

NOTES OF MEETING ON ON-SITE RULES 10/23/01 AT RUTLAND HOLIDAY INN
HOSTED BY THE RUTLAND REGIONAL PLANNING COMMISSION

Q: How will ANR know that the on-site systems being proposed (innovative) will meet the performance standards in the future.

A: The manufacturers will have the performance claims regarding their systems evaluated by third party reviewers. They will not be accepted unless the tests show they are reliable. Some of them will have conditions requiring certain operating and maintenance requirements in the permits.

Q: I know ANR is the messenger on a controversial issue...closing the 10 acre exemption and developing technical standards. This has been a 20 year process. Would these be the same rules if S.27 passes?

A: No. S.27 includes expanded jurisdiction to all systems. This only expands jurisdiction by closing the 10 acre exemption for new 10 acre lots and 10 acre lots which do not have structures.

Q: What if S.27 does not pass? When will the rules happen? What about grandfathering of lots?

A: Rule #2 implements innovative, pilot and experimental systems immediately. The revised site conditions are unavailable until towns have done the necessary planning or until 5 years after the rule adoption, whichever comes first. This rule leaves development on 10 acre and existing exempt lots exempt from jurisdiction.

Q: You say you are not trying to control land use by sewage rules. Look at the Mobile Home Park Rule. That controls the size of sites, the landscaping, traffic control, things that have nothing to do with sewage.

A: That is in statute now. It is an example of the kind of changes that need to be made to clean up the complexity of the existing statutes.

Q: New technologies won't show up until after the 10 acre exemption closes. That is not what should happen. ANR hasn't changed its attitude (refusing to provide new solutions before the closure of the exemption).

A: ANR has moved quickly this summer to create the new rules and adopt them concurrently. The rule closes the 10 acre exemption in September 2002. The rule containing the technical standards will be moving forward concurrently and will be able to accommodate any statutory changes that the legislature makes toward the end of the session. The technical standards will be essentially the same as we are now proposing and will be going into effect just about the same time that the exemption closes.

Q: Why do you need a definition of a bedroom? Everyone knows what a bedroom is. This definition will require systems to be far too large.

A: Everyone does not agree on what a bedroom is. All states regulate by bedrooms. We will work on the definition to make it as useful as possible without oversizing systems.

Comment: ANR should only regulate on rooms actually used as bedrooms, not the definition.

Q: How will a designer know what to design to ? Will they need floor plans?

A: No. A designer should not need floor plans. Clearly this needs some work. We will try to improve it.

Comment: I would rather have no definition. If ANR will not be checking at the site the enforcement will not be done. The sale will true up the use vs the permit. Discussion of actual case followed.

Q: What if we win the lottery and build a family room and a den? Will we need to amend the permit? And upgrade the system?

A: We will work on the definition and how this will work. It is not our intent to capture activity rooms unless they can be expected to function as bedrooms with varying households usage.

Q: If rule #2 passes will the new technical standards be in effect?

A: Yes.

Q: Why do you need to wait to adopt Rule #2? If Rule #1 doesn't happen, how do we know ANR will adopt Rule #2.

A: ANR intends to delay rule #2 to provide an easy means of incorporating any legislative changes made during the session. It will be ready to adopt in May or June when the session is over.

Q: Can we still have deferral of permits?

A: We will no longer require a deferral permit. The land can be transferred by simply incorporating the language in the deed (regarding no development without a permit.)

Q: Why does ANR require the wording in the deed? Let the buyer beware. Why not just require a permit when someone wants to build?

A: One of our biggest problems is a landowner who bought property 20 years ago and discovers when they go to sell it that a permit not possible. Often these are folks with serious difficulties such as needing to sell their property so they can move into a nursing home. We think it is appropriate to keep this as a requirement but streamline the process.

Q: Can ANR just decide not to issue permits in municipalities which have a permit program of their own?

A: We could, however, we want to be sure that the program is equivalent to our own.

Q: Why have you required a 1500 gallon minimum for septic tanks?

A: It will reduce pumping events at a minimal cost. Often the pump for a dosing system is located in the tank.

Q: Doesn't this mean farmers can create more lots? Won't it create sprawl?

A: Yes. This may promote sprawl. It may also prevent sprawl by allowing in-fill in villages. These changes are based on the science of sewage treatment. The towns should decide on the land use planning issues.

Comment: Towns will have to adopt zoning to control this.

Response. Yes. People have objected to our control of land use by not changing the rules to allow more options.

Q: Is there enforceability of good and bad designers?

A: We can directly enforce against site technicians. We have an agreement with the Board of professional Engineering to refer poor engineering to their board for enforcement. We are requiring statements by licensed designers that designs comply with the rules. We can enforce incorrect statements directly.

Comment: This is not enough. (enforcement)

Q: Why be involved in a civil process between the owner and engineer. You have no business doing that.

A: ANR does not agree.

Comment: ANR is not in a position of trust with the engineers. ANR has no business reviewing engineering designs without staff who have equal training.

Comment: Health standards are necessary, however cost is an issue. Mobile homes are located on 20 acre lots because a permit is so costly.

A: If good science will not allow a system to be built then no system should be allowed. That is why it is necessary to close the 10 acre exemption. It is inequitable for a person to have a small lot and have to comply when a person with a 10 acre lot can build right next to them compromise their system and not have to comply.

Comment: A system won't necessarily be substandard just because it doesn't meet the rule.

Comment: ANR doesn't need to close the exemption.

Comment: The failure rate doesn't apply to current designs.

Comment: A constituent of mine from Arizona bought a 10 acre plus lot 20 years ago so he could retire to VT, planning to retire on the exemption. The State has no business going back on its word, implicit in the exemption that it would be permanently exempt. Don't you agree?

A: No. It is common practice in zoning and similar regulations to require you to meet the current rules whenever you build.

Comment: If the new rules are so great why do you have to close the exemption? No one will use it.

Response. We realize that people will avoid the permit process if that option is open, regardless.

Comment: The permit process will cost \$5000.

Response: You have to use an engineer or site technician now. That cost will not change. The vendors will have to get their systems approved. Then designers can use the systems just as they can the ones already approved. Expenses will be about the same as they are now for the approval process. The new systems are more expensive.

Q: What about the permit process if the numbers double or triple?

A: We will be changing the process, doing less engineering review, creating a general permit process for municipal connections, and focusing on site visits.

Q: What if the legislature won't approve new staff?

A: We will be discussing this with the legislature. We may have to shift some staff from other lower priority areas.

Q: What if LCAR disapproves the rule?

A: We will go forward.

Comment: It is not clear that the rule #1 will be adopted in February or March but that the exemption does not close until September. You should highlight that fact.

Q: Commissioner—I have heard that you think that the Regional Engineers should not be in the field? That they should stay in the office.

A: Absolutely not. Site visits are the most useful focus of this review process.

Q: Aren't the highly treated standards very expensive to meet?

A: An intermittent sand filter will meet those standards. Some others also. These systems are options not requirements.

Q: Will these new systems really be feasible?

A: They are just another choice for marginal soils. If they make an otherwise unbuildable lot buildable than they may be worth the cost.

Comment: Closing 10 acre exemption takes away an option.

Q: Have you changed the sewer line infiltration standard? Where is the 10% low flow reduction.

A: We intend to allow justified reductions in the infiltration standard. . The 10% flow reduction is included in the design flow changes.

Comment: You should be able to create prescriptive standards for different pipe materials.

Response: We asked Facilities Engineering Division who works with these standards all the time if they have changed the general standard. They have not. Pg 65.

Q: Under s. 27 will a failed system need a permit on an old lot?

A: Yes under s.27, no under these rules.

Q: What if you can't afford to fix it?

A: For existing systems we will allow a best fix rather than have to strictly conform to the rules.

Q: What if there is a town permit?

A: That will require a town permit. If there is state jurisdiction it will require a state permit also.

Q: What about existing small lots?

A: The exemptions remain.

Q: Why?

A: We need statutory authority to extend the jurisdiction. We are asking for that as part of the consolidation of statutes in S.27.

Q: May Rule #2 jurisdictions be different in the end? What about the technical standards?

A: Yes. Rule # 2 jurisdictions will depend on what legislative changes are made in the upcoming sessions. We expect to continue with the technical standards as they are revised through these sessions, but they will not be very different.