



Permit Application Processing

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6.1 | New Permits

Businesses that currently hold an Aquifer Protection Area Registration, and are seeking to change or add a regulated activity, may apply for an Aquifer Protection Area Permit. A permit can only be obtained for a registered facility. If a facility is not registered, it is not eligible for a permit. New regulated activities are prohibited from locating in APAs.

For example, if a business, such as a gas station, has an Aquifer Protection Area Registration and is registered as a regulated activity (B) oil or petroleum dispensing for the purpose of retail, wholesale or fleet use and wants to add an automotive repair garage, a regulated activity (D) repair or maintenance of vehicles, (a new regulated activity), then the business must obtain an Aquifer Protection Area Permit. This would also apply if a business owner purchased an industrial building originally registered as, for example, (L) production of electronic boards, electronic components, or other electrical equipment, but the new owner wanted to conduct regulated activity (T) production or fabrication of metal products instead. Changing from the originally registered activity to a different activity could be accomplished through obtaining an APA Permit.

A permit must be obtained from the Agency before a business begins any new regulated activity. A sample Aquifer Protection Area Permit Application form is in the Forms and Applications section of this manual and is available online at www.ct.gov/deep/aquiferprotection.

Note: A facility that holds an APA Registration with the State must apply to the State for a permit to add a regulated activity as specified in CGS § 22a-354p(g). (See Section 2a of the Registration Processing Section of this manual for more information on the facilities to which this applies.)

6.2 | Fees

The Agency may require a filing fee to be deposited with the Agency. The amount of the fee should 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. Fee schedules are discussed further in the Registration Processing Section of this Manual.

6.3 | Municipal Agency Action

6.3.1 Timeframes for Action

The Agency must review and take action (vote on and make a decision) on permit applications within sixty-five (65) days after completion of a public hearing (if one is held) or sixty-five (65) days from the date of receipt of an application in the absence of a public hearing. The Agency must notify the applicant of the decision by certified mail, return receipt requested, within fifteen (15) days of the decision.

At any time during the review period, the Agency may require the applicant to provide additional information about the proposed permitted activity. Requests for additional information must not exceed the time limitations for permits as set forth in Section 9 of the Aquifer Protection Area Regulations.

An Aquifer Protection Permit Processing Flow Chart is provided at the end of this section, which outlines the critical steps and timeframes in the process.

6.3.2 Date of Receipt

The date of receipt of a permit application 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 Municipal Regulations for Aquifer Protection Areas]

6.4 | Notification and Referral Requirements

When an applicant files a permit application with the Agency, they must also send a copy of the permit application to the Commissioner of DEEP, the Commissioner of Public Health and the affected water company. These entities have sixty (60) days to submit written comments on the application to the Agency.

IMPORTANT NOTES:

A permit can only be obtained for a registered facility.

If a facility is not registered, it is not eligible for a permit to add a regulated activity.

New regulated activities are prohibited from locating in APAs.

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The Agency must give due consideration to any comments received in making a permit decision. A copy of the decision must be provided to the Commissioner, the affected water company and the Commissioner of Public Health. Any pertinent comments should be addressed in the decision.

As a courtesy and as required by the regulations, the Agency must notify the town clerk of any adjoining municipality if a permit is received for a site in which:

1. any portion of the property affected by a decision of such Agency is within five-hundred feet of the boundary of the adjoining municipality;
2. a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
3. a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
4. water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

The notice must be made by certified mail, return receipt requested, and must be mailed within seven (7) days of the date of receipt of the application, petition, request or plan. The adjoining municipality may, through a representative, appear and be heard at any hearing on any such application.

The Agency must notify the applicant of the decision by certified mail, return receipt requested, within fifteen (15) days of the decision.

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

A complete application is one in which all parts are filled in, all four attachments are included, and both certifications have been signed by the appropriate person.



6.5 | Evaluating Permit Applications

In order to issue a permit, the Agency must ensure that the application is complete and the applicant has demonstrated to the Agency's satisfaction that the following standards and criteria are met.

A complete application is one in which all parts are filled in, all four attachments are included, and both certifications have been signed by the appropriate person.

The standards and criteria that must be met in order to issue a permit are as follows:

1. The Agency must verify the facility is registered, and the proposed regulated activity takes place within the facility boundary detailed in the registration. Once registered, a facility boundary cannot be expanded, even if adjacent land is later purchased.
2. The proposed regulated activity must not increase the number or storage capacity of underground storage tanks used for hazardous materials except for the allowed replacement of an existing underground storage tank. The replacement tank volume is detailed under the Best Management Practices (BMPs) section of the Model Regulations Section 12(a)(3) and it allows up to a 25% increase in volume and must meet specified standards (double-walled with coaxial piping and interstitial monitoring).
3. The Materials Management Plan and Stormwater Management Plan must be satisfactorily prepared. See the sample Materials Management and Stormwater Management Plans under the Model Document Section of this Manual. These plans are very site-specific, and the extent and detail depends upon activities at the site and how they are set up.
4. The applicant must submit a confirmation and commitment that all regulated activities are and will remain in compliance with all local, state and federal environmental laws.
5. The applicant's compliance record must not indicate: (A) that any noncompliance resulted from indifference to or disregard for the legal requirements, (B) an unwillingness or inability to devote the resources necessary to comply and remain in compliance, or (C) that instances of noncompliance have led to serious environmental harm, harm to human health or safety, or a substantial risk of such harm.

An Environmental Compliance Information Form for Aquifer Protection Areas is provided in the Forms and Applications Section of this Manual.

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6. The proposed regulated activity must be conducted in accordance with applicable best management practices (BMPs). The Agency must verify that the applicant has checked off all the BMPs in the Part VI certification of the application.
7. The registered regulated activity is being conducted in accordance with applicable BMPs; and
8. The certification required on the application has been signed by the applicant and the individual responsible for preparing the application.

The permitting process is outlined in the regulations and does not leave much discretion for the Agency. If the applicant can demonstrate that it meets the standards, the Agency should issue the permit. There is some administrative flexibility for the Agency on the extent and detail necessary for the Materials Management and Stormwater Management Plans, and flexibility if the applicant has a poor compliance history.

6.6 | Public Hearings

The Agency may hold a public hearing on a permit application. The Agency's decision to hold a hearing should be based on the need for public input into the process and the magnitude of the application.

Some of the factors to consider are:

- The size and complexity of the proposed activity
- Proximity of the site to the well field
- Public interest

If a public hearing is held, the Agency must ensure that it is held within sixty-five (65) days of receipt and follows the notice requirements below:

1. Publish at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected aquifer, or any part thereof, is located, and
2. Send a copy of the notice, by certified mail, return receipt requested, to any affected water company/companies at least ten (10) days before the hearing.

Any affected water company/companies may, through a representative, appear and be heard at the hearing.

All applications, maps and documents relating to the permit hearing must be open for public inspection.

At the hearing, any person may appear and be heard.

The hearing must be completed within thirty-five (35) days of its commencement.

The applicant may consent to an extension of the timeframe listed above, provided the total extension of all periods totals sixty-five (65) days or less. (Section 9(c) of the Model Aquifer Protection Area Regulations)

In reaching its decision on any application after a public hearing, the Agency must base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record must not be considered by the Agency in its decision.

The applicant or permittee must be notified of the Agency's decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested. The Agency must also publish the decision in the local newspaper in accordance with Section 9(k) of the Model APA Regulations.

6.7 | Additional Conditions

The regulations allow the Agency to impose reasonable conditions or limitations on any permit issued to assure protection of the groundwater, including but not limited to the following:

- Best management practices in addition to those set forth in Section 12 of the Model Municipal Regulations; and
- Groundwater monitoring.

It is recommended that any such conditions be discussed with DEEP before issuance of conditions or limitations.

6.8 | Renewals

A permit expires ten (10) years from the date of issuance by the Agency. Any person proposing to continue a previously permitted regulated activity must apply for renewal of the existing permit before the expiration date of the existing permit. It is recommended that permit renewals be submitted 90 days before expiration of the permit to give the Agency adequate processing time.

DEEP encourages the municipality to send a renewal notice to permittees 180 days before permit expiration.

If a renewal application is not submitted before the expiration date of the existing permit, then the existing permit is deemed to have expired.

A renewal should be granted by the Agency upon request unless a substantial change in the permitted activity has been made, or enforcement action with regard to the regulated activity has been taken, in which case, a new permit application should be submitted and reviewed.

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6.9 | Modification

A person may request a modification of a permit from the Agency. The request must be on a form obtained from the Agency and must include the facts and reasons supporting the request if the modification is substantial. The Agency may require the applicant to submit a new application for a permit or renewal in lieu of a modification request.

6.10 | Transfers

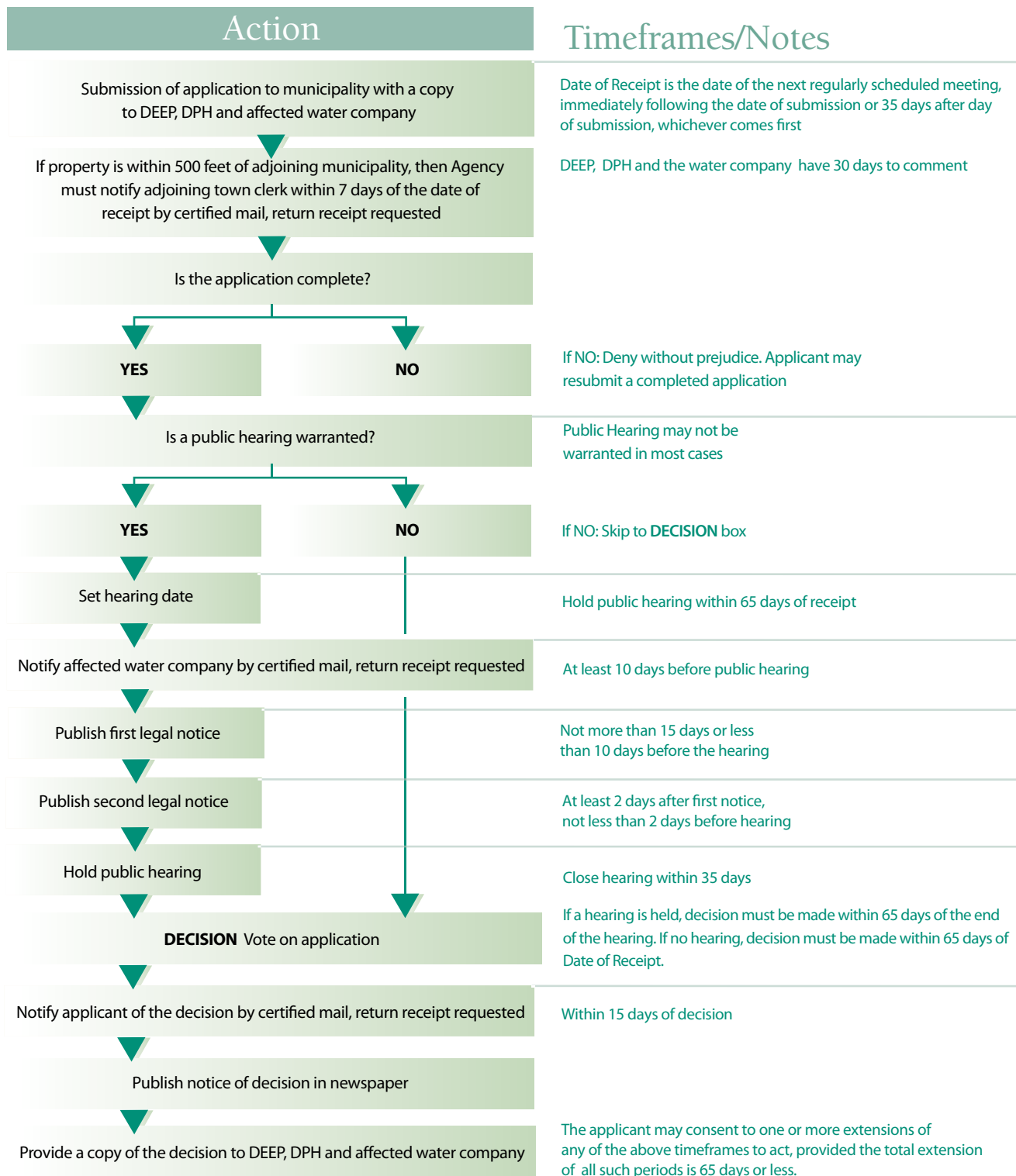
A person may apply to the Agency to transfer the permit for a facility to a new owner using a form prescribed by the Agency. No permit issued may be transferred except with written permission from the Agency.

A sample Transfer Form is provided in the Forms and Applications section of the Manual.

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6.11 | Permit Processing Flow Chart

[CGS § 22a-354p and RCSA Sec. 22a-354i-8]



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6.12 | Permit Decisions

Permit Decisions

1. Will the proposed regulated activity occur on a registered site (within registered facility site boundary)?

NO → cannot be permitted

YES



Submit permit application

2. Is the permit application complete?

NO → notify registrant to provide additional information and the date by which the information must be submitted, or reject incomplete application without prejudice



YES

3. Are all the permit criteria met? (BMPs, MMP, SWMP, compliance record, no new USTs?)

NO → cannot be permitted, deny application and state the reasons for the decision

YES



Approved or approved with conditions/limits and state the reason for the decision (10 year permit)