

Notice Number 2024-87

Rule Number Env-Wq 1500 various

<p>1. Agency Name &amp; Address:</p> <p><b>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</b></p>	<p>2. RSA Authority: <b>RSA 485-A:6, VIII; RSA 485-A:17, I; and RSA 485-A:22, V(a)</b></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **Alteration of Terrain**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

**The existing rules in Env-Wq 1500 implement RSA 485-A:17, the Terrain Alteration section of RSA Chapter 485-A titled “Water Pollution and Waste Disposal” and specify the requirements for obtaining an Alteration of Terrain (AOT) permit.**

**The Department of Environmental Services (“Department”) is proposing to readopt with amendment:**

- **A revised definition of “significantly alter the characteristics of the terrain” in Env-Wq 1502.58 to include clarifying language. The requirements in Env-Wq 1502.58(c) regarding steep slopes only apply to projects within the protected shoreland. The proposed rules clarify how to calculate the 25% slope criteria; cite the “reference line” of the protected shoreland; and exclude activities that already have engineering, such as road construction and utility line work, in accordance with RSA Chapter 483-B.**
- **An additional requirement in Env-Wq 1504.04 to construct diversion swales above the limits of disturbance for projects that require steep slope and erosion control plans to prevent clean stormwater runoff from flowing over disturbed areas and causing erosion to the slope or from transporting sediment into downslope waterbodies.**
- **Revised requirements in Env-Wq 1507.03 for projects located within one-quarter mile of a Class A surface water or within the watershed of a surface water that is an Outstanding Resource Water (ORW). The proposed changes would add more flexibility for selecting stormwater treatment practices, including for redevelopment projects. The proposed amendment allows for the technology required in the original rule, any new technology that performs as well or better, or a pollutant loading analysis to show no net increase in nutrient loading.**

**The Department is also proposing to adopt a schedule of administrative fines at Env-Wq 1512 as required by RSA 485-A:22, V(a), for violations of RSA Chapter 485-A and the administrative rules adopted under the authority of RSA 485-A:6, VIII (Env-Wq 1500). The previous schedule of administrative fines on alteration of terrain was in a cross-program rule Env-C 603.02 in Chapter Env-C 600, which had applied to all programs within the Department. Env-C 603.02 expired in 2008, and the Department is in the process of adopting a schedule of administrative fines for each**

**agency program individually where required by statute, rather than in cross-program rules. None of the rules in Env-Wq 1500 have expired.**

6. (b) Brief description of the groups affected:

**The rules affect any person or entity that needs a permit under RSA 485-A:17 or any violators of RSA 485-A:17 or Env-Wq 1500.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>
Env-Wq 1502.58	RSA 485-A:1; RSA 485-A:17
Env-Wq 1504.04	RSA 485-A:1; RSA 485-A:17
Env-Wq 1507.03	RSA 485-A:1; RSA 485-A:17
Env-Wq 1512	RSA 485-A:22, V(a)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Michael Schlosser** Title: **Permitting Section Supervisor, AOT Bureau**  
Address: **Dept. of Environmental Services** Phone #: **603-271-3568**  
**29 Hazen Drive; P.O. Box 95** Fax#: **603-271-2867**  
**Concord, NH 03302-0095** E-mail: **Michael.J.Schlosser@des.nh.gov**

The rules also can be viewed in PDF at the Public Comment Opportunities section of the NHDES website at <https://www.des.nh.gov/public-comment-opportunities> and selecting "Rulemaking"

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 PM on July 3, 2024**

**Please submit comments to Michael.J.Schlosser@des.nh.gov**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, June 25, 2024, at 10:30 AM**

**Room 208C, DES Offices, 29 Hazen Drive, Concord, NH**

**NOTE: NHDES security procedures require all visitors to sign in and present photo identification (such as a driver's license). If you plan to attend the public hearing in person, please bring photo identification with you.**

Physical Location:

**You also may attend the hearing via Microsoft Teams, which can be accessed through the following link:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_M2VINGU3N2EtNzU1Ni00MjVILWEyZWMTNjAxNTRmNGJmODJj%40thread.v2/0?context=%7b%22Tid%22%3a%22992deae9-1c4c-](https://teams.microsoft.com/l/meetup-join/19%3ameeting_M2VINGU3N2EtNzU1Ni00MjVILWEyZWMTNjAxNTRmNGJmODJj%40thread.v2/0?context=%7b%22Tid%22%3a%22992deae9-1c4c-)



11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

**The proposed rules modify an existing program or responsibility, but do not mandate any additional expenditure on the political subdivisions of the state and therefore do not violate Part I, Article 28-a of the N.H. Constitution.**