4.5 Enforcement Program Elements

This section of the application addresses how the Department will respond to routine and escalated enforcement actions. The Department enforcement procedure utilizes Connecticut's existing statutory authority for routine and escalated enforcement actions. Additionally, the procedure is modeled after the NRC Enforcement Manual NUREG-1600 and the NRC Enforcement Policy to help assure compatibility between Connecticut's Agreement Program and the NRC.

Consistent with Connecticut statutory authorities, escalated enforcement involving criminal or civil prosecution is handled through two different pathways. After consultation with the Department legal counsel, criminal cases are referred to the Chief State's Attorney and civil cases are referred to the Attorney General's Office for prosecution.

Guidance for the administration of both routine and escalated enforcement by the program is found in a one procedure, RCP 902.1 *Enforcement, Escalated Enforcement, and Administrative Actions*. RCP 902.1 is attached to this section of the application.

4.5.1 Routine Enforcement Procedures

SA-700 Section 4.5.1.1

RCP 902.1 *Enforcement, Escalated Enforcement and Administrative Actions* describes how the Department will enforce its regulations. Because RCP 902.1 *Enforcement, Escalated Enforcement and Administrative Actions* describes both routine and escalated enforcement procedures, it is attached once to this application section.

SA-700 Section 4.5.1.2

1. This procedure is designed to be a fair and impartial administration of regulatory law. Connecticut uses a risk-based approach to scale enforcement actions to the seriousness of the violation.
2. Connecticut has established standard methods of communicating sanctions to the licensee. In particular, Connecticut gives written notice using standardized wording and formats in the form of a 'Notice of Warning' for minor violations and a 'Notice of Violation' for non-escalated enforcement violations that are not serious in nature or repetitive. The Department's legal counsel shall review the wording and format of these notices.
3. Routine enforcement actions are tracked via department case management software (IBM Case Management (ICM)©, State of Connecticut Department of Energy and Environmental Protection Site Information Management System (SIMS) or equivalent).

4.5.2 Escalated Enforcement Procedures

SA-700 Section 4.5.2.1

Escalated enforcement protocols are proceduralized in RCP 902.1 *Enforcement, Escalated Enforcement and Administrative Actions.* The procedure is attached to this section of the application.

RCSA Section 22a-6b, Imposition of civil penalties by the commissioner, provides guidance for the disposition of escalated enforcement violations as categorized within RCSA 22a-6b-8 Tables 4A and 4B.for Very High, High, and Moderate categories of harm which generally correspond to NRC Severity Levels I, II, and III, respectively. The Low category of harm in Table 4B does not correspond to NRC Severity Level IV but, rather, refers to specific administrative violations subject to civil penalty pursuant to CGS Section 22a-6b (1) for failures to register or report as required. Since NRC Severity Level IV violations do not have a civil penalty, corresponding violations in Connecticut are not subject to section 22a-6b civil penalty regulations. These violations are considered non-escalated under Connecticut's risk informed enforcement structure and enforcement is dispositioned through written Notices of Violation (cited) or Notices of Warning (non-cited), as appropriate. Minor (non-cited) violations are those defined by CGS Section 22a-6s which prescribes very specific criteria for classification, consideration, and disposition through written Notices of Warning. RCP 902.1 provides the guidance to assist staff in determining the appropriate enforcement actions consistent with state law and associated regulations and policies.

SA-700 Section 4.5.2.2

1. Escalated enforcement procedures are designed for serious or repeated violations of regulatory requirements. As with routine enforcement actions, escalated enforcement actions are risk informed and scaled to the actual or potential seriousness of the violation. Escalated enforcement actions are more severe than those used in routine enforcement reflecting the higher risk of the violations or ineffectiveness of routine enforcement actions to achieve compliance. The program will use the escalated enforcement actions to supplement routine enforcement actions. Escalated enforcement actions include, but are not limited to the following:
    - Administrative or civil monetary penalties;
    - Modification, suspension or revocation of the license; and
    - Referral for criminal / civil prosecution through appropriate channels.
2. The licensee is notified of the escalated enforcement actions in writing using standard wording and format.
3. Escalated enforcement is administered through the Department's Air Bureau Enforcement Division and approved by the Commissioner as delegated to the Deputy Commissioner for Environmental Quality.
4. Escalated enforcement actions are coordinated with the Department legal counsel.