



## **Aquifer Protection Area Registrations**

### **Introduction**

Any business conducting regulated activities in an Aquifer Protection Area must register to preserve their right to continue to operate the regulated activity and maintain their ability to expand or change regulated activities in the future. Questions have been raised about what can be registered in terms of active and inactive uses, the extent of the facility boundary, and who can submit the registration form. Industrial parks, commercial malls, and other sites with multiple lessees or condominium type arrangements have also raised questions. This guidance provides answers to these common questions for Aquifer Protection Agencies, their agents and staff, and businesses.

### **What Can Be Registered?**

The Aquifer Protection Area Regulations (See Model Municipal Aquifer Protection Area 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.

### **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 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 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 the facility boundary and the interest and responsibilities for the facility are indicated, so the Agency can make a proper determination.

### **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 for 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.

### **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 meets the registration criteria: *If it has been active within the past five years of the date an applicable aquifer protection area is designated and regulations in place.* In this case, the facility owner or property owner should file an aquifer protection area registration.

## **Key Definitions**

“Registered regulated activity” means a regulated activity which has been registered under Section 22a-354i-7 of the Regulations of Connecticut State Agencies or Section 8 of the Model Municipal APA 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.

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### Disclaimer

This guidance is intended to assist the Aquifer Protection Agency and is not a complete reference to state and municipal regulations. Additional information and guidance is covered during DEP’s Municipal Aquifer Protection Agency Training Sessions. It is recommended that the Agency seek the legal advice of the town attorney where potential conflicts with the municipal aquifer protection regulations and aquifer protection area registrations arise.