

NOTES OF MEETING ON THE ON-SITE RULES ON 11/01/01 IN SHAFTSBURY HOSTED BY THE
BENNINGTON REGIONAL PLANNING COMMISSION

Q: I am from Pownal, where we are planning a municipal system. Can we require mandatory hook-ups? Will they be more expensive than owning your own on-site system?

A: A lengthy discussion ensued about the pros and cons of municipal and on-site systems, operating costs, pump out requirements etc. The Town can require connections within a certain distance of the sewer line. Municipal connections are general less costly on average than properly maintaining an on-site system.

Q: Who is in charge of new systems? Are there engineers designing these systems now?

A: Yes. There are engineers and vendors now who are involved with these systems and who have actually designed and installed systems on lots that are not regulated by these rules.

Q: I have looked at the list of meetings scheduled and South Central Vermont is very poorly covered. Why is that? Only 2 sets of meeting notes are up on your website, even today. Will the rest be available soon?

A: The Department asked for planning commissions to volunteer to host these meetings. These are the people who responded. Also in general the separation of the state by the mountains makes groupings in the bottom of the state more harder to combine in logical connections. Windsor and Windham suggested that they combine forces. The other notes have been provided to the editor and the website programmer. They should be available next week.

Q: Wilmington and Stratton have a lot of 10 acre lots. Other towns have lots of small yet unregulated lots on poor soils. They would probably have been very interested in a meeting in their location.

A: Addison and Franklin Counties probably have the most difficult soils to deal with, and we have held a meeting in each area. We gave the best reasonable coverage we could. There are 10 meetings, which is a lot for any rulemaking. The small unregulated lots remain unregulated.

Q: I have an exempt 10 acre lot, if I expand the house do I need a permit?

A: No.

Comment: I have no problem with establishing regulations for new lots.

Comment: September 1, 2002 is too soon for closure of the 10 acre exemption. I know someone in Jamaica VT who has owned a 10 acre lot for 30 years with the expectation

that they can retire here and build on the lot. Many folks will throw up a shack to circumvent the rule.

Response: Some people will take such actions. In 1969 all you had to do to be exempt was to draw lot lines on a map. Now at least you have to actually construct a structure. These rules are as flexible as we can be to allow safe systems to be used on marginal lots. If someone is willing to do whatever it takes to circumvent the rules (as they have with 10 acre spaghetti lots), because a complying system can't be built or just because they don't want to deal with the permit process, then we will have to live with that as we have had to live with the exempt lots over the past 30 years. The towns will need to decide whether to control the additional development.

Q: Do the new rules require a replacement area? If the new systems are as good as they seem to be a replacement area is unnecessary.

A: Yes, a replacement area is required. We believe that a replacement area is good insurance over the long term. There are not 30 or 40 year track records for these systems. Most houses are there "forever" and need assurance that there will always be a septic system for them.

Q: Will the innovative systems have quality control?

A: Yes. We will be reviewing and approving the performance and design for each system to give a general use approval. The operations requirements, if significant, will be required to be under a contract. If towns wish to approve innovative systems they will need a licensed designer on contract to do the review of the systems. There should be the same degree of quality control on these systems as there is on conventional ones.

Q: This will allow sprawl. How are you balancing that?

A: Some people say this will promote sprawl, others say it will allow denser communities. Both are right. We don't want to promote sprawl, but that is really a town's decision. That is why we are giving towns time to address their land use controls before the rules go into effect statewide in 5 years. We are looking at changing the way our funding affects sprawl as well, as part of the overall balancing of the issues.

Q: What does water and wastewater requirements have to do with local planning and zoning?

A: Over many years the siting requirements have been linked with land use because if you can't site a septic system, you can't build a house. We think they should not be linked. The rules change what is currently a bar to development. Towns must be given an opportunity to make changes to their land use controls if they choose to do so.

Q: The 5 year lag gives the towns this time?

A: That is the plan. If towns act sooner then they can use the revised siting requirements sooner. If not, then the rules can be used statewide in 5 years.

Comment: As a licensed designer I try to use state standards on 10 acre lots because they are reasonable standards. I am in favor of closing the 10 acre exemption. If smaller lots can be built on it allows village centers to become more usable. The transition will require time. It will be hard to keep up with the requests to put in systems before the September deadline. The rule still holds site technicians to the limited authority so they cannot be much help in this timeframe. Site technicians should have expanded authority. With training they can do projects with flows up to 1500 gallons per day or for three lot subdivisions.

Response: The site technician authority is in statute. That is one of the changes we wish to make. S.27 proposes a limitation of projects with 1350 gallons per day. Site technicians will be able to design using innovative systems approved for general use.

Q: If the new design flows are in place can existing systems expand?

A: Some of them are already on metered flows so the changes in the design flows will not affect them. If they have a system designed under the current rules, then they should be able to expand. If they have a system that is not current, say an old public building with a dry well, then they could not expand. In other cases, there may be some allowed increase depending on the case specific circumstances.

Q: ANR should not care whether projects expand within their allocated flow. Planning and zoning should control that. Isn't that what ANR is trying to do? Separate land use controls from water and sewer requirements?

A: Yes, we are. Complying systems will be controlled in that way, that is they may expand unless there is an Act 250 or local control on the expansion. Non-complying systems should not be allowed to expand beyond their existing flows without review and approval.

Q: How many towns have ordinances?

A: About 40%. Many have not been updated.

Q: If there are 30 towns who can take the program, what system will the state have to oversee a site technician reviewing a design by a Professional Engineer? How will a town afford a reviewer?

A: The town will collect the fees and can hire a reviewer on its own or join with other towns. We feel that a site technician can review a PE's design against these rules and decide whether the design meets the rules. Towns can require more stringent standards than these rules for projects that are not under state jurisdiction.

Q: If a town meets the planning requirements, does that eliminate double permitting?

A: No. We need a statutory provision for delegation in order to do that. But the town can use the same standards.

Q: Does Rule#1 allow creation of lots between now and September first and allow construction on them?

A: Yes. That is essentially one season to create a lot and construct on it without complying with the standards. There should not be a tremendous number because the market drives construction.

Comment: Act 250 will prevent a run on lots being created.

Comment: Builders are booked solid. This is not a window, you need to give more time for construction to occur.

Response: S.27 had a different timeline. The decision was made by the Governor on the time to close the 10 acre exemption. This subject has been on the table for ten years. People could have been building if they were really concerned. The issue is really whether a lot should have a building if a safe system cannot be provided. A person can test their lot, and then if a system can be built there is no rush necessary.

Q: What aerobic systems are proposed as innovative systems?

A: None have been brought to us yet, but there probably will be. They are higher maintenance, but can be approved.

Comment: Ones approved in the 60s are very good systems.

Response: They rely on very strict operation to provide good treatment. They can pass untreated waste if not operated correctly.

Comment: (Municipal) wastewater treatment facilities bypass untreated waste sometimes also.

Response: Most of those facilities discharge to surface waters which are not routinely used for unprotected drinking water supply. When the groundwater is contaminated it remains contaminated for up to two years. It is very important to have good reliable soil based treatment systems.

Comment: You need to allow these kinds of new systems. You can't prevent an owner from using his/her land forever.

Q: ANR's current review process has a lot of redundancy. The regional Engineers review plans, do site visits, issue permits. What good is my Professional Engineer's License and Site technician license if you check all this anyway?

A: These rules will hold licensed designers more accountable for their work. We will focus on site review. We will refer PEs who do poor work to the PE Board.

Q: What is the installer certification process?

A: We will require the installer to certify their installations are in accord with the plans. We cannot license installers unless there is a statutory change.

Comment: Follow-up is always a problem, even now. Developers get the permit and do not get the engineer's certification of construction in accord with the design. How will compliance be checked? Will you require a bond to be filed until the installation is complete?

A: The construction certifications are required now but are not always done. The title search required by Bianchi is correcting some of that problem. We don't expect to require a bond. Systems are often not built for years after the system is designed.

Comment: The designer could be required to file a letter of credit until the system is installed and certified.