

**Readopt with amendment Env-Wq 1502.08, effective 9-28-23 (Document #13758), to read as follows:**

Env-Wq 1502.58 “Significantly alter the characteristics of the terrain” means to undertake any activity anywhere in the state that changes or disturbs the terrain so as to impede the natural runoff or create an unnatural runoff. Examples of activities that significantly alter the characteristics of the terrain include, but are not limited to:

(a) Timber harvesting operations as covered by RSA 485-A:17, IV;

(b) Earth moving activities that result in a temporary or permanent disturbance of an area that, over a 10 year period, cumulatively exceeds 100,000 square feet of contiguous area or cumulatively exceeds 50,000 square feet of contiguous area, as calculated in accordance with Env-Wq 1503.12, if any portion of the disturbance is within the protected shoreland as defined in RSA 483-B; or

(c) Earth moving activities within the protected shoreland, ~~as defined in RSA 483-B~~, ***except those activities associated with public utility lines and associated structures and facilities, public roads, and public water access facilities***, that result in a temporary or permanent disturbance of an area that:

(1) Is more than 2,500 square feet in size;

(2) Any portion is within 50 feet of ~~any surface water~~ ***the reference line, as defined in RSA 483-B:4***;

(3) Is sloped such that runoff is in the direction of the surface water; and

(4) Is subject to runoff over land having an ***existing*** average grade of 25% or greater over a distance of 50 feet ~~or more~~ measured in an upgradient direction from a starting point anywhere within the area described in (1) – (2) above.

**Readopt with amendment Env-Wq 1504.04, effective 9-28-23 (Document #13758), to read as follows:**

Env-Wq 1504.04 Steep Slope Erosion and Sediment Control Plans. Steep slope erosion and sediment control plans shall be drawn at a scale of one inch equals 50 feet, or at a scale that provides greater detail, to show the following:

(a) Existing and proposed final contours at 2-foot intervals or less;

(b) The information specified in Env-Wq 1504.06(a) through (m), as applicable, limited to a distance of 250 feet from the area of activity that meets the criteria of Env-Wq 1502.58(c); ~~and~~

(c) ***Diversion swales that are incorporated to keep upslope drainage off proposed areas of disturbance; and***

(~~ed~~) Proposed specifications for permanent seeding and any other planned plantings.

**Readopt with amendment Env-Wq 1507.03, effective 9-28-23 (Document #13758), to read as follows:**

Env-Wq 1507.03 Pollutant Discharge Minimization Requirements.

(a) Except as required by (b) through (d) below, the stormwater treatment practices described in Env-Wq 1508.03 through Env-Wq 1508.12 shall be acceptable methods for minimizing pollutant discharges to surface waters of the state, provided that the requirements of this section are met along with all method-specific criteria.

(b) Except as required by (c) below, any project that would result in a discharge of stormwater within one-quarter mile of a surface water of the state impaired for phosphorus, or within one-quarter mile of a lake or pond, shall include stormwater treatment practice(s) that:

- (1) Meet the requirements of Env-Wq 1508.07;
- (2) Meet the requirements of Env-Wq 1508.06 or Env-Wq 1508.08, with the additional requirement that the filter media must be amended with 5% water treatment residuals or 0.5% iron filings;
- (3) Have pollutant removal efficiencies equal to or greater than (1) or (2) above; or
- (4) Demonstrates by a pollutant loading analysis that there will be no increase in phosphorus loading to the surface water of the state as a result of the project.

(c) Any project that would result in a discharge of stormwater 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) as defined in Env-Wq 1708.04(a): ~~shall include stormwater treatment practice(s) that meet the requirements of Env-Wq 1508.06 with the additional requirement that the filter media must be amended with 5% water treatment residuals or 0.5% iron filings.~~

- (1) Shall include stormwater practice(s) that meet the requirements of Env-Wq 1508.06 with the additional requirement that the filter media must be amended with 5% water treatment residuals or 0.5% iron filings;***
- (2) Shall include stormwater practice(s) that have pollutant removal efficiencies equal to or greater than (1) above and that incorporate a denitrification process; or***
- (3) Shall demonstrate by a pollutant loading analysis that:***
  - (i) There will be no increase in nitrogen and phosphorus loading to the surface waters of the state as a result of the project; and***
  - (ii) For projects with a net increase in impervious surfaces, utilize stormwater BMPs listed in Env-Wq 1508.05 or 1508.06 for denitrification.***

(d) Any project that would result in a discharge of stormwater within one-quarter mile of a surface water of the state impaired for nitrogen shall include stormwater treatment practice(s) that meet the requirements of Env-Wq 1508.05 or Env-Wq 1508.06.

(e) Stormwater treatment practices shall be accessible for proposed maintenance activities.

(f) Infiltration rates for designing stormwater treatment practices shall be determined in accordance Env-Wq 1504.14.

(g) Stormwater treatment practices shall meet the water supply well setback criteria identified in Env-Wq 1508.02.

(h) Subject to (i) below, stormwater treatment practices shall be designed for the water quality volume (WQV) or water quality flow (WQF), as applicable, calculated in accordance with Env-Wq 1504.10 and Env-Wq 1504.11, respectively.

(i) For redevelopment, as defined by Env-Wq 1502.53, except where the project solely consists of activities performed under Env-Wq 1503.03(a) or (b):

(1) Stormwater treatment practices for stormwater runoff from existing impervious cover shall be designed for 30 percent or greater of the WQV or WQF, as applicable; and

(2) Stormwater treatment practices for pervious areas being converted to impervious cover shall be designed for the WQV or WQF, as applicable.

(j) Pollutant loading analysis shall be performed as follows:

(1) Load export rates for total nitrogen and total phosphorus shall be as provided in the New Hampshire Small MS4 General Permit, Appendix F; and

(2) Pollutant removal efficiencies for total nitrogen and total phosphorus shall be as provided in the New Hampshire Small MS4 General Permit, Appendix F.

**Adopt Env-Wq 1512, previously effective 2-24-08 as Env-C 603.02 (Document #9093, Interim), and expired 8-22-08, to read as follows:**

#### PART Env-Wq 1512 ADMINISTRATIVE FINE SCHEDULE

Env-Wq 1512.01 Purpose. The purpose of Env-Wq 1511 is to establish a schedule of fines which may be imposed under the authority of RSA 485-A:22, V for violations of RSA 485-A:17, of any rule adopted to implement RSA 485-A:17, or of any permit or approval issued under the authority of RSA 485-A:17.

Env-Wq 1512.02 Fine Amounts for Major Violations. The proposed fine amount for all knowing violations of RSA 485-A:17, of any rule in Env-Wq 1500, or of any permit or approval issued under the authority of RSA 485-A:17 shall be \$2,000 for each offense, including but not limited to:

(a) Submitting false or misleading information relating to any application for a permit or request for approval;

(b) Construction, earth moving, or other alteration of terrain activities without either meeting the conditions required for the general permit by rule or obtaining a permit as required pursuant to Env-Wq 1503; and

(c) Conducting a timber harvest without either meeting the conditions required for the timber harvesting permit by rule or obtaining a permit required pursuant to Env-Wq 1503; and

(d) Violating the conditions of a permit issued pursuant to RSA 485-A:17 and Env-Wq 1500.

Env-Wq 1512.03 Fine Amounts for Moderate Violations. The proposed fine amount for the following violations shall be \$1,500 per offense:

(a) For recklessly or negligently submitting false or misleading information relating to any application for permit required pursuant to RSA 485-A:17 and Env-Wq 1500;

(b) For recklessly or negligently commencing construction, earth moving, or other alteration of terrain

activities without either meeting the conditions required for the general permit by rule or obtaining a permit required pursuant to Env-Wq 1503; and

(c) For recklessly or negligently conducting a timber harvest without either meeting the conditions required for the timber harvesting permit by rule or obtaining a permit required pursuant to Env-Wq 1503.

Env-Wq 1512.04 Fines Amounts for Violations with No Previously Scheduled Fine.

(a) For the purposes of this section, the following definitions shall apply:

(1) “Major deviation from requirement” means the violator deviated from a requirement of a statute or rule to such an extent that there is substantial non-compliance;

(2) “Moderate deviation from requirement” means the violator significantly deviated from a requirement of a statute or rule but some requirements were implemented as intended, such that approximately half the requirements were met;

(3) “Minor deviation from requirement” means the violator deviated partially from a requirement of a statute or rule such that most of the requirement was met;

(4) “Major potential for harm” means a substantial likelihood of causing harm to human health or the environment;

(5) “Moderate potential for harm” means a moderate likelihood of causing harm to human health or the environment; and

(6) “Minor potential for harm” means a small likelihood of causing harm to human health or the environment.

(b) For violating the requirements of, or refusing to comply with, any of the provisions of RSA 485-A:17; and any rule adopted; or permit or approval issued under the authority of RSA 485-A:17, or RSA 485-A:6, VIII, not identified in Env-Wq 1512, the proposed fine for each violation shall be calculated pursuant to Table 1511-1, below, based on the extent of deviation from the requirement and the potential for harm.

(c) Env-C 200 shall apply to all administrative fine hearings, and adjudication of the total proposed fine shall be in accordance with Env-C 204.24.

Table 1511-1: Matrix for Calculated Fines – Maximum Fine \$2,000

	Minor Deviation from Requirement	Moderate Deviation from Requirement	Major Deviation from Requirement
Minor Potential for Harm	range: \$100 to \$500 default: \$250	range: \$500 to \$1,000 default: \$750	range: \$1,000 to \$1,500 default: \$1,250
Moderate Potential for Harm	range: \$500 to \$1,000 default: \$750	range: \$1,000 to \$1,500 default: \$1,250	range: \$1,500 to \$2,000 default: \$1,750
Major Potential for Harm	range: \$1,000 to \$1,500 default: \$1,250	range: \$1,500 to \$2,000 default: \$1,750	\$2,000

Text added to existing rules in *bold italics*

**Initial Proposal**

04-02-24

5

Text deleted from existing rules shown ~~struck through~~

Text that is all new (introduced with **Adopt**) in regular font

**APPENDIX A: STATE STATUTES IMPLEMENTED**

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>
Env-Wq 1502.08	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)