

NOTES FROM MEETING ON THE ON-SITE RULES ON 11/7/01 IN BELLOWS FALLS HOSTED BY THE WINDHAM REGIONAL PLANNING COMMISSION

Q: If I split off a lot from my large lot to give to a family member, say 50 acres of woodlot, why do I have to get a permit? There is no need for a septic system. I can just put the deferral language in the deed.

A: Subdivision is a trigger for a permit. It makes no sense to say that you need a permit to subdivide a 2 acre or 5 acre lot, but don't need one to subdivide a lot over 10 acres. (We forgot to mention that if the original lot is undeveloped, a permit is not required, but the deferral language must be in both deeds.)

Q: Is a replacement area required for new systems? They are better than the old designs so a replacement area should not be necessary.

A: Yes. We feel that a replacement area is necessary for the small number of occasions where the site is mis-characterized or there is some other reason the system fails.

Comment: Old designs are still being used by towns who issued the permits long ago. If the new standards are in place, will the old permits have to be upgraded to the new standards for people who haven't built under their old permit?

Response: We will let the existing permit stand unless they want to expand their system.

Comment: Towns must adopt the new standards in their ordinances, so when you build the new rules will apply to your system because of the town requirements even if the state would allow you to use their old permit conditions..

Response: If the town adopts a new regulation that conflicts with the state permit, then you will have to update your state permit.

Q: Some lots greater than 10 acres are undeveloped but have a town permit to develop. How will the new rules apply?

A: If the lot has been created after 1969, after September 1, 2002. they will need a permit to construct and will have to comply with the new rules. They must comply with both the town requirements and the state requirements if the town has an ordinance. The town ordinance may be more stringent than the state requirements. If the town has not updated their ordinance they may be more lenient than the state but the project must comply with the state standards.

Q: Why is the 5 acre wording in the description of the authority of site technicians work? What difference does it make what size the lot is?

A: The description of a single lot subdivision and the limitation on project flows to 600 gallons per day for designs created by site technicians are based on statutory requirements. We hope to get them changed somewhat by the legislature.

Comment: If you eliminate the 10 acre exemption, there will be a lot more work that site technicians cannot do.

Response: The site technician authority will remain the same, that is, they will be able to do the same projects that they can do now. There will be more projects occurring that they will not be allowed to work on.

Q: Why do you state any particular design flow for the projects site technicians can design? How did you come up with 600 gallons per day is the right limit?

A: I (Roger Thompson) was not involved in the creation of that statutory jurisdictional limit, so I cannot be sure. It does match up with a couple of other limits on projects' size, one where you need to dig more test pits and the other where you can drain a mound system and not have to pre-test it.

Q: Page 60, the planning requirements. Who will decide what is satisfactory planning, zoning , etc. Isn't ANR getting into land use controls, and you say you are getting out of it! This is not ANR's purview.

A: We expect the Agency of Commerce and Community Development will be deciding on the acceptability of the planning, since that is what their work involves. ANR is requiring this to support the Executive Order on reducing sprawl and the requirements to support Act 200. We would welcome comments on ways to make this section work better. Several towns are saying that they need this time to do the planning necessary to prevent unacceptable development.

Q: If the new systems are engineered by manufacturers from the beginning, they are saying that the loading rates can be increased far beyond the rates ANR is allowing? Why aren't you accepting those loading rates?

A: We believe that there is a relationship between increased loading rates and the transfer of viruses in the soils. The manufacturers are simply saying that the hydraulics of moving water away from the site works at those high loading rates. We have chosen a value for now and are continuing to look at whether higher loading rates give acceptable pathogen reductions.

Q: There are ways to disinfect. Why not use disinfection instead of limiting the loading rates?

A: Surface water is not usually used as a source of drinking water without high degrees of treatment. Groundwater is used directly as a source. Continuous treatment is the issue. Even the large wastewater treatment facilities with certified operators cannot

always operate and maintain these disinfection systems adequately. Certainly they are not practical for homeowners. Once contaminated the groundwater is a source of concern for up to 2 years. We used our discretion to decide that disinfection is not suitable protection. We will allow it to be used as an added layer of protection for a failed system when the circumstances seem to support its use, such as at a camp on a lake with a lot of water-based recreation near by.

Q: Why did you limit the number of experimental systems to 5 and pilot systems to 25?

A: Those are the numbers for individual “models” of systems, not the total number of systems to be considered. We believe that those numbers can adequately characterize a particular system to determine if it can be approved under the category of use proposed.

Comment: I can't find the new design flow data you mentioned.

Response: You have the “ICAR” draft of the rules, not the latest draft that is on the table in the back of the room.

Comment: ANR is requiring the designer to flag the leachfield areas. This makes the designer make another trip to the site after the design is completed and adds significantly to the cost of the project. New Hampshire simply requires the designer to establish initial benchmarks so that the locations can be created in the field when required.

Response. We believe that it is helpful for owners to see where the proposed systems are to be placed. Often a homeowner decides where they want the house and it is on either the site for the septic system, or the replacement area. Having the area staked out could eliminate that difficulty.

Q: Increasing the septic tank required size will increase the cost. Is that necessary?

A: We believe that the decreased frequency of pumping will likely offset the cost of the increase. Also the increased size provides a place for the pump required for many of the new systems and saves the need for a separate pump housing arrangement. We are going to check the cost.

Comment: Filters are an excellent protection for the long life of a leach field. They should be required.

Comment: Inspections don't happen now and won't in the future.

Response; We believe that inspections are very important. For the more complex systems we will be setting up a tracking system to check operations. We believe that the best long term way to address installation inspections is to license installers. S.27 contains provisions for that. We cannot do it without statutory authority.

Comment: Where is the language regarding minor projects? I can't find it.

Response: It is supposed to be there, probably in Chapter 3. We will follow-up.

Q: I have a 10 acre lot with improvements. If I do not have a failed system, what is required?

Response: You can keep the existing system until it fails, if you do not change anything. If it fails you will be allowed to get a "best fix". A best fix will include a replacement area if one is available.

Q: How many towns will qualify to use the reduced site conditions right away?

A: Perhaps 60. They will need to adopt new ordinances that comply with the rule.

Comment: It takes too long to get ordinances passed if you have none, or even updated if you do. The new rules will not be useful in Windham County.

Comment: Let's get the politics out of this! (Restrictions on use of the new conditions unless land use controls are in place). If the towns don't act than they can take the consequences.

Q: Can a town use the innovative system rules?

A: Yes, only use of the new site conditions is delayed if the planning requirements are not met.

Comment: If the new conditions are allowed without requiring the land use controls, the towns are likely to adopt a new ordinance if they don't have one so they can use the new standards.

Q: If the town has nothing now, why shouldn't we just wait and let it happen?

A: The towns can make either choice, be active and choose to plan, or just sit it out.

Comment: Most towns here will sit it out. Planning is too arduous. Keep land use controls out of the septic rules!