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## Alteration of Terrain Bureau

### Alteration of Terrain Permit

#### Purpose

To protect surface water quality by controlling soil erosion and managing, treating, and recharging stormwater runoff from development activities.

#### Applicability

An alteration of terrain permit is required whenever a project proposes to disturb more than 100,000 square feet of terrain (50,000 square feet if any disturbance is within the protected shoreline as defined by RSA 483-B). Or if the project disturbs any area having a 25% or steeper land slope and is within 50 feet of any surface water, then a permit is also required. The program applies to both earth moving operations, such as gravel pits, as well as industrial, commercial and residential developments.

#### Statute and Administrative Rules

[RSA 485-A:17 Terrain Alteration](#)  
[Env-Wq 1500 Alteration of Terrain](#)

#### Application

[Application Form](#)

#### Fee

Permit fee is based on the area proposed to be disturbed. See [Fee Schedule](#).

#### Processing Time

The time to review an application is no more than 50 calendar days, as required by statute. At that time the application is either permitted or a request for more information letter is sent to the applicant. The applicant then has 120 days to respond to the request for more information. Once the response is received from the applicant, the department has no more than 30 days to make a decision to permit or deny the project.

#### Term/Renewal

For applications submitted before January 1, 2009 – The permit expires 2 years after the date of issuance and can only be extended for one 5 year term. After that time, any of the work not completed will have to come into compliance with the new Alteration of Terrain regulations.

For applications submitted after January 1, 2009 - The permit expires 5 years after the date of issuance, unless extended. Please see [Env-Wq 1503.23](#) for more information on extending an Alteration of Terrain permit.

#### Modification/Amendments

If there are insignificant modifications proposed for a project then the permittee does not need to notify the department.

If there are minor modifications proposed for a project then the permittee needs to request an amendment via the [Amendment Request Form](#) .

If there are major modifications proposed for a project then the permittee needs to apply for a new permit.

For details on what types of changes are considered to be "insignificant", "minor", and "major", please review [Env-Wq 1503.21 \(d\), \(e\), and \(h\)](#), respectively.

#### Transferability

Within 10 days of a change of ownership of a project, the new owner shall notify DES of the change of owners using the [Amendment Request Form](#) .

#### Appeals

Any person aggrieved by a final decision of the Alteration of Terrain program can appeal the decision to the [Water Council](#) in accordance with Env\_WC 200.

#### Status of Current Applications

[Alteration of Terrain Permit Search](#)

More Information

Pre-application meetings are not required; however, staff will accommodate requests to discuss proposed projects prior to submission of an application.

Contact Us

[Alteration of Terrain website](#) or [contact us](#).

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## Alteration of Terrain Bureau

New Hampshire Alteration of Terrain permits are issued by the DES Alteration of Terrain (AoT) Bureau. This permit protects New Hampshire surface waters, drinking water supplies and groundwater by controlling soil erosion and managing stormwater runoff from developed areas. An AoT permit is required whenever a project proposes to disturb more than 100,000 square feet of contiguous terrain (50,000 square feet, if any portion of the project is within the protected shoreland), or disturbs an area having a grade of 25 percent or greater within 50 feet of any surface water. In addition to these larger disturbances, the AoT Permit by Rule applies to smaller sites.

This permitting program applies to earth moving operations, such as industrial, commercial, and residential developments as well as sand pits, gravel pits, and rock quarries. Permits are issued by DES after a technical review of the application, which includes the project plans and supporting documents.

### Hot Topics

- [New! Precipitation Data](#)
- [Permit Application Changes](#) 
- [Determine if an AOT permit is required](#)
- [FAQs – Projects Located on a Designated River](#) 
- [How to Ensure Your Permit Application is Accepted](#)
- [NH Stormwater Manual](#)

### Publications [\(Complete List\)](#)

- [Vegetating NH Sand and Gravel Pits \(April 2000\)](#) 
- [NH Stormwater Manual](#)
- [Quick Reference Guide for Displaying Outstanding Resource Waters \(ORW\) and Impaired Surface Waters with a 1-Mile Buffer for Development Projects](#) 
- [Rock Blasting and Water Quality Measures That Can Be Taken To Protect Water Quality and Mitigate Impacts](#) 
- [Using DES's OneStop Web GIS to Locate Protection Areas](#) 

### Rules/Regulatory

- [RSA 485-A:17: Terrain Alteration](#)
- [Env-Wq 1500 Alteration of Terrain](#)
- [RSA 155-E: Local Regulation Excavations](#)

### Forms/Applications [\(Complete List\)](#)

- [Land Resources Management Programs Complaint Form](#) [PDF](#)  | [Word](#) 
- [NEW! Determine if an AOT permit is required](#)
- [NEW! Application Form](#) [PDF](#)  | [Word](#) 
- [NEW! Amendment Request Form](#) - for Change of Ownership, Time Extension, and Plan Change requests 
- [Best Management Practices \(BMP\) Worksheets](#) 
- [Example Infiltration Feasibility Report](#) 

### Permits

- [Alteration of Terrain Permit](#)

### Related Programs [\(Complete List\)](#)

- [Groundwater Discharge Permitting and Registration Program](#)
- [Land Resources Management](#)
- [Shoreland Program](#)
- [Storm Water \(Phase II\)](#)
- [Subsurface Systems Bureau](#)

- [USEPA Storm Water Program](#)
- [Wetlands Bureau](#)

 **Resources/Links** ([Complete List](#))

- [NEW! Designated River Corridors Interactive Web Map](#)
- [AOT Query](#)
- [Designated River Communities and Local Advisory Committee Contacts](#) 
- [NH Natural Heritage Bureau \(NHB\) DataCheck Tool](#)
- [NRCS Datamart](#)
- [NRCS Web Soil Survey](#)
- [University of New Hampshire Stormwater Center](#)

 **FAQs**

- [FAQs – Projects Located on a Designated River](#) 

 **Contact Us** ([Complete List](#))

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# TITLE L

## WATER MANAGEMENT AND PROTECTION

### CHAPTER 485-A

#### WATER POLLUTION AND WASTE DISPOSAL

#### Enforcement

#### Section 485-A:17

##### **485-A:17 Terrain Alteration. –**

I. Any person proposing to dredge, excavate, place fill, mine, transport forest products or undertake construction in or on the border of the surface waters of the state, and any person proposing to significantly alter the characteristics of the terrain, in such a manner as to impede the natural runoff or create an unnatural runoff, shall be directly responsible to submit to the department detailed plans concerning such proposal and any additional relevant information requested by the department, at least 30 days prior to undertaking any such activity. The operations shall not be undertaken unless and until the applicant receives a permit from the department. The department shall have full authority to establish the terms and conditions under which any permit issued may be exercised, giving due consideration to the circumstances involved and the purposes of this chapter, and to adopt such rules as are reasonably related to the efficient administration of this section, and the purposes of this chapter. Nothing contained in this paragraph shall be construed to modify or limit the duties and authority conferred upon the department under RSA 482 and RSA 482-A.

II. The department shall charge a fee for each review of plans, including project inspections, required under this section. The fee shall be based on the extent of contiguous area to be disturbed. Except for RSA 483-B:9, the fee for plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be \$1,250. For the purposes of RSA 483-B:9, the fee for plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be \$1,250. An additional fee of \$500 shall be assessed for each additional area of up to 100,000 square feet to be disturbed. No permit shall be issued by the department until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the terrain alteration fund established in paragraph II-a.

II-a. There is hereby established the terrain alteration fund into which the fees collected under paragraph II shall be deposited. The fund shall be a separate, nonlapsing fund, continually appropriated to the department for the purpose of paying all costs and salaries associated with the terrain alteration program.

II-b. In processing an application for permits under RSA 485-A:17:

(a) Within 50 days of receipt of the application, the department shall request any additional information required to complete its evaluation of the application, together with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if all of the requested information is not received within 120 days of the request, the department shall deny the application.

(b) If the department requests additional information pursuant to subparagraph (a), the department shall, within 30 days of the department's receipt of the information:

- (1) Approve the application in whole or in part and issue a permit; or
- (2) Deny the application and issue written findings in support of the denial; or
- (3) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(c) If no request for additional information is made pursuant to subparagraph (b), the department shall, within 50 days of receipt of the application:

- (1) Approve the application, in whole or in part and issue a permit; or
- (2) Deny the application, and issue written findings in support of the denial; or

(3) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(d)(1) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in subparagraphs (b) and (c), the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.

(2) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:

(A) Approve the application, in whole or in part, and issue a permit; or

(B) Deny the application and issue written findings in support of the denial.

(3) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this section and RSA 485-A relating to water quality.

(4) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph (d)(3), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this section and RSA 485-A relating to water quality.

(e) The time limits under this paragraph shall not apply to an application from an applicant that has previously been found in violation of this chapter pursuant to RSA 485-A:22-a or an application that does not otherwise comply with the department's rules relative to the permit application process.

(f) The department may extend the time for rendering a decision under subparagraphs (b)(3) and (c)(3), without the applicant's agreement, on an application from an applicant who previously has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this section or any rule adopted or permit or approval issued under this section, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this section, pursuant to an action initiated under RSA 485-A:22. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, and shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

(g) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this section, RSA 482-A, RSA 483-B, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this section, RSA 482-A, RSA 483-B, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action initiated under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

II-c. Beginning October 1, 2007 and each fiscal quarter thereafter, the department shall submit a quarterly report to the house and senate finance committees, the house resources, recreation, and economic development committee, and the senate energy, environment, and economic development committee relative to administration of the terrain alteration review program.

II-d. All permits issued, except for projects covered by paragraph II-e, 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 the department.

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

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

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

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

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

(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.

II-e. A permit issued under this section that is associated with the ongoing excavation or mining of materials from the earth 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.

III. Normal agricultural operations shall be exempt from the provisions of this section. The department may exempt other state agencies from the permit and fee provisions of this section provided that each such agency has incorporated appropriate protective practices in its projects which are substantially equivalent to the requirements established by the department under this chapter.

IV. Timber harvesting operations shall be exempt from the fee provisions of this section. Timber harvesting operations shall be considered in compliance with this section and shall be issued a permit by rule provided such operations are in accordance with procedures prescribed in the Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, published by the department of resources and economic development, and provided that the department of revenue administration's intent to cut form is signed.

V. Trail construction operations for the purposes of modifying existing biking and walking trails shall be exempt from the provisions of this section. Such operations shall be considered in compliance with this section and shall be issued a general permit by rule provided such operations are implemented by a non-profit organization, municipality, or government entity, are limited to a disturbed area no more than 12 feet in width, and are in accordance with procedures prescribed in the Best Management Practices for Erosion Control During Trail Maintenance and Construction, published by the department of resources and economic development, bureau of trails in 2004.

**Source.** 1989, 339:1. 1992, 157:3. 1996, 228:106, 109. 2003, 224:5. 2005, 32:1. 2007, 263:30. 2009, 208:3. 2010, 295:8-10. 2012, 148:1, eff. Aug. 6, 2012.