


Attention All Permit Holders

The U.S. Army Corps of Engineers and the Virginia Department of Environmental Quality recently released Joint Guidance advising the regulated public regarding the permittee's responsibility to transfer permits to new landowners. The guidance is short and to the point and has been reproduced here:



Public Notice

U.S. Army Corps of Engineers, Norfolk District
Virginia Department of Environmental Quality

Joint Guidance August 11, 2005

As you know, we work on many development projects. After a permit is issued, the land or a portion of it may be sold to other entities.

Please be reminded that permits and permit obligations can survive property transfer. Permittees must transfer the portion of the permit that applies to the land sale to the new owner. Failure to do so could leave the permittee and/or the purchaser in violation of the permit.

/S/ Catherine M. Harold Manager Virginia Water Protection Permit Program Virginia Department of Environmental Quality	/S/ J. Robert Hume, III Chief, Regulatory Branch Norfolk District, Corps of Engineers
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The surprising element of this notice is the agencies take on transferring portions of a permit to a new landowner. This appears to be an excellent opportunity for permittees to transfer permit liability to entities purchasing a portion(s) of a larger development. Up until this declaration, the agencies have been hesitant to entertain breaking apart permits and in fact individual agency project managers may still be resistant.

WEG recommends you examine the potential for reducing your permit compliance liability by transferring permit responsibility to purchasers of land within larger developments. Specific attention will need to be paid as to which conditions can be transferred and which simply must remain within the domain of the original permit holder or his successor. This is likely not going to be a smooth process, but it could provide a solution to permit holders with no legal authority over the actions of others purchasing land within your development. If you have any questions, please don't hesitate to contact WEG.