

**Characteristics Of Water-use Control Policies:
A Survey Of 28 Eastern States**

Water Policy Working Paper # 2004-001

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Executive Summary

The purpose of this study is to examine policies used by states for controlling water use; our study is limited to twenty-eight states located east of the Mississippi River. Our primary interest here is whether or not permits or some type of reporting of water use is required, and the nature of any restrictions on permits, such as changes in point of diversion or type of use imposed on a water use permit, periodic reviews of permits, and/or fixed-tenure permits (permits expire after a specific length of time). Professionals in each state's water management agency were contacted by email and asked to describe their system (if any) for managing water. We have made no attempt to verify the accuracy of reported information; we make our best efforts to interpret responses that remain a bit vague even after our follow-up attempts. An assessment of our success in these regards is left to the reader: complete responses obtained from each state are given in an Appendix to this report.

We find that nineteen of the twenty-eight states surveyed require some form of a water use permit. Six states simply require the annual reporting of water use. Three states (Rhode Island, Vermont, and West Virginia) require neither permits nor reporting. Of the nineteen states requiring permits, two (Louisiana and South Carolina) require permits only for ground water use; Pennsylvania requires a permit only for surface water use. Four states require permits only in special cases: Virginia, North and South Carolina require permits only in "special" areas (usually coastal areas); Tennessee requires a permit only in instances where withdrawals will adversely affect fish or aquatic life.

Two states require periodic reviews of permits: Delaware (every five years) and Maryland (every three years). Two states have fixed-period permits. Permits expire after eight years in Mississippi; after thirty years in Delaware.

In most states, permits are tied to the original land and/or use for which a permit is issued, much like the case in Georgia. It would appear that three states (Delaware, Maryland, and North Carolina) allow water use permits to be transferred to other users involving changes in point of diversion and/or use (the State of Virginia is seemingly considering such a system), but only after extensive review and approval by the State. Such transfers may be regarded as allowing the sale of a state-issued water use permit. However, we find little evidence of any implementation of such transfers and, generally, little enthusiasm for implementation.

The reader is invited to examine the Appendix for descriptions of each state's water management system as described by their own state agencies.

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Results from the survey are summarized in Table 1. Nineteen of the twenty-eight states surveyed require some form of a water use permit. Six states simply require the annual reporting of water use. Three states (Rhode Island, Vermont, and West Virginia) require neither permits nor reporting. Of the nineteen states requiring permits, two (Louisiana and South Carolina) require permits only for ground water use; Pennsylvania requires a permit only for surface water use. Four states require permits only in special cases: Virginia, North and South Carolina require permits only in "special" areas (usually coastal areas); Tennessee requires a permit only in instances where withdrawals will adversely affect fish or aquatic life. Two states require periodic reviews of permits: Delaware (every five years) and Maryland (every three years). Two states have fixed-period permits. Permits expire after eight years in Mississippi; after thirty years in Delaware.

Table 1
Characteristics of Water Management Systems
In Twenty-eight Eastern States

<u>Permit or Annual Report Required</u>	<u>Permits or Reports Not Required</u>	<u>Sales/Transfers May Be Allowed</u>
Alabama	Rhode Island ⁷	Delaware ⁴
Arkansas ²	Vermont	Maryland ⁶
Connecticut ³	West Virginia ⁷	North Carolina ¹⁰
Delaware		
Florida ³		
Illinois		
Indiana		
Kentucky ³		
Louisiana ⁵		
Maine		
Maryland		
Massachusetts		
Michigan		
Minnesota		
Mississippi ^{3,8}		
Missouri		
New Jersey ⁹		
New York		
North Carolina		
Ohio		
Pennsylvania ¹¹		
South Carolina ¹²		
Tennessee ¹³		
Virginia ^{14, 15}		
Wisconsin ³		

¹ Transfers with sale of land not included.

² While it would appear that water uses may transfer their right to use water in Arkansas, communications with Mr. Steve Loop, Arkansas Department of Water Resources, suggest that “sales” of water rights do not take place in the state.

³ Transfers allowed only with the sale of land; i.e., the permit is “tied” to the land.

⁴ A rather complicated system of transfers is allowed (see Appendix). However, all permits are reviewed every five years *and expire* after thirty years.

⁵ Applies only to ground water in “stressed” aquifers. Permits are not required for surface water use.

⁶ Transfers subject to written authorization by the state. However, all permits are subject to review every three years.

⁷ State is considering the adoption of some kind of a permit/reporting system.

⁸ Permits expire after eight years.

⁹ Highly regulated transfers can take place in “water supply critical areas” under limited conditions (see Appendix).

¹⁰ Applicable only in designated “capacity use areas.”

¹¹ Permits required only for surface water use.

¹² Permits are required only for ground water use, and only in selected coastal areas.

¹³ While water use in excess of 10,000 gpd must be reported in Tennessee, permits required only if withdrawals will result in adverse impacts on fish or aquatic life.

¹⁴ All non-domestic water uses must be reported. Permits are required for ground water use at 10,000 gpd or more for ground water use only in the state’s two “ground water management areas.”

¹⁵ See footnote 1 in text.

Source: Appendix

In most states, permits are tied to the original land and/or use for which a permit is issued, much like the case in Georgia. It would appear that three states (Delaware, Maryland, and North Carolina) allow water use permits to be transferred to other users involving changes in point of diversion and/or use (the State of Virginia is seemingly considering such a system¹), but only after extensive review and approval by the State. Such transfers may be regarded as allowing the sale of a state-issued water use permit. However, we find little evidence of any implementation of such transfers and, generally, little enthusiasm for implementation.

In these regards, an interesting example is seen in rules established for North Carolina's Central Coastal Plain "Capacity Use Area" (CUA). In this CUA a permitted water user may sell or transfer to others any portion of his permitted withdrawal; the original permittee must request a permit modification to reduce his permitted withdrawal and the proposed recipient of the transfer must apply for a new or amended withdrawal permit (which must be approved by the state).² However, discussions with personnel in the state's Department of Water Resources (DWR) reveal that, as of December 3, 2003, no transfer under this provision had taken place, although one proposed transfer was, at that time, under consideration. The proposed transfer would be a temporary transfer from Lenoir County to communities in neighboring counties for 5 years; financial arrangements related to this transfer, if indeed such arrangements exist, are unknown. Our information suggests that North Carolina's DWR may have serious concerns about the transfer provisions of the Rule

¹ See F.S. Fisher, Senior Assistant Attorney General for the State of Virginia, "Current water rights law is not adequate to provide for the water needs of Virginia's growing population and industry. Changes are needed to increase the certainty of protecting the water course, to increase the certainty of water rights, and to facilitate the trading of water rights so the market can assist in getting the water to where it is needed and can be put to best use." Presented at the May 23, 2003 meeting of the Water Policy Technical Advisory Committee, State Water Commission.

² Title 15A-Department of Environment and Natural Resources, Chapter 2, Subchapter 2E, Section .0502(o).

based on the perceived difficulty of managing such transfers in the case of ground water, and the potential for adverse localized effects and the high level of uncertainty that appears to surround any groundwater analysis. Given the DWR's substantial regulatory authority over such transfers, we are told that future trades, if any, will likely be very limited.³

The reader is invited to examine the Appendix for descriptions of each state's water management system as described by their own state agencies.

³ Based on communications between Ms. Kristin Rowles, GSU, and Mr. Nat Wilson, N.C. DWR, December 3, 2003.

APPENDIX

ALABAMA

LeslieD@adeca.state.al.us

Similar to Georgia, **Alabama** is a riparian rights state. The significance of this is that the right to use water is part of your rights as a property owner, but this right is not exclusive. Downstream property owners also have the same right, so there is a requirement that an upstream user cannot harm a downstream user by consuming all of the water. Of course, this is a grossly oversimplified explanation of riparian rights, but you probably have run into a vast amount of information on riparian rights, so I won't bore you with too many details since Alabama and Georgia are under the same criteria for this. However, Alabama does not issue permits. Our water users (public, industrial and irrigation) register water use with the Office of Water Resources and submit annual reports of monthly water usage. Since we are not issuing permits per se or granting any rights to consume water, I don't see how these certificates would be a commodity that would be sold.
(Leslie Durham)

TomL@adeca.state.al.us

I apologize for not responding sooner but you are correct. We have been extremely busy. In answer to your question, **Alabama** does not have a water permitting system in place. We have a water registration and reporting system that is defined under our statute, the Alabama Water Resources Act. It provides for the issuance of a Certificate of Use to public, non-public and irrigation water users in Alabama that recognizes the various water uses but does not confer or modify any existing rights of the property owners. It is not transferable.

Tom Littlepage
Alabama Office of Water Resources
401 Adams Ave. Suite 434
Montgomery, Alabama 36104
Phone: (334) 242-5499
FAX: (334) 242-0776

ARKANSAS

Steve.loop@mail.state.ar.us

Arkansas registers both its surface and ground water use. Water use is reported for the past water year and a \$10 registration fee is collected. This registers the diversion, and these water use records are used to determine the registrant's share of available water during times of shortage and when an allocation plan is in place. There is not a permit involved. Nothing precludes a landowner from selling their mineral or water rights, but those rights are not quantified under a permitting system. A landowner's "share" of water depends upon the number of riparians using that water source, and whether the total use of that source results in a shortage condition. Where a shortage exists, the Commission will determine allocation levels based on available water and each riparian diversion would reduce their amount to "share the pain".

Arkansas permits non-riparian surface water use, most often power plants or industries, or large irrigation projects. The application is \$500 and the annual permit fee is \$100. We have made a determination of "excess water" for surface waters in the State, which is basically the annual streamflow minus that required to meet the highest in-stream need. Of the "excess water" available, the ASWCC is authorized to permit 25% for non-riparian use. We quantify the annual amount and the maximum rate of diversion within the terms of the permit, and also specify the use that the water is to be put to. We base the length of the permit on the cost of the project and the time for the project owner to recoup their costs, anywhere from a few years to fifty years, maximum. These permits run with the project and are transferable by amendment as long as the projected water use, amount and rate remain the same.

Steve Loop, Water Resources Engineer.

CONNECTICUT

Robert.gilmore@po.state.ct.us

I am not aware of any (**Connecticut**) statute or regulation that would prohibit the holder of a water withdrawal permit (water diversion permit) from selling the permit to another. However, the permit would have to be transferred to the new "owner" subject to the approval of the Commissioner of DEP. The new owner would be subject to the conditions and limitations in the permit and the water withdrawn may only be used for the purpose and within the boundaries of the geographic area specified in the permit application.

If you have further questions, need additional info or clarification, please do not hesitate to call me at (860) 424-3866.

DELAWARE

William.cocke@state.de.us

Delaware does not use the principle of water rights in the allocation of water use (that principle is more common in the states of the Wild West). Our regulations are based on the principle of equitable apportionment. The Department of Natural Resources and Environmental Control's (DNREC's) Water Allocations Program, acting for the State, evaluates each request for water use on a local and regional basis, balancing the water needs of the population with the minimum environmental requirements. The water allocation request is required to provide justification of benefit to the public for the quantity of water to be used. Once issued, the allocation permit is reviewed every five years, and expires after 30 years.

The transfer of water allocations permits is allowed upon written authorization of the Department, as long as there is no change in the terms of the permit. If the property owner used a water supply source for domestic water consumption, for example, the allocation could not be transferred to an industrial, agricultural or public water supply user without applying for a new allocations permit. The transfer of water from the source property owner to the recipient property also requires a water transfer permit. Both the source property owner and the recipient must have water allocations permits, and the transfer permit must be approved by the Department. This permit is also reviewed every five years, and expires after 30 years.

This may sound confusing, because it is. Let me give you two simple examples:

1.) A farmer owns several irrigation wells or intakes that are allocated for one million gallons per day each. His allocations permit lists each water source and states the allowed use from each source. The farmer then leases his/her fields to a large corporation, which continues to grow crops and use the irrigation system at the same rate or less. The farmer and the corporation may jointly sign a petition to the Department to transfer the allocation of water to the corporation. This is a transfer of water allocations permits.

2.) A riparian landowner wants to sell the right to use of his pump station and his water allocation to a corporation that is currently connected to the public water supply network. He signs an agreement with the corporation and builds a pipeline to the corporation's water distribution system. He has been using his water allocation for irrigation of his gardens. Because the corporation wants to use the water for other purposes, he cannot transfer his water allocations permit to the corporation. He also needs a water transfer permit for the interconnection. The local water company must be notified that a new water provider is operating within their service area (providing water to a customer is a regulated business). The local water company may file a petition to the Public Service Commission to deny the transfer permit.

As you can see, transferring water from one user to another is possible in Delaware, but it is not as simple as obtaining water rights and selling them. Two or more agencies are involved and there is a public notice requirement. Anyone from the public may object to the transfer.

You can see our regulations on line at:

<http://www.dnrec.state.de.us/water2000/Sections/WatSupp/WSSRegulations.htm>

Bill Cocke

FLORIDA

tcolios@sfwmd.gov

Florida water law (eastern) is different from western water law. Water is not a property right in Florida. The water use permit is transferable, but documentation of ownership for the project is required. Suggested readings:

Chapter 373 Florida Statutes

Chapter 40E-2 Florida Administrative Code

These can be found on our website:

http://www.sfwmd.gov/org/reg/reg_rules.html

Good luck.

Tom

djenkins@sjrwmd.com

Florida's water law structure does not create a property right when it issues a permit but, instead, creates a usury right pursuant to what is authorized by the permit (see the eminent case of Village of Tequesta v. Jupiter Inlet Corp., 371 So. 2d 663 (Fla. 1979)). Permits are transferable but only when the property and the associated use are purchased by another entity and then only when the use is not changing from what was authorized. If a person wants to use water in a manner or for a purpose that is different than what is authorized under a permit, the person must apply for either a new permit or to modify the existing permit and such a request is processed as a new use that is subject to competition by other water users and applicants. The bottom-line is you cannot buy or sell water use rights in Florida.

ILLINOIS

DWRM@dnrmail.state.il.us

(In **Illinois**) We issue very few authorizations to withdraw water. We have authority only for the public waters. The application for the authorization required that the use be for "industrial manufacturing or public utility purposes" (there is debate over the existence of a comma after industrial) Our authorizations are not transferable. We generally are only asked to issue an authorization when the entity is not a riparian. We do not think the authorization represents a property right, only an authorization to make use of the state's right to the water in a public body of water.

Paul Mauer

IDNR/OWR/DWRM

INDIANA

btallon@dnr.state.in.us

The Flood Control Act does not address property ownership, so permit transfers are not necessary. The Lake Preservation Act does, and if someone would like to transfer the permit into their name, they would have to supply deed information for that property.

The Flood Control Act deals with the quantity of water going from point A - B, typically its construction and determining if the proposed development will create an increase in flood stages. If you need information regarding quality, as some air permits get "sold" to other industries, you would need to contact **Indiana** Department of Management <http://www.in.gov/idem/>

The Lake Preservation Act also deals with development such as seawalls, dredging, beaches, etc...
Beth Tallon
Division of Water
402 West Washington Street
Room W264
Indianapolis, IN 46214
877-928-3755
btallon@dnr.state.in.us

Note: Indiana Code Ann §14-25-3-7 (2003) requires a permit for any water use, ground or surface, at or above 100,000 gpd.

KENTUCKY

Maleva.chamberlain@mail.state.ky.us

No. After a drought period in the late 80s, the state legislature wrote a law mandating water supply planning for each county in Kentucky. That kicked in just in time for the last drought and saw us through very well. See information about water withdrawal permitting and water supply planning at <http://www.water.ky.gov/wr/wqmgmt.htm>. More on water supply planning at <http://www.water.ky.gov/wsp/>. The water withdrawal permits are specific to an activity - and to the particular source. If a permit holder were to move the activity to another location, the permit process would begin anew for that water source. So it isn't related to a particular property, but rather to the use and to the water source. How much any permit holder can withdraw from any source depends on the flow of the source and how much is used by others. That permit is only for that permit holder at that location for that activity.

LOUISIANA

Celeste.Bonnecaze@la.gov

Your question was forwarded to me and I will attempt to answer. Our (**Louisiana**) department (DEQ) does not issue water use permits. I think I talked to you a few weeks ago about this issue and mentioned the DNR groundwater program for conservation.

www.dnr.state.la.us/CONS/gwater/gwrd-index.htm

Management issues for groundwater usage would be addressed by that program. As far as I know, surface water withdrawal or usage is not regulated in the state. However, you may want to check with the DOTD, because I know they conduct surveys on surface water and gw usage in the state. www.dotd.state.la.us. I would suggest that you consult with the DNR staff on the transfer of ownership of any groundwater use permits, restrictions, or approvals they may issue.

Celeste Bonnecaze, Geologist

DEQ

225-219-3419

To my knowledge ground water rights are not separate from the property in Louisiana, but the state through DNR does get involved with water permits from the standpoint of water quantity withdrawal from stressed aquifers. The contact in Louisiana for information about this is Tony Duplechin at the Department of Natural Resources (225) 342-5515.

Here is some more info that may be useful. We got this from a contact at LA Department of Transportation and Development: Bo Bolourchi (225)274-4171 is in charge of Water Resources (water well licenses, etc). They also provide an advisory service to levee boards, etc relating to permits (withdrawal of water from streams, etc.) You might talk to Whitney Ledet (225) 274-4325. Here is DOTD's homepage: <http://www.dotd.state.la.us/>

Deanna J. Bloodworth

Quality Assurance Officer

Office of Environmental Services

LA Department of Environmental Quality
(225) 219-3178

MAINE

Mark.T.Margerum@Maine.gov

Maine does not have a water use permitting program at all. We have a water use reporting program, new last year, but it does not confer any rights on water users. Our water law is based on the common law of riparian rights and reasonable use.

The issue of water use is sometimes addressed in some of our land use permitting programs, and those permits can not be transferred apart from the land.

Mark Margerum

Maine DEP

17 State House Station

Augusta, Maine 04333-0017

phone (207)287-7842, fax 287-7191

Mark.T.Margerum@Maine.gov

MARYLAND

(Code of Maryland 26.17.06.06)

(9) A permit may not be transferred without the prior written approval of the department. If approved, the Department shall issue a new permit, which may contain new conditions at the discretion of the Department. A permittee who wants to convey a water appropriation or use permit, and the person who wants to obtain the permit shall each state their intentions in writing to the department.

MASSACHUSETTS

Thomas.Lamonte@state.ma.us

Legal questions with **Massachusetts** Water Management water withdrawal permits and registrations can get very complicated; too complicated to fully answer your question here. Keeping it simple, our program does have a water right transfer ability (see permit transfer application on our website: <http://www.state.ma.us/dep/brp/wtrm/wtrmpubs.htm>). Generally, the water right to operate the source for a particular use goes with the property, although the water right can go to a holder of a lease of the property. As the property is sold or transferred, the water right should be transferred to the new owner or new lessee. We do not get involved with the economic cost or price of the water right, but our focus is on the operator of the water source have a proper permit/registration and that he/she operates the source in compliance with regulations and consistent with water conservation practices.

Tom

Environmental Analyst

Water Management Program/DEP

MICHIGAN

BREDINJ@michigan.gov

Michigan does not have a water withdrawal permit program. But, we are in the process of developing one and the question you're asking is one of interest to us. Any information you have regarding how other states deal with this issue would definitely be appreciated.

Permits now required for uses beginning in 2003.

MINNESOTA

Annette.marier@dnr.state.mn.us

Minnesota Law is based on Riparian Rights Doctrine. The permits are permissive only. Practical and reasonable use of water resources is based on riparian land ownership or control. You must

own the land overlying the ground water source or the land directly abutting a surface water source. Minnesota Statutes 103G.271 and Minnesota Rule 6115.0600 apply to appropriation of waters of the state. Feel free to check the DNR Waters website.

Annette Marier
DNR Waters
Water Management Section
500 Lafayette Road
St. Paul, MN 55155-4032
(651) 296-0435
Fax (651) 296-0445
annette.marier@dnr.state.mn.us
www.dnr.state.mn.us/waters

MISSISSIPPI

David_Hardin@deg.state.ms.us

Mississippi does have a permitting system for groundwater and surface water withdrawals that are good for 10 years. These permits and water rights are associated with the land and can not be sold separately. Someone could sell the actual water, as long as it was a beneficial use as described in the application.

David Hardin
Director
Division of Permitting and Monitoring
Office of Land and Water Resources
(601) 961-5332
(601) 354-6938 fax

MISSOURI

nrbarnj@mail.dnr.state.mo.us

Missouri is a riparian state and does not issue water permits like the Western states do. Missouri does not restrict or regulate the amount of water that can be taken from surface or groundwater sources.

Jeanette Barnett, Research Analyst
Missouri Department of Natural Resources
Major Water Users Unit, P.O. Box 250, Rolla, MO 65402-0250
Phone: (573)368-2188, FAX: (573)368-2111
E-mail: nrbarnj@mail.dnr.state.mo.us

Note: Missouri Code 256.400 and 256.410 (www.moga.state.us/statutes/C256.htm) requires users of more than 100,000 gpd, from any source, to register such use. Registration data are used to determine the state's use and needs of (for) water.

NEW JERSEY

Diane.Zalaskus@dep.state.nj.us

The State of **New Jersey** owns all waters of the State. We grant water allocation permits for persons who use more than 100,000 gallons per day. These permits really grant people the "privilege" to use the water. The only time allocations can be transferred to another user at another location is within declared water supply critical areas. We currently have two such areas in the State. There are regulations which specify under what conditions an allocation can be transferred & it does require the approval of our office. So the permit is not "sold".

If you need further info, feel free to contact me again. The phone # here is (609)292-2957.

NEW YORK

mdholt@gw.dec.state.ny.us

New York requires permits for public water supply withdrawals. However, our permits do not create or transfer water rights under common law.

Online:

Withdrawal by registration for agricultural and non-agricultural; use estimates and records updated annually. No info on permit transferability.

<http://www.dec.state.ny.us/website/regs/675.htm#675.4>

NORTH CAROLINA

Don.Rayno@ncmail.net

North Carolina only issues water withdrawal permits within designated Capacity Use Areas. These permits constitute permission to withdraw up to a specified amount of water. Permits are not permanent. They need to be renewed periodically and the permitted amount may be changed by the issuing agency. A permitted water user may sell or transfer to other users a portion of their permitted withdrawal. To carry out such a transfer, the original permittee must request a permit modification to reduce their permitted withdrawal and the proposed recipient must apply for a new or amended withdrawal permit. The reference can be found at

http://www.ncwater.org/Permits_and_Registration/Capacity_Use/Central_Coastal_Plain/CCPrulefinal5-17-2001x.pdf

Tom.Fransen@ncmail.net

A permitted (**North Carolina**) water user may sell or transfer to other users a portion of their permitted withdrawal. To carry out such a transfer, the original permittee must request a permit modification to reduce their permitted withdrawal and the proposed recipient must apply for a new or amended withdrawal permit. The reference can be found at

http://www.ncwater.org/Permits_and_Registration/Capacity_Use/Central_Coastal_Plain/CCPrulefinal5-17-2001x.pdf .

"A permitted water user may sell or transfer to other users a portion of his permitted withdrawal. To carry out such a transfer, the original permittee must request a permit modification to reduce his permitted withdrawal and the proposed recipient of the transfer must apply for a new or amended withdrawal permit under Section .05000 of this Subchapter." (NC Code, Title 15-A, Chapter 2, Subchapter 2E, section .0502(o))

OHIO

Jason.Remich@dnr.state.oh.us

The simple answer would be no because **Ohio** does not have a water permit system. We do have a registration Program (The Water Withdrawal Facility Registration Program) for users with the capacity to withdraw 100,000 gallons per day but this program is used strictly for planning and data collection purposes. Ohio's water law state's that if a person is a riparian owner then he/she is entitled to withdraw as much water as they would like as long as it doesn't adversely effect users/neighbors downstream or the general health of the stream. Common cases and torts have essentially established the precedence of Ohio surface water law. Ground water is rather similar, a property owner is entitled to as much water as they want as long as it is a 'reasonable use'. The 'reasonable use' criteria is determined case-by-case and often results in some sort of mutual agreement. A common example would be having to drill a new/deeper well for your neighbor if you lower the water table below his or hers. When a riparian property is sold, the new owner assumes the water rights along with the property. I hope this helps you out, if it doesn't let me know. j

PENNSYLVANIA

gcentofant@state.pa.us

Pennsylvania does not require a water withdrawal permit for groundwater, only for surface water to be used as a drinking water supply. We are part of two major compacts the Delaware River Basin Commission and the Susquehanna River Basin Commission. I am more familiar with the DRBC. In

southeast Pennsylvania we have a groundwater protected area where any withdrawal over 10,000 gpd requires a permit from DRBC. Outside of the groundwater protected area a permit is needed over 100K gpd. For more specific information, go to their web site. <http://www.state.nj.us/drbc/> (609-883-9500.)

In Pennsylvania, outside of the groundwater protected areas of the river basin commissions there has been very little controversy over quantity of water. There have been several large protests over the taking of groundwater for commercial purposes (bottled water) but none have gone to court. We have environmental considerations related to taking for commercial use, most based on potential impacts on wetlands or stream recharge.

Online info:

According to HB2302 (through Senate Nov. 2002) Sec. 3118 (8) Water Use Registration and Reporting:

"Registration of a withdrawal or use shall not be construed as a determination of a person's water rights or approval of a withdrawal or use by any agency of the commonwealth or by a compact basin commission."

www.dep.state.pa.us/dep/deputate/watermgt/wc/act220/

RHODE ISLAND

kcrawley@wrb.state.ri.us

Rhode Island does not have a comprehensive water use permitting system (permits of water withdrawals). The state is currently engaged in a water allocation program development initiative. Please visit our website for more information at www.wrb.state.ri.us. Please contact me if you have additional questions or require more information.

Sincerely,

Kathleen Crawley

Kathleen Crawley

Staff Director

RI Water Resources Board

100 North Main Street, 5th Floor

Providence, RI 02903

tel: (401) 222-5621 fax: (401) 222-4707

SOUTH CAROLINA

vang@dnr.state.sc.us

(**South Carolina** requires withdrawal permits) only for ground h2o and then in selected coastal counties. They may not be sold.

Alfred Vang,

Deputy Director

Department of Natural Resources

2221 Devine St. Suite 222

Columbia SC 29205

803-734-9092

TENNESSEE

Water.Supply@state.tn.us

Tennessee is a riparian right state. No permits are required of individuals for water withdrawal for their own use. The state may require an industry or public water supplier to apply for an Aquatic Resources Alteration Permit to withdraw water if the withdrawal may impact fish and aquatic life of a stream or water body.

Attached is a copy of a study conducted by Dr David Feldman with the University of Tennessee that may provide additional information on this issue.

VERMONT

Dennis.nealon@anr.state.vt.us

At this point **Vermont** does not require or issue water withdrawal permits.

VIRGINIA

ewmorrow@deg.state.va.us

No we don't allow the sale of the permit

Note, however, the comments of F.S. Fisher, Senior Assistant Attorney General for the **State of Virginia**, "Current water rights law is not adequate to provide for the water needs of Virginia's growing population and industry. Changes are needed to increase the certainty of protecting the water course, to increase the certainty of water rights, and to facilitate the trading of water rights so the market can assist in getting the water to where it is needed and can be put to best use." Presented at the May 23, 2003 meeting of the Water Policy Technical Advisory Committee, State Water Commission.

WEST VIRGINIA

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At the present time, **West Virginia** does not have any rules regarding water withdrawal. However, this is a hot topic. The legislature is gathering information on the issue and may well propose a bill regulating this in the upcoming session (Jan-Mar, '04).

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WISCONSIN

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I can address the question of water from wells but there are more knowledgeable folks for the surface water question in other bureaus in our (**Wisconsin**) department.

Approvals issued to allow pumping large amounts of water from wells are issued to the property owner where the wells are located. When the property is transferred to a new owner, the new owner must obtain an approval to continue operating the well(s). The approvals are not sold or issued to separate entities. Property that is irrigated by a high capacity well has more value than a corresponding property that has no irrigation well base on tax valuations.

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