



The State of New Hampshire
Department of Environmental Service

Thomas S. Burack, Commissioner



*Celebrating 25 Years of Protecting
New Hampshire's Environment*

January 12, 2012

The Honorable Bob Odell, Chairman
Senate Energy and Natural Resources Committee
Legislative Office Building Room 102
Concord, NH 03301

RE: SB 241 relative to expiration and extension of terrain alteration permits

Dear Chairman Odell:

Thank you for the opportunity to comment on SB 241 relative to the expiration and extension of terrain alteration permits. The Department of Environmental Services (DES) supports this bill but recommends two amendments to ensure consistency with existing practices as explained below.

SB 241 stipulates that all DES terrain alteration permits shall be valid for a period of 5 years and then establishes criteria for DES to grant permit extensions of up to an additional 5 years. These provisions of SB 241 are identical to existing DES terrain alteration rules (Chapter Env-Wq 1500). The bill also proposes to align DES permit extension criteria with those of municipalities for cases where projects are "substantially complete", thus making local and state permitting procedures more consistent. DES strongly supports this approach. It is entirely consistent with the integrated permitting embodied in SB 142, which was recently unanimously supported by your committee.

We recommend that SB 241 be amended in two ways: first, to clarify that a written request for extension must be received by DES not later than the date on which the permit would otherwise expire; and, second, to clearly establish statutory authority for DES to extend permits beyond 5 years for major excavation, grading, and reclamation projects (i.e. gravel pits and quarries) at the time of issuance. DES terrain alteration rules currently recognize and allow for the fact that most gravel pit and quarry projects are planned to extend well over 10 years and are implemented in phases over the project life. Permits for these projects are routinely extended beyond 5 years by DES at issuance with a condition that the permit holder will provide us with status reports every 5 years. This process has worked well and, therefore, we suggest that SB 241 be amended to clearly allow this practice to continue for these projects. Attached is suggested language addressing both of these issues.

Thank you for the opportunity to comment on this proposed legislation. If you have any questions or require additional information, please feel free to call DES Alteration of Terrain Bureau Administrator Ridgely Mauck at 271-2303, or me at 271-2958.

Sincerely,

Thomas S. Burack
Commissioner

Attachment

cc: Senator De Blois and Groen
Representatives Lovett and LaCasse

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ATTACHMENT TO
DES COMMISSIONER THOMAS BURACK LETTER OF TESTIMONY
TO SENATOR BOB ODELL ON SENATE BILL 241, DATED JANUARY 12, 2012

DES Recommendations¹ for Proposed Amendments SB 241

1. New Paragraph; Terrain Alteration; Permit Expiration and Extension. Amend RSA 485-A:17 by inserting after paragraph II-c the following new paragraph:

II-d. All permits issued pursuant to this section shall be valid for a period of 5 years. Requests for extensions of such permits may be made to the department. The department shall grant an extension of up to 5 additional years, provided the applicant demonstrates all of the following:

(a) The permit for which extension is sought has not expired prior to the date on which a written extension request from the permittee is received by DES.

~~(a)~~ ***(b) The permit for which extension is sought has not been revoked or suspended without reinstatement.***

~~(b)~~ ***(c) Extension would not violate a condition of statute or rule.***

~~(e)~~ ***(d) Surface water quality will continue to be protected as under the original permit.***

~~(d)~~ ***(e) The project is proceeding towards completion in accordance with plans and other documentation referenced by the permit.***

~~(e)~~ ***(f) If applicable, any inspection reports have been completed and submitted as required by the permit.***

~~(f)~~ ***(g) The permit has not previously been extended, unless the subdivision plat or site plan associated with the permit has been deemed substantially complete by the governing municipal planning board in accordance with RSA 674:39, II, in which case subsequent extensions of the permit are allowed.***

2. A permit for an excavation, grading or reclamation project shall not expire for the life of the project identified in the permit application, provided that the permit holder submits a written update of the project's status every 5 years from the date of the permit issuance using a form obtained from the department as specified in department rules.

2-3 Effective Date. This act shall take effect 60 days after its passage.

¹ Note: DES Recommendations are provided in bold italics. The original SB 241 language is in standard font.