

## **RESPONSE TO PUBLIC COMMENTS**

### **GENERAL PERMIT FOR THE DISCHARGE OF WASTEWATERS FROM CATEGORICAL INDUSTRIAL USERS TO A PUBLICLY OWNED TREATMENT WORKS (POTW)**

On December 9, 2011, the Department of Energy and Environmental Protection (Department) published notice of its tentative determination to issue the proposed General Permit for the Discharge of Wastewaters from Categorical Industrial Users to a Publicly Owned Treatment Works (POTW) (“Categorical General Permit”). The notice was published in the Connecticut Post, Hartford Courant, New Haven Register, New London Day, Norwich Bulletin, and the Waterbury Republican American. The notice, proposed Categorical General Permit and Fact Sheet were concurrently posted on the Department’s website.

The notice also announced an informational meeting regarding the Categorical General Permit, which was held on January 4, 2012 at the Department’s offices located at 79 Elm Street, Hartford, CT.

The notice provided a sixty (60) day comment period for the public to comment on the proposed Categorical General Permit, which ended on February 9, 2012.

The Department’s responses to comments received during the comment period are provided below:

#### **A. Justin Pimpare, Pretreatment Coordinator, Region 1 United States Environmental Protection Agency (EPA), February 9, 2012 email**

***Comment 1:** It is not clear as to what authority the State has to issue a general permit. EPA requests a legal analysis on the State’s authority to issue general permits.*

**Response 1:** The Categorical General Permit is proposed to be issued under the same underlying legal authority to issue other wastewater discharge general permits. This is the same legal authority under which Connecticut was approved by EPA to implement the National Pollutant Discharge Elimination System (NPDES) Stormwater Program. The authority to issue general permits exists in the Connecticut General Statutes (CGS). Several key sections of the statutes are described below:

Section 22a-6 of the CGS (General Powers):

This statute provides general authority to the commissioner to, among other things, establish environmental standards, regulations and fees, make contracts and studies, as well as issue permits and orders.

Section 22a-424 of the CGS (General Powers):

This statute provides additional powers and duties to the commissioner, including but not limited to the ability to: 1) Develop comprehensive programs for the prevention, control and abatement of new or existing pollution of the waters of the state; and 2) to issue, continue in effect, revoke, transfer, modify or deny permits for the discharge of any water, substance or material into the waters of the state.

Section 22a-430 of the CGS (Permits for Discharges):

This statute establishes the authority to issue and require permits for the discharge of any water, substance or material into the waters of the state.

Section 22a-430b of the CGS (General Permits):

This statute provides the commissioner the authority to issue a general permit for a category or categories of discharges regulated pursuant to section 22a-430 of the CGS. It states that such general permits shall: (1) Describe the category of discharge; (2) specify the manner, nature and volume of discharge; (3) require proper operation and maintenance of any pollution abatement facility; (4) be subject to such other requirements and restrictions as the commissioner deems necessary to fully comply with the purposes of this chapter, the federal Water Pollution Control Act and the federal Safe Drinking Water Act.

For these reasons, the Department is not making any revisions to the Categorical General Permit in response to this comment.

**Comment 2:** *The Categorical General Permit contains language that is in direct conflict with its own State Regulations and is not consistent with the federal pretreatment regulations, specifically, the following:*

*(a) Definition for Significant Noncompliance (SNC).*

**Response 2(a):** Although the differences were not explicitly provided in Mr. Pimpare's comments, staff compared the federal definition for SNC with that provided in the Categorical General Permit. To assure consistency, the federal definition for SNC was

reviewed and compared to the definition provided in Appendix I of the Categorical General Permit. The Department will revise (new language capitalized) sections of the definition for SNC in the Categorical General Permit to read as follows:

**“(1) Chronic violations:** Those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed the average monthly, maximum daily or maximum instantaneous limit(s), AS WELL AS ANY OTHER CONDITION OR LIMIT ESTABLISHED IN SECTION 5(a) OF THIS GENERAL PERMIT.

...

**(7) OTHER:** ANY OTHER VIOLATION OR GROUP OF VIOLATIONS, WHICH MAY INCLUDE A VIOLATION OF BEST MANAGEMENT PRACTICES, WHICH THE COMMISSIONER DETERMINES WILL ADVERSELY AFFECT THE OPERATION OR IMPLEMENTATION OF THE DEPARTMENT’S PRETREATMENT PROGRAM.”

***Comment 2(b):*** Limits listed in Table 1 are not consistent with the allowable effluent concentrations found at Section 22a-430-4(s)(2) of the State regulations.

**Response 2(b):** All allowable effluent concentrations found at Section 22a-430-4(s)(2) of the Regulations of Connecticut State Agencies (RCSA), applicable to discharges directed to Publicly Owned Works (POTWs), have been incorporated into Table 1 with two exceptions:

- (i). The allowable effluent concentrations listed in Table 1 for cadmium are consistent with those listed in the respective section of the RCSA for a “New” discharger only. These are the more stringent allowable effluent concentrations for cadmium and consistent with the standards for Pretreatment Standards for New Sources (PSNS) in 40 CFR 433.17 of the federal regulations for this category of discharge. Therefore, the Department will maintain the allowable effluent concentrations listed in Table 1 of the Categorical General Permit for cadmium.
- (ii). The maximum daily limit listed in Table 1 for silver is consistent with the limit listed in Sections 40 CFR 433.15 and 40 CFR 433.17 of the federal regulations for metal finishers. This effluent limit is more stringent than the limit provided in Section 22a-430-4(s)(2) of the RCSA. Consistent with the application of individual permit effluent limits, as identified in Section 22a-430-4(l)(4) of the RCSA, the Department applies the more stringent limit when state and federal regulatory limits differ. Therefore, the Department will maintain the maximum daily limit listed in Table 1 of the Categorical General Permit for silver.

For these reasons, the Department is not making any revisions to the Categorical General Permit in response to this comment.

**Comment 2(c):** *The Categorical General Permit contains a provision that allows for a monitoring waiver for pollutants that are not present. Connecticut does not have the legal authority to issue a waiver for pollutants that are not present.*

**Response 2(c):** Table 1 consists of effluent limits for parameters that the Department determined are necessary to protect the waters of the state and maintain consistency with the provisions of the federal Clean Water Act. Each parameter within this table is contained within Sections 40 CFR 413 or 433 of the federal regulations, Section 22a-430-4(s) of the RCSA or within an individual metal finishing discharger's permit. The Department acknowledges that there will be metal finishing facilities that do not discharge all of the parameters listed within Table 1. For those facilities, the Department has developed a process to waive certain monitoring requirements for pollutants listed in Table 1 that are not present at the respective facility. Application for this process will ensure that respective facilities monitor only for those parameters present at their facility without eliminating effluent limits and conditions necessary to protect the waters of the state.

The process to waive monitoring requirements for pollutants listed in Table 1 is explained in the Categorical General Permit. This process is necessary to ensure that only the appropriate facilities are able to obtain a waiver for respective parameters. The process is consistent with Section 40 CFR 403.11 (e)(2) of the federal regulations, which was promulgated under the authority of the federal Clean Water Act. As described earlier, Connecticut has the legal authority under CGS Section 22a-430b to incorporate any requirements consistent with federal Clean Water Act. For these reasons, the Department is not making any revisions to the Categorical General Permit in response to this comment.

**Comment 3:** *The Department must not issue any General Permits that are in direct conflict with its own regulations.*

**Response 3:** See the Department's response to Curt McCormick's February 8, 2012 (email) Comment B.1(b), below.

### **B. Curt McCormick, CWACS, February 8, 2012 email**

**Comment 1:** *There is a question regarding the legal authority to issue the general permit and that: Permits issued to industrial users discharging to Publicly Owned Treatment Works (POTWs) are not National Pollution Discharge Elimination System (NPDES) permits by definition.*

**Response 1(a):** Correct, a permit issued to an industrial user discharging to a POTW is not a “NPDES Permit” as that term is defined in RCSA Section 22a-430-3(a). No change to the Categorical General Permit has been made in response to this comment.

**Comment 1(b):** *General permits are applicable to direct dischargers and are only authorized for very limited discharger types as noted in Section 22a-430-3(b)(6) of the RCSA) and the Department’s authority to issue general permits is further limited by Section 22a-430-4(c)(25(b)) of the RCSA.*

**Response 1(b):** RCSA 22a-430-3(b)(6) is an older regulatory provision that has been superseded by statutory amendments in 1991 to CGS Section 22a-430b. CGS Section 22a-430b more broadly authorizes the issuance of general permits and was enacted after the promulgation of the regulatory provisions including RCSA Section 22a-430-3(b)(6). The newer, more broadly written provisions of CGS Section 22a-430b is the prevailing legal authority for issuing general permits. The Department’s response to EPA’s email dated February 9, 2012, Comment A.1 provides information on the Department’s legal authority to issue the Categorical General Permit. For these reasons, the Department is not making any revisions to the Categorical General Permit in response to this comment.

**Comment 1(c):** *The State has not updated its regulations to incorporate updates to Section 40 CFR Part 403 that specifically authorized the use of general permits for indirect dischargers and, thus there appears to be no legal support for this Categorical General Permit.*

**Response 1(c):** CGS section 22a-430b explicitly provides the Commissioner with the authority to issue general permits for categories of discharges regulated pursuant to CGS 22a-430. Please see the response to EPA’s e-mail dated February 9, 2012, Comment A.1 for more detail. No changes to the Categorical General Permit have been made in response to this comment.

**Comment 1(d):** *The State has failed to update its regulations for changes to Section 40 CFR Part 403 over the last 20 years. There are many direct conflicts between the respective State and Federal regulations.*

**Response 1(d):** The Department acknowledges that there are some discrepancies between State and Federal regulations. However, none of these discrepancies limit the ability of the Department to issue the respective general permit. Additionally, the general permit contains conditions, terms and limitations that are consistent with the most stringent limits provided by State and Federal regulations. Please see the responses to EPA’s e-mail dated February 9, 2012, Comments A.1 and A.2 for detailed

discussions on the authority to issue the proposed general permit and how conditions, terms and limitations are consistent with both State and Federal regulations. No changes to the Categorical General Permit have been made in response to this comment.

**Comment 2(a):** *The limits in Section 22a-430-4(s) of the RCSA, if applied to Categorical Industrial Users, would be in direct conflict with the Standards promulgated by EPA and the applicability of those standards.*

**Response 2(a):** See the Department's response to EPA's e-mail dated February 9, 2012, Comment A.2(b), above. For these reasons, no change to the Categorical General Permit has been made in response to this comment.

**Comment 2(b):** *The Table in Section 22a-430-4(s) of the RCSA is to be used in conjunction with the Standards promulgated by EPA, not in lieu of.*

**Response 2(b):** As explained in the respective fact sheet, metal finishing discharge limits contained in Sections 40 CFR 413 and 433 of the federal regulations were compared with those in Section 22a-430-4(s) of the RCSA and the most stringent limit(s) were incorporated into the Categorical General Permit. Consistent with the application of individual permit effluent limits, as identified in Section 22a-430-4(l)(4) of the RCSA, the Department applies the more stringent limit when state and federal regulatory limits differ. No change to the Categorical General Permit has been made in response to this comment.

**Comment 2(c):** *The Table in Section 22a-430-4(s) of the RCSA is footnoted as applicable to NPDES permits only. Pretreatment permits are not NPDES permits under state regulations, therefore, applying these to indirect discharges is incorrect.*

**Response 2(c):** The table in Section 22a-430-4(s) of the RCSA contains a list of chemical parameters and limits, which are applicable to both Pretreatment and NPDES permits. This table also contains a footnote identifying limits for aluminum, iron, total suspended solids and oil and grease that are applicable to NPDES permits only. These limits (aluminum, iron, total suspended solids and oil and grease) are not utilized in the Categorical General Permit. No change to the Categorical General Permit has been made in response to this comment.

### **C. Michael Harder, February 7, 2012 email:**

**Comment 1:** *There is a concern regarding insufficient emphasis on compliance with the Categorical General Permit, citing historical issues and noting that enforcement responses for general permits have often become low priorities. It has been noted that*

*audits of early general permits found that permittees were either in significant violation of the permit or didn't qualify for the general permit, and registrations were based on false information provided by professional engineers. A suggestion has been made that any general permits for categorical discharges include prescribed penalties for violations over a certain threshold number and/or magnitude in order to ensure compliance since department staffing resources are inadequate and could be shifted to other permitting demands.*

**Response 1:** Pretreatment discharges subject to federal categorical standards have been regulated by the Department under individual permits over the past 30 years. Individual permits for pretreatment discharges require monitoring and reporting on the quality of the discharge to assure compliance with the effluent limitations established in the individual permit. In accordance with federal requirements, permittees are required to be inspected periodically and any identified noncompliance with federal and state laws and permit requirements are addressed in accordance with the Department's enforcement policies. The discharges covered by the Categorical General Permit will continue to be regulated as a Significant Industrial User, and will continue to be subject to the same inspection, monitoring and reporting requirements and be subject to the same obligations to assure compliance as dischargers regulated under individual permits. Under the proposed Categorical General Permit, Discharge Monitoring Reports (DMRs) will be required to be directly filed electronically into the federal compliance information database and will be subject to the same protocols as DMRs filed for individual permits for determining compliance with effluent limitations.

In general, the metal finishing and electroplating industry is a sector that has exhibited a relatively high compliance rate; greater than 90% of the permitted dischargers in this sector **have not** been in Significant Non-compliance in the past two years. For these reasons, the Department is not making any revisions to the Categorical General Permit in response to this comment.

**Comment 2:** *A concern was expressed regarding the elimination of the public notice process, especially for larger categorical discharges. It was stated that the public should have more opportunity to comment, at least on new discharges, than just at the stage of issuance of the general permit.*

**Response 2:** The Categorical General Permit contains specific terms and conditions that are the same whether a registrant is seeking coverage for a new, existing or modified discharge, and which ensure that such discharge will not introduce into a POTW any pollutant which causes pass through or interference or otherwise inhibit the proper functioning of the receiving POTW. Opportunities for public comment and input are not limited to only when the Categorical General Permit is issued, reissued or modified or when a registration is filed for coverage under such general permit. At any time, the public may bring to the Department's attention its concerns regarding any discharge

covered by the Categorical General Permit. In accordance with CGS Section 22a-430b, based on a review of such concerns and any supporting information, the Commissioner may determine whether such discharge is no longer suitable for coverage under the Categorical General Permit and revoke or suspend a registration for coverage under such General Permit, or require an individual permit for the discharge.

For these reasons, the Department has concluded that providing an additional public comment opportunity for certain types of discharges is not warranted and is not making any revisions to the Categorical General Permit in response to this comment.

**Comment 3:** *Concerns were expressed regarding conditions in the Categorical General Permit being inconsistent with regulations cited within the general permit. It was indicated that this may cause confusion regarding permit conditions, as well as, possible interference with the enforcement process.*

**Response 3:** Section 5.(f) of the Categorical General Permit references the regulations and identifies the need to comply with them. The Department will revise (new language capitalized) this section to read:

**(f) Regulations of Connecticut State Agencies Incorporated into this General Permit**

“UNLESS SPECIFIC CONDITIONS, TERMS, OR LIMITATIONS WITHIN THIS GENERAL PERMIT ARE MORE RESTRICTIVE, the permittee shall comply with the following Regulations of Connecticut State Agencies which are hereby incorporated into this general permit, as if fully set forth herein.”

**Comment 4:** *It was expressed that the Department should consider whether limits are really needed for non-toxic and less problematic parameters such as iron and aluminum, or whether they should be higher than those proposed.*

**Response 4:** Many CT POTWs will be required to install and maintain tertiary treatment to comply with future effluent limitations that are associated with phosphorous removal. Tertiary treatment may utilize aluminum and iron salts for phosphorous removal and the levels of both aluminum and iron into POTWs will be important. However, given the limited data available to understand current POTW loading for these pollutants from permitted metal finishing facilities, Table I in section 5.(a)(1)(B) of the Categorical General Permit will be revised to include monitoring only for these parameters. See also the Department’s response to CBIA’s letter dated February 9, 2012, Comment E.7, below.

**D. Anne E. Proctor, PE, Vice President at Large, Connecticut Society of Professional Engineers,  
February 9, 2012 (e-mail attachment)**

**Comment 1:** *Qualified Professional Engineer (QPE): The proposed definition for QPE includes two requirements (Requirements (1) and (4) in the definition) that are onerous and difficult to comply with. The issues are:*

*Requirement (1): It is not clear who will decide and approve of the “eight years, engaged in the planning or designing of engineered systems for the treatment of industrial and commercial wastewaters including, but not limited to, a minimum of four years in responsible charge of the planning or designing of engineered systems for such discharges”. A Professional Engineer must already meet experience requirements to be licensed by the state and regulations require that Professional Engineers only practice within their areas of competence and it is not clear how this separate QPE qualification will be administered, juried, policed, or that such an administrative burden is necessary in addition to the existing requirements to become a licensed Professional Engineer.*

*Requirement (4): A Professional Engineer’s certification indicates that such PE has been in “Responsible Charge” of the work and has the institutional knowledge and control over the work to attest to its applicability. The requirement that the QPE be a Professional Engineer that “has not engaged in any activities associated with the preparation, planning, design or engineering of the plans and specifications for the engineered treatment systems for which a certification is being submitted” is in direct contraction to the concept that the certifying Professional Engineer is in Responsible Charge. Creating circumstances that mandate two Professional Engineers, one in Responsible Charge and one to certify the design, dilutes the roles of both without clear responsibility.*

**Response 1:** In making the certification, the Qualified Professional Engineer is attesting to meeting the qualifications specified in the Categorical General Permit. The Department does not “pre-approve” the qualifications of such professional making the certification. However, the Department may, as recently authorized under CGS Section 22a-430b, as amended by P.A. 12-172, specify in a general permit the qualifications for a Qualified Professional Engineer, audit the qualifications for such Qualified Professional Engineer to determine if the qualifications specified in the general permit have been met, and take appropriate action where such qualifications have not been met. To make a certification in accordance with the Categorical General Permit, the Qualified Professional Engineer must possess additional qualifications beyond what is required for a professional engineer as defined in CGS Section 20-299(1) to be licensed to practice in the State in Connecticut. In particular, such professional must have experience “in responsible charge”, and must have not engaged in any activities associated with the preparation, planning, design or engineering of the plans and specifications for the

engineered treatment systems for which a certification is being submitted (i.e., an independent third-party).

The additional qualifications that a Qualified Professional Engineer must possess serve a specific regulatory purpose. When a Qualified Professional Engineer is conducting an independent review and making a certification regarding certain documentation and other information required by the Categorical General Permit, such professional is doing so in lieu of the Department performing such review and determination. These additional qualifications are, by design, intended to assure the integrity of the review and the certification made under this Categorical General Permit and to reduce the time it takes for the Department to process an application. For these reasons it is necessary for a QPE to have the minimum experience requirements listed in the Categorical General Permit. No change to the Categorical General Permit has been made in response to this comment.

However, the Department recognizes that a definition that describes “in responsible charge” would provide further clarification. The Department will revise Appendix I of the Categorical General Permit to include the following definition for “In responsible charge” (new language capitalized):

*“IN RESPONSIBLE CHARGE”* MEANS PROFESSIONAL EXPERIENCE FOR WHICH THE COMMISSIONER DETERMINES THAT A PROFESSIONAL’S PRIMARY DUTIES CONSISTENTLY INVOLVE A HIGH LEVEL OF RESPONSIBILITY AND DECISION MAKING IN THE PLANNING AND DESIGNING OF ENGINEERED SYSTEMS FOR THE TREATMENT OF INDUSTRIAL AND COMMERCIAL WASTEWATERS. THE COMMISSIONER SHALL CONSIDER THE FOLLOWING IN DETERMINING WHETHER A PROFESSIONAL’S EXPERIENCE QUALIFIES AS RESPONSIBLE CHARGE EXPERIENCE:

- (1). THE LEVEL OF INDEPENDENT DECISION-MAKING EXERCISED;
- (2). THE NUMBER OF INDIVIDUALS AND THE DISCIPLINES OF THE OTHER PROFESSIONALS THAT THE PROFESSIONAL SUPERVISED OR COORDINATED;
- (3). THE EXTENT TO WHICH A PROFESSIONAL’S RESPONSIBILITIES CONSISTENTLY INVOLVED THE REVIEW OF WORK PERFORMED BY OTHER PROFESSIONALS INVOLVED THE PLANNING AND DESIGNING OF ENGINEERED SYSTEMS FOR THE TREATMENT OF INDUSTRIAL AND COMMERCIAL WASTEWATERS;
- (4). THE EXTENT TO WHICH A PROFESSIONAL’S RESPONSIBILITIES CONSISTENTLY INVOLVED THE PLANNING AND DESIGNING OF ENGINEERED SYSTEMS FOR THE TREATMENT OF INDUSTRIAL AND COMMERCIAL WASTEWATERS AND WHETHER SUCH RESPONSIBILITIES WERE AN INTEGRAL AND SUBSTANTIAL COMPONENT OF THE PROFESSIONAL’S POSITION;

- (5). THE NATURE OF A PROFESSIONAL’S EMPLOYER'S PRIMARY BUSINESS INTERESTS AND THE RELATION OF THOSE INTERESTS TO PLANNING AND DESIGNING OF ENGINEERED SYSTEMS FOR THE TREATMENT OF INDUSTRIAL AND COMMERCIAL WASTEWATERS;
- (6). THE EXTENT TO WHICH A PROFESSIONAL HAS ENGAGED IN THE EVALUATION AND SELECTION OF SCIENTIFIC OR TECHNICAL METHODOLOGIES FOR PLANNING AND DESIGNING OF ENGINEERED SYSTEMS FOR THE TREATMENT OF INDUSTRIAL AND COMMERCIAL WASTEWATERS;
- (7). THE EXTENT TO WHICH A PROFESSIONAL DREW TECHNICAL CONCLUSIONS, MADE RECOMMENDATIONS, AND ISSUED OPINIONS BASED ON THE RESULTS OF PLANNING AND DESIGNING OF ENGINEERED SYSTEMS FOR THE TREATMENT OF INDUSTRIAL AND COMMERCIAL WASTEWATERS; AND
- (8). ANY OTHER FACTOR THAT THE COMMISSIONER DEEMS RELEVANT.”

**Comment 2:** *Due to concerns associated with an engineer’s professional liability insurance policies, the references to “best professional judgment” should be omitted from Sections 3(b)(8)(D) and (E) of the Categorical General Permit.*

**Response 2:** The term “best professional judgment” has been replaced with other changes and are reflected in Sections 3(b)(8) and 3(b)(9) of the revised Categorical General Permit.

**Comment 3:** *Individual(s), other than the Permittee or Owner, responsible for preparing the registration do not have the financial or supervisory authority to make the affirmative determination and certification in accordance with Sections 3(b)(9)(B), 3(b)(9)(C) and 4(c)(2)(Q) of the Categorical General Permit.*

Response 3: The Department removed the term “and any other individual or individuals responsible for preparing the registration and signing the certification pursuant to this general permit” from Sections 3(b)(9)(B) and 3(b)(9)(C) of the Categorical General Permit. Individuals responsible for preparing the registration, other than the registrant, will now certify to the truth, accuracy and completeness of the application under a separate certification provided in Section 3(b)(9)(D) of the general permit. This certification is required of such individuals in accordance with Section 22a-3a-5 of the RCSA.

**Comment 4:** *The time frame to respond with additional information in accordance with Section 4(g)(1) of the Categorical General Permit should be extended from thirty (30) to sixty (60) days.*

**Response 4:** The Department has determined that 30 days is a sufficient amount of time to respond to any request for missing or incomplete sections of the general permit registration. For this reason, no change to the Categorical General Permit has been made in response to this comment

**E. Eric J. Brown, Associate Counsel and Christopher J. Ecsedy, LEP, EPC Water Task Force Co-Chair Connecticut Business & Industry Association (CBIA), February 9, 2012 (letter attachment)**

**Comment 1(a)(i):** *Qualified Profession Engineer (QPE): Qualified Profession Engineer as defined in Appendix A would result in unnecessary additional review by an engineer that may not be as qualified to review systems and plans as an engineer that has performed the services in the past. A QPE should not be required to be an 'independent third party' because a third party engineer could add undue cost and delay completion of registrations.*

**Response 1(a)(i):** Pursuant to the authority recently vested in the Department under CGS Section 22a-430b, as amended by Public Act 12-172, the Department may require that a Qualified Professional Engineer review and certify to certain documentation in support of a registration application in lieu of Department staff. The purpose of the Qualified Professional Engineer's review and certification is to streamline and expedite the processing of general permit registration applications. To assure integrity in the review of the supporting documentation, the Department deems it necessary that the qualified professional have the appropriate degree of experience, independence, and objectivity in the review of such documents consistent with what is expected when such documents are reviewed by Department staff. Therefore, like Department staff, a Qualified Professional Engineer must be independent of both the registrant and the design engineer in order to insure impartiality and objectivity when making a determination on behalf of the Department. For these reasons, no change to the Categorical General Permit has been made in response to this comment.

**Comment 1(a)(ii):** *The requirements associated with a QPE's experience are extensive. Specifically, the amount of experience specified in the Categorical General Permit for a QPE does not consider that professional engineers undergo rigorous training and their respective license requires that they only provide services in areas of demonstrated competence.*

**Response 1(a)(ii):** To make the appropriate certifications required by the Categorical General Permit, a QPE must possess additional qualifications beyond what is required for a professional engineer as defined in CGS Section 20-299(1) to be licensed to practice in the State of Connecticut. In particular, it is necessary such QPE must have sufficient experience associated with the planning and designing of engineered systems for the treatment of industrial and commercial wastewaters. See the Department's response to CT Society of Professional Engineers' e-mail dated February 9, 2012, Comment D.1 above for further detail. For these reasons, no change to the Categorical General Permit has been made in response to this comment.

**Comment 1(b):** *In accordance with Section 3(b)(8)(C) of the Categorical General Permit, the QPE must completely and thoroughly review the general permit and six specific areas. Two of these six areas (items (ii) and (vi)) should be allowed to be completed by an agent of the QPE, and not necessarily by the QPE himself/herself.*

**Response 1(b):** To assure integrity, as well as, quality, impartiality, and objectivity in the review and certification processes, the Department requires all six specific areas to be completed by a Qualified Professional Engineer. For these reasons, no change to the Categorical General Permit has been made in response to this comment.

**Comment 1(c):** *In accordance with Section 3(b)(8)(D)(i) of the Categorical General Permit, the QPE is required to certify that the wastewater collection and treatment system, as well as monitoring equipment have been designed and installed in accordance with 'best engineering practices'. The use of this phrase has implications associated with an engineer's professional liability insurance.*

**Response 1(c):** See the Department's response to CT Society of Professional Engineers' email dated February 9, 2012, Comment D.2 above.

**Comment 1(d):** *In accordance with Section 3(b)(8)(D)(ii) of the Categorical General Permit, the QPE is required to certify that the wastewater collection system and treatment system, and monitoring equipment "are functioning properly". This requirement should be changed to "will function properly based on visual inspection and/or permittee operating records and implementation of proper system O&M."*

**Response 1(d):** Section 3(b)(8)(D)(ii)(bb) of the Categorical General Permit has been revised to read: "...WILL FUNCTION PROPERLY AS DESIGNED BASED ON VISUAL INSPECTION, COMPLIANCE AND OPERATING RECORDS AND IMPLEMENTATION OF THE OPERATION AND MAINTENANCE PLAN;...".

**Comment 1(e):** *In accordance with Section 3(b)(8)(D)(iv) of the Categorical General Permit, the QPE is required to certify that all wastewater collection and treatment systems and monitoring equipment be protective of the waters of the state. This*

*requirement should be removed because it goes beyond the duties and responsibilities of the QPE.*

**Response 1(e):** The language has been eliminated from Section 3(b)(8)(D(iv)) of the Categorical General Permit.

**Comment 1(f):** *In accordance with Section 3(b)(8)(F) of the Categorical General Permit, the Commissioner may require any information prepared in accordance with the general permit be independently certified by a QPE acting as a third party. It is not necessary to impose this requirement.*

**Response 1(f):** Subsequent to the Public Notice of the Department's Tentative Determination to issue the Categorical General Permit on December 9, 2011, Section 22a-430b of the CGS was amended by Public Act 12-172. This act supersedes Sections 3(b)(8)(F), 3(b)(8)(G) and 3(b)(8)(H) of the Categorical General Permit. In accordance with this act, the Department may require a QPE to review and certify to certain documentation in support of a registration. For this reason, Sections 3(b)(8)(F), 3(b)(8)(G) and 3(b)(8)(H) of the Categorical General Permit have been eliminated and the certification required in accordance with section 3(b)(8)(E) of the general permit now references Section 22a-430b of the CGS as amended by Public Act 12-172.

**Comment 1(g):** *In accordance with Section 3(b)(8)(G) of the Categorical General Permit, the DEEP may pursue disciplinary action against any QPE for any violation noted in Section 3(b)(8)(G)(i) of the general permit. The Department of Consumer Protection already maintains this process and it may be the appropriate avenue to address the DEEP's concerns.*

**Response 1(g):** See the Department's response to Comment E.1(f), above, which explains the respective section of the general permit that will be revised to reflect Section 22a-430b of the CGS as amended by Public Act 12-172.

**Comment 2(a):** *Permittee Certification: There may be a number of individuals involved with preparing an application. Therefore, the phrase: "...and any other individual or individuals responsible for preparing the registration", should be deleted from certification requirements listed in Section 3(b)(9) of the Categorical General Permit.*

**Response 2(a):** See the Department's response to CT Society of Professional Engineers' letter dated February 9, 2012 Comment D.3, above, which explains the respective section of the general permit that will be revised as proposed.

**Comment 2(b):** *There may be items used at the facility, such as fluorescent bulbs, that contain mercury. Therefore, the phrase: "...our facility does not use products or*

*chemicals... that contain mercury”, should be deleted from certification requirements listed in Section 3(b)(9)(C) of the Categorical General Permit.*

**Response 2(b):** The intent of this certification was to prevent the discharge of mercury in wastewater discharges covered by the Categorical General Permit. However, the Department concurs that the language contained in the draft Categorical General Permit creates an unintended condition of prohibiting mercury at a facility. The Department has modified certification language provided in Section 3(b)(9)(C) of the Categorical General permit to read, “...I certify that our facility does not use products or chemicals THAT MAY RESULT IN A discharge of mercury...”

**Comment 3:** *Section 4(c)(2)(l) of the Categorical General Permit requires sampling and analyses for all pollutants listed in Section 5(a) of the general permit, as part of the registration process. The registration process should only include sampling and analyses for Aluminum, Barium, Cobalt, Fluoride, Gold, Iron, Tin and Titanium if the registrant believes that they may be present in the discharge.*

**Response 3:** From data associated with individually permitted metal finishing facilities, the Department has determined that the pollutants listed in Section 5(a) can reasonably be expected to be present in a metal finishing discharge. Therefore, the Categorical General Permit requires all registrants to determine the concentration of these pollutants in their discharge as part of the registration process. For this reason, no change to the Categorical General Permit has been made in response to this comment

**Comment 4:** *The Categorical General Permit contains provisions to allow monitoring waivers for pollutants not present in a facility’s permitted discharge. These provisions require a registrant or permittee to demonstrate with monitoring data that the pollutant is not present at levels above background water intake levels. This may not allow for potential variability within the respective analytical method utilized. The language should be revised to allow the registrant or permittee to use an average of the data collected for comparison purposes when assessing monitoring waivers.*

**Response 4:** Consideration of averages or other variability factors does not meet the objective of ensuring that a respective pollutant is neither present nor expected to be present in the discharge above background levels from intake water and without any increase in the pollutant due to activities of the Registrant. For this reason, no change to the Categorical General Permit has been made in response to this comment

**Comment 5:** *The Categorical General Permit requires registrants to submit compliance monitoring online in NetDMRs. Registrants should be allowed an option to opt out and file paper DMRs similar to provisions allowed in individual wastewater permits. CBIA also recommends an ongoing dialogue with the regulated community to foster “continuous improvement” of the NetDMR program.*

**Response 5:** The Department is undertaking major initiatives to modernize and transform its information management and compliance monitoring systems to more effectively and efficiently utilize its limited resources. One example of this is the Department's use of EPA's electronic system for filing Discharge Monitoring Reports, known as NetDMR. EPA deployed the NetDMR system in 2009 and it has been approved by EPA for use by permittees in Connecticut since January 2010. Consistent with the Department's efforts to develop an expedited permitting process, registrants seeking coverage under the streamlined permitting process of the proposed Categorical General Permit will be required to submit their DMRs using NetDMR. For this reason, no change to the Categorical General Permit has been made in response to this comment.

From time to time, EPA has made some improvements to the NetDMR system based on feedback from permittees and regulatory authorities in participating states such as Connecticut. The Department is open to continuing dialogue with Connecticut's regulated community in an effort to facilitate continuous improvement of EPA's NetDMR system.

**Comment 6:** *The annual fee provision should be removed as there is no statutory provision for the assessment of annual fees for general permits.*

**Response 6:** The Department indicated in the public meeting on January 4, 2012 that this provision was a mistake. Section 4(c)(1)(D) of the Categorical General Permit was accordingly modified to remove this provision.

**Comment 7:** *The limits for a number of metals are inconsistent with RCSA 22a-430(4)(s) and 40 CFR 413/433. For example, there are no listed limits for iron, aluminum and TSS in the context of sewer discharges. These limits should be revised consistent with current regulations.*

**Response 7:** The Department received a number of comments on the effluent limits contained in Table 1 for aluminum, antimony, cobalt, iron, oil & grease (hydrocarbon fraction), suspended solids (total) and titanium. The limits for these parameters were developed on a case-by-case determination using best professional judgment subsequent to a review of DMR data from January 2008 to July 2010, and application information associated with permitted metal finishing facilities in the state.

The proposed effluent limits for aluminum, antimony, cobalt, iron, and titanium in Table 1 were calculated using the 95<sup>th</sup> percentile of the DMR data. While effluent limits for oil & grease (hydrocarbon fraction) and suspended solids (total) were based on staff's best professional judgment of the quality of a discharge from an effectively maintained metal finishing treatment system. When the proposed limits were compared with DMR data,

it was determined that facilities with an effectively maintained metal finishing system can meet them.

In response to comments, Department staff further evaluated the need to limit these parameters. It was determined that given the relatively low potential to impact a receiving POTW or the waters of the state and the limited data available at this time, the limits for cobalt, iron, and titanium were eliminated from Table 1 of the Categorical General Permit. However, the requirement to monitor for these parameters was maintained so that sufficient data can be collected to perform an effective reevaluation of the necessity for such limits when the general permit is next reissued.

Staff further concluded that since the Department recently adopted water quality standards for aluminum and antimony that POTWs will be required to meet in the future, limits for these pollutants may be necessary in the Categorical General Permit. However, given the limited data available to understand pass through implications at POTWs from permitted metal finishing facilities for these pollutants, monitoring only will be required in Table 1 of the Categorical General Permit in lieu of limits. As with cobalt, iron, and titanium, the need for limits for aluminum and antimony should be reevaluated after sufficient data has been collected.

Staff also reevaluated the proposed limits for oil & grease (hydrocarbon fraction) and suspended solids (total) contained in the Categorical General Permit. It was determined that the proposed limits for these pollutants are necessary to ensure wastewater treatment systems are operated and maintained effectively. Historical effluent data from currently permitted metal finishing facilities supports that the proposed limits are achievable. For these reasons, no change to limits associated with oil & grease and suspended solids have been made in response to this comment.

**Comment 8:** *The methodology/approach for calculating specific POTW limits is unclear. There should be a peer-review of the data used by DEEP as well as the limit derivations.*

**Response 8:** Historical POTW effluent data was evaluated to determine potential pass-through implications for the metal pollutants listed in the Categorical General Permit. If the available effluent data for a specific POTW indicated a potential pass-through issue for a particular pollutant, then the POTW was considered “Challenged” for that specific pollutant. Potential pass-through issues at POTWs are addressed during the NPDES Permit re-issuance process for each POTW, which is independent of the Categorical General Permit process. However, the Department determined it would be prudent to minimize the loading for respective pollutants through the application of alternative limits provided in Appendix VI. Although these limits are more stringent than limits provided in federal and state regulations, they are based on performance data associated with permitted metal finishers in the state and were set at achievable levels. For these reasons, no change to the Categorical General Permit has been made in response to this comment

**Comment 9:** *In accordance with Section 5(b)5(B) of the Categorical General Permit, the discharge system shall be equipped with audio and visual pH alarms to alert responding personnel when the pH of the discharge approaches respective limits. This section also identifies a requirement for a system to automatically discontinue the effluent discharge during alarm conditions. Such a system could add significant expense to existing systems not currently equipped and without adequate storage capacity, the system could result in overflows and/or releases to the environment.*

**Response 9:** The Department has modified the language in Section 5(b)(5)(B) of the Categorical General Permit consistent with the requirement set forth in Section 22a-430-3(q)(2) of the Regulations of Connecticut State Agencies, which states, “Audible and visual alarms shall be included with all instrumentation installed to comply with subparagraph (1) this subsection [22a-430-3(q)], and for such other functions as the commissioner determines are necessary to assure the proper operation of the [treatment] system. Any condition that causes an alarm shall be corrected immediately, or the discharge shall be stopped until the correction is made.”

**Comment 10:** *Total Toxic Organic monitoring is typically collected as a grab sample. This should be clarified within Section 5(b)(3)(B) of the Categorical General Permit.*

**Response 10:** The Department concurs and has modified Table 1 of the Categorical General Permit to require grab samples.

**F. Eric Brown, Associate Counsel, Connecticut Business & Industry Association (CBIA), January 27, 2012 (e-mail attachment)**

**Comment 1:** *A QPE as defined in Appendix A would result in unnecessary, additional review by an engineer that may not be as qualified to review systems and plans as an engineer that has performed the services in the past. This could add undue cost and delay completion of registrations for permittees.*

**Response 1:** See the Department’s response to CBIA’s letter dated February 9, 2012 Comment E.1(a)(i), above.

**Comment 2:** *In accordance with Section 3(b)(8)(D)(ii) of the Categorical General Permit, the QPE is required to certify that the wastewater collection system, treatment system, and monitoring equipment “are functioning properly”. This requirement should be changed to “will function properly based on visual inspection and/or permittee operating records and implementation of proper system O&M.”*

**Response 2:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.1(d), above.

**Comment 3:** *There may be items used at the facility, such as fluorescent bulbs, that contain mercury. Therefore, the phrase: "...our facility does not use products or chemicals... that contain mercury", should be deleted from certification requirements listed in Section 3(b)(9)(C) of the Categorical General Permit.*

**Response 3:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.2(b), above.

**Comment 4:** *Section 4(c)(2)(I) of the Categorical General Permit requires sampling and analyses for all pollutants listed in Section 5(a) of the general permit, as part of the registration process. The registration process should only require sampling and analyses for those substances which may be reasonably found in the discharge.*

**Response 4:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.3, above.

**Comment 5:** *The Categorical General Permit requires registrants to submit compliance monitoring online in NetDMRs. Registrants should be allowed an option to opt out and file paper DMRs similar to provisions allowed in individual wastewater permits.*

**Response 5:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.5, above.

**Comment 6:** *The Categorical General Permit contains provisions to allow monitoring waivers for pollutants not present in a facility's permitted discharge. These provisions require a registrant or permittee to demonstrate with monitoring data that the pollutant is not present at levels above background water intake levels. The process does not allow for statistical variability associated with samples collected on different days, and does not allow for traces of pollutants present in the discharge that may not be associated with process activities.*

**Response 6:** The Department is not in support of allowing variability factors. The monitoring waiver procedure provided in the Categorical General Permit is consistent with federal regulations. This procedure must be utilized to clearly demonstrate that respective pollutants are not in the discharge above background levels. If there are traces of pollutants present in the discharge not associated with process activities, samples and analyses should be performed to clearly demonstrate this and respective documentation should be provided. For this reason, no change to the Categorical General Permit has been made in response to this comment.

**Comment 7:** *The annual fee for the Categorical General Permit is significant and equal to the annual fee associated with current individual permit(s). (DEEP indicated in public meetings that this was a mistake but wasn't clear that they intended to remove it.) This annual fee should be removed.*

**Response 7:** Section 4(c)(1)(D) of the Categorical General Permit was modified to eliminate the annual fee for this general permit.

**Comment 8:** *The limits for a number of metals are inconsistent with RCSA 22a-430(4)(s) and 40 CFR 413/433. For example, there are no regulatory limits for iron, aluminum and TSS in the context of sewer discharges. CBIA recommends that the limits in the Categorical General Permit be revised to be consistent with current regulations.*

**Response 8:** See the Department's response CBIA's letter dated February 9, 2012 Comment E.7, above.

**Comment 9:** *Regulatory limits in the Categorical General Permit are based on "new facility" performance standards. This contains no provision for limits based on "existing facility standards. Limits should be revised to allow for limits based on "new facility" and "existing facility" performance standards.*

**Response 9:** The current regulatory performance standards for metal finishing discharges were established between 1983 through 1987. They include identical limits for both "new facilities" and "existing facilities" for all respective pollutants within the Categorical General Permit, except for cadmium. Recent effluent data from permitted metal finishing facilities in Connecticut demonstrates that all "existing facilities" are capable of complying with the cadmium limit based on "new facility" standards. Therefore, it is not necessary to maintain limits based on "existing facility" performance standards within the Categorical General Permit. For these reasons, no change to the Categorical General Permit has been made in response to this comment.

**Comment 10:** *TTO monitoring should be associated with a grab sample and this should be clearly identified within the Categorical General Permit.*

**Response 10:** The Department concurs and has modified Table 1 of the Categorical General Permit to allow grab samples.

**Comment 11:** *The proposed Categorical General Permit requires a discharge interlock to automatically discontinue discharge during pH alarm conditions. This requirement should be removed from the general permit.*

**Response 11:** The Department has modified the language in Section 5(b)(5)(B) of the draft permit to remove this requirement.

**G. Bill Williams, Williams Environmental Services, LLC, January 4, 2012 (e-mail attachment)**

**Comment 1:** *The inclusion of total iron and aluminum at the levels indicated in this Table will be problematic for a number of metal finishers, who use these metals as precipitants or in process chemistries (e.g., ferric chloride etchants). Current permitting regulation, 22a-430-4(s) does not establish effluent limits for these two parameters for wastewater discharged to a sanitary sewer. It is recommended that these limits not be listed unless there is a water quality objective with a specific POTW. Note: aluminum and iron salts are commonly used in POTWs. If they must be included, consider raising the effluent values to reflect their common industrial use and possible beneficial effect on POTW operations.*

**Response 1:** See the Department's response to CBIA's letter dated February 9, 2012, Comment E.7, above.

**Comment 2:** *Consider raising the titanium limits to 1.0/2.0/3.0 mg/L as specified in 22a-430-4(s) to reflect its common usage and processing in Connecticut's Aerospace and Medical Industries and lack of water quality consideration. Note that the maximum total titanium limit specified in Table 5-1 in the modified MISC General Permit is 4.0 mg/L.*

**Response 2:** Section 22a-430-4(s) of the RCSA does not contain limits for titanium. The limits for titanium contained in the proposed general permit when it was public noticed were performance based. However, given the relatively low potential to impact a receiving POTW or the waters of the state and the limited data available, monitoring for titanium will be required, however, limits for titanium will be eliminated from the Categorical Industrial General Permit. See also the Department's response to CBIA's letter dated February 9, 2012, Comment E.7, above.

**H. Joseph Magdol, P.E., LEP, Principal, Magdol Environmental Consulting, LLC, January 5, 2012 (e-mail attachment)**

**Comment 1:** *Section 3(a) Eligible Activities/Appendix I Definitions*  
*The regulatory reason for excluding non-contact cooling water (NCCW) and blowdown (BB) from heating and cooling equipment from the permitted discharge of electroplating and metal finishing (E&MF) wastewaters is understood, however, there are practical and environmental issues associated with this.*

*Many E&MF facilities rely on boiler steam or hot water and on NCCW to control the temperature of process baths. Water is recirculated through systems (e.g. steam condensate boiler return, cooling tower heat exchange) that periodically discharge as wastewater and/or heat exchange coils are immersed directly in the process baths. Under the provisions of the Draft General Permit, these discharges would be considered NCCW and BB and would need to be discharged without the protective benefit of being treated in the on-site treatment system. Coil systems are vulnerable to corrosive compromise and could allow process waters to enter the NCCW or BB streams and then be discharged to local POTWs. If such compromise occurs, it is not always easily identified or quickly rectified.*

*It seems prudent to allow NCCW and BB discharge to be treated on-site in order to remove heavy metals including hexavalent Cr, and in some cases cyanide, that could have inadvertently leaked into them. Redefining "Metal Finishing Wastewater" to include designated maximum daily quantities of NCCW and BB that are specifically used for process bath temperature control could address this issue.*

**Response 1:** Section 40 CFR 403.8 of the federal Pretreatment Standards authorizes the development of categorical general permits for facilities involved in the same or substantially similar types of operations; discharge the same types of waste; require the same types of effluent limitations; and require the same or similar monitoring. Discharge limits may not be based on the combined waste stream formula or net/gross calculations (40CFRs 403.6(e) and 403.15). Therefore, the Categorical General Permit may only authorize discharges consisting solely of metal finishing wastewaters. For this reason, no change to the Categorical General Permit has been made in response to this comment.

**Comment 2:** Section 5(b)(4) Flow Monitoring

*In subparagraph (A), language should be added requiring, for both chart recorders and electronic data records, that the paper records clearly delineate the beginning and end of each day. Some systems do not automatically do this effectively.*

*"Qualified Source" for system calibrations should be defined as an independent third-party contractor with expertise specific to the equipment being calibrated.*

*Permittees should be required to check the accuracy of their flow meter systems more frequently than once per year via a method that is included in their O&M manuals. Semi-annual or quarterly checks are appropriate. This can be a simple estimating method, but should be thoughtfully established and thoroughly documented.*

*For batch discharges in general, the Permit should clarify what is meant by instantaneous flow. Tanks that discharge by gravity will vary in flow rate throughout the*

*process of being drained. For batch discharges of <1,000 gpd, the Permit should clarify whether or not instantaneous flow reporting is required.*

**Response 2:** Section 5(b)(4)(A) has been modified to add a new subparagraph (iv) that reads as follows:

(iv) "CHART RECORDERS SHALL BE SIGNED AT THE BEGINNING AND END OF EACH WORK DAY."

The Department concluded that it is not necessary that a third party be used to calibrate meters. The Department acknowledges that many facilities employ people qualified to calibrate meters. For this reason, no change to the Categorical General Permit has been made in response to this comment.

Appendix II, Operation and Maintenance Plan, No. 3, of the Categorical General Permit requires that final discharge meters and probes be cleaned and calibrated at frequencies recommended by the manufacturer or the permit monitoring frequency, whichever is more frequent. For this reason, no change to the Categorical General Permit has been made in response to this comment.

The Categorical General Permit does not require a registrant to measure or report instantaneous flow/flow rate. Section (4)(c)(2)(I) requires all registrants to include the average flow of their discharge in gallons per minute as part of their registration. For this reason, no change to the Categorical General Permit has been made in response to this comment.

#### **I. Jay Kulowiec, Principal Environmental Engineer, Arcadis U.S., Inc., February 8, 2012 letter**

**Comment 1:** *The definition for a QPE, provided in Appendix I of the Categorical General Permit, contains provisions that are burdensome to both the professional engineering profession and registrants. There is no rationale for the exclusion of professional engineers who have worked previously in the planning, design and operational assessment of a permittee's treatment system.*

**Response 1:** See the Department's response to CBIA's letter dated February 9, 2012, Comment E.1(a)(i), above.

**Comment 2:** *In accordance with the definition for QPE provided in Appendix I of the Categorical General Permit, a QPE is a person who has, for a minimum of eight years, engaged in the planning or designing of engineered systems for the treatment of industrial and commercial wastewaters. There is no precedent for specifying this eight*

*(8) year requirement. The definition should be amended to require a minimum of four years experience, engaged in the planning, designing of and operational assessment of engineered systems to treat commercial and industrial wastewaters.*

**Response 2:** See the Department's response to the CT Society of Professional Engineers' letter dated February 9, 2012, Comment D.1, above.

**Comment 3:** *Recommends modification to language provided in Section 3(b)(8)(D) of the Categorical General Permit, primarily by eliminating the use of the terms "best professional judgment" and "will protect the waters of the state from pollution".*

**Response 3:** See the Department's responses to the CT Society of Professional Engineers' letter dated February 9, 2012, Comment D.2., and CBIA's letter dated February 9, 2012, Comment E.1(e), above.

**Comment 4:** *Due to concerns associated with liability language contained in professional service contracts between engineers and clients and liability insurance policies, the term "best professional judgment" should be revised in Sections 3(b)(8)(E) of the Categorical General Permit.*

**Response 4:** See the Department's response to the CT Society of Professional Engineers' letter dated February 9, 2012, Comment D.2., above.

**Comment 5:** *In accordance with Section 3(b)(8)(G)(ii) of the Categorical General Permit, the DEEP may pursue disciplinary action against any QPE for any violation noted in Section 3(b)(8)(G)(i) of the general permit. The specific authority cited in Section 4-182 of the general statutes should be provided in the fact sheet.*

**Response (5):** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.1(f), above.

**J. Jay Kulowiec, Principal Environmental Engineer, Arcadis U.S., Inc., January 6, 2012 e-mail**

**Comment 1:** *Once a QPE is used to do a registration and certification, he/she has been hired by the permittee and is engaging in "planning" with respect to wastewater treatment. When the subsequent 5 year re-registration cycle comes up, is that initial QPE disqualified from working on that, or any registration amendment?*

*If a QPE in preparing a registration and certification for a permittee, and advises the permittee that in order for the certification to be made, modifications to: items I, J, K, L*

or M of the registration (in QPE's opinion, the record info from a previous individual application is not sufficient, or needs to be amended for completeness); spill plan, SMP or O&M plan; treatment system; is the QPE prohibited from preparing the modifications recommended? The definition of QPE would suggest he/she is prohibited.

Is operational "trouble shooting" within the prohibited activities?

**Response 1:** A Qualified Professional Engineer (QPE), as defined in Appendix I of the general permit, is required to have "not engaged in any activities associated with the preparation, planning, design or engineering of the plans and specifications for the engineered treatment systems for which a certification is being submitted."

The Department expects that from time to time a QPE may, in order for a certification to be made by such QPE, "trouble-shoot" or advise that certain modifications be made to the registration or to other documentation required to be prepared in support of the registration. However, if the QPE subsequently engages in the preparation, planning, design or engineering of the plans and specifications for the engineered treatment system or other documents required by the general permit, such professional would consequently be precluded from making the certification as a QPE. For such professional to retain the ability to make a certification as a QPE, another professional engineer whose employment would not pose a conflict with the QPE's ability to make a certification, would be required to prepare, plan, design or engineer the modifications as advised by the QPE.

**K. Adam Barbash, Associate and Christopher J. Ecsedy, Vice President, Fuss & O'Neill, February 9, 2012 letter**

**Comment 1:** *Qualified Profession Engineer (QPE): In accordance with Appendix I of the Categorical General Permit, a QPE is required to be an individual not engaged in any activities associated with the preparation, planning, design or engineering of the plans and specifications for the engineered treatment systems for which a certification is being submitted. However, the engineer involved with the facility from a permitting or design perspective would best know the characteristics of the treatment system and facility. A QPE, as defined in Appendix I, would repeat work already performed and potentially raise "issues on matters open to interpretation and opinion which would hold up the permitting process". Parts (2), (3), (4) and (5) of the QPE definition provided in Appendix I should be eliminated.*

**Response 1:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.1(a)(i), above.

**Comment 2:** *In accordance with Section 3(b)(8)(C) of the Categorical General Permit, the QPE is required to completely review the general permit and six specific areas of the registration package. This section should be revised to allow the QPE's agent to complete the reviews and investigations associated with these six specific areas on behalf of the QPE.*

**Response 2:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.1(b), above.

**Comment 3:** *In accordance with Section 3(b)(8)(D)(i) of the Categorical General Permit, the QPE is required to certify that the wastewater collection and treatment system, as well as monitoring equipment have been designed and installed in accordance with 'best engineering practices'. The use of this phrase has implications associated with an engineer's professional liability insurance.*

**Response 3:** See the Department's response to the CT Society of Professional Engineers' email dated February 9, 2012, Comment D.2, above.

**Comment 4:** *In accordance with Section 3(b)(8)(D)(ii) of the Categorical General Permit, the QPE is required to certify that the wastewater collection system and treatment system, and monitoring equipment "are functioning properly". This requirement should be changed to "will function properly as determined through visual inspection and review of available records".*

**Response 4:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.1.(d), above.

**Comment 5:** *In accordance with Section 3(b)(8)(D)(iv) of the Categorical General Permit, the QPE is required to certify that all wastewater collection and treatment systems and monitoring equipment be protective of the waters of the state. This requirement is "unduly broad, open to interpretation and beyond the scope and duties and responsibilities of a P.E." and should be removed.*

**Response 5:** See the Department's response to CBIA's letter dated February 9, 2012, Comment E.1(e), above.

**Comment 6:** *In accordance with Section 3(b)(8)(F) of the Categorical General Permit, the Commissioner may require any information prepared in accordance with the general permit be independently certified by a QEP acting as a third party. It is not necessary to impose this requirement. P.E.(s) attest that the documents are accurate and correct to the best of their knowledge by certifying to and stamping respective documents. This requirement is not required by regulation and would result in delays associated with the registration process for the general permit. This requirement should be removed.*

**Response 6:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.1(f), above.

**Comment 7:** *In accordance with Section 3(b)(8)(G) of the Categorical General Permit, the DEEP may pursue disciplinary action against any QPE for any violation noted in Section 3(b)(8)(G)(i) of the general permit. The Department of Consumer Protection already maintains this process and it may be the appropriate avenue to address the DEEP's concerns.*

**Response 7:** See the Department's response to CBIA's letter dated February 9, 2012 Comment E.1(g), above.

**L : Editorial comments associated with Appendix VI of the Categorical General Permit.**

1. The Town of Canaan POTW was incorrectly identified as a "Challenged POTW" for copper within Table III of the Categorical General Permit. This POTW should have been identified as a "Challenged POTW" for copper and zinc within Table IV. Appendix VI of the general permit has been revised to exclude the Town of Canaan POTW from Table III and include it within Table IV.
2. The Town of Ridgefield (Route 17) POTW was inadvertently left off the list of "Challenged POTW"s for copper in Table III. This POTW should have been identified on this list. Appendix VI of the general permit has been revised to include the Town of Ridgefield (Route 17) within Table III.

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**A. Justin Pimpare, Pretreatment Coordinator, Region 1 United States Environmental Protection Agency (EPA), February 9, 2012 email**

**B. Curt McCormick, CWACS, February 8, 2012 email**

**C. Michael Harder, February 7, 2012 email:**

**D. Anne E. Proctor, PE, Vice President at Large, Connecticut Society of Professional Engineers, February 9, 2012 (e-mail attachment)**

**E. Eric J. Brown, Associate Counsel and Christopher J. Ecsedy, LEP, EPC Water Task Force Co-Chair Connecticut Business & Industry Association (CBIA), February 9, 2012 (letter attachment)**

**F. Eric Brown, Associate Counsel, Connecticut Business & Industry Association (CBIA), January 27, 2012 (e-mail attachment)**

**G. Bill Williams, Williams Environmental Services, LLC, January 4, 2012 (e-mail attachment)**

**H. Joseph Magdol, P.E., LEP, Principle, Magdol Environmental Consulting, LLC, January 5, 2012 (e-mail attachment)**

**I. Jay Kulowiec, Principal Environmental Engineer, Arcadis U.S., Inc., February 8, 2012 letter**

**J. Jay Kulowiec, Principal Environmental Engineer, Arcadis U.S., Inc., January 6, 2012 e-mail**

**K. Adam Barbash, Associate and Christopher J. Ecsedy, Vice President, Fuss & O'Neill, February 9, 2012 letter**

**L : Editorial comments associated with Appendix VI of the Categorical General Permit.**