

ARCHIVE: Archived because this document no longer provides current guidance and because revisions made to VAP rules in 2002 in OAC Chapter 3745-300 render this guidance unnecessary.

TITLE: O & M Agreements: Obligations for Future Owners

DATE

EFFECTIVE: March, 1997

KEYWORDS: subdivided parcels, complying parcel, applicable standards

QUESTION: Does a Covenant Not to Sue (CNS), apply to subdivided parcels of a property for which a CNS has been issued?

ANSWER: Upon the request of the volunteer, any future owner or any long term leaseholder as defined in the Director's Final Findings and Orders (FF&Os) may be amended to identify any subdivided parcels of the Property, provided that the requirements of the FF&Os are satisfied within each parcel. The Covenant contained in the FF&Os will apply separately to any subdivided parcels, and will remain in effect for any subdivided portion of the Property identified in an amendment that continues to comply with the FF&OS establishing the CNS. Any such subdivided portions of the Property are referred to as "Complying Parcels." Revocation of the CNS for any Complying Parcel will not be based solely on a finding that any other subdivided parcel of the Property no longer complies with the applicable standards for the Voluntary Action Program, or the requirements of an O&M Agreement (if applicable).

SUMMARY: A CNS applies to all subdivided parcels of the property so long as orders contained the Director's FF&Os establishing the CNS are complied with. Non compliance of the CNS by one parcel will not necessarily cause the CNS for another parcel to be revoked.

OHIO EPA

CONTACT: For any questions concerning this issue, please contact the VAP central office at (614) 644-2924.