

ENVIRONMENTAL Fact Sheet



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Wetlands Permitting: Avoidance, Minimization and Mitigation

Wetlands and other related resources are protected under the Wetlands law (RSA 482-A) because of the functions and values they provide to wildlife, humans and the overall environment.

For projects that propose impacts to protected resources, a permit applicant must consider and demonstrate how a project avoids and minimizes impacts to the resources on a project site (Env-Wt 301.03). There are specific criteria that apply to minor and major impact projects (Env-Wt 311.07) and a separate requirement for minimum impact projects (Env-Wt 311.07(c)).

Avoidance means not impacting areas if there is a practicable alternative to the proposed project that would have less impact (Env-Wt 102.12).

Minimization means the reduction of adverse impacts using minimization measures that remain after all practicable measures have been taken to avoid adverse impacts to jurisdictional areas (Env-Wt 103.38).

Practicable means available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purposes (Env-Wt 103.62).

An applicant needs to identify resources at the site before designing a project, in order to address avoidance and minimization. The identification of resources on a site and their functional assessment results provide crucial information to document the presence of high-value resources that are most important to avoid when designing and planning a project.

For a proposed project, the applicant must demonstrate the measures that will be used to minimize impacts, such as design and construction techniques, and project timing adjustments, to reduce unavoidable adverse impacts. These techniques take into account the purpose of the proposed project, the functions and values of the resources, and the practicability of these avoidance and minimization measures.

The document [Wetlands Best Management Practice Techniques for Avoidance and Minimization](#) provides graphic examples of how avoidance and minimization can be applied to different project types.

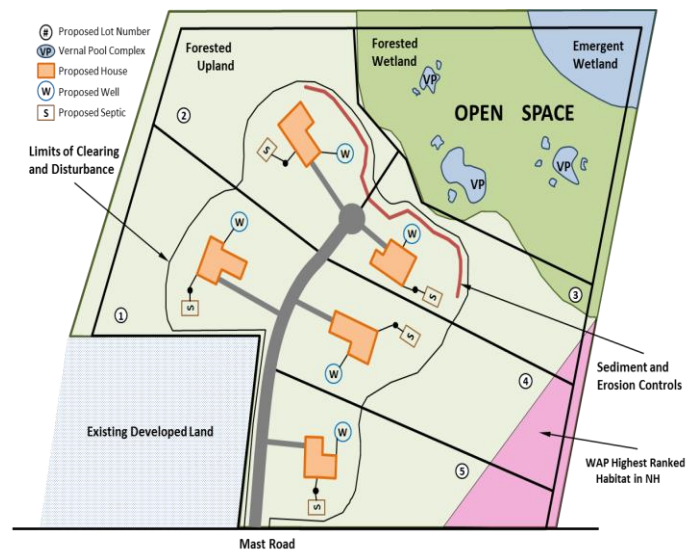


Figure 1. Example plan demonstrating avoidance from the Wetlands Avoidance and Minimization BMP manual.

Applicants may use the [Avoidance and Minimization Written Narrative](#), the [Avoidance and Minimization Checklist](#), or their own narrative to document how the proposed project design and proposed construction techniques address avoidance and minimization. The checklist provides more detailed examples of how to avoid and minimize impacts.

If a project is a major impact project, compensatory mitigation may be required. **Compensatory mitigation** means the activities or projects that offset unavoidable permanent impacts of a project.

Options for mitigation begin with consideration of permittee-responsible mitigation options that may have been identified by the local conservation commission. Mitigation for permanent wetland impacts may consider the preservation of land, wetland restoration, enhancement, or creation. Mitigation for permanent stream impacts may consider the preservation of aquatic resource buffer or stream restoration and enhancement.

The remaining option for mitigation is the provision of an in-lieu fee payment to the Aquatic Resources Mitigation (ARM) Fund. The ARM Fund collects monies *in-lieu of* other forms of mitigation. The payments are pooled according to nine watersheds called [Service Areas](#). The money is then available as grants for conservation and restoration projects. The selected projects will offset the functions and values lost due to permitted projects in the watershed.

Information about the classification of projects and required mitigation may be found in several sections of the rules, such as Env-Wt 311, Env-Wt 312, 313.04, Chapter Env-Wt 600 (Coastal Areas), Env-Wt 704.03, and Chapter Env-Wt 800.

For more information, please review the [Wetlands Best Management Practice Techniques for Avoidance and Minimization \(2019\)](#), visit <http://des.nh.gov>, email lrn@des.nh.gov, or call the Wetlands Bureau at (603) 271-2147.