state employee shall disclose or use confidential information acquired in the course of and by reason of his official duties, for financial gain for himself or another person." C.G.S. Section 1-84b restricts certain activities of former public officials and State employees which would constitute a conflict of interest. The applicable sections of the Connecticut General Statutes can be found at [C.G.S. - Codes of Ethics \(ct.gov\)](http://www.csgov.com/codesofethics).

The State "Public Officials and State Employees Guide to the Code of Ethics" and DEEP Code of Ethics Directive are included at appendices to this section.

The Radioactive Materials Agreement State Program exists in lines of authority from appointees as seen in Appendix A below. The Bureau of Air Management is directly under the authority of the CT DEEP Commissioner, Katherine Dykes. As evident from the organizational structure described in 4.1.2.1.b. of this section of the application, the Radiation Division is directly under the authority of the Bureau of the Air Division, which is overseen by Bureau Chief Tracy Babbidge.

SA-700 Section 4.1.1.2

The State has submitted the appropriate statutes to demonstrate it has proper authorities to the NRC. The State has worked with the NRC and its Office of General Counsel (OGC) to resolve any questions regarding interpretation of State law. Necessary interpretations of State law have been provided by the State Attorney General and Attorney Brendan Schain at the DEEP Office of Legal Counsel designated as legal advisor to the Agreement materials program through letters dated April 17, 2023 and October 11, 2022, respectively. The letters are provided as appendices to this section. In its response letter to the State dated August 23, 2023, the NRC concluded that comments on legislation have been resolved. The NRC's August 23, 2023 letter is also provided as an appendix to this section.

- a. State law authorizes the Governor to enter into an Agreement. It designates DEEP as the radiation control agency and provides it the necessary legal authority to be effective.**

C.G.S. Section 22a-152 authorizes the Governor of Connecticut to enter into an Agreement with the Nuclear Regulatory Commission:

*The Governor, on behalf of this state, is authorized to enter into agreements with the United States Nuclear Regulatory Commission providing for discontinuance of certain of the programs of the government of the United States with respect to sources of ionizing radiation and the assumption thereof by this state, as provided for in the Atomic Energy Act of 1954, as amended.*

C.G.S. Section 22a-153(a) identifies the Commissioner of Energy and Environmental Protection as the designated radiation control official. :

*(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....*

C.G.S. Section 22a-153(b) allows the commissioner to employ “persons as may be necessary to carry out the provisions of [sections 22a-151](#) to [22a-158](#), inclusive.”

*(b) Said commissioner may employ, subject to the provisions of chapter 67,[1](#) 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.*

C.G.S. 22a-4 designates the authority of the Commissioner to employ the Department of Energy and Environmental Protection

*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.*

C.G.S. Section 16a-100 as amended by Public Act No. 23-153, Sec. 1(a) and C.G.S. Section 22a-153 provide the necessary legal authority to be effective.

C.G.S. Section 16a-100 as amended by Public Act No. 23-153, Sec. 1(a) requires DEEP to develop programs and exercise authorities compatible with those of the NRC.

*Declaration of policy. (a) The state of Connecticut endorses the action of the Congress of the United States in enacting the Atomic Energy Act of 1954 to institute a program to encourage the widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefore declares the policy of the state to be (1) to cooperate actively in the program thus instituted; (2) to develop programs for the control of ionizing and nonionizing radiation compatible with federal programs for regulation of by-product, source and special nuclear material; and (3) to the extent that the regulation of special nuclear materials and by-product materials, of production facilities and utilization facilities and of persons operating such facilities may be within the jurisdiction of the state, to provide for the exercise of the state's regulatory authority so as to be compatible with the Atomic Energy Act of 1954 and regulations issued thereunder, to the end that there may, in effect, be a single harmonious system of regulation within the state.*

C.G.S. Section 22a-153 directs the Commissioner to develop appropriate regulations stating as follows:

*(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.*

*(c) Said commissioner shall adopt regulations, in accordance with the provisions of chapter 54, concerning sources of ionizing radiation and radioactive materials, including, but not limited to, regulations:*

*(1) Necessary to secure agreement state status from the United States Nuclear Regulatory Commission pursuant to section 274 of the Atomic Energy Act of 1954, 42 USC 2021, as amended from time to time;*

*(2) Relating to the construction, operation, control, tracking, security or*

- decommissioning of sources of ionizing radiation, including, but not limited to, any modification or alteration of such sources;*
- (3) Relating to the production, transportation, use, storage, possession, management, treatment, disposal or remediation of radioactive materials;*
- (4) Relating to planning for and responding to terrorist or other emergency events, or the potential for such events, that involve or may include radioactive materials;*
- (5) Necessary to carry out the provisions of sections 22a-151 to 22a-158, inclusive;*
- (6) Establishing fees for the licensure of sources of ionizing radiation, that, in conjunction with the fees collected pursuant to section 22a-148, shall be sufficient for the administration, implementation and enforcement of an ionizing radiation program; and*
- (7) To reciprocate in the recognition of specific licenses issued by the United States Nuclear Regulatory Commission (NRC) or another state that has reached agreement with the NRC pursuant to 42 USC 2021(b), as amended from time to time.*

With respect to nonionizing radiation referenced in C.G.S. section 16a-100, the Connecticut General Assembly vested in the Department authority to address standards for operation of nonionizing radiation in C.G.S. Section 22a-162 which provides as follows:

*(a) For the purpose of preventing possible harmful effects in human beings from exposure to electromagnetic fields in the radio frequency range, as defined in ANSI/IEEE C95.1-1992, "IEEE standards for safety levels with respect to human exposure to radio frequency electromagnetic fields, 3 kHz to 300 GHz", as amended from time to time, the Commissioner of Energy and Environmental Protection may, by regulations adopted in accordance with the provisions of chapter 54, adopt the standards recommended by ANSI/IEEE C95.1-1992, "safety levels with respect to human exposure to radio frequency electromagnetic fields, 3 kHz to 300 GHz", as amended from time to time.*

*(b) Notwithstanding subsection (a) of this section, the following sources of nonionizing radiation shall be exempt from the standards: (1) Nonfixed sources such as portable, hand-held or mobile sources; (2) sources marketed as consumer products; (3) scientific or medical sources operating at frequencies designated for scientific or medical purposes by the Federal Communications Commission; (4) sources which have an effective radiated power of seven watts or less; and (5) sources of nonionizing radiation, as recommended in ANSI/IEEE C95.1-1992, as amended from time to time. The Commissioner of Energy and Environmental Protection may, by regulations adopted in accordance with the provisions of chapter 54, exempt sources of nonionizing radiation from the standards.*

C.G.S. Section 22a-154 as amended by Public Act No. 23-153, Sec. 4(a) adds that:

*The Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, for the general or specific licensing of sources of ionizing radiation or devices or equipment utilizing such sources. The commissioner may issue, deny, renew, modify, suspend or revoke such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary. Nothing in this section shall be construed to confer authority to the commissioner to regulate materials or activities reserved to the Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR 150.*C.G.S. Section 22a-148(b) further specifies that:

*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 compatible with the regulations of the United States Nuclear Regulatory Commission, issued under authority granted to said commission by the Atomic Energy Act of 1954, as codified in 42 USC 2014, as amended from time to time....*

- b. State law prevents duplications, gaps, or conflicts in regulation. This includes duplications, gaps, or conflicts between the State and the NRC, state agencies, or state and local agencies. The law does not seek to regulate materials or activities reserved to the NRC.**

The State of Connecticut is incorporating the required parts of 10 CFR, Chapter I by reference to eliminate the possibility of duplications, gaps, or other conflicts in regulation, including duplications, gaps, or conflicts between the State and the NRC, state agencies, or state and local agencies.

Relative to activities reserved to NRC regulation, C.G.S. section 22a-153 (g) states that “*This section shall not be construed to confer authority to regulate materials or activities reserved to the United States Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR Part 150.*”

For licensing of materials C.G.S. section 22a-154(a) states, “*Nothing in this section shall be construed to confer authority to the commissioner to regulate materials or activities reserved to the Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR 150.*”



Preventing duplications, gaps, and conflicts between other states and the NRC is addressed at 16a-100 as amended by Public Act No. 23-153, Sections 1(a)(1) through 1(b)(4) which “...declares the policy of the state to be:

*(a)(1) to cooperate actively in the program thus instituted; (2) to develop programs for the control of ionizing and nonionizing radiation compatible with federal programs for regulation of by-product, source and special nuclear material; and (3) to the extent that the regulation of special nuclear materials and by-product materials, of production facilities and utilization facilities and of persons operating such facilities may be within the jurisdiction of the state, to provide for the exercise of the state's regulatory authority so as to be compatible with the Atomic Energy Act of 1954 and regulations issued thereunder, to the end that there may, in effect, be a single harmonious system of regulation within the state.*

*(b)(1) to adapt its laws and regulations to meet the new conditions in ways that will encourage the healthy development of industries producing or utilizing atomic energy while at the same time protecting the public interest; (2) to initiate continuing studies of the need for changes in the relevant laws and regulations of the state by the respective agencies of the state which are responsible for their administration; (3) to assure the coordination of the studies thus undertaken, particularly with other atomic industrial development activities of the state and with the development and regulatory activities of other states and of the government of the United States; and (4) to cooperate with the United States Nuclear Regulatory Commission and the states in promoting the uniformity of radiation laws and regulations, the administration and enforcement of such laws and regulations.*

C.G.S. Section 16a-102(a) prevents duplication and conflicts between agencies of the state and with local agencies stating:

*The Commissioner of Energy and Environmental Protection shall coordinate all atomic development activities in the state. Said commissioner or his designee shall (1) advise the Governor with respect to atomic industrial development within the state; (2) act as coordinator of the development and regulatory activities of the state relating to the industrial and commercial uses of atomic energy; (3) act as the Governor's designee in matters relating to atomic energy, including participation in the activities of any committee formed by the New England states to represent their interests in such matters and also cooperation with other states and with the government of the United States; (4) coordinate the studies, recommendations and proposals of the several departments and agencies of the state required by section 16a-103 with each other and also with the programs and activities of the development commission. The commissioner shall consult with and review regulations and procedures of the agencies of the state with respect to the regulation of sources of radiation to assure consistency and to prevent unnecessary duplication, inconsistencies or gaps in regulatory requirements.*

- c. State law authorizes issuing licenses as the means of giving the authority to possess and use Agreement materials. It also authorizes the reciprocal recognition of specific licenses issued by the NRC or other Agreement State.**

C.G.S. Section 22a-154 authorizes DEEP to issue licenses to use Agreement materials by providing:

*The Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, for the general or specific licensing of sources of ionizing radiation or devices or equipment utilizing such sources. The commissioner may issue, deny, renew, modify, suspend or revoke such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary. Nothing in this section shall be construed to confer authority to the commissioner to regulate materials or activities reserved to the Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR 150.*

C.G.S. Section 22a-153(c)(7) authorizes the reciprocal recognition of specific licenses issued by the NRC or other Agreement State through regulation. C.G.S. Section 22a-153(c)(7) states that:

*[the] Commissioner shall adopt regulations, in accordance with the provisions of chapter 54, concerning sources of ionizing radiation and radioactive materials, including, but not limited to, regulations...To reciprocate in the recognition of specific licenses issued by the United States Nuclear Regulatory Commission (NRC) or another state that has reached agreement with the NRC pursuant to 42 USC 2021(b), as amended from time to time.*

R.C.S.A. Section 22a-153-150. Reciprocal Recognition of License. incorporates this statutory requirement to recognize licenses of other jurisdictions. The State is incorporating NRC regulations by reference. R.C.S.A. Section 22a-153-1(b)(5) provides reconciliation with the incorporated sections of Federal regulations to ensure references other jurisdictions includes both NRC and other Agreement States where appropriate.

- d. State law authorizes the use of license conditions to address matters unique to the license. The law allows the use of license conditions to impose additional requirements when required to protect public health and safety. State law does not restrict the use of license conditions.**

C.G.S. Section 22a-154(a) states that the Commissioner shall have the authority to, “include such terms and conditions in such licenses that the commissioner deems necessary.” State law does not restrict the use of license conditions.

- e. **State law permits exemptions from licensing requirements if the exemptions do not adversely affect public health and safety. This includes exemptions from the requirement to obtain a license.**

C.G.S. Section 22a-154(b) provides the Commissioner the authority to “*exempt certain sources of ionizing radiation or kinds of uses or users from the licensing requirements set forth in this section when he makes a finding that the exemption of such sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the occupational and public health and safety.*”

Because Connecticut is incorporating relevant parts of 10 CFR by reference, as is the case for the NRC, Connecticut will authorize exemptions from licensing substantially equivalent to the requirements of *Handbook for Processing an Agreement* Section 4.1.1.2(e)(4):

Any other prime contractor (or subcontractors) of DOE or NRC when the State and NRC jointly determine (i) that the terms of the contract provide adequate assurance that the contractor can accomplish the work without undue risk to public health and safety and (ii) that the law authorizes exemptions.

The particular sections of 10 CFR the State of Connecticut is incorporating by reference relevant to exempting the above contractors, among others are 10 CFR 30.12, 40.11 and 70.11.

- f. **State law authorizes the Agreement materials program to enforce regulations or generic legally binding requirements other than regulation. The law may authorize another agency (such as a Board of Health) to adopt the regulations. When appropriate, the law should provide for public participation.**

DEEP has broad enforcement authority under C.G.S. Section 22a-6(a)(2) as amended by Public Act No. 23-153, Section 2(a)(3) and Section 2(a)(4), respectively, as follows:

*The commissioner shall have the power to hold hearings, administer oaths, take testimony and subpoena witnesses and evidence, enter orders and institute legal proceedings including, but not limited to, suits for injunctions, for the enforcement of any statute, regulation, order or permit administered, adopted or issued by the department;*

*in accordance with regulations adopted by the department, require, issue, renew, revoke, modify or deny permits, under such conditions as the commissioner may prescribe*

Enforcement and sanctions are risk informed based upon the potential or actual severity and frequency of violations. Such actions can also be adjusted based upon the economic and financial conditions of licensee, any economic benefit derived as a result of the violation, and any other factors the commissioner deems appropriate, including voluntary measures taken by the violators.

C.G.S. Section 22a-6s(a) provides the commissioner with the authority to issue warning notices (non-cited) minor violations. It defines “minor violation” as those not intentionally committed, do not avoid costs either by a reduction in cost or by gaining a competitive advantage, are not repeat violations (no history of non-compliance), do not pose a significant risk to human health or the environment, and can be corrected (or have a plan for compliance) within thirty calendar days. If several potentially minor violations are detected in the course of an inspection or review the totality of which the commissioner determines to be more serious, then such violations would be cited.

C.G.S. Section 22a-153-(c)(5) gives broad authority to the commissioner to adopt regulations...that are "*Necessary to carry out the provisions of sections 22a-151 to 22a-158, inclusive.*" For enforcement, this is accomplished in R.C.S.A. Section 22a-153-5, Enforcement, which provides DEEP the authority to issue written Notices of Violations.

C.G.S. Section 22a-6b provides authority to impose civil penalties to achieve or restore compliance. The statute requires that the commissioner establish, "*a schedule setting forth the amounts, or the ranges of amounts, or a method for calculating the amount of the civil penalties.*" This is accomplished in R.C.S.A. sections 22a-6b-1 through 22a-6b-15, inclusive a copy of which is provided as an attachment in section 4.2 of this application. C.G.S. 22a-6b provides civil penalty authority for the violations of permits (including licenses), regulations, orders, discharge requirements, and cease and desist orders. C.G.S. Sections 22a-6b(a)(1) through 22a-6(b)(a)(5) provide as follows:

*The civil penalties established for each violation shall be of such amount as to insure immediate and continued compliance with applicable laws, regulations, orders and permits. Such civil penalties shall not exceed the following amounts:*

*(1) For failure to file any registration, other than a registration for a general permit, for failure to file any plan, report or record, or any application for a permit, for failure to obtain any certification, for failure to display any registration, permit or order, or file any other information required pursuant to any provision of ...sections 22a-148 to 22a-162a, inclusive..., or any regulation, order or permit adopted or issued thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than one thousand dollars for said violation and in addition no more than one hundred dollars for each day during which such violation continues*

*(2) For deposit, placement, removal, disposal, discharge or emission of any material or substance or electromagnetic radiation or the causing of, engaging in or maintaining of any condition or activity in violation of any provision of section ... sections 22a-148 to 22a-162a, inclusive... or any regulation, order or permit adopted thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;*

*(3) For violation of the terms of any final order of the commissioner, except final orders under subsection (d) of this section and emergency orders and cease and desist orders as set forth in subdivision (4) of this subsection, for violation of the terms of any permit issued by*

*the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;*

*(4) For violation of any emergency order or cease and desist order of the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues.*

Additionally, DEEP has the authority under C.G.S. Section 22a-154(a) as amended by Public Act No. 23-153, Sec. 4(a) to, “...issue, **deny**, renew, modify, **suspend or revoke** such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary.” [emphasis added]

This is further enforced in C.G.S. Section 22a-155(a) which provides authority to take necessary action to abate such violations.

*The Commissioner of Energy and Environmental Protection may issue, modify or revoke any order to correct or abate any violation of sections 22a-148 to 22a-158, inclusive, including any license issued pursuant to said sections and any regulation adopted pursuant to said sections. Any such order may include remedial measures that are necessary to correct or abate such violations.*

C.G.S. Section 22a-157a. provides the commissioner the authority to investigate, mitigate and contain hazards from radioactive materials, to hold the responsible party liable, and to seek reimbursement of costs for abatement, containment, mitigation, or removal of any exposure hazard. It also provides authority for the Attorney General to pursue civil action to recover associated costs and expenses. Such actions are generally pursued through consent orders in which the responsible party agrees to a settlement.

Additional authorities for sanctions are provided in:

- C.G.S. Sec. 16a-105. “*Whenever, in the opinion of the Attorney General, any person is violating or is about to violate section 16a-104 [requires license for radioactive material], the Attorney General may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this chapter and, upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent or temporary injunction, restraining order or other order may be granted.*”
- C.G.S. Section 22a-158a. “*The Commissioner of Energy and Environmental Protection may issue a cease and desist order in accordance with section 22a-7 for any violation of sections 22a-148 to 22a-158, inclusive, and may suspend or revoke any registration issued by the commissioner pursuant to section 22a-148 or 22a-150, upon a showing of cause after a hearing held in accordance with chapter 54.*”  
[see discussion in section 4.1.1.1.c.2 of this application]

- C.G.S. Section 22a-158b as amended by Public Act No. 23-153. “*Action to enjoin act, practice or omission that constitutes violation. (a) Whenever, in the judgment of the Commissioner of Energy and Environmental Protection, any person has engaged in or is about to engage in any act, practice or omission that constitutes, or will constitute, a violation of any provision of this chapter, or any regulation adopted or order issued pursuant to this chapter, the Attorney General may, at the request of the commissioner, bring an action in the superior court for the judicial district of New Britain for an order enjoining such act, practice or omission. Such order may require remedial measures and direct compliance. Upon a showing by the commissioner that such person has engaged in or is about to engage in any such act, practice or omission, the court may issue a permanent or temporary injunction, restraining order or other order, as appropriate.*”

- g. State law authorizes inspections of licensee operations to ensure compliance with regulatory requirements. It authorizes inspections of unlicensed facilities to assess the risk resulting from accidents or environmental releases of materials. The law permits access at all reasonable times.**

C.G.S. 22a-6 provides for inspection and investigation and entry upon any private or public property at all reasonable times:

*(a) The commissioner may: ...*

*(5) in accordance with constitutional limitations, enter at all reasonable times, without liability, upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of any statute, regulation, order or permit administered, adopted or issued by the department and the owner, managing agent or occupant of any such property shall permit such entry, and no action for trespass shall lie against the commissioner for such entry, or the commissioner may apply to any court having criminal jurisdiction for a warrant to inspect such premises to determine compliance with any statute, regulation, order or permit administered, adopted or enforced by the department, provided any information relating to secret processes or methods of manufacture or production ascertained by the commissioner during, or as a result of, any inspection, investigation, hearing or otherwise shall be kept confidential and shall not be disclosed except that, notwithstanding the provisions of subdivision (5) of subsection (b) of section 1-210, such information may be disclosed by the commissioner to the United States Environmental Protection Agency and the Nuclear Regulatory Commission pursuant to the federal Freedom of Information Act of 1976, (5 USC 552) and regulations adopted thereunder or, if such information is submitted after June 4, 1986, to any person pursuant to the federal Clean Water Act (33 USC 1251 et seq.);*

The Office of the Attorney General (OAG) has also provided information on inspection on private residences consistent statutory and constitutional limitations but concludes that they would not “impact the Department’s ability to timely inspect premises for sources of ionizing

radiation.” (See, letter from the Conn. Office of the Attorney General (OAG) dated April 17, 2023, App 4.1-3b).

- h. State law provides authority to take prompt enforcement action and provides a variety of legal sanctions. The law provides authority to modify and revoke licenses and to impound materials. In cases of an imminent threat to public health and safety, the law authorizes immediate suspension without prior hearing.**

Pursuant to C.G.S. Section 22a-155(a)

*The Commissioner of Energy and Environmental Protection may issue, modify or revoke any order to correct or abate any violation of sections 22a-148 to 22a-158, inclusive, including any license issued pursuant to said sections and any regulation adopted pursuant to said sections. Any such order may include remedial measures that are necessary to correct or abate such violations.*

If issued, “Such order shall be deemed to be issued on the date of service or on the date such order is deposited in the mail.” Parties subject to these orders may, request for a hearing before the commissioner (C.G.S. 22a-155(b)) or appeal a final order to the superior court for the judicial district of New Britain (C.G.S. 22a-155(d)).

In C.G.S. Section 22a-158b(c) as amended by Public Act No. 23-153 provides the Commissioner with the authority to impound materials:

*Whenever the commissioner finds after investigation that any person is causing, engaging in or maintaining, or is about to cause, engage in or maintain, any condition or activity that, in the commissioner's judgment, will result in or is likely to result in imminent threat to human health or the environment within the jurisdiction of the commissioner under the provisions of this chapter, or whenever the commissioner finds after investigation that there is a violation of the terms and conditions of a permit or license issued by the department that is, in the commissioner's judgment, substantial and continuous and it appears prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, or whenever the commissioner finds after investigation that any person is conducting, has conducted or is about to conduct an activity that will result in or is likely to result in imminent damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapter 446a for which a license, as defined in section 4-166, is required under the provisions of chapter 446a without obtaining such license, the commissioner may, without prior hearing, impound the source of ionizing radiation, or contract to impound such source*

The OAG (See, letter from the Conn. Office of the Attorney General (OAG) dated April 17, 2023, App 4.1-3b) has determined that the C.G.S. Section 22a-158b, “meets the NRC’s

requirements for Judicial review of any such impoundment (See, SSL Sec 17(g)),” The OAG further noted:

*Conn Gen Stat section 22a-158(b) provides that the Commissioner will hold a hearing within ten days of any impoundment during which any person contesting the validity of the impoundment may "be heard and show that" the impoundment was unwarranted either because there was no violation or that a license was not required, or a license had been obtained and was properly adhered to the statute further requires that within fifteen days after the hearing that the Commissioner issue a "new decision based on the hearing " This decision will be "final decision" in a contested case and thus the statute secures the right to Judicial review under Connecticut's Uniform Administrative Procedures Act See Conn Gen Stat. § 4-183*

CGC Section 16a-105 provides the authority for to the Attorney General to immediately petition the court to enjoin any acts or practices that constitute or will constitute a violation of the referenced statutory provisions in Chapter 298a:

*Whenever, in the opinion of the Attorney General, any person is violating or is about to violate section 16a-104 [activities requiring a license], the Attorney General may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this chapter and, upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent or temporary injunction, restraining order or other order may be granted.*

In cases of an imminent threat to public health and safety, the law authorizes immediate suspension through cease and desist order without prior hearing as codified in C.G.S. Sections 22a-158a which invokes authority under 22a-7, Cease and desist orders. “Upon receipt of such order such person shall immediately comply with such order.” (C.G.S. 22a-7(c)) Additional clarification was provided by the OAG (See, letter from the Conn. Office of the Attorney General (OAG) dated April 17, 2023, App 4.1-3b) on how this state law is implemented such that it assures immediate compliance with such order as required by suggested state legislation section 17(f) (letter enclosed). The OAG notes, “The only “investigation” that is required is that which is necessary to gather the facts needed to satisfy the standards identified” such that it “will not cause unnecessary delay or impede the Commissioner’s ability to act when needed.”

*The commissioner, whenever he finds after investigation that any person is causing, engaging in or maintaining, or is about to cause, engage in or maintain, any condition or activity which, in his judgment, will result in or is likely to result in imminent and substantial damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapters ... 446a... or whenever he finds after investigation that there is a violation of the terms and conditions of a permit issued by him that is in his judgment substantial and continuous and it appears prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can*



*be provided, or whenever he finds after investigation that any person is conducting, has conducted, or is about to conduct an activity which will result in or is likely to result in imminent and substantial damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapters ...446a... for which a license, as defined in section 4-166, is required under the provisions of chapter ...446a... without obtaining such license, may, without prior hearing, issue a cease and desist order in writing to such person to discontinue, abate or alleviate such condition or activity.*

- i. State law authorizes revocation of a license for repeated or continued noncompliance. The authority to revoke a license is not conditioned on a prior administrative or judicial hearing and does provide opportunity for a subsequent hearing or judicial review. The program has authority to seek injunctive relief and refer licensees for criminal prosecution. The program has authority to impose civil monetary penalties.**

C.G.S. Section 22a-6m(a) provides DEEP the authority to modify or revoke a license for repeated or continued non-compliance.

- (a) In exercising any authority to issue, renew, transfer, modify or revoke any permit, registration, certificate or other license under any of the provisions of this title, the Commissioner of Energy and Environmental Protection may consider the record of the applicant for, or holder of, such permit, registration, certificate or other license, the principals, and any parent company or subsidiary, of the applicant or holder, regarding compliance with environmental protection laws of this state, all other states and the federal government. If the commissioner finds that such record evidences a pattern or practice of noncompliance which demonstrates the applicant's unwillingness or inability to achieve and maintain compliance with the terms and conditions of the permit, registration, certificate or other license for which application is being made, or which is held, the commissioner, in accordance with the procedures for exercising any such authority under this title, may (1) include such conditions as he deems necessary in any such permit, registration, certificate or other license, (2) deny any application for the issuance, renewal, modification or transfer of any such permit, registration, certificate or other license, or (3) revoke any such permit, registration, certificate or other license.*

Pursuant to C.G.S. Section 22a-155(a)

*The Commissioner of Energy and Environmental Protection may issue, modify or revoke any order to correct or abate any violation of sections 22a-148 to 22a-158, inclusive, including any license issued pursuant to said sections and any regulation adopted pursuant to said sections. Any such order may include remedial measures that are necessary to correct or abate such violations.*

If issued, “Such order shall be deemed to be issued on the date of service or on the date such order is deposited in the mail.” Parties subject to these orders may, request for a hearing before

the commissioner (C.G.S. 22a-155(b)) or appeal a final order to the superior court for the judicial district of New Britain (C.G.S. 22a-155(d)).

In Connecticut, the Attorney General has authority over civil matters and actions. DEEP may seek injunctive relief pursuant to C.G.S. Section 22a-158b as amended by PA 23-153.

*Action to enjoin act, practice or omission that constitutes violation. (a) Whenever, in the judgment of the Commissioner of Energy and Environmental Protection, any person has engaged in or is about to engage in any act, practice or omission that constitutes, or will constitute, a violation of any provision of this chapter, or any regulation adopted or order issued pursuant to this chapter, the Attorney General may, at the request of the commissioner, bring an action in the superior court for the judicial district of New Britain for an order enjoining such act, practice or omission. Such order may require remedial measures and direct compliance. Upon a showing by the commissioner that such person has engaged in or is about to engage in any such act, practice or omission, the court may issue a permanent or temporary injunction, restraining order or other order, as appropriate.”*

Specific authority to issue cease and desist orders in emergency situations is codified in C.G.S. Sections 22a-158a which invokes authority under 22a-7, Cease and desist orders. Additional clarification was provided by the OAG on how this state law is implemented such that it assures immediate compliance with such order as required by suggested state legislation section 17(f) (See, letter from the Conn. Office of the Attorney General (OAG) dated April 17, 2023, App 4.1-3b) The OAG notes, “The only “investigation” that is required is that which is necessary to gather the facts needed to satisfy the standards identified” such that it “will not cause unnecessary delay or impede the Commissioner’s ability to act when needed.”

*The commissioner, whenever he finds after investigation that any person is causing, engaging in or maintaining, or is about to cause, engage in or maintain, any condition or activity which, in his judgment, will result in or is likely to result in imminent and substantial damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapters ... 446a... or whenever he finds after investigation that there is a violation of the terms and conditions of a permit issued by him that is in his judgment substantial and continuous and it appears prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, or whenever he finds after investigation that any person is conducting, has conducted, or is about to conduct an activity which will result in or is likely to result in imminent and substantial damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapters ...446a... for which a license, as defined in section 4-166, is required under the provisions of chapter ...446a... without obtaining such license, may, without prior hearing, issue a cease and desist order in writing to such person to discontinue, abate or alleviate such condition or activity.*

Actions which the commissioner in consultation with legal counsel determines to be “criminally negligent” would be referred to the Chief States Attorney who has the lead for criminal violations in the state. This authority is provided in C.G.S. Section 22a-158c:

*Criminally negligent violations. Knowingly making false statements. Fines. Imprisonment. Subsequent convictions. (a) Any person who, with criminal negligence, violates any provision of this chapter, including, but not limited to, any regulation, license or order adopted or issued pursuant to this chapter, or who, with criminal negligence, makes any false statement, representation or certification in any application, registration, notification or other document filed or required to be maintained pursuant to this chapter, shall be fined not more than twenty-five thousand dollars per day for each day of violation or be imprisoned not more than one year, or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than two years, or both. (b) Any person who knowingly makes any false statement, representation or certification in any application, registration, notification or other document filed or required to be maintained pursuant to this chapter shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years, or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than ten years, or both.*

C.G.S. Section 22a-6b provides authority to impose civil penalties to achieve or restore compliance. The statute requires that the commissioner establish, “a schedule setting forth the amounts, or the ranges of amounts, or a method for calculating the amount of the civil penalties.” This is accomplished in R.C.S.A. sections 22a-6b-1 through 22a-6b-15, inclusive a copy of which is provided as an attachment in section 4.2 of this application. C.G.S. 22a-6b provides civil penalty authority for the violations of permits (including licenses), regulations, orders, discharge requirements, and cease and desist orders:

*The civil penalties established for each violation shall be of such amount as to insure immediate and continued compliance with applicable laws, regulations, orders and permits. Such civil penalties shall not exceed the following amounts:*

*Such civil penalties shall not exceed the following amounts:*

*(1) For failure to file any registration, other than a registration for a general permit, for failure to file any plan, report or record, or any application for a permit, for failure to obtain any certification, for failure to display any registration, permit or order, or file any other information required pursuant to any provision of ...sections 22a-148 to 22a-162a, inclusive..., or any regulation, order or permit adopted or issued thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than one thousand dollars for said violation and in addition no more than one hundred dollars for each day during which such violation continues*

*(2) For deposit, placement, removal, disposal, discharge or emission of any material or substance or electromagnetic radiation or the causing of, engaging in or maintaining of any condition or activity in violation of any provision of section ... sections 22a-148 to 22a-162a,*

*inclusive... or any regulation, order or permit adopted thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;*

*(3) For violation of the terms of any final order of the commissioner, except final orders under subsection (d) of this section and emergency orders and cease and desist orders as set forth in subdivision (4) of this subsection, for violation of the terms of any permit issued by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;*

*(4) For violation of any emergency order or cease and desist order of the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues*

SA-700 Section 4.1.1.3

The State of Connecticut is not requesting regulatory authority on land ownership and the use of sites used for the disposal of low-level radioactive waste depositories in the State of Connecticut for an indefinite period after the closure of the site.

SA-700 Section 4.1.1.4

The State of Connecticut is not requesting regulatory authority for the requirements of the Uranium Mill Tailings Radiation Control Act of 1978, as amended (UMTRCA).

## **4.1.2 Organization of the Proposed Program**

The section describes the organization of the Connecticut Agreement materials program and provides the basic organizational structure and resources to conduct the program activities. This section demonstrates the ability of the State's program to protect public health and safety against radiation hazards.

### SA-700 Section 4.1.2.1

#### **a. A brief history of radiation control in the State.**

A Radiation Division has existed in Connecticut state government since the 1950's, originally in the Public Health Department and was transferred over to the Department of Environmental Protection during its creation in the early 1970's. The Connecticut Department of Energy and Environmental Protections (DEEP) was established on July 1, 2011 with the consolidation of the Department of Environmental Protection, the Department of Public Utility Control, and energy policy staff from other areas of state government. The environmental protection agency had been established in 1971 at the dawn of the environmental movement, while the public utilities regulatory authority traces its roots back more than 150 years to the state's Railroad Commission. Today, the Division is in the Bureau of Air Management of the DEEP.

Due to Connecticut's rich industrial heritage, numerous manufacturing facilities in the state were involved with radioactive material during the cold war. These included the Connecticut Atomic Nuclear Engineering Laboratory in Middletown (development of atomic airplane), Combustion Engineering (Connecticut's first criticality and nuclear fuel manufacturing) in Windsor, Knolls Atomic Power Laboratory (US Navy training reactor) also in Windsor, United Nuclear/Gulf Atomic nuclear fuel manufacturing in New Haven and later Montville, Electric Boat Corporation and the launching of the first nuclear powered submarine, Nautilus in New London, and the Dorr-Oliver Corporation in Stamford. The Division monitored these sites and was involved in their decommissioning when required.

Connecticut was one of the first states to embrace nuclear power, with Northeast Utilities building and operating Connecticut Yankee and Millstone Unit One to provide power to Connecticut's homes in the late 1960's and early 70's respectively. Northeast Utilities added Millstone Unit Two in 1976 and Unit 3 in 1986. With the introduction of nuclear power in Connecticut, staff of the division began radiological monitoring of the environment of the operating stations and became involved in the Cooperative Work Agreement with the US NRC for environmental monitoring. In this Cooperative work agreement, Division staff, collected

environmental measurements in the vicinity of Millstone and Connecticut Yankee and reported the results to the US NRC annually. The NRC would send a representative to inspect the program and confirm whether the NRC would validate the State's results and reimburse the state for time and material expenses. The Division never failed in its inspections with the NRC and received reimbursement every year until the NRC stopped funding the program. After the NRC stopped funding the program in 1998, the Division continued to run the program independently with funding from the nuclear station owners.

Connecticut has been a member of the New England Radiological Health Compact (NERHC) since its inception in 1969. The NERHC was created by all six of the New England states to meet the staffing needs of their respective radiation control programs in the event of radiological emergency at one of the six planned or operating power reactors in the region as a mutual aid program. Today, only three reactors exist at two sites, but the NERHC continues as a robust organization. All of the other New England states are Agreement States and could be called upon for assistance during Connecticut's Agreement state process.

In the past thirty years, the Division has been intimately involved in the decommissioning activities of several complex sites. This includes the site of the former Connecticut Yankee Atomic Power Station (CY), Knolls Atomic Power Laboratory (KAPL), Combustion Engineering/Asea Brown Boveri (CE/ABB) site, United Nuclear Corporation (UNC), and various non-military radium use site, clock factory sites. The Division's involvement in these projects included a review and comment on all aspects of the decommissioning and performing independent confirmatory measurements. This included taking split samples with the licensee. An agreement was made with NRC Region One management that a shared approach between the NRC and the Division would be taken with regards to split samples with the licensee. This was done in the "Off-Site Material Recovery Project" with the decommissioning of CY, samples at the CY site and samples taken during the Formally Utilized Site Remediation Project (FUSRAP) CE site. During the Off-Site Material Recovery project for the decommissioning of CY, the Division went to over 120 locations in three different states, performing radiological surveys and confirmatory measurements in concert and or independent of NRC Region One Staff. The decommissioning of the CE/ABB site included numerous buildings utilized for both commercial and naval nuclear fuel manufacturing, commercial nuclear power contaminated component refurbishment, research and development, a radioactive waste burial site and the remediation of a contaminated brook. At the UNC site, the Division, based upon independent sampling, insisted that additional site investigation occur. Within the first few days of the additional investigation, quantities of highly enriched U-235 were discovered as well as additional structure contamination.

In 2005, the Division applied for and received a US NRC license, 06-27895-02. Since obtaining the license, this Division has been inspected numerous times by the NRC, all without any

significant issues or findings. In 2011, the Division became aware of contamination at the New England Air Museum (NEAM), due to numerous radium dial aircraft gauges, many of which were leaking. The Division submitted a license amendment, putting the NEAM on our license for the purpose of remediation and establishing NEAM as a general licensee for radium dial gauges. Four large buildings were surveyed and remediated by division staff during these actions at this multi-acre site. All work was performed following the guidance of NUREG 1757 “Consolidated NMSS Decommissioning Guidance” and NUREG 1575 “Multi-Agency Radiation Survey and Site Investigation Manual” (MARSSIM). NEAM was successfully removed from the Division’s license in the summer of 2017. The Division continues to support NEAM by analyzing wipe samples and providing advice to ensure compliance with the requirements of their general license. With the use of our NRC license, the Division currently provides training to state and federal partners such as the FBI, National Guard State Civil Support Team’s, and the Connecticut State Police.

Since the early 1990’s, the Division has been a partner in ensuring compliance with the Mammography Quality Standards Act, performing inspections as contractors of the US Food and Drug Administration (FDA). During this period, there have been no issues with the three Division staff allowed under the contract with the FDA, inspecting over 110 facilities in the state, by contract annually.

The Division has, for decades assisted the Connecticut Department of Public Health in performing inspections at the State’s hospitals and other complex medical facilities for the purposes of Center for Medicare/Medicaid Services compliance and state licensure. This assistance has been in the form of inspecting medical facilities’ use of radiation producing devices and a holistic look at radiation protection programs at these locations.

In addition to performing inspections at medical facilities, the Division performs inspections at other registered users of radiation producing devices for industrial, commercial, and academic uses. Since 2016, the Division has maintained an electronic database of registrants for all users of radioactive material and radiation producing devices.

**b. A description of the current structure of the program.**

The State of Connecticut seeks to enter into an Agreement with the NRC for assuming regulatory authority over byproduct radioactive materials, source materials, special nuclear materials in quantities not sufficient to form a critical mass, and those materials transferred to the NRC by the Energy Policy Act of 2005. This authority will reside in the Connecticut’s Department of Energy and Environmental Protection, Bureau of Air Management. Staff administering the program are



part of the Radiation Division. Essentially all required regulatory elements of the Radioactive Materials Program (RMP) are carried out by the staff within the Radiation Division. The Division works with the Bureau of Air Management Enforcement Division for escalated enforcement actions or the Department’s Legal Counsel and the Office of the Attorney General to seek injunctive relief or pursue impoundment when, in the judgement of the Department, a person has engaged in or is about to engage in any acts or practices in violation of Connecticut’s C.G.S. or sections 22a-153-1 through 22a-153-150, inclusive, of the Regulations of Connecticut State Agencies See Figure 4.1-1 for organizational structure.

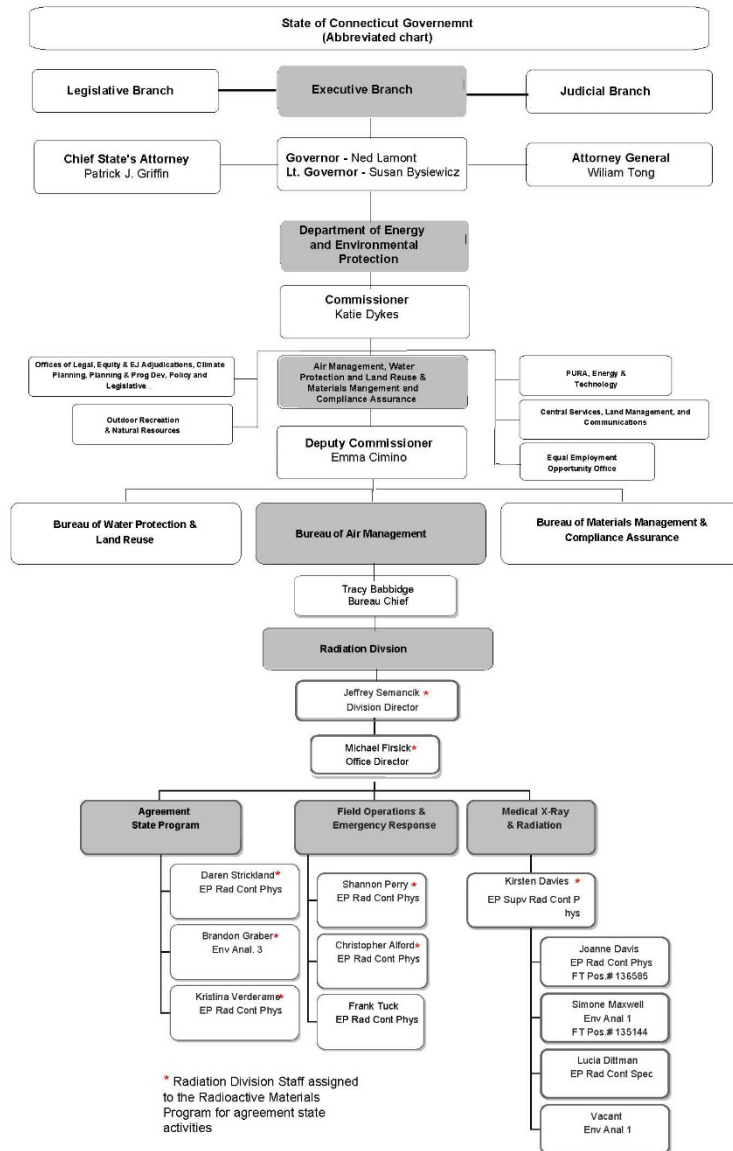


Figure 4.1-1: Agency Organizational Chart

The Connecticut Department of Energy and Environmental Protection (DEEP) is charged with conserving, improving and protecting the natural resources and the environment of the State of Connecticut as well as making cheaper, cleaner and more reliable energy available for the people and businesses of the state. The agency is also committed to playing a positive role in rebuilding Connecticut's economy and creating jobs – and to fostering a sustainable and prosperous economic future for the state.

DEEP has established five strategic goals that guide the work across our programs.

- Goal 1 We are actively addressing climate change by advancing emission reduction strategies that support an affordable, reliable, and clean energy economy, and integrating science-based adaptation and resilience planning into our stewardship of natural resources, state and utility infrastructure and operations, and our efforts to protect public health and safety.
- Goal 2 We are safeguarding, enhancing, and promoting Connecticut's environment and natural resources in order to support our quality of life, stewardship responsibilities, and long-term economic competitiveness.
- Goal 3 We are promoting environmental and energy justice by applying equity, diversity, and inclusion lenses to policy development, program implementation, and workforce development.
- Goal 4 We are prioritizing efficiency, transparency, and predictability in the ways we carry out our regulatory responsibilities.
- Goal 5 We are investing in our staff and championing innovation to continue delivering on our mission during a time of significant anticipated staff attrition.

The Department is organized into the Office of the Commissioner and three Branches.

- The Office of the Commissioner includes the Outdoor Recreation & Natural Resources, PURA (energy & technology), Central Services, Land Management and Communication, Equal Employment Opportunity Office and the Office of Legal, Equity & Environmental Justice. These offices and divisions provide administrative management, staff assistance, and ancillary service to aid the Commissioner and Bureau Chiefs in their efforts to carry out the mission of the agency. In addition, the Bureau of Central Services provides a wide array of services including Information Management, Engineering and Field Support, Financial Management, Human Resource Management and Purchasing.
- The Energy Branch includes the Bureau of Energy and Technology Policy, which develops and implements comprehensive state-wide energy policy, plans, and programs to promote a cleaner, cheaper, more reliable energy future for Connecticut. The Energy Branch also includes the Public Utilities Regulatory Authority (PURA) – formerly the Department of Public Utility Control – which reviews rates for electricity, natural gas, water, cable television and other utilities.
- The Environmental Quality Branch is comprised of the Bureaus of Air Management, Materials Management and Compliance Assurance, and Water Protection and Land

Reuse. These bureaus protect the air, land and water resources of the state by regulating air emissions, wastewater discharges and solid and hazardous wastes. Tools used include the development of regulations, policies and standards; permitting and enforcement; air and water quality monitoring; and public outreach and education.

- The Environmental Conservation Branch consists of two bureaus. The Bureau of Natural Resources is charged with managing the state's natural resources (particularly fish, wildlife, and forests) through a program of regulation, management, research, and public education. The Bureau of Outdoor Recreation is charged with the conservation and management of statewide recreation lands and resources through the acquisition of open space and the management of resources, including state parks, to meet the outdoor recreation needs of the public.

More information about DEEP may be found at its website: <http://portal.ct.gov/DEEP>.

The DEEP Radiation Division sets standards for the safe operation of equipment that produces radiation and for the possession use, storage, transportation, and disposal of radioactive material. The Division inspects facilities that use radioactive material, X-Ray machines and other radiation producing devices and is responsible for responding to reports of accidents and incidents involving radioactive material. The Radiation Division plays a major role implementing the States Radiological Emergency Plan and responds to all transportation, industrial and research facility emergency/incidents involving ionizing radiation. The Division provides radiological expertise to other State Agencies, such as the Connecticut Department of Transportation (DOT) in assessment of the transportation of radioactive material throughout Connecticut. The Division operates from DEEP headquarters in Hartford, CT. There are no regional offices.

Currently the Division has a diverse staff comprised of: One Program Director, one Office Director, one Supervising Radiation Control Physicist, six Radiation Control Physicists, one Radiation Control Specialist and two Environmental Analysts. The Division is in the process of hiring an additional Environmental Analyst. The Division's composite experience is also greatly diversified in radiation protection fields. With over 250 years combined experience, the Division staff's backgrounds include, the US naval nuclear propulsion program, commercial nuclear power, medical, academic, Department of Energy (DOE) facilities, and in other agreement state programs. The Division includes the former Chairperson of the Conference of Radiation Control Program Directors (CRCPD), staff active in numerous CRCPD working groups, the Co-Chair of the Northeast High Level Radioactive Waste Transportation Task Force (DOE sponsored), and a Certified Health Physicist (CHP). The Division Director is the governor's designated NRC State Liaison Officer and a Commissioner on the Atlantic Low Level Radioactive Waste Compact. There is a strong nuclear safety culture, inherent in the Division's actions. The "DEEP Air Bureau Radiation Division Values & Principles" document (*See Appendix 4.1-10*) describes the organization's values including a commitment to a strong safety culture.

The Division is committed to continuous learning and training of staff as demonstrated by participation in numerous training programs including HAZWOPER, FEMA Radiological Emergency Response Operations (RERO), DOE Radiation Specialist Training, Radiological Assessment System for Consequence Analysis (RASCAL), Radiological Accident Assessments Concepts Course (RACC), annual NERHC training and exercises, and FEMA's Center For Homeland and Domestic Security Radiological Emergency Preparedness Executive and Early Career programs.

The Radiation Division also engages with the Connecticut Department of Public Health for radiological health protection issues. This includes assisting the Environmental Health Radon Program and the Public Health Laboratory. The Public Health Lab staff are well trained, and proficiency tested for numerous radiochemistry analytical techniques with decades of experience analyzing thousands of environmental surveillance samples from around Millstone Nuclear Power Station and the shutdown Connecticut Yankee Nuclear Power Station. Analyzed samples have been from air, drinking water, surface water, soil, sediments, milk, natural vegetation, fish, packaged foods, and animal feeds. The Public Health Lab radiochemistry capabilities have been very useful for a variety of radiological incidents.

The Radiation Division also engages with other Departments and Agencies of Connecticut government in radiation protection work. This includes the Connecticut Division of Emergency Management and Homeland Security (DEMHS) within the Department of Emergency Services and Public Protection (DESPP) for radiological emergency preparedness and the preventive radiological nuclear detection program, the DOT for permitting and transportation of shipments containing radioactive materials, as well as the Department of Agriculture and Department of Consumer Protection for radiological impacts on the environment and food.

The Division is engaged in emergency response exercises and drills. Connecticut has two operating reactors at one site, and therefore has one federally evaluated exercise every two years. During all of these evaluations, the Division has received the highest marks from federal evaluators and is exemplified as a top state radiological emergency response organization by the Federal Emergency Management Agency (FEMA). Indeed today, the Division boasts three FEMA Radiological Operations Support Specialists. This includes one type One, one type Two and one type Three. In addition to participating in emergency response exercises with Millstone Nuclear Power Station, the Division continues to be involved with Connecticut Yankee Interim Spent Fuel Storage Installation, SUBASE New London Electric Boat Shipyard, and regional NERHC radiological emergency response activities. The Division maintains a minimum of three staff on-call 24/7 to respond to radiological emergencies. On-call personnel are notified by DEEP's full-time Emergency Dispatch Center. Each on-call staff member is equipped with an emergency response vehicle, which they home garage, a variety of radiation detection instruments and appropriate personnel protective equipment. This allows staff the ability to immediately respond to radiological incidents, such as lost, discovered, abandoned or stolen

radioactive material. The Division responds to over fifty real radiological incidents per year, including a 220 milli-Curie Ra-226 source discovered on a citizen's front porch.

For the purposes of radiological emergency response, license compliance, and inspections, the Division owns, operates, and maintains over three hundred radiation-detecting devices. The Division is equipped with significant resources for routine and non-routine radiation protection activity. This includes a large number of handheld instruments and assorted probes, portable gamma ray spectroscopy instruments, fixed gamma detectors, and laboratory equipment as well as emergency response supplies and emergency response vehicles. An instrument inventory is found as an appendix to section 4.4.

Connecticut is a founding member of the New England Radiological Health Compact which is defined in statute. (*See* C.G.S. Sections 22a-159 and 22a-160.) The other members are the radiation control programs from Vermont, Maine, Massachusetts, New Hampshire, and Rhode Island. Copies of the Compact and the enabling statute for Connecticut are found in Appendices 4.1-1 and 4.1-9, respectively. The Compact is primarily for radiological or nuclear emergencies but has been activated for non-emergency aid to member states, including for temporary staff support when vacancies exist in other member state radioactive materials or radiation machine programs. Members of the compact have met annually for 47 years in conferences that allow discussion of radioactive materials and other issues of mutual interest.

**c. Individual discussions of each of the program elements in Section 4 of *SA-700 Handbook for Processing an Agreement Procedure*.**

**Legal Elements of the Agreement State Radioactive Materials Program.**

The Agreement State Radioactive Materials Program (RMP) is founded in statute described in the Connecticut General Statutes (C.G.S.) Title 16a: Planning and Energy Policy, Chapter 293a Atomic Energy, and Title 22a Environmental Protection Chapter 446a Radiation and Radioactive Materials. These are referred to as C.G.S. sections 16a-100 through 16a-108 and C.G.S. sections 22a-148 through 22a-165h. The statutes designate the Connecticut Department of Energy and Environmental Protection as the radiation control agency and, among other duties, provides radioactive materials licensing, inspection, and regulatory compliance enforcement authority to the Department. Other statutory authorities associated with powers of the Commissioner are founded in C.G.S. Title 22a Environmental Protection, Chapter 439 Department of Energy and Environmental Protection. State Policy referred to as C.G.S. Sections 22a-1 through 22a-27w. Public Act No. 23-153 made statutory changes to Chapters 293a, 439, and 446a. While these changes are effective, they have not yet been codified. In accordance with C.G.S. Sections 4-166 to 4-189, Connecticut's Uniform Administrative Procedures Act, the Department makes rules to regulate radioactive materials licensees. All the statutory information needed to address the evaluation criteria in a-700 *Handbook for Processing an Agreement* is provided in Section 4.1.1

of this application. A copy of these statutes (as codified January 1, 2023) and Public Act No 23-153 are included as appendices to this section.

The Department has chosen to incorporate parts of Title 10 Chapter I of the Code of Federal Regulations (10 CFR) by reference, rather than create separate compatible rules. A complete copy of sections 22a-153-1 through 22a-153-150, inclusive, of the R.C.S.A. is attached as Appendix 4.2-1. Parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 61, 70, 71, 150, 170 and 171 of the CFR are incorporated by reference except for those sections reserved to the NRC and those otherwise listed (such as some compatibility C sections where the state requirements are more restrictive and some compatibility D sections).

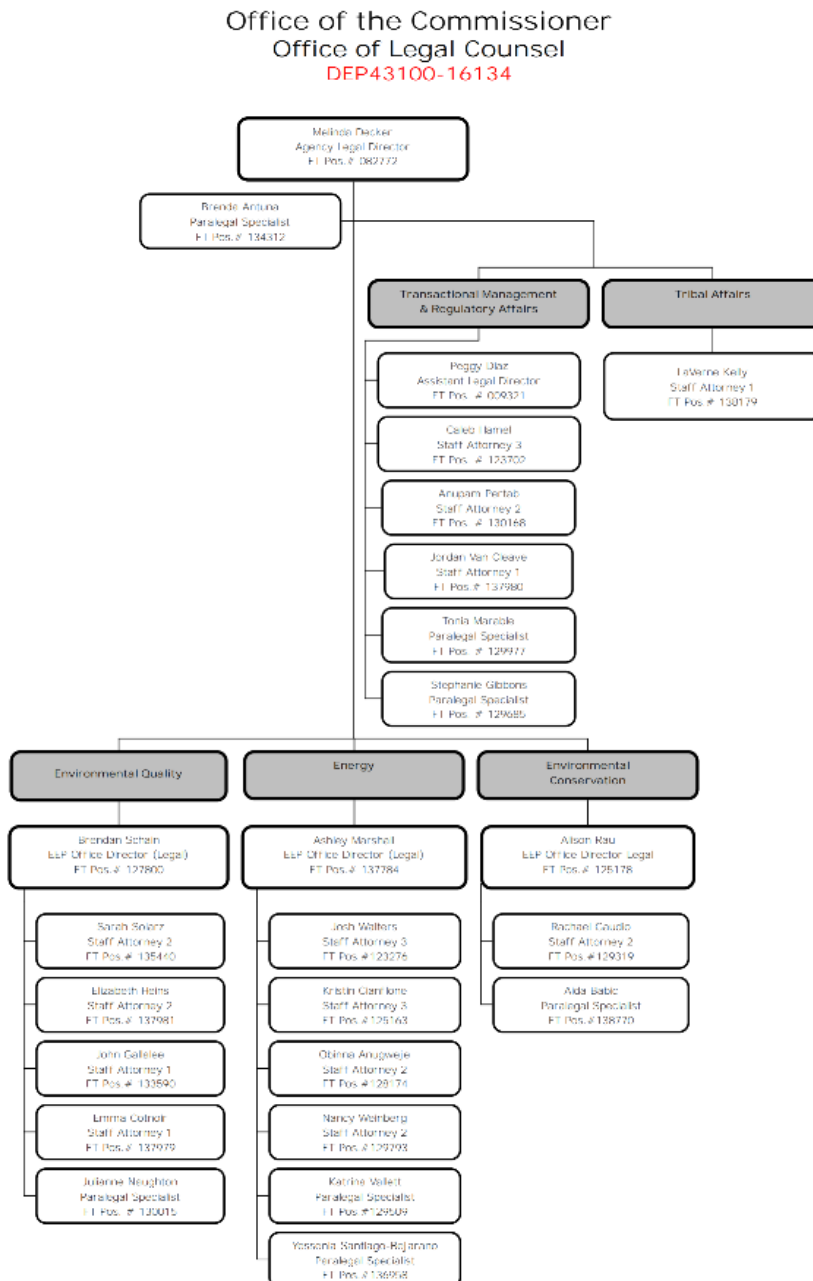
R.C.S.A. Sections 22a-153-1 provides incorporation by reference and reconciliation NRC Title 10. R.C.S.A. Sections 22a-153-2 through 22a-153-20 provide general regulatory requirements for use of radioactive materials. R.C.S.A. Sections 22a-153-30 through 22a-153-150 are regulations for specific uses of radioactive material. C.G.S. Section 4-170(b)(4) allows the state agencies to adopt regulations, *“that by reference specifically incorporates future amendments to such federal statute or regulation.”* By incorporating future amendments to Title 10 federal regulations, the State will be better able to maintain NRC compatibility requirements.

Table 4.1-1  
Sections of the Radioactive Materials

R.C.S.A. Part A Overview

|             |  |
|-------------|--|
| 22a-153-1   | Radioactive Material   |
| 22a-153-2   | Compliance Monitoring  |
| 22a-153-3   | Prohibition, Restrictions, and Additional Requirements   |
| 22a-153-4   | Exemptions   |
| 22a-153-5   | Enforcement  |
| 22a-153-6   | Fees   |
| 22a-153-7   | Other Radioactive Material   |
| 22a-153-20  | Standards for Protection Against Radiation   |
| 22a-153-30  | Rules of General Applicability to Radioactive Material   |
| 22a-153-31  | General Licenses for Radioactive Material  |
| 22a-153-34  | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations |
| 22a-153-35  | Medical Use of Byproduct Material  |
| 22a-153-150 | Reciprocal Recognition of License  |

Legal elements of the RMP are understood by the staff of the Radiation Division for administrative and operational purposes. When legal assistance is needed, for example with revising statutes or regulations, or for routine or escalated enforcement actions, the DEEP Office of Legal Counsel may provide official policy and legal advice. The Office is shown in Figure 4.1-2.



**Figure 4.1-2: DEEP Office of Legal Counsel from DEEP Intranet**



In Connecticut the Attorney General exercises only civil jurisdiction. The Office of the Attorney General brings lawsuits in the civil courts and defends the State when it is sued. With very few limited exceptions the Attorney General has no jurisdiction whatsoever over criminal matters and no authority to prosecute criminal violations of the law. The state Constitution places the sole responsibility for the prosecution of all criminal matters with the Division of Criminal Justice, i.e., the Chief State's Attorney and the thirteen State's Attorneys. The Chief State's Attorney, may, however, as he deems appropriate, designate the Attorney General to handle specific criminal cases on a case-by-case basis. This occurs only under very limited circumstances.

The Division of Transactional Management & Regulatory Affairs assists primarily with rulemaking, while the Environmental Quality attorneys provide legal counsel to staff, conduct legal review and interface with the Office of the Attorney General (OAG) for interpretations of state law and civil actions. If necessary, the Environmental Quality legal staff would work with the OAG and Radiation Division staff to refer significant and willful violations to the Chief State's Attorney Office as a criminal referral. The Office of Legal Counsel can assist in the legal matters that arise between Department staff and programs and other state agencies, local agencies, federal agencies, business entities, and the public.

For the Agreement State application process, DEEP's Office of Legal Counsel and the OAG have worked with Radiation Division staff in revising Connecticut Statute to ensure there exists authority to enter into an Agreement, creating the Radioactive Materials regulations to ensure compatibility with NRC regulations and to meet the requirements of Connecticut's Uniform Administrative Procedures Act (C.G.S. Chapter 54, Sections 4-166 through 4-189), and reviewed this Request for an Agreement. The Radiation Control Program Director has direct access to DEEP's Office of Legal Counsel Directors for the Transactional Management & Regulatory Affairs and Environmental Quality Divisions and the staff of attorneys.

- d. For each program element, cross references to the pertinent portions of the state’s supporting documentation for the application.

Table 4.1-2 provides a cross-reference from each of the elements in the SA-700 Handbook for Processing an Agreement to Connecticut references.

**Table 4.1-2**  
**Cross Reference of Program Elements 4.1 Through 4.7 to Connecticut and NRC References**

| Section | Program Element      | Information from Connecticut  | Criteria Number   | References  |
|---------|----------------------|---|---|---|
| 4.1     | Legal Elements       |   |   |   |
| 4.1.1   | Statutory Authority  | Connecticut General Statutes<br>Title 16a Chapter 298a Atomic Energy (§§16a-100 through 16a-108)<br>Title 22a Environmental Protection Chapter 439 Department of Energy and Environmental Protection. State Policy (§§22a-1 through 22a-2w)<br>Title 22a Environmental Protection Chapter 446a Radiation and Radioactive Materials (§§22a-148 through 22a-165h) | 1, 2, 9b, 12, 13, 14, 17, 19, 21, 23, 24, 25, 27, 28, 29, 30, and 31. | Criteria Policy Statement;<br>Suggested State Legislation;<br>Statement of Principles and Policy for the Agreement State Program. |
| 4.1.2   | Program Organization | Application text in Section 4.1.2.  | 1, 24, and 33.  | Criteria Policy Statement;<br>Program descriptions of existing Agreement States from IMPEP reports; MD 5.9; SA-200.               |
| 4.1.3   | Content of Agreement | Application text in Section 4.1.3, including Proposed Agreement.  | 27.   | Criteria Policy Statement MD 5.8.   |

|       |  |   |                                      |   |
|-------|--|---|--------------------------------------|---|
| 4.2   | Regulatory Requirements Program Elements |   |                                      |   |
| 4.2.1 | Radiation Protection Elements            | Incorporation of 10 CFR 20 by reference with exceptions and R.C.S.A. §§22a-153-1 through 22a-153-150, inclusive   | 2, 3, 4, 5, 6, 9a, 11, 22, and 23.   | Criteria Policy Statement MD 5.9; SA-200; 10 CFR Parts 20, 30, 32, 34, 35, 37, 40, 70, and 150; CRCPD SSRs.                         |
| 4.2.2 | Transboundary Requirements               | Incorporation of 10 CFR 20 by reference with exceptions and R.C.S.A. §§22a-153-1 through 22a-153-150, inclusive.  | 9(a) and (b), 10, and 23.            | Criteria Policy Statement; MD 5.9; SA-200 Appendix A; 10 CFR Parts 19, 20, 30, 31, 32, 34, 35, 36, 37, 39, 40, 61, 70, 71, and 150. |
| 4.2.3 | Orderly Pattern of Regulation            | Incorporation of 10 CFR 20 by reference with exceptions and R.C.S.A. §§22a-153-1 through 22a-153-150, inclusive   | 1, 7, 8, 11, 23, and 32              | Criteria Policy Statement; MD 5.6; 10 CFR Parts 19, 20, 30, 31, 34, 35, 36, 39, 40, 61, 70, 71, and 150.                            |
| 4.2.4 | Health and Safety Significance           | Incorporation of 10 CFR 20 by reference with exceptions and R.C.S.A. §§22a-153-1 through 22a-153-150, inclusive.  | 1, 7, 8, 11, 23, and 32              | Criteria Policy Statement; MD 5.6; 10 CFR Parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 61, 70, 71, and 150.                |
| 4.3   | Licensing Program Elements               |   |                                      |   |
| 4.3.1 | Materials Licensing                      | RPC 900.1 <i>Review of Initial Application for License or an Amendment Request.</i><br>RPC 900.2 <i>Renewal of Licenses,</i> RPC 900.3 <i>License Termination/Revocation,</i><br>RPC 900.4 <i>NRC</i> | 1, 7, 8, 9a, 13, 14, 15, 20, and 23. | Criteria Policy Statement; MD 5.6; SA-104; NUREG-1556 series; NUREG-1757; NUREG-1575 (MARSSIM).                                     |

|       |   |   |                                 |   |
|-------|---|---|---------------------------------|---|
|       |   | <i>Licenses Affected by Agreement States, and RPC 900.5 Renewal Notices, Receipt and Tracking of Licensing Actions.</i> The Department is incorporating by reference specific licensing procedures and licensing guidance of the NRC including the NUREG 1556 Series. |                                 |   |
| 4.3.2 | Sealed Source & Device Safety Evaluations | N/A   | 13 and 23.                      | Criteria Policy Statement; NUREG-1556, Volume 3; MD 5.6.  |
| 4.3.3 | Low-Level Waste Site Licensing            | N/A   | 9b and 13.                      | Criteria Policy Statement; NUREG-1199; NUREG 1200; NUREG-1300; NUREG-1274; MD 5.6; SA-109.            |
| 4.3.4 | Uranium or Thorium Mill Licensing         | N/A   | 29, 30, 31, 32, 33, 34, and 35. | Criteria Policy Statement; Uranium Recovery Regulations, Guidance and Communications; MD 5.6; SA-110. |
| 4.3.5 | Licensing Quality Assurance               | RPC 900.1 <i>Review of Initial Application for License or an Amendment Request.</i><br>RPC 900.2 <i>Renewal of Licenses,</i> RPC 900.3 <i>License Termination/Revocation,</i><br>RPC 900.4 <i>NRC Licenses Affected by</i>  | 1 and 13.                       | Criteria Policy Statement; MD 5.6; SA-104.  |

|       |                                     |   |                    |                               |
|-------|-------------------------------------|---|--------------------|-------------------------------|
|       |                                     | <i>Agreement States, and RPC 900.5 Renewal Notices, Receipt and Tracking of Licensing Actions.</i> The Department is incorporating by reference specific licensing procedures and licensing guidance of the NRC including the NUREG 1556 Series.  |                    |                               |
| 4.3.6 | Licensing Administrative Procedures | RPC 900.1 <i>Review of Initial Application for License or an Amendment Request.</i> RPC 900.2 <i>Renewal of Licenses,</i> RPC 900.3 <i>License Termination/Revocation,</i> RPC 900.4 <i>NRC Licenses Affected by Agreement States,</i> and RPC 900.5 <i>Renewal Notices, Receipt and Tracking of Licensing Actions.</i> The Department is incorporating by reference specific licensing procedures and licensing guidance of the NRC including the NUREG 1556 Series. Described in Section 4.3 of the Application to Become an NRC Agreement State. | 1, 13, and 25.     | Criteria Policy Statement.    |
| 4.4   | Inspection Program                  |   |                    |                               |
| 4.4.1 | Inspection Procedures               | RPC 901.1 <i>Scheduling of Inspections,</i> RPC   | 1, 16, 18, and 36. | Criteria Policy Statement; MD |

|       |                               |  |           |   |
|-------|-------------------------------|--|-----------|---|
|       |                               | <p>901.2 <i>Inspection Preparations</i>, RPC<br/> 901.3 <i>Performance-Based Inspections</i>, RPC<br/> 901.4 <i>Documentation of Inspection Results</i>, RPC<br/> 901.5 <i>Assuring the Technical Quality of Inspections</i> and RPC<br/> 901.6 <i>Tracking Inspections</i>. The Department is incorporating by reference specific inspection procedures and guidance of the NRC including Inspection Manual Chapter 2800. Described in Section 4.4 of the Application to Become an NRC Agreement State.</p> |           | <p>5.6; SA-101; SA-102; IMC 1220; IMC 2800; IMC 2801; NRC Inspection Procedures in the IP 8XXXX series.</p> |
| 4.4.2 | Inspections Quality Assurance | <p>RPC 901.1 <i>Scheduling of Inspections</i>, RPC<br/> 901.2 <i>Inspection Preparations</i>, RPC<br/> 901.3 <i>Performance-Based Inspections</i>, RPC<br/> 901.4 <i>Documentation of Inspection Results</i>, RPC<br/> 901.5 <i>Assuring the Technical Quality of Inspections</i> and RPC<br/> 901.6 <i>Tracking Inspections</i>. The Department is incorporating by reference specific inspection procedures and guidance of the NRC including Inspection Manual</p>  | 1 and 16. | <p>Criteria Policy Statement; MD 5.6; SA-102; IMC 2800; IMC 2801.</p>                                       |

|       |                                       |  |                 |  |
|-------|---------------------------------------|--|-----------------|--|
|       |                                       | Chapter 2800. Described in Section 4.4 of the Application to Become an NRC Agreement State.  |                 |  |
| 4.4.3 | Inspections Administrative Procedures | RPC 901.1 <i>Scheduling of Inspections</i> , RPC 901.2 <i>Inspection Preparations</i> , RPC 901.3 <i>Performance-Based Inspections</i> , RPC 901.4 <i>Documentation of Inspection Results</i> , RPC 901.5 <i>Assuring the Technical Quality of Inspections</i> and RPC 901.6 <i>Tracking Inspections</i> . The Department is incorporating by reference specific inspection procedures and guidance of the NRC including Inspection Manual Chapter 2800. Described in Section 4.4 of the Application to Become an NRC Agreement State. | 1.              | Criteria Policy Statement; IMC 2800; IMC 2801.                         |
| 4.5   | Enforcement Program                   |  |                 |  |
| 4.5.1 | Routine Enforcement Procedures        | RPC 902.1 <i>Enforcement, Escalated Enforcement and Administrative Actions</i> . Described in Section 4.5 of the Application to Become an NRC Agreement State.   | 18, 19, and 23. | Criteria Policy Statement; NRC Enforcement Policy; IMC 2800; IMC 2801. |

|       |  |   |                 |   |
|-------|--|---|-----------------|---|
| 4.5.2 | Escalated Enforcement Procedures       | RPC 902.1 <i>Enforcement, Escalated Enforcement and Administrative Actions.</i> Described in Section 4.5 of the Application to Become an NRC Agreement State                                    | 18, 19, and 23. | Criteria Policy Statement; NRC Enforcement Policy; IMC 2800; IMC 2801.  |
| 4.6   | Technical Staff                        |   |                 |   |
| 4.6.1 | Technical Staff Organization           | RPC 903.1 <i>Qualifications and Training.</i> Described in Section 4.6 of the Application to Become an NRC Agreement State.   | 20 and 34.      | Criteria Policy Statement; MD 5.6; SA-103   |
| 4.6.2 | Formal Qualification Plan              | RPC 903.1 <i>Qualifications and Training.</i> Described in Section 4.6 of the Application to Become an NRC Agreement State  | 2, 20, and 34.  | Criteria Policy Statement; MD 5.6; IMC 1248; NRC/OAS Training Work Group “Recommendations for Agreement State Training Programs”. |
| 4.6.3 | Current Technical Staff Qualifications | Described in Section 4.6 of the Application to become an NRC Agreement State. Staff resumes are in an appendix along with matrix of NRC training course completion and/or qualification letter. | 20 and 34.      | Criteria Policy Statement; MD 5.6; IMC 1248.  |
| 4.7   | Event & Allegation                     |   |                 |   |
| 4.7.1 | Event & Allegation Response Procedures | RPC 904.1, <i>Management of Allegations</i> , RPC 904.2 <i>Incident Response</i> , RPC  | 1 and 11.       | Criteria Policy Statement; MD 5.6; MD 8.8; IMC 1301; IMC 1302;  |



|       |                            |   |           |   |
|-------|----------------------------|---|-----------|---|
|       |                            | 403 <i>Responding to Incident at a Solid Waste and Metal Recycling Facility Equipped with Radiation Monitoring System</i> . Described in Section 4.7.1 of the Application to Become an NRC Agreement State. |           | IMC 1303; IMC 1330; SA-105; SA-300; SA-400. |
| 4.7.2 | Event Reporting Procedures | RPC 904.3 <i>Nuclear Materials Event Database (NMED)</i> . Described in Section 4.7.2 of the Application to Become an NRC Agreement State.  | 1 and 11. | Criteria Policy Statement; SA-300.          |

### **4.1.3**      *Content of the Proposed Agreement*

Connecticut is applying for a limited Agreement transferring to the State the authority to regulate byproduct materials as defined in section 11e.(1) of the Atomic Energy Act (AEA); byproduct materials as defined in section 11e.(3) of the AEA; byproduct materials as defined in section 11e.(4) of the AEA; source materials; and special nuclear materials, in quantities not sufficient to form a critical mass. The proposed Agreement follows below, and is formatted in accordance with, and with the content from, the Exhibit in NRC Management Directive 5.8.

Connecticut is not applying for an Agreement transferring to the State authority to regulate byproduct materials as defined in section 11e.(2) of the AEA; for the regulation of the land disposal of byproduct, source, or special nuclear waste received from other persons; or for the evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided in the regulations or orders of the Commission.

#### **The State of Connecticut is requesting regulatory authority for Section 11e.(1) of the AEA.**

Byproduct material as defined in section 11e.(1) of the AEA includes “any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.”

#### **The State of Connecticut is requesting regulatory authority for Section 11e.(3) of the AEA.**

Byproduct material as defined in section 11e.(3) of the AEA includes “any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or. . . any material that (i) has been made radioactive by use of a particle accelerator; and (ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of [the EPAct] for use for a commercial, medical, or research activity.”

#### **The State of Connecticut is requesting regulatory authority for Section 11e.(4) of the AEA.**

Section 11e.(4) provides that the term “byproduct material” includes “any discrete source of naturally occurring radioactive material, other than source material, that – (A) the Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Department of Energy, the Secretary of the Department of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and (B) before, on, or after August 8, 2005 is extracted or converted after extraction for use in a commercial, medical, or research activity.”

#### **The State of Connecticut is requesting regulatory authority for source material, and special nuclear material in quantities not sufficient to form a critical mass.**

**AN AGREEMENT  
BETWEEN  
THE UNITED STATES NUCLEAR REGULATORY COMMISSION  
AND  
THE STATE OF CONNECTICUT  
FOR THE  
DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY  
AND  
RESPONSIBILITY WITHIN THE STATE OF CONNECTICUT PURSUANT TO  
SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED**

***WHEREAS***, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 et seq. (hereinafter referred to as the Act), to enter into an agreement with the Governor of the State of Connecticut (hereinafter referred to as the State) providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct material as defined in Sections 11e.(1), 11e.(2), 11e.(3), and 11e.(4) of the Act, source material, and special nuclear material in quantities not sufficient to form a critical mass; and

***WHEREAS***, The Governor of the State is authorized under C.G.S § 3-1 and more specifically under C.G.S. § 22a-152 to enter into this Agreement with the Commission; and

***WHEREAS***, The Governor of the State certified on [DATE] that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

***WHEREAS***, The Commission found on [DATE] that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and

***WHEREAS***, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuming that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

***WHEREAS***, The Commission and the State recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and

***WHEREAS***, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

***NOW, THEREFORE***, it is hereby agreed between the Commission and the Governor of Connecticut acting on behalf of the State as follows:

### **ARTICLE 1**

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

- A. Byproduct material as defined in Section 11e.(1) of the Act;
- B. Byproduct material as defined in Section 11e.(3) of the Act;
- C. Byproduct material as defined in Section 11e.(4) of the Act;
- D. Source material;
- E. Special nuclear material, in quantities not sufficient to form a critical mass.

### **ARTICLE II**

This Agreement does not provide for discontinuance of any authority, and the Commission shall retain authority and responsibility with respect to:

1. The regulation of the construction, operation, and decommissioning of any production or utilization facility or any uranium enrichment facility;
2. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or any production or utilization facility;
3. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear material waste as defined in the regulations or orders of the Commission;
4. The regulation of the disposal of such other byproduct material as the Commission from time to time determines by regulation or order should, because of the hazards thereof, not to be disposed without a license from the Commission;
5. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear material and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission;
6. The regulation of activities not exempt from Commission regulation as stated in 10 CFR Part 150;
7. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material;
8. The regulation of the land disposal of byproduct, source, or special nuclear waste materials received from other persons.

### **ARTICLE III**

With the exception of those activities identified in Article II, paragraphs one through four and six, this Agreement may be amended, upon application by the State and approval by the Commission, to include the additional areas specified in Article II, paragraphs five, seven, and eight, whereby the State can exert regulatory authority and responsibility with respect to those activities and materials.

### **ARTICLE IV**

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

### **ARTICLE V**

This Agreement shall not affect the authority of the Commission under Section 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

### **ARTICLE VI**

The Commission shall cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for: (a) protection against hazards of radiation; and (b) to assure that Commission and State programs for protection against hazards of radiation are coordinated and compatible.

The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for: (a) protection against hazards of radiation; and (b) to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and the licensee performance that may have generic implications or otherwise be of regulatory interest.

### **ARTICLE VII**

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed on Article I licensed by the other party or by any other Agreement State.

Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which reciprocity shall be accorded.

### ARTICLE VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of Connecticut, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act, if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j of the Act, temporarily suspend all or part of this Agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act, which requires a State program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

### ARTICLE IX

This Agreement shall become effective on [date] and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Executed in Rockville, Maryland this [date] day of [month], [year].

FOR THE UNITED STATES NUCLEAR  
REGULATORY COMMISSION (NRC)

\_\_\_\_\_  
[Name]  
Chairman for the NRC

Executed in Hartford, Connecticut this [date] day of [month], [year].

FOR THE STATE OF CONNECTICUT

\_\_\_\_\_  
Edward Miner Lamont, Jr.  
(aka Ned Lamont)  
Governor of the State of Connecticut