

Source. (See Revision Note #1 at chapter heading for Env-Wq 1500) #9343, eff 1-1-09; ss by #12342, eff 8-15-17 (formerly Env-Wq 1502.74) (See Revision Note #3 at chapter heading for Env-Wq 1500)

Env-Wq 1502.83 “Wellhead protection area (WHPA)” means “wellhead protection area” as defined in RSA 485-C:2, XVIII, as reprinted in Appendix C.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1500) #9343, eff 1-1-09; ss by #12342, eff 8-15-17 (formerly Env-Wq 1502.75) (See Revision Note #3 at chapter heading for Env-Wq 1500)

Env-Wq 1502.84 “Well production volume” means the maximum daily volume produced by or approved for production by a public water supply well and used by the department as the basis for determining the sanitary protective radius for the well.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1500) #9343, eff 1-1-09; ss by #12342, eff 8-15-17 (formerly Env-Wq 1502.76) (See Revision Note #3 at chapter heading for Env-Wq 1500)

Env-Wq 1502.85 “Wildlife food plot” means a planting of annual or perennial vegetation, including but not limited to grain, grass, legumes, and other flowering plants, managed as a supplementary food source for wildlife on rural land.

Source. #13758, eff 9-28-23 (see Revision Note #4 at chapter heading for Env-Wq 1500)

#### PART Env-Wq 1503 PERMIT REQUIREMENTS

Env-Wq 1503.01 Applicability. The rules in this part relative to application submittal and review shall apply to permit applications and amendment requests, as applicable.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1500) #9343, eff 1-1-09; (See Revision Note #2 at chapter heading for Env-Wq 1500); ss by #9817-A, eff 12-1-10; ss by #12342, eff 8-15-17 (See Revision Note #3 at chapter heading for Env-Wq 1500); ss by #13758, eff 9-28-23 (see Revision Note #4 at chapter heading for Env-Wq 1500)

#### Env-Wq 1503.02 Permit Required.

(a) Subject to (b), below, no person shall dredge, excavate, place fill, mine, transport forest products, or undertake construction in or on the borders of surface waters of the state and no person shall undertake any activity that will significantly alter the characteristics of the terrain without a general permit by rule, a timber harvesting permit by rule, or an alteration of terrain (AOT) permit obtained in accordance with this chapter.

(b) No permit under these rules shall be required for normal agricultural operations as defined in Env-Wq 1502. If a project includes development that requires an AOT permit and normal agricultural operations that do not need a permit, an application shall be submitted only for the development that requires an AOT permit.

(c) For any project for which an AOT permit is required solely based on the criteria specified in Env-Wq 1502.58(c), the area of disturbance subject to an AOT permit shall be limited to the area of activity that meets the criteria specified in Env-Wq 1502.58(c).

(d) A disturbance shall be considered an unpermitted disturbance if it is not a normal agricultural operation as defined in Env-Wq 1502 and does not qualify for a general permit by rule or a timber harvesting permit by rule, and it:

- (1) Is not covered by an AOT permit or a site specific permit that remains in effect; or
- (2) Is covered by an AOT permit or a site specific permit that remains in effect but is not in accordance with the approved plans and specifications.

(e) Any disturbance for which an AOT permit is required that occurs, in whole or in part, prior to the permit being applied for or obtained shall be considered an unpermitted disturbance for which the person undertaking the work shall file an after-the-fact application as specified in Env-Wq 1503.31.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1500) #9343, eff 1-1-09; (See Revision Note #2 at chapter heading for Env-Wq 1500); ss by #9817-A, eff 12-1-10; ss by #12342, eff 8-15-17 (See Revision Note #3 at chapter heading for Env-Wq 1500); ss by #13758, eff 9-28-23 (see Revision Note #4 at chapter heading for Env-Wq 1500)

Env-Wq 1503.03 General Permit by Rule. A person shall be deemed to have a general permit by rule to undertake a project in or on the borders of surface waters of the state or that significantly alters the characteristics of the terrain if:

- (a) The project is limited to utility work that meets all of the following conditions:
  - (1) The work is limited to trench excavation for installing, replacing, or repairing utilities, such as sewer, water, closed drainage systems, gas pipes, or telephone or cable wires;
  - (2) There will be no increase in runoff or discharge and no new discharge location;
  - (3) The work is done by or at the direction of the entity with responsibility for maintaining the lines for which the work is being done;
  - (4) The trench is cut and covered within the same working day;
  - (5) The work is conducted in accordance with Env-Wq 1505.05 relative to temporary methods for stormwater management and erosion and sediment control and Env-Wq 1505.06 relative to cold weather site stabilization, as applicable;
  - (6) All dewatering work associated with the work is covered under an NPDES permit for construction dewatering activities issued by the U.S. Environmental Protection Agency (EPA), if applicable;
  - (7) A permit has been obtained pursuant to RSA 482-A prior to any work in areas subject to RSA 482-A jurisdiction; and
  - (8) Any permit or waiver required under RSA 483-B has been obtained prior to any work in areas subject to RSA 483-B jurisdiction;
- (b) The project is limited to asphalt maintenance work that meets all of the following conditions:

- (1) The work is limited to replacement of the existing asphalt surface to its existing grade;
  - (2) The work is limited to the footprint of the existing surface;
  - (3) There is no change in the existing drainage system; and
  - (4) If base course gravels are replaced, the base course gravels that are removed are replaced within 72 hours of being removed;
- (c) The project is limited to trail work that meets all of the conditions specified in RSA 485-A:17, V, as reprinted in Appendix D; **Appendix D references Trail work less than 20' in disturbed width**
- (d) The project is limited to trail work that meets all of the following conditions:
- (1) Subject to (4) and (5), below, the trail work is limited to a disturbed area no more than 30 feet wide;
  - (2) The project is being implemented by a non-profit organization, municipality, or government entity;
  - (3) The work is done in accordance with the Best Management Practices For Erosion Control During Trail Maintenance and Construction, NH Trail Construction and Maintenance Manual, published by the New Hampshire department of natural and cultural resources (DNCR), division of parks and recreation, bureau of trails (DNCR-Trails), dated January 2017 (“Trail BMPs”), available as noted in Appendix B;
  - (4) If the trail is greater than 20 feet wide, an environmental monitor shall:
    - a. Inspect the project site at least once every 14 days from the start of terrain alteration activities until all terrain alteration activities are completed and the trail is stabilized;
    - b. In addition to regular bi-weekly inspections, inspect the project once every 7 days during terrain alteration activities in or within 10 feet of a wetland;
    - c. In addition to regular bi-weekly inspections, inspect the project site during any rain event in which 0.5 inch of precipitation or more falls within a 24 hour period, provided that if the environmental monitor is unable to be present during such a storm, the monitor shall inspect the site within 24 hours of the rain event; and
    - d. Submit a written report, by a qualified engineer, a CPESC specialist, a certified wetland scientist, or an employee of the DNCR-Trails whose job responsibilities include field inspections to the department, within 24 hours of each inspection that:
      1. Describes the progress of the project, including whether all conditions in this section are being met; and
      2. Includes photographs of the site that are representative of the project; and
  - (5) If an environmental monitor is required by (4), above, the trail club or organization undertaking the work retains a copy of the report on-site for review during site inspections by federal, state, or local officials;
- (e) The project is limited to conversion of land to an agricultural use or for conversion of land for creation of a wildlife food plot, that meets the following conditions:

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- (1) The work is not part of a larger plan of development for a purpose other than agriculture or a wildlife food plot in whole or in part;
  - (2) The work will not alter the terrain so as to impede the natural runoff or create an unnatural runoff, other than temporary impacts associated with allowable construction;
  - (3) The work is conducted in accordance with Env-Wq 1505.05 relative to temporary methods for stormwater management and erosion and sediment control and Env-Wq 1505.06 relative to cold weather site stabilization, as applicable;
  - (4) The existing land slope of the proposed area of land conversion is less than or equal to 8 percent. This is calculated using the formula  $Y = 100CI/A$ , where:
    - a. Y = average slope (percent);
    - b. C = Total length of all contour lines, including any closed contours, within the proposed area of land conversion;
    - c. I = Contour interval (feet); and
    - d. A = Proposed area of land conversion (squared feet);
  - (5) A minimum 50-foot buffer of unaltered, natural vegetation is maintained from the areas of land conversion to surface waters of the state; and
  - (6) The activities:
    - a. Would not convert more than 10,000 square feet from pervious to impervious cover; or
    - b. Are part of a farm conversion plan that has been approved by NRCS, in which case not more than 20,000 square feet may be converted from pervious to impervious cover;
- (f) The project does not qualify under (a) through (e), above, but meets all of the following conditions:
- (1) The contiguous area disturbed, as calculated in accordance with Env-Wq 1503.12, is:
    - a. Less than 50,000 square feet if any of the area disturbed is within the protected shoreland that is subject to RSA 483-B jurisdiction; or
    - b. Less than 100,000 square feet in which all disturbed areas are outside the protected shoreland that is subject to RSA 483-B jurisdiction;
  - (2) The work is not part of a larger plan of development that cumulatively will exceed the applicable limit specified in (1), above;
  - (3) The work will not significantly alter the characteristics of the terrain as defined in Env-Wq 1502.58(c);
  - (4) The work is conducted in accordance with Env-Wq 1505.05 relative to temporary methods for stormwater management and erosion and sediment control and Env-Wq 1505.06 relative to cold weather site stabilization, as applicable;
  - (5) A permit has been obtained pursuant to RSA 482-A prior to any work in areas subject to RSA 482-A jurisdiction; and

(6) Any permit or waiver required under RSA 483-B has been obtained prior to any work in areas subject to RSA 483-B jurisdiction;

(g) The work that requires a permit under Env-Wq 1503.02 also needs to be permitted under RSA 482-A or RSA 483-B and review of the AOT permit application would simply duplicate the review that will occur under the RSA 482-A or RSA 483-B permit application;

(h) The work:

(1) Is limited to establishing temporary access or staging areas for other work being done pursuant to a permit under RSA 482-A; and

(2) Does not exceed the applicable limits of (f)(1) or (3), above;

(i) The work is limited to transporting forest products as defined in Env-Wq 1502; or

(j) The work is limited to subsurface explorations needed to assist in the design of a project for which an AOT permit or general permit is required, including but not limited to test boring, test pits, observation wells, soil surveys, and other site characterization work.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1500) #9343, eff 1-1-09; (See Revision Note #2 at chapter heading for Env-Wq 1500); ss by #9817-A, eff 12-1-10; ss by #12342, eff 8-15-17 (See Revision Note #3 at chapter heading for Env-Wq 1500); ss by #13758, eff 9-28-23 (see Revision Note #4 at chapter heading for Env-Wq 1500)

Env-Wq 1503.04 Timber Harvesting Permit by Rule. A person shall be deemed to have a timber harvesting permit by rule to undertake a timber harvesting operation provided all of the following conditions are met:

(a) The activity is a timber harvesting operation for which a valid New Hampshire department of revenue administration intent to cut permit has been obtained by the property owner(s) or by an agent for the property owner(s);

(b) As specified in RSA 485-A:17, IV, the work is performed in accordance with the Best Management Practices for Erosion Control on Timber Harvest Operations in New Hampshire published by the former New Hampshire department of resources and economic development;

(c) A permit has been issued or a “Notification of Forest Management or Timber Harvest Activities Having Minimum Wetlands Impact” form has been filed pursuant to RSA 482-A prior to any work in areas in RSA 482-A jurisdiction; and

(d) Timber harvesting roads are not being converted to a non-timber harvesting operational use.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1500) #9343, eff 1-1-09; ss by #12342, eff 8-15-17 (See Revision Note #3 at chapter heading for Env-Wq 1500)

Env-Wq 1503.05 AOT Permit Application Procedures.

(a) As specified in RSA 485-A:17, I, an application for an AOT permit shall be filed at least 30 days prior to the proposed starting date of the proposed activities, and no activities shall commence without prior approval of the application by the department.