

LOCAL OFFICIALS MEET TO DISCUSS WATER-RELATED ISSUES

Water issues – riparian buffers, watershed planning, on-site sewage regulations, stormwater management rules, wastewater facilities funding priorities, and Total Maximum Daily Loads (TMDLs), as well as Vermont's impaired waterways – consumed the attention of the Agency of Natural Resources (ANR) over the past year.

Local officials followed ANR's progress with interest and concern, and met in late December to assess the combined impact of the Agency's initiatives on local land use regulation. Also discussed was whether or not local governments have the capacity to comply with the initiatives.

Chris Recchia, Commissioner of the Department of Environmental Conservation, briefed officials about the proposals for regulation (stormwater management, on-site sewage, and funding priorities for wastewater treatment facilities) and the new arsenic standard in the recently adopted Water Supply Rules.

STORMWATER

Recchia made it clear that under the proposed stormwater regulations, municipalities would be considered "selected contributors" and subject to regulation because of their responsibility for roads. Those bordering any of the 26 waters in the state considered to be impaired as a result of polluted stormwater runoff would be the first to have to comply with stormwater regulations.

One of the most pressing, and unanswered, questions raised by local officials was, "*What are the standards and what will they cost local governments?*" Clearly, the answer is key for both the federal Phase II plan and for the state program. Yet no one can even estimate what the costs will be for the state program.

ANR is hopeful that municipalities in the most impaired and densely settled watersheds will opt to establish stormwater utilities. Stormwater utilities would encompass a specific geographic area, and the regulating municipality or group of municipalities would have authority to collect fees from all dischargers of stormwater within the geographic area to operate stormwater discharge, collection and management facilities. South Burlington and Colchester are two municipalities looking at this kind of utility. Because it is not now clear that municipalities have authority to establish stormwater utilities, enabling legislation would have to be passed. Local officials at the meeting encouraged VLCT staff to ensure that such legislation be written broadly so stormwater management can be incorporated in current public works departments, to mesh with municipal regulation of on-site sewage, or to enable the creation of a regional or even statewide utility.

Local officials also noted that stormwater management and on-site sewage treatment warrant significant statewide education programs. As was the case with recycling, there is much that an individual can do to maintain stormwater and on-site sewage disposal systems, and even more to reduce pollutants going into these systems. Participants felt that the state should commit resources to such an education program.

Participants also urged VLCT staff to develop sample stormwater ordinances modeled on ordinances in states that are further along in stormwater management than Vermont; to develop an education piece for legislators outlining the costs to municipalities for complying with state law; to assure that local officials have the opportunity to testify to the Legislature; and to avoid state legislation that exceeds federal standards (this last one is not specific to stormwater management!).

Serious doubts were raised about a plan proposed by Governor Dean to clean up waters impaired for phosphorus in Chittenden County within two years. This plan is in response to the Water Resources Board *Loews* decision. (See August 2001 and this issue's Legal Corners for discussions of this case.)

Vermont has been directed to put TMDLs in place several times. Participants at the December meeting urged the state to do so, because without them, it will be difficult for development to secure water resources permits, and no one wants to stop development altogether or force it out of cities and towns to green strips. The problem now is that while the majority of pollutants to our lakes and streams come from non-point sources, including agriculture, the easiest way to measure reductions of pollutants is from a point source – an outflow from a municipal treatment plant.

ON-SITE SEWAGE DISPOSAL

On-site sewage is a significant issue for more rural areas. Local officials were concerned about being able to rewrite their planning and zoning bylaws in time to accommodate new treatment technologies and the different development patterns they will bring. The subject of closing the ten-acre loophole was not

significant in this meeting. Revised on-site sewage rules will go through the administrative rules process during the 2002 legislative session and the Legislature may make changes to the rules or to the rule adoption process as a result.

Neither stormwater nor on-site rules are a done deal. The Legislature is very interested in both subjects. Local public works officials should keep apprised of those rules' progress and contact VLCT staff member Karen Horn as well as their legislators with concerns as the session progresses. For the time being, VLCT staff found the December round table on water issues to be invaluable and were given many initiatives to work on through the winter.

ARSENIC IN DRINKING WATER

Commissioner Recchia also mentioned that proposed water supply rules had been finally adopted and that they reflect the new federal standard for arsenic of 10 parts per billion as the maximum contaminant level (MCL). The existing standard was 50 parts per billion, adopted as an interim standard in 1976. Arsenic occurs naturally in the earth's crust and water supplies in New England are likely to have high concentrations. Four water supplies in Vermont that will have to reduce their arsenic levels under the new rule are Newport City, North Troy, Coventry and a smaller system in Graniteville.

- Karen Horn, Director, VLCT Legislative and Membership Services

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