



Registration Processing

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Existing businesses that conduct regulated activities within the APA are allowed to register as an existing regulated activity. This registration allows an existing business to continue to operate and conduct a regulated activity in an APA, and provides the business with the ability to expand the registered regulated activity within the registered facility boundary. In addition, only registered facilities may apply for a permit to add a new regulated activity to that facility.

A Registration Processing Flow Chart and Registration Decision Tree are found at the end of this section.

5.1 | Regulated Activities

Regulated activities are those land use activities that use, store, and/or handle hazardous materials that pose a threat to the groundwater, such as RCRA hazardous wastes, hazardous substances regulated under CERCLA, pesticides, and petroleum products. There are twenty-eight (28) regulated activities listed in the definition section (Section 2(a)(35)) of the Model Regulations. These were developed from data on groundwater contamination incidents, chemical usage, and land use activities that typically employ those chemicals. Examples of regulated activities include manufacturing industries, chemical wholesale storage industries, gasoline stations, auto and engine service stations, dry cleaners, and furniture strippers. Some of the 28 regulated activities, like car washes, are not regulated if connected to a municipal sewer system. The primary threat to groundwater from a car wash is the disposal of wastewater generated by that activity. In addition, some exceptions were made for minor activities.

5.1.1 Exceptions

Exceptions to the regulated activities list are identified as outright and conditional activities. The following exceptions are not regulated activities in aquifer protection areas:

5.1.2 Outright Exceptions

(Section 4(c)(1), (2) and (3) of the Model Regulations)

1. Any activity conducted at a residence without compensation. For example, a homeowner who repairs small engines such as lawn mowers for friends but who doesn't receive any money for the work would qualify as an exemption.
2. Any activity involving the use or storage of no more than two and one-half (2.5) gallons of each type of hazardous material on site at any one time, provided the total of all hazardous materials on site does not exceed fifty-five (55) gallons at any one time. For example, a furniture finisher is storing small quantities

of concentrated hazardous material and adds water to it to make a usable material. The volume to consider would be the total quantity of the usable product plus the stored concentrate on site at any one time. This total must not exceed the 55 gallon limit to qualify for this exception.

3. Any agricultural activity under CGS § 22a-354m(d). The definition of an agricultural activity under the statutes is very broad. For the complete definition, see the Model Municipal Regulations Reference Document found in the Model Documents Section of the Manual.

5.1.3 Conditional Exceptions

(Section 4(c)(4), (5) and (6) of the Model Regulations)

4. An activity is considered minor and is not regulated if all the following conditions are satisfied:
 - a. The activity takes place solely within an enclosed building in an area with an impermeable floor;
 - b. The activity involves no more than 10% of the floor area in the building where the activity takes place;
 - c. Any hazardous material used in connection with the activity is stored in the building at all times;
 - d. All wastewaters generated by the activity are lawfully disposed through a connection to a publicly owned treatment works (sewer);
 - e. The activity does not involve (A) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with the vehicles, (B) underground storage of any hazardous material, or (C) above-ground storage of more than one hundred and ten (110) gallons of hazardous materials.

An example of an activity that might meet this exception is a small research and development lab at a corporate headquarters.

Important reminder –

New businesses proposing to conduct regulated activities are prohibited in the APA and not eligible to register for an aquifer protection area registration.

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5. An activity solely involving the use of lubricating oil may be an exception if all the following conditions are satisfied:
 - a. The activity does not involve cleaning of metals with chlorinated solvents at the facility;
 - b. The activity takes place solely within an enclosed building in an area with an impermeable floor;
 - c. Any hazardous material used in connection with the activity is stored in the building at all times;
 - d. The activity does not involve (A) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with the vehicles, (B) underground storage of any hazardous material, or (C) above-ground storage of more than one hundred and ten (110) gallons of the lubricating oil and associated hazardous waste.
6. An activity involving the dispensing of oil or petroleum from an above-ground storage tank or tanks with an aggregate volume of 2,000 gallons or less provided all the following conditions are satisfied:
 - a. The dispensing activity takes place solely on a paved surface that is covered by a roof;
 - b. The above-ground storage tank (or tanks) is a double-walled tank with overflow alarms;
 - c. All associated piping either is above ground or has secondary containment.

Note: Determining Regulatory Status in Aquifer Protection Areas, in the Forms and Applications Section of this manual, can be used to verify these conditions.

5.2 | Determining Regulated Activities

To begin, the Agency should develop a list of the businesses that are likely to be registered. The land use inventory that was provided by DEEP and updated by the Agency is a good starting point and can be used as a list of potential registrants. The Agency can use the inventory to inform potential registrants about the Aquifer Protection Area program and that they may be required to register. A form can be included with the notification letter to help the potential registrant determine if they are a regulated activity. A copy of the form can be collected by the town for each potential registrant. Keeping a copy of each form submitted on file will make it part of the official record and is a good business practice for the Agency. DEEP has developed a form for facilities to use to determine a non-regulated or regulated facility.

A sample form titled “Determining Regulatory Status in Aquifer Protection Areas” and is found in the Forms and Applications Section of this Manual. Also, a “Determining Regulated Status Use Decision Tree” can be found on page 48.

5.3 | Registration of Existing Facilities

Within six (6) months of adoption of local Aquifer Protection Area regulations, existing facilities engaged in regulated activities located in the Aquifer Protection Area must file a registration with the Agency. [RCSA Sec. 22a-354i7(b)] Regulated facilities in the Aquifer Protection Area must register their business activities as an existing use of the property. Registration allows the facility to preserve their right to continue to conduct business on the property at a site that is within the Aquifer Protection Area. Failure to register may result in loss of the existing use at the site. The registration also allows the facility to expand their registered activity within the property boundary of the site.

Note: Should a business want to add or change their regulated activity, they must apply for an Aquifer Protection Area Permit. (See the Permit Section.)

5.3.1 State Registrations

The DEEP regulates activities within Aquifer Protection Areas that are specified in Section 22a-354p(g) of the Connecticut General Statutes. These facilities are generators of large quantities of hazardous materials or wastewater discharges that require them to hold a DEEP Individual State Permit.

These facilities include the following:

- (A) Holders of individual state discharge permits issued under the:
 - National Pollutant Discharge Elimination System (NPDES)
 - State Pollutant Discharge Elimination System (SPDES)
 - Federal Resource Conservation and Recovery Act (RCRA) for a treatment, storage or disposal facility (TSDF)
- (B) Public service companies (utilities)
- (C) Large quantity hazardous waste generators under RCRA
- (D) State agencies (except local or regional boards of education)

Facilities that meet any of the above (A through D) and are located in an Aquifer Protection Area are regulated by the DEEP and are required to register and get an Aquifer Protection Area Registration from the DEEP.

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To register with the DEEP, the registrant must complete and submit the Registration Form for Regulated Activities in Aquifer Protection Areas (DEEP-APA-REG-100) to DEEP. This form is available on the Web at www.ct.gov/deep/aquiferprotection or by calling DEEP at 860-424-3020.

Note: Facilities that hold DEEP General Permits are generally small-quantity generators and are not regulated by the DEEP, but are regulated by the local Aquifer Protection Agency.

5.3.2 Municipal Registrations

The municipal Aquifer Protection Agency will regulate all regulated activities not regulated by the state. Facilities conducting regulated activities within the authority of the Aquifer Protection Agency must submit a registration to the Agency for the activity. The Agency will process registrations for those regulated activities.

5.4 | New Registrations

Any person engaged in a regulated activity that was active on, or has been active within the past five (5) years, or has obtained a building permit before the date of the delineation of the Aquifer Protection Area boundary on the town's zoning map or inland wetland map is eligible to register. [RCSA Sec. 22a-354i-7(b) or Section 8(a) of the Model Regulations]

A registration must be submitted within one hundred eighty (180) days of adoption of the local Aquifer Protection Area regulations or designation of the Aquifer Protection Area, whichever occurs later.

A model Aquifer Protection Area Registration Form and instructions can be found in the Forms and Applications section.

5.4.1 Notice to Facility Owner(s) and Property Owner(s)

The Aquifer Protection Agency may choose to send a notice to owners of facilities, or the owners of the property, that potentially may be regulated and may be required to register under the program. Since a facility owner may be different from a property owner, DEEP suggests that notices be sent to both the facility owner and the property owner to avoid any potential claim by the property owner that they were not aware of the program and its requirements. This notice will give the owner of the property (which also may be vacant or inactive at the time the registration is due) the ability to register, thereby keeping the ability to lease to certain tenants and maintaining the value of their property. The Agency can obtain the property owner information from the property tax documents filed at the Town.

A sample Notice to Facility/Property Owner(s) letter can be found in the Form Letters Section of this manual.

5.4.2 What Can Be Registered?

The Aquifer Protection Area Regulations (See Model Regulations, Section 8 – Registration Requirements) require any person engaged in a regulated activity to be registered if they meet one of the following conditions: The business and regulated activity (1) was active on; or (2) has been active within the past five years of; or (3) held a municipal building permit before the date an applicable Aquifer Protection Area is designated and regulations are in place.

Important note: Any business conducting a regulated activity that fits one of the three criteria listed above is required to register to continue to operate at that site. New regulated activities are prohibited at unregistered sites in Aquifer Protection Areas.

5.4.3 Who Can Register?

Sites may have property owned by a person/company, but the facility or business may be owned, leased or operated by one or several other persons/companies. The regulations state that any person engaged in a regulated activity shall register. This means the operator of the business/facility will usually be the registrant, since it is the operator who is engaged in the activity and can certify that the activity is in compliance with all the best management practices. The registrant is the responsible/liable party for the activity.

Where the property owner is different from the owner/operator of the business engaged in the regulated activity, the registration must be filed by the owner/operator of the business, and the property owner must be listed on the registration form. It is certainly in the property owner's best interest to encourage and ensure that the owner/operator of the regulated activity registers.

Important note: Part III of the registration form should clearly list the registrant's interest in the facility or property. The property owner and the facility operator should review the registration form to ensure that the facility boundary and the interest and responsibilities for the facility are indicated, so the Agency can make a proper determination.

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5.4.4 What is the Extent of a Registered Site?

The registered facility boundary is an important piece of the registration. The intent of the definition of “facility” (see key definitions below) is to allow the registration of the existing site where the regulated activities are conducted, and to allow for continued operation and reasonable expansion of the business. Here are some case examples of registered sites:

- In the case of a stand-alone business that is on property owned by the business, the facility boundary is straightforward. The business owner submits the registration, and the facility boundary is the full extent of the property boundary of the site.
- For commercial malls or industrial sites with leased spaces, the business owner/operator submits the registration, and the facility boundary is the area leased by the regulated business. In this case, the registered facility boundary does not include the entire mall or industrial complex.
- For industrial condominium-type situations, the facility boundary may be a little more complicated. The business owner/operator submits the registration, and the facility boundary is the area owned by the regulated business. If the property is in common ownership, the business owner may be able to include the entire condominium complex.
- If, in addition to the property on which the regulated activity is conducted, the business owner owns, leases, or has an option to purchase adjacent, contiguous property, that adjacent property may also be included in the facility boundary. The intent of this is to allow inclusion of the adjacent property or expansion of an existing business where those pre-existing adjacent property conditions exist.

Important note: The regulations give the Agency/Agent the authority to request the information necessary for a clear and fair determination of the facility boundary. The Agency/Agent may therefore request documentation of property ownership, lease or purchase options, as well as a detailed map or site plan of such areas.

5.4.5 Inactive Sites

If a regulated facility is currently out of business, unoccupied, or in some other way currently inactive at the time the registration is due, the regulated facility may be registered if it has been active within the past five years of the date on which an applicable

Aquifer Protection Area was designated and if regulations are in place. In this case, the facility owner or property owner should file an Aquifer Protection Area registration to preserve its right to conduct a regulated activity in the future. The facility seeking to register an inactive site should register the regulated activities that were previously conducted on the site within the past five-year timeframe. If the facility is registered as an inactive site and then becomes active, the facility should modify and update its registration to an active status. If the facility becomes active but will be adding or changing the regulated activity conducted on site, then it should submit an Aquifer Protection Area permit to the Agency for review and approval.

5.4.6 Key Definitions

Registered regulated activity means a regulated activity that has been registered under Sec. 22a-354i-7 of the Regulations of Connecticut State Agencies or Section 8 of the Model Regulations, and is conducted at the facility identified in such registration;

Facility means property where a regulated activity is conducted by any person, including without limitation any buildings located on the property that are owned or leased by that person; and includes contiguous land owned, leased, or for which there is an option to purchase by that person;

Person is defined as any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency, political administrative subdivision of the state, or other legal entity of any kind.

Registrant is defined as a person who, or which, has submitted a registration for an existing regulated activity.

5.5 | Municipal Agency Action

5.5.1 Timeframes for Action

The Agency must review and take action on registrations within one hundred eighty (180) days of the date of receipt of a registration. The action involves the Agency making a determination of completeness of the registration.

At any time during the review period, the Agency may require the registrant to provide additional information about the regulated activity. Requests for additional information must not stay the time limitations for registrations as set forth in Section 8 of the Model Municipal Aquifer Protection Area Regulations.

See the Aquifer Protection Registration Processing Flow Chart at the end of this section.

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5.5.2 Date of Receipt

The day of receipt of a registration will be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission of the application to the Agency or thirty-five (35) days after the submission, whichever is sooner. [CGS § 22a-354p(c) or Section 7(b) of the Model Regulations]

5.5.3 Late Registrations

If a regulated activity that is eligible for registration fails to register or to apply for renewal before expiration, the Agency may accept a late registration at their discretion. The registration renewal is subject to the limitations of the five (5) year allowance of date of expiration.

5.5.4 Completeness

The Agency has one hundred eighty (180) days to determine completeness. A complete registration must contain the following information:

1. The name, business telephone number, street address and mailing address of the registrant
2. The owner of the facility, if different from the registrant
3. The manager or operator overseeing the operations of the facility
4. The location of the facility, using street address or other appropriate method of location, and a map showing the property boundaries of the facility

Note: The facility map is particularly important since it defines the area upon which regulated activities can be conducted. Regulated activities cannot be expanded beyond or added to areas outside the facility boundary.

5. An identification of the regulated activity or activities conducted at the facility
6. A certification by the registrant that the subject regulated activity is in compliance with best management practices
7. A confirmation and commitment that all regulated activities at the facility shall (A) be and remain in compliance with best management practices; (B) not increase the number of underground storage tanks; and (C) be in and remain in compliance with all local, state, and federal environmental laws.

Note: Best Management Practices (BMPs) for specific activities (like golf courses) are available in the Appendices.

If the municipal Aquifer Protection Agency determines that a registration is incomplete, the Agency must reject the registration and notify the registrant of what additional information is needed and the date by which it must be submitted.

A sample Notice of Incompleteness letter can be found in the Letters, Registration Certificate and Permit section of this manual.

If the registration submitted is determined to be complete and the regulated activity is eligible for registration, the Agency must send written notification of such registration to the registrant.

If the Agency does not take any action on a registration within 180 days of receipt, the registration is considered complete and accepted.

The Agency relies on information provided by the applicant. If the information subsequently proves to be false, deceptive, incomplete or inaccurate, the registration may be modified, suspended or revoked.

5.6 | Additional Registration Requirements

The Agency may require registrants to submit additional documentation for the registration. The Agency may, by written notice, require any registrant to submit for review and written approval a materials management plan and/or a stormwater management plan. [RCSA Section 22a-354i-7(d) or Section 8(c) of the Model Regulations]

A Model Materials Management Plan and a Model Stormwater Management Plan can be found in the Model Documents section of the manual.

5.6.1 Considerations for Requiring Materials Management Plans

When deemed necessary to protect the Aquifer Protection Area well, the Agency may require, by written notice, any registrant to submit for review and approval a Materials Management Plan (MMP). The MMP should be prepared in accordance with the Best Management Practices (BMPs) section of the Model Aquifer Protection Area (APA) Regulations. The Materials Management Plan shall consider measures to prevent or mitigate water quality impacts to the groundwater aquifer through the proper use, storage and handling of hazardous materials.

The following should be considered when deciding if submission of a plan is necessary:

1. The proximity of the proposed activity to public water supply wells;
2. The size and intensity of the regulated activities conducted on-site;
3. The nature, toxicity, and quantities of hazardous materials;
4. The frequency, manner of use and transfer of hazardous materials;
5. The environmental compliance record of the property, general site maintenance and housekeeping conditions;

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6. The arrangement, operation, design, and estimated effectiveness of any protection measures or structures meant to contain hazardous materials;
7. The nature of the property including its area, topography, and soil conditions, which could affect the infiltration of spilled materials;
8. Whether access to the property by public or private streets or driveways enables a prompt response to a spill or other emergency that could impact the groundwater quality; and
9. The amount and nature of wastewaters generated and whether public sewer disposal is provided.
8. The presence of subsurface stormwater infiltration structures such as dry wells, galleries, or leaching trenches in paved areas. These structures may not adequately allow for attenuation of chemicals, fuels, salts or other soluble compounds in groundwater that may be contained in runoff.
9. Use of hazardous deicing chemicals.
10. Site maintenance and oversight of stormwater structures.

Stormwater principals for Aquifer Protection Areas (and other groundwater drinking supply areas) are to:

- prevent inadvertent pollution discharges/releases to stormwater
- provide necessary impervious pavement in high potential pollutant release areas
- direct paved surface runoff to above-ground type land treatment structures – sheet flow, surface swales, depressed grass islands, detention/retention and infiltration basins, and wet basins, and
- to the extent possible, recharge stormwater where it does not endanger groundwater quality.

5.6.2 Considerations for Requiring Stormwater Management Plans

When deemed necessary to protect the Aquifer Protection Area well, the Agency may require, by written notice, any registrant to submit a Stormwater Management Plan (SWMP) prepared in accordance with the Best Management Practices (BMPs) section of the Model Aquifer Protection Area (APA) Regulations. The SWMP shall consider measures to prevent or mitigate water quality impacts to the groundwater aquifer and shall meet the requirements of the Connecticut Department of Energy and Environmental Protection's (DEEP) Commercial Stormwater General Permit. Measures include facility information, stormwater discharge type and conveyance, stormwater pollution prevention, pavement sweeping, outdoor storage and washing restriction, spill control/response, and maintenance and inspection of stormwater structures.

The following should be considered when deciding if a plan is necessary:

1. A stormwater management plan already exists for the site.
2. A Material Management Plan has already minimized materials exposed to precipitation, contact with stormwater, or releases to groundwater.
3. Site proximity to the well field.
4. Size and intensity of the site.
5. Potential for illicit discharges to stormwater (wastewater, fuel, chemicals).
6. The presence of "stormwater hot spots" such as: intense outdoor storage and loading areas, fueling areas, uncovered dumpster materials, exposed raw materials, products or machinery, or large intensive parking areas and roadways.
7. Lack of necessary impervious pavement in high potential pollutant release areas.

The DEEP 2004 Connecticut Stormwater Quality Manual provides comprehensive stormwater guidance and is available on the DEEP website at www.ct.gov/DEEP/stormwater.

5.7 | Issuing the Registration

Once the Agency has determined the application for registration to be complete, the Agency shall issue the registration. To issue the registration, the Agency sends a registration cover letter and the registration certificate to the registrant.

A sample Registration Cover Letter and Registration Certificate can be found in the Letters, Registration Certificate and Permit section of this manual.

All registrations issued by the Agency are subject to and do not derogate any present or future rights or powers of the Commissioner, Agency, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.

A complete registration expires five (5) years from the date of receipt of the registration by the Agency.

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5.8 | Fees

The Agency may require a filing fee to be deposited with the Agency. The amount of the fee shall be sufficient to cover the reasonable cost of reviewing and acting on applications and petitions, including, but not limited to, the costs of certified mailings, publications of notices and decisions, and monitoring compliance with permit conditions.

5.9 | Renewal of Registrations

A registration expires five (5) years from the date of receipt of the registration by the municipal Aquifer Protection Agency. Registered facilities must apply to the Agency to renew the registration on a form prescribed by the Commissioner for a facility before expiration of the registration.

If a registered regulated activity is out of business or inactive when the registration renewal is required, a five (5) year allowance is in effect from the date the registration expires.

If the registrant has not applied to renew the registration within five (5) years of the date the registration expires, the facility is no longer eligible for registration. [RCSA Sec. 22a-354i-7 or Section 8(f)(5) of the Model Municipal Regulations for Aquifer Protection Areas]

5.10 | Transfer of Registrations

The registrant may apply to transfer the registration for a facility. The application for transfer must be submitted to the DEEP or municipal Aquifer Protection Agency, as appropriate.

A DEEP registration for regulated activities, specified in CGS § 22a-354p(g), must be transferred by the Commissioner.

A local registration for regulated activities, not specified in CGS § 22a-354p(g), must be transferred by the municipal Aquifer Protection Agency. Such transfer shall be executed using a form prescribed by and submitted to the municipal Aquifer Protection Agency.

A model Aquifer Protection Area Registration Transfer Form is found in the Forms Section of this manual.

5.11 | Exemptions

The Commissioner of DEEP has the sole authority to grant an exemption to a regulated facility from the state Aquifer Protection program and regulations if he determines that the activity does not and will not pose a threat to the public supply well. An exemption may be granted if the owner of the regulated activity clearly and convincingly demonstrates, and the Commissioner finds that, if any hazardous material is released into the ground

from the subject regulated activity, treatment would not be required to render the groundwater suitable for drinking. Any exemption granted by the Commissioner will be in writing, explicitly stating the findings upon which the exemption is granted, and will provide the terms of the exemption.

The owner or operator of a regulated activity seeking an exemption from the Commissioner must also submit a copy of the application for an exemption to the Agency, any affected water company and the Commissioner of the Department of Public Health.

The Agency may submit written comments to the Commissioner on any exemption not later than sixty (60) days after receiving a copy of an application for exemption. [RCSA Sec. 22a-354i-6(c) or Section 8(f)(5) of the Model Municipal Regulations for Aquifer Protection Areas]

The Commissioner will send a notice by certified mail to the applicant of his approval or denial of an exemption application and a copy of the notice to the Commissioner of the Department of Public Health, the affected water company and the municipal Aquifer Protection Agency.

If the Commissioner denies an application for an exemption for a regulated activity, then the regulated activity is prohibited unless the activity can be registered. This registration must be submitted not later than thirty (30) days after receipt of the Commissioner's written disapproval of the exemption.

5.12 | Expansion of a Regulated Activity

Once a facility has registered and the facility boundary is defined, they may expand the regulated activity within the facility boundary under the registration. Adding a new regulated activity to the facility or changing from one regulated activity to another requires an APA permit. (See Permit Processing Section.)

Note: Unregulated activities conducted at a registered facility do not come under review of the Aquifer Protection Agency. For example, adding a convenience store to a registered gas station does not require review or action by the Aquifer Protection Agency.

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5.13 | Determining Regulated Uses Decision Tree

Determining Regulated Uses Decision Tree

1. Is the use listed as a regulated activity?

(See RCSA Section 22a-354i-1(34) or Section 2(a)(35) of the Model Municipal Aquifer Protection Area Regulations.)

NO → not regulated

YES



2. Is it listed as a non-regulated exception?

(For example: residential, minor hazardous material [2.5/55 gallons maximum], or agricultural.)

YES → not regulated

NO



3. Is it listed as a non-regulated conditional use?

For example:

- a. a minor activity (municipal sewer, 10% floor area, 110 gallon maximum, no UST)
- b. lubricant oil only (no UST, 110 gallon maximum)
- c. minor fuel dispensing (no UST, 2,000 gallons maximum and secondary containment)

YES → not regulated

NO



Regulated activity

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5.14 | Registration Decision Tree

Registration Decision Tree

1. Is the regulated activity currently active, has been active in the last 5 years, or has a building permit been issued?

NO → cannot register

YES



Must register within 180 days

2. Is registration complete?

(Agency must determine within 180 days of receipt or registration automatically approved.)

NO → reject registration and notify registrant to provide additional information and the date by which the information must be submitted



YES

3. Is a Material Management Plan (MMP) or Stormwater Management Plan (SWMP) deemed necessary?

NO → registered for 5 years; send written notification of registration



YES

Request Plan from facility and provide Timeframe for submission. Review and approve MMP or SWMP.

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5.15 | Registration Processing Flow Chart

[CGS § 22a-354p(g)(2) and RCSA Sec.22a-354i-7]

