

PUBLIC INPUT ON AOT RULES
PERTAINING TO THREATENED AND ENDANGERED SPECIES

Agenda – Public Input Session 2

October 29, 2020, 1-4 pm

Location – Online Meeting

<https://www.des.nh.gov/media/pr/2020/20200928-alteration-terrain-administrative-rules.htm>

1. Review of August 27, 2020 session
2. Wildlife Action Plan Presentation – Michael Marchand, NHFG
3. Topics for public input and discussion:
 - a) To what extent should the Wildlife Action Plan play a role in the review of T&E impacts?
 - b) Review of the potential impacts to T&E species must be conducted at a geographical scale related to a proposed project. At what geographical scale should T&E impacts be considered during environmental review to satisfy the “not jeopardize the continued existence” standard in RSA 212-A:9, III?
 - c) Several commenters raised the “avoid, minimize and mitigate” standard as a possible approach for review of T&E impacts. For comparison, in the wetlands context, the following definitions are used:
 - Env-Wt 102.14 “Avoid and minimize” means to avoid impacts to the maximum extent practicable and then minimize those impacts that cannot be avoided.
 - Env-Wt 103.39 “Minimization measures” means design techniques, construction techniques, and project timing adjustments, together or in any combination, that relocate or reduce unavoidable adverse impacts, taking into account the purpose of the proposed project, the functions and values of the impacted resources, and practicability.

What does it mean to avoid and minimize impacts in the context of threatened and endangered species?

- d) The current rule, Env-Wq 1503.19(h), requires a site assessment/study of the potential impacts of a project on threatened and endangered species and their habitat by a qualified wildlife biologist. Are there types of projects or sites that should be exempt from this assessment requirement? Should there be different tiers of site review/assessment based upon the project characteristics, site setting or other factors?

- e) What type of mitigation could be appropriate for impacts to T&E after appropriate avoidance and minimization?
 - a. Habitat creation/restoration(on-site/off-site)
 - b. Habitat protection (on-site/off-site)
 - c. Monetary payment
 - i. How used – what fund?
 - ii. How calculated?
 - iii. Species specific criteria?
 - d. Other?

- f) Are there criteria that should result in denial of a permit application regardless of available avoidance, minimization and mitigation measures?

- g) Several commenters expressed support for increased funding for NHFG to fulfill their responsibilities. Please share ideas for increasing the capacity of NHFG through funding. Funding through existing fee mechanism? Suggestions for a fee structure?