

VERMONT ENVIRONMENTAL REPORT

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RUTLAND VIOLATES NATIONAL AIR STANDARDS

It was reported recently that on three occasions last October, national primary air quality standards for sulfur dioxide (SO_2) were exceeded in the City of Rutland. This is the first time such a violation has occurred in Vermont. Potentially it can have serious implications for Rutland.

National primary air quality standards are set by the Environmental Protection Agency (EPA). They are based on the air quality necessary to protect public health, including an adequate margin of safety. The Federal Clean Air Act allows violations of primary standards to occur only once in a year.

Why the three violations occurred is not clearly understood. Rutland sits in a pocket surrounded by mountains, and therefore is prone to inversions and air stagnation. Since October, the amount of sulfur dioxide in the area has returned to normal levels. There is some speculation that the violations may have been caused in part by freak meteorological conditions last October being the coldest in 50 years).

The Environmental Conservation Agency plans to step up monitoring of air quality in Rutland. If the data shows that there are continuing violations, steps must be taken to reduce sulfur dioxide emissions, either by burning lower-sulfur (and more expensive) fuels or by requiring local industries and others to install scrubbers to remove sulfur from their emissions.

NEW AIR REGULATIONS ON SULFUR ADOPTED

In a related development, the Agency of Environmental Conservation has adopted new regulations governing sulfur content in fuel oil. The regulations permit the use of fuels containing a maximum of 2.0% sulfur by weight for heat and power generation. The previous limit was 1.5%,

although during the energy crisis of last winter, fuels with a sulfur content of 2.5% were permitted on an emergency basis.

Vermont receives most of its fuel oil from two major sources. Companies located in Albany, New York, serve most of western Vermont, and Sprague Company of Portsmouth, New Hampshire, supplies eastern Vermont. Both Albany and Portsmouth have set sulfur limits at 2.0%. Sprague testified at the hearing that it does not have the storage capacity to supply 1.5% fuel to Vermont.

In its testimony, VNRC did not oppose the 2.0% standard, but raised the question of the long-term effects of sulfur in the air. Sulfur dioxide (a major pollutant produced by burning high sulfur fuels) combines easily with water vapor and oxygen in the air to form a highly corrosive sulfuric acid. Studies conducted in New Hampshire and Scandinavia show that rainfall in these areas is becoming increasingly acidic. Some scientists believe that acid rains are causing a reduction in forest growth in these areas, and that the higher acidity may also lower the quality and quantity of agricultural crops.

Further information on this subject is available in the June 14, 1974 issue of Science magazine and in "The Economic Damages of Air Pollution," available for \$1.95 from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C., 20402 (Publication # EPA-600/5-74-012). VNRC has one copy of each in its library.

LEAFLET DISCUSSES "TAKING" ISSUE

Enclosed with this VER issue is VNRC's latest environmental leaflet entitled, "Private Property Rights: A Question of Taking." Copies of earlier leaflets on scenic road preservation, wetlands and lake eutrophication are available upon request. The "taking" issue is often at the center of any debate over local zoning laws.

GETTING AROUND VERMONT

Is major highway construction policy in Vermont finally changing? Set against oil shortages and a worsening economic situation, the issue today is no longer merely where or how to build, but whether to build at all.

Governor Salmon has followed his state Transportation Advisory Board by calling for abandonment of planned construction of thirteen-mile-long I-93.

State Representatives Dan Allen and Steve McLeod, together with several co-sponsors, have introduced a bill in the current Vermont Legislature that would curtail further four-lane highway construction in the state unless authorized by affected local residents.

Initially successful legal challenges have also been made of highway department intentions for major highway reconstruction of Route 7 in Southwestern Vermont, of Route 2 near St. Johnsbury, and of Route 4 around Rutland. The highway department and present administration have, however, appealed the courts' decisions in all three cases.

Finally, Highway Commissioner John Gray, long-time proponent of major highway construction in Vermont, recently announced his resignation a full year in advance.

Getting Around Vermont, a University of Vermont report on Vermont's highway program released within the past month, thus comes at an appropriate time.

Authored by Benjamin Huffman, a Research Associate with the UVM Environmental Program; the report emphasizes the economic and fiscal consequences of state highway construction policies.

The 178-page report argues that the present highway system in Vermont generally exceeds the needs of Vermonters, and that the cost to Vermonters of this system is excessive. It stresses that continued construction of major highways "would be economically beneficial

neither to Vermonters in general, nor to individual residents living in the path of new construction."

The report finds that the supporters of an expanded highway program have succeeded in building a large-capacity system intended to induce non-resident travel to Vermont. Huffman argues, however, that "with losses in the primary production sectors of the state economy over the last twenty years and a growing dependence on activities which rely on the discretionary incomes of non-residents (for example, recreation, land sales, and second-home developments), the state economy has become increasingly vulnerable in the last few years to the effects of national economic problems."

Based on a computerized examination of census and other information for 241 Vermont cities and towns, the report discusses the effects of interstate highways at the local level on Vermonters' individual economic welfare, residential migration, and community patterns. Regarding the economic effects, the report concludes that, "The existence of, or increase in, accessibility to individual Vermont cities and towns afforded by construction of interstate highways has had no demonstrable effect on the varying levels of economic welfare at the local level of individual Vermonters."

Through a separate examination of Vermonters' travel to work patterns, Huffman found that, "While long-distance commuting to work increased over the decade of the 1960's, by far the greatest proportion of Vermont workers continued to travel short distances to work in 1970, over non-interstate roads . . ."

Huffman says that Vermont's highway program is currently in a fiscal crisis, but emphasizes that the crisis is not solely the result of current national economic problems; ". . . it is clear that these economic problems are simply forcing a recognition that the highway program undertaken in the 1950's was implicitly extravagant to begin with."

Since the 1950's, the report argues, highway promoters have assumed that continually increasing highway use would provide the tax revenues to pay for the state's expanded highway construction program. The state thus adopted the policy of matching all available federal funds with state funds for road construction. As a result, Vermont departed from its traditional practice of annually balanced highway budgets and financed the state cost of construction with borrowed money. Today, over 60 percent of the state share of the cost of highway construction undertaken since 1956 remains to be paid.

On a per-capita basis, this is one of the highest debts for road construction of any state in the nation, even though Vermont ranks 40th among the states in per-capita personal income. Annual costs for maintenance and other non-construction highway activities are even higher than elsewhere on a per-capita basis.

Past trends of ever-increasing highway use have begun to change over the last year. Because of this, and of past highway construction policies, the Huffman report observes, Vermonters are today facing an increasing gap between highway-user-tax revenues and highway expenses -- a gap of \$4 million in fiscal year 1975 alone. The gap between estimated highway-user-tax revenues and proposed state highway expenses for fiscal years 1975, 1976 and 1977 will be nearly \$14 million.

Huffman notes that until a year ago, the Vermont Department of Highways argued that, if highway-user-tax revenues pledged to pay for highway programs were to fall sharply, highway construction could be cut back in order to keep the annual highway budget in balance. The state is today faced with a severe long-term short-fall in highway-user-tax revenues. Yet, while the Administration is currently proposing large cuts in previously projected highway expenses for such activities as road maintenance, new construction proposed by the Administration appears to be on a par with past levels.

This is evidenced, Huffman suggests, by the Administration's proposal to borrow \$37.5 million during fiscal year 1975, 1976, and 1977 for the state share of the cost of new highway construction. In addition, the department of highways recently proposed to the Federal Government that Vermont reconstruct 191 miles of the state's primary highways as "extensions" of the interstate system. Thus, the report suggests, past highway construction policies are in general still in effect in Vermont.

The report draws three general conclusions regarding the future of transportation in Vermont: "(1) no further high-capacity, through-way highway construction is needed in the state . . . nor would such construction be financially prudent to undertake . . .; (2) the transportation needs of most Vermonters will best be served by local transit systems focused on communities with populations of about 2,500 and above . . .; (3) it would be possible and economically desirable to develop local transit systems consisting to a significant degree of public transportation. . . ."

Copies of the report are available to government agencies and public organizations at no cost. Others may purchase the report for \$3.00 from the UVM Environmental Program. Copies are also on sale in the VRNC's office.

NWF CONSERVATION SUMMIT PROGRAM

The National Wildlife Federation has announced its 1975 Conservation Summit program. These nature seminar/outdoor workshops are open to all NWF members. It features weeklong trips, beginning in June, to the Blue Ridge Mountains, Rocky Mountains and Pacific coast. For further information, write Summit Program, NWF, 1412 16th St., NW, Washington, D.C., 20036.

NATIONAL WILDLIFE WEEK

March 16-22 has been designated as National Wildlife Week. This annual event has been observed every year since 1938.

OPEN SPACE TAX IS MAJOR ISSUE

Squeezed by high property taxes, farmers, forest owners and other holders of open space lands are again seeking tax relief from the General Assembly. In some towns, land taxes have increased more than 500% in the last ten years. This situation results from Vermont's practice of appraising land at its estimated fair market value (FMV), which is the price the property would bring if sold for development. Many landowners are forced to sell because high taxes make it uneconomic to keep the land in farming or other low intensity uses.

Neighboring states have enacted legislation to protect owners of open space land from excessive taxes. Vermont has made a start in this direction (see article on pages 6-7), but current laws have had limited impact on farm taxes, and have not affected taxes on woodlots or open land.

This year, eight bills have been introduced to extend property tax relief for open space. Two bills (H-68 and H-225) would authorize town listers to assess property at its current use. In most towns, this would have the effect of shifting a greater portion of the tax burden to more intensively developed property.

H-37 and S-2 provide tax relief to farms only. Under the House version, a new capital gains tax, graduated according to the length of time the land was held, would be assessed if the property were sold within ten years following the initial tax reduction. S-2 would levy a penalty only if the farmer changes the land use, by requiring payment of deferred back taxes for the preceding five years. Towns which suffer revenue loss would be compensated out of a new fund, fed by the capital gains tax (H-37), or out of an appropriation from the General Fund (S-2).

Under S-51, landowners of both forestlands and farmlands could receive tax reductions by negotiating ten-year contracts. If land use were changed within

this period, there would be a four-year tax rollback. Towns would be reimbursed for tax losses on farmlands out of the existing Property Tax Relief Fund, and on forestlands out of a new fund fed by a severance tax on timber cuts.

Representative Hoyt's bill H-134 has received the most attention of any of the eight bills. It would automatically set appraisals on open lands at 20% of FMV. Qualifying lands would include, with certain exceptions, farmlands, forestlands, land held by non-profit organizations for conservation or educational purposes, and open land up to 500 acres surrounding an owner's principal residence. Under a proposed amendment, partial reimbursement for tax losses would be made to the towns from the Property Tax Relief Fund.

H-209 calls for a radical new concept of land taxation. All lands greater than ten acres in size would be taxed on land capability, regardless of present use or FMV. If the land is sold and is changed to a more intensive use, a graduated penalty tax would be imposed.

H-126 would provide for the donation or purchase of lands to state or community land trusts, as well as lease of development rights on eligible farmlands. A complex hierarchy of committees would set up guidelines and oversee the program. The trust would pay taxes on their holdings with revenues derived from agricultural and marine motor fuel taxes, as well as transfer taxes and tax rollback provisions spelled out in the bill.

Various organizations have been pushing for reforms in the taxation of open lands. The Open Space Tax Coalition, made up of farmers, maple sugar producers, foresters, sportsmen, conservationists and others, are supporting such legislation generally. The Landowner's Steering Committee has come out in favor of H-126. Some proponents of open space preservation are also pushing to insure that undeveloped lands which receive tax breaks will not be posted against hunting, fishing, trapping, hiking, cross-country skiing and snowmobiling.

LEGISLATIVE LOG

The following major environmental bills have been introduced since January 31, and in two cases (marked by an *), bills we inadvertently failed to report in the last VER.

<u>No. and Sponsor</u>	<u>Purpose</u>	<u>Committee</u>
H-93* Stone	To prohibit the sale of beer and soft drinks in flip-top cans and non-returnable glass containers (H-4* also bans plastic rings used to hold containers together).	House Natural Resources
H-248 Mulligan	To provide a resource recovery tax on containers sold at retail, and to create an authority responsible for solid waste.	House Natural Resources
H-250 Steventon	To create a state land use planning commission responsible for preparing a state land use plan.	House Natural Resources
H-252 Wakefield	To increase the transfer tax on that portion of the property which is land, except operating farm land.	House Ways & Means
H-259 Hoyt	To provide for the creation of municipal conservation commissions.	House Govern. Operations
H-269 Ketcham	To require ratification of tax stabilization contracts by voters of a municipality.	House Municipal Corps.
H-326 McLeod	To establish a long-range highway policy, based on improving existing roads rather than building additional four-lane highways.	House Transportation
H-353 Rouse	To dismantle various state governmental agencies, including the Agency of Environmental Conservation.	House Govern. Operations
H-356 Rouse	To require economic impact statements for proposed environmental laws, rules and regulations.	House Commerce
H-366 Wakefield	To provide for the purchase of development rights to lands in Brookfield Gulf, and to eliminate the requirement that development rights purchased by the state be limited to a specific number of years.	House Appropriation
H-383	Latest version of the state land use plan introduced by the House Natural Resources Committee.	House Natural Resources
S-74 Gannett	To create a joint energy committee in the General Assembly.	Senate Govern. Operations
S-83 Smith	To require a new permit for highway construction after five years from original issuance, to reassess environmental impact.	Senate Natural Resources
S-85 Doyle	To require fuel consumption information to be posted on new cars.	Senate Highway and Traffic
S-88 Doyle	To provide for state standards for solar energy systems manufactured or sold in Vermont.	Senate Natural Resources
S-100 Mandigo	To provide for the election (rather than the appointment) of members of regional planning commissions.	Senate Govern. Operations
S-128 Gibb	To establish maximum permissible levels of phosphorus (essentially no phosphorus) in detergents and household cleaning products.	Senate Health & Welfare

ANALYSIS: WHAT HELP FOR FARMERS?

A glance at the Legislative Log in last month's VER shows that there is considerable attention being paid to the future of farming in Vermont. These legislative proposals reflect a desire to both help farmers stay in agriculture and slow the rate of conversion of prime agricultural soils into residential and other urban uses.

The problems of farmers and the loss of agricultural lands are not unique to Vermont. Across the nation, many states have adopted different programs in an attempt to cope with them. In this article, Vermont's laws will be compared with the programs of some other states. This in turn will provide a basis for comparison with the legislative proposals currently before the General Assembly.

Vermont has two basic statutes which potentially could provide tax relief for farmers. The first is the agricultural tax stabilization law (24 VSA §2741). It allows towns, having first obtained approval from the voters, to enter into agreements with owners of agricultural property to stabilize their taxes for periods up to ten years. Less than a dozen Vermont towns have approved such contracts, so the law has had limited impact to date.

(One interesting note: The statute applies to "agricultural property" rather than to "farmers." Therefore, a person who is not himself a farmer, but who has his fields hayed every year to keep them open, can potentially take advantage of this law.)

The second statute allows municipalities and departments of state government to acquire partial interests in land. For example, a farmer (and others) may transfer his development rights in his property to his town for a period of years, retaining his right to live on and farm the land. Under this statute, real estate taxes would be assessed only on the fair market value of his remaining interests, which in this case would be the value of the land as a farm. No approval from town voters is needed to use this statute.

To the best of our knowledge, no town or department has been willing to accept development rights, probably because it means a loss in tax revenues. So again, this statute has proved to be of little real benefit to farmers.

Like Vermont, a number of other states have concentrated on reducing the taxes paid by farmers, in the belief that this will help keep farmlands in productive use. Unlike Vermont, however, some of these states have allowed tax breaks to qualified farmers without requiring the further approval or consent of the government or town voters.

Maine, Rhode Island, New Hampshire and Connecticut all permit "current use" taxation of eligible farmland without local approval, but assess a penalty if the land is later taken out of agricultural use. The penalty is in the form of a rollback in taxes (Maine and Rhode Island), a "land use change" tax (New Hampshire) or a "conveyance" tax (Connecticut).

Colorado also gives favorable tax treatment to farmlands. However, unlike those states mentioned above, tax assessments are not based on the fair market value of the property as a farm (i.e., current use). The value of agricultural land is determined instead from its earning or productive capacity over a reasonable period of time, capitalized at the rate of $11\frac{1}{2}$ percent.

Each of the states cited previously have attempted to preserve farm lands by lowering the tax burdens on their farmers. California and New York, on the other hand, have tried to meet the problem head-on.

Under California law, city and county governments may establish "agricultural preserves" in areas with existing farming activities or good potential productivity. Lands within these preserves must then be zoned within two years to allow only compatible uses. Land owners within a preserve may enter into contracts with local governments to place even greater restrictions on their property for at least ten years. These contracts can be broken prior to the expiration date only if certain conditions are met and a substantial penalty is paid.

The restrictions and/or zoning laws are taken into account in assessing the land within agricultural preserves for taxation. The California law also provides for partial state reimbursement to local governments and school districts for lost tax revenues.

The New York statute authorizes formation of "agricultural districts" by neighboring farm owners with the approval of local and state governments. Once a district has been formed, farm owners are eligible for preferential tax treatment. Local government may not unduly restrict or regulate farm structures or practices within the districts. These districts are reviewed every eight years.

In the case of unique agricultural land, agricultural districts may also be created at the initiative of the state. State government will then make up 50% of the lost tax revenues to local communities.

Certain farmland not located within an agricultural district can also receive favorable tax treatment, but only if the owner commits his land to agricultural use for eight years. Substantial penalties are assessed if the owner converts the property to another use within that period.

A total of 31 states have enacted statutes regarding taxation of farm lands. Obviously, it is not possible within this space to discuss the laws of every state, or even give full details on the statutes that were mentioned. Although the approaches taken by the various states have many

similarities, there are substantial differences. If any of our readers would like to obtain more information about the laws of any state, we would be happy to provide it.

ENVIRONMENTAL HIGHLIGHTS

Montpelier - Vermont Tomorrow and Community College of Vermont are sponsoring a course on alternative energy sources called, "Wind, Wood, Water, Sun." It will be held on Monday evenings from 7 - 9 p.m. beginning March 24 in the Green Mountain Power Auditorium, Green Mountain Drive, Montpelier. For more information, call or write to Ellyn Murphy, Vermont Tomorrow, 5 State Street, Montpelier, 223-6067.

Montpelier - Federal funds totaling approximately \$350,000 have been made available through the Vermont Division of Historic Sites for the restoration and reuse of buildings and structures on the National Register of Historic Places in more than 14 Vermont communities. Federal funds will be matched by local sources.

Springfield - Voters at Town Meeting approved a proposed municipal power company by more than a 3-1 margin. The proposal calls for eight hydroelectric generating plants along the Black River. Proponents of this unusual project argue that it will result in a substantial reduction in electric cost.

Montpelier - Information on the proposed Lincoln-Dickey hydroelectric power project in northern Maine can be obtained from the VNRC office.

VNRC MEMBERSHIP FORM

Enclosed are my dues of \$_____ for 1975 VNRC membership. () New () Renewal

Student \$ 5.00	Non-profit Org. \$15.00
Individual 7.50	Associate 25.00
Family 10.00	Business 50.00

Name: _____
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The following persons would be interested in learning of the Council's activities. (Please print)

1. Name: _____
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You may use my name: () Yes () No

Please accept my additional contribution of \$_____ for VNRC projects.

SCENIC ROADS AND BICYCLE BILLS INTRODUCED

Two scenic road bills (H-130 and H-163) are under consideration by the General Assembly. Both provide a degree of protection for scenic roads, but reflect differing philosophies and methods for implementation. A hearing on the bills is scheduled for March 11.

H-130 requires the state Highway Board to designate state "scenic roads" upon the recommendation of the Scenery Preservation Council (SPC). It also directs the legislative body of a municipality to designate town scenic roads when recommended by the local (or regional) planning commission and the SPC.

The SPC is further required to promulgate aesthetic standards governing both state and town scenic roads. No modifications could be made to a designated scenic road without conforming to these standards, and a permit would be required from the Agency of Environmental Conservation before construction could begin.

H-163 is more advisory and less regulatory in nature than H-130. Under its terms, the SPC merely acts in an advisory capacity to the State Highway Board in the designation of scenic roads. In the case of town scenic roads, boards of selectmen need only to take into consideration the recommendations of their planning commission in designating town scenic roads.

As with H-130, the SPC would also adopt aesthetic standards under H-163. However, they would not be binding upon the Highway Board. It is anticipated that the district highway engineers, who approve the funding and design of local road projects, would take the initiative in implementing the aesthetic standards.

On the bicycle front, there are three proposals (H-96, H-221 and S-3) in the hopper. Comprehensive bicycling legislation was enacted last year. However, this enabling statute was not to become operative until after completion of a bicycle study. With the study now finished, H-96 and H-221 represent the "second phase" towards implementation of a bicycle plan.

Both bills provide for the establishment and maintenance of bicycle routes, lanes and paths. Highway user funds, along with other money, may be used for this purpose, at the discretion of the Highway Board or municipalities. In addition, H-221 would set up a special "bicycle fund" with revenue raised from a bicycle sales tax. Other funding devices have also been suggested.

S-3 would give town selectmen the power of condemnation to acquire rights of way for bicycle facilities. This power had already been given to the Highway Board in last year's legislation.

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