

NOTES FROM ON-SITE MEETING 10/22/01 HOSTED BY THE TWO RIVERS
PLANNING COMMISSION AT THE HOTEL COOLIDGE WHITE RIVER
JUNCTION

Q: Why are you going to the leading edge for site conditions in the rules? There is too little enforcement of the violations of the existing rules which have more safety factors and there are still problems.

A: These rules are updated to the technical standards currently acceptable from a scientific basis. Other states are using these systems now. It is appropriate to use these systems for design of sewage systems, land use should be controlled by the towns. The vendors of some systems believe we have not gone far enough in modifying the rules to accept some designs they feel are safe. Closing the 10 acre exemption requires lots which were not complying with health standards to do so. These systems will moderate the effect of that by providing new safe systems.

Q: How will the town and state coordinate the permitting?

A: If S.27 allows us to delegate the program to the towns, double permitting will be eliminated. The towns could take over the whole program or just one kind of permit. These rules do not allow delegation. A statutory change is required. The rules will create statewide standards to the degree that states update their ordinances. S.27 would establish the standards statewide whether ordinances were updated or not.

Q: Will towns be able to take delegation by hiring a consultant to do the reviews.

A: Only if S.27 passes. However many towns have their own programs now, a duplication of effort.

Q: How much land will become developable that is not now?

A: It is very hard to quantify such a number. The Soil Conservation Service maps are run through a very generalized computer program which determines how much land in an area meets certain slope and type criteria. These rules apply only to the small area on each lot that sites the leach field, not the whole lot. Therefore those maps are too general to make rational predictions. The ACCD report estimated up to 50% more developable land. That is a very high estimate. It does not reflect other moderating requirements such as fire and safety access to buildings, etc.

Q: Please explain the 5 year delay in using the modified site conditions.

A: The rules do not allow towns to immediately use the modified site conditions unless they have certain planning completed which will control the increased development in accord with a town plan. The planning requirements are:

- a. update the sewage ordinance to meet the state standards
- b. have a planning process confirmed by the applicable Regional Planning Commission
- c. have zoning bylaws
- d. have subdivision regulations or other regulations that incorporate standards for transportation construction, flood management, and

soil and erosion control, and provisions that encourage growth centers while limiting growth in surrounding open areas.

Q: Can they be used in 5 years?

A: Yes. After 5 years the new rules could be used whether the town had adopted planning controls or not.

Comment: This will create a moratorium on development in some towns.

Q: All the wetlands need to be mapped on a parcel. This is very costly for large lots. It should only be a requirement in the project area.

A: We agree. It was not our intent to require mapping in areas which are not affected by the systems being designed. We will modify the draft rule.

Q: The definition of a bedroom is a problem. There are too many other rooms that are not and will not be used for bedrooms. You should establish the number of bedrooms in the permit and let enforcement take care of the problem. The title search will identify the issue. The engineer must certify the number of bedrooms in the design. This puts the designer in an untenable position

A: All states regulate by the number of bedrooms. Perhaps the square footage could be changed. The designer should state on the plans the number of bedrooms the system is designed for .

Q: Why did a definition get added. You never needed it before?

A: Enforcement involves the design flows which are determined based on the number of bedrooms.

Comment: Declare the number of bedrooms when the house is constructed. Don't count the rooms which could become bedrooms.

Comment: Real estate sales control this. A realtor must state the number of bedrooms. People who are violating the use are getting caught now. Don't put it in the rule if it is not going to be enforced.

Q: If a person has a 3 bedroom house and builds a fitness room do they need to amend the permit?

A: It depends whether it fits the definition of a bedroom or not. We will work on this We want it to work without being unduly restrictive. On the other hand people are using 3 bedroom houses as 5 bedroom houses. This is unacceptable.

Q: Will town rules be exempted 5 years from now?

A: No. If they do not put the new rules in place, the state will still issue a permit. The standards will be statewide. Towns will need to update their ordinance if the reference the state standards.

Comment: 30% slope is too high. There is much potential for erosion.

Response: Constructability is the issue. The science of hydraulics is okay. The designer will have to show that the system will not fail due to erosion.

Comment: Planning and zoning issues in these areas must be addressed. Erosion from higher storm flows, driveways etc not just the septic system construction is a future concern.

Response: We agree. That is why the 5 year delay is being considered.

Q: If you make additions to a house will you need to upgrade the system?

A: If you have a permit and the design flow is increased because of the addition the permit must be amended, and the system changed also unless it is designed for the new flows. If it is on an exempt lot, then you are not required to change the system.

Q: Do towns have to develop regulations?

A: No. We will encourage it. If they do nothing, then the process does not change in their town for 5 years. Then the new rules will apply for state permits issued in their town. Town permits could then conflict with the state requirements.

Q: Can a town pick and choose from the rules?

A: The technical standards must be at least as stringent as the state requirements. S.27 would make the standards apply statewide. Towns can regulate units that the state does not.

Q: How many people are assumed per bedroom to calculate design flows?

A: Now it is 2. The new rules reduce the people per bedroom as the number of bedrooms increases.

Q: Do the new rules allow composting toilets?

A: Yes. So do the current ones. However, this is not "compost", it is a pathogenic waste and must be treated as such. The disposal of greywater is still an issue for such projects.

Q: What is a failed system?

A: The definition was read from the rule.

Q: Is a fully complying system required for alternative systems as it is for an experimental system?

A: All systems need a fully complying replacement system for treatment and disposal. The replacement for the treatment system may be a sand filter.

Q: Does this rule have to be approved by the House and Senate?

A: No. ANR can adopt rules without direct approval. They are reviewed by the Legislative Committee on Administrative Rules. We are however working with the House and Senate Natural Resources Committees. They were unable to meet with us this summer as originally expected. We have developed the rules to address their concerns that we not close the 10 acre exemption without updating the rules with new technical standards and to accommodate new technologies.

Q: Is this required in 5 years?

A: No. Towns do not have to do the planning. Five years is allowed for them to do so. They cannot use the new site conditions for projects in their towns unless planning is done. After 5 years the new rules will be able to be used in all towns.

Q: Doesn't this promote development even though it is only a change in science?

A: The new rules can work two ways. It allows some new development in areas previously not allowed. However, that development cannot be allowed except in towns who choose to update their planning controls for 5 years. In the other towns the current rules still apply for 5 years. Only the existing level of development on lots under 10 acres will occur in those towns.

Comment: Zoning costs money. Many towns do not want the state telling them what to do about land use.

Response: There were two perspectives balanced in choosing the phase-in. 1) Adopt the science and act or 2) Never allow the new conditions to be used unless the planning was done. This is a reasonable compromise.

Comment: Some small towns may still not be ready to address the need for planning. The state should encourage planning and zoning by towns.

Q: How many innovative systems are approvable?

A: Each system must be evaluated against the criteria in the rule. One has recently been approved. Several are in the pipeline.

Q: How will ANR keep up with the new permit workload?

A: We will realize an additional 1/3 of the systems in VT from closure of the 10 acre exemption. We will no longer be hand holding the engineers by doing detailed review of their engineering designs. We will be looking at the soils/site. There will be more accountability for consultants. We plan on creating permits by rule or general permits for certain projects. We can fund some staff by the new fees. We do need legislative action for new positions.

Q: Can site technicians as well as Professional Engineers use the new technologies?

Site technicians can design systems using technologies in the general use category. The new rules allow site technicians to design using sandfilters.

Q: How many towns have a sewage ordinance/

A: About one half.

Q: These rules cover water supplies. Is that a change?

A: No. We have regulated water supplies under this program for 30 years.

Q: Will the rules allow a dug well? Must it be done by a person licensed by the state?

A: Dug wells are allowed. The location must be selected by a licensed designer.

Comment: A lot of farmers use dug wells. This will be a public relations issue. You will need to get the information out.

A: We are only regulating potable water supplies, not water to serve animals.

Q: What about currently existing systems. If I want to fix my existing system in 2003 will I need to get a permit.

A: No. Not unless you have a permit now or you have an increase in or change in use.

Comment:: I could not find the definition of a hydrogeological study? Please incorporate the description that is in the old rule.

Comment: Towns will have a hard time finding qualified reviewers: The new treatment/site conditions require desk top studies for many projects.

Q: When you subdivide large lots will the buyer have to get a change in permit to relocate a system? It would be better to sell without a location.

A: Yes a permit change is required. You can sell without a permit as long as the deferral language is in the deed. Subdivision is kept as a permit trigger. The problems suffered by people buying lots that they believed they could build on and finding out 20 years later that they couldn't get a permit make this an appropriate compromise.

Q: Why aren't there cheap septic systems?

A: The ordinary systems are still useable on sites that can accept them. Those costs will not be different. The new technologies are more expensive, but will allow some additional sites to be used. The ability to develop a site may offset the cost of the more complex system.

Q: How many 10 acre lots are failing.

A: We do not have 10 acre lots broken out separately. In general 5 % of systems fail annually, particularly older systems. The substandard systems are a health risk. Many 10 acre lots are really 1 or two acre lots close together along a road, with 8 acre back pastures.

Comment: Lots have been developed around the septic system standards when they shouldn't have been. There should have been land use controls rather than using the standards.