

**REQUEST FOR ADVANCE PUBLIC COMMENT ON SUBJECT
MATTER OF POSSIBLE RULEMAKING**

Rule Number **Env-Wq 1503.08, 1503.19,
1503.22, 1503.33, 1504.18,
and 1506.15**

<p>1. Agency Name & Address:</p> <p>NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u> RSA 485-A:6, VIII </u></p> <p>3. Federal Authority: <u> n/a </u></p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u> X </u></p> <p style="padding-left: 20px;">Amendment <u> </u></p> <p style="padding-left: 20px;">Repeal <u> </u></p> <p style="padding-left: 20px;">Readoption <u> </u></p> <p style="padding-left: 20px;">Readoption w/amendment <u> X </u></p>
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5. Short Title: **Amendments to Alteration of Terrain Rules**

IN ACCORDANCE WITH RSA 541-A:11, VIII THIS AGENCY IS SOLICITING PUBLIC COMMENT ON A SUBJECT MATTER OF POSSIBLE RULEMAKING UNDER ACTIVE CONSIDERATION PRIOR TO FORMALLY PROPOSING RULES IN THE RULEMAKING PROCESS. WHERE, WHEN, AND HOW PERSONS MAY PROVIDE COMMENT ARE INDICATED BELOW.

6. (a) Summary of the subject matter, or summary of the rule if drafted, and the effect on those regulated:

Env-Wq 1503.19 establishes the criteria that must be met before NHDES will issue a permit under RSA 485-A:17, I, relative to alterations of terrain (AOT). Paragraph (h) of that section relates to threatened and endangered species. NHDES adopted an emergency amendment to this paragraph based on a Supreme Court order issued in Case, No. 2018-0617, *Appeal of Fournier*, dated November 19, 2019. NHDES then initiated another rulemaking proceeding to adopt the current regular rule, Env-Wq 1503.19, effective June 2, 2020.

In order to address public comments raised during adoption of Env-Wq 1503.19 in its current form, NHDES held two public input sessions. The purpose of the public input sessions was to: provide the public with an opportunity to submit additional comments on the criteria and procedures for considering the impacts to threatened and endangered species during the AOT permit review process; and identify the processes for consulting with other state agencies such as the Department of Natural and Cultural Resources, Natural Heritage Bureau, and the NH Fish and Game Department, consistent with applicable statutory and regulatory requirements.

Based upon the comments received during the public input sessions, NHDES has drafted amendments to Chapter Env-Wq 1500, Alteration of Terrain and is seeking advance written public comments on the draft rules and scheduling a public hearing to receive oral public comments.

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

The proposed rules will affect applicants for AOT permits under RSA 485-A:17, for those projects where there are potential impacts to threatened or endangered species that require consultation with the NH Fish and Game Department.

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

Name:	Pamela G. Monroe	Title:	Legal Unit Administrator
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-3137
		Fax#:	-----
		E-mail:	pamela.g.monroe@des.nh.gov
		TTY/TDD Access:	Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of comment in writing or, if practicable for the agency, in the electronic format specified: **April 15, 2021**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **April 8, 2021 at 2:00 p.m.¹**

Place: **This will be a [virtual hearing](#) via the WebEx platform.**

**Password (this should pre-fill, but if needed):
AOT-DRAFT-RULES**

**Join by Phone:
[+1-415-655-0001](tel:+14156550001)**

**Access Code:
157 921 2028**

Contact Tom Taggart at [\(603\) 271-8156](tel:6032718156) or Thomas.Taggart@des.nh.gov if you have any problems accessing the virtual hearing.

¹ **The oral public hearing will be held jointly with the NH Fish and Game Department.**