



NEPA Floodplain Guidance

Introduction

Pursuant to 23 United States Code 327 and the implementing Memorandum of Understanding (MOU) executed on XX, the Maine Department of Transportation (MaineDOT) has assumed, and the Federal Highway Administration (FHWA) has assigned its responsibilities under the National Environmental Policy Act (NEPA) for highway projects and Local Agency Program (LAP). MaineDOT’s assumption includes all highway projects in Maine with FHWA federal funding or other FHWA federal action. This assumption of FHWA responsibilities or NEPA Assignment includes responsibility for environmental review, interagency consultation, and approval of NEPA actions. MaineDOT will be the Lead Federal Agency for MaineDOT-sponsored highway projects.

The following provides guidance for floodplains and provides the process for identifying and determining the appropriate level of coordination that is required.

Executive Order (EO) 11988 and 13690 require federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of flood plains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. In accomplishing this objective, "each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by flood plains in carrying out its responsibilities".

FHWA policy and procedures located in 23 CFR 650 Subpart A apply to all encroachments (actions within the limits of the base floodplain) and to all actions that affect base floodplains, except for repairs made with emergency funds (23 CFR 668) during or immediately following a disaster. 23 CFR 650 Subpart A defines an action as “any highway construction, reconstruction, rehabilitation, repair, or improvement undertaken with Federal or Federal-aid highway funds or FHWA approval.”

MaineDOT Environmental Specialist-stormwater and Hydrologist are responsible for assessing and ensuring compliance with floodplain EOs and FHWA policy under NEPA Assignment (23 U.S.C. 327). MaineDOT has the responsibility of FHWA under NEPA assignment. MaineDOT is FHWA in this document, except for projects not under NEPA assignment (e.g., border projects).

This guidance document defines the process for identifying and determining the appropriate level of coordination that is required.

Floodplain information is provided to and discussed with the Team Leader. This information is incorporated into the overall NEPA decision.

1.0 Determination and Documentation of Base Floodplains and Floodways

The following question shall be answered by the MaineDOT Environmental Specialist-stormwater. To answer the question MaineDOT evaluates potential floodplain impacts on a project-by-project basis through initial reviews of National Flood Insurance Policy (NFIP) floodplain mapping.

1. Does the action encroach on the base floodplain or floodway?

A base flood is a flood having a one percent chance of being equaled or exceeded in any given year. This is



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the regulatory standard also referred to as the "100-year flood." The base flood is the national standard used by the National Flood Insurance Program (NFIP) (44 CFR 59, 60, 65, 70) and all Federal agencies for the purposes of requiring the purchase of flood insurance and regulating new development. Base Flood Elevations (BFE) are typically shown on Flood Insurance Rate Maps (FIRM); additional information can also be found on Floodway Boundary and Floodway Maps (FBFM) and Flood Hazard Boundary Maps (FHBM).

A "Yes" response to Question 1 requires an assessment of effects (go to 2.0).

A "No" response concludes the Floodplain Assessment. All actions will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file.

2.0 Impact Assessment of Action on Base Floodplains

The Hydrologist and Environmental Specialist-stormwater will perform an Impact Assessment of the encroachment on the base floodplain and/or floodway. If appropriate, this assessment is supplemented by follow-up coordination with local officials and the State and Federal entities responsible for the administration of the NFIP (Maine Department of Agriculture, Conservation and Forestry, and FEMA) to ensure compatibility with local floodplain management programs, to determine the extent of hydraulic analysis required and to determine the significance of floodplain encroachment.

This guidance is intended to inform decision-making on projects that have potential impacts on the base floodplain. The general steps are summarized below and reflect the decision-making process required in Section 2(a) of EO 11988.

1. Identify and evaluate practicable alternatives to encroaching on the base floodplain, including alternative sites outside of the floodplain.
2. Identify the direct and indirect impacts of the proposed action on the base floodplain.
3. If impacts cannot be avoided, develop measures to minimize the impacts.
4. Implement the action through design or mitigation measures.

A hydraulic analysis will be performed for any encroachment into the floodplain. The analysis shall demonstrate and be certified by a licensed Maine Professional Engineer (Manager, Hydrology and Stormwater Division, Environmental Office) that the proposed project:

1. will not increase hazards on site
2. will not result in any elevation increase in a mapped floodway (prohibits encroachment, including fill, new construction in floodway)
3. will result in no more than one-foot (1-ft) rise in the floodplain.

The analysis will complete the Supporting Information for the Floodplain Evaluation form (attached) with supporting calculations, analysis, and any relevant additional information. This documentation will be saved in the CPD e-file project folder.

For projects involving minor amounts of fill-in floodplains and floodways, FEMA is satisfied with a simplified hydraulic analysis. FEMA has indicated that when the cross-sectional area of the floodway at the critical



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cross-section (normally at the structure) is increased or not reduced, a detailed hydraulic analysis is not warranted, since conveyance and hydraulic capacity will not be reduced. Projects that minimally reduce the cross-sectional area of the floodway at the critical section may be proposed if it can be shown that conveyance is not reduced.

3.0 Floodplain Secondary Project Questions and Documentation

After completing the floodplain effects assessment, the HSD shall answer the following question:

2. Does the action comply with Executive Order 11988?

A “Yes” response concludes the floodplain assessment. All supporting documentation shall be saved in the CPD e-file project folder for the administrative record.

A “No” response requires that HSD discuss the project with the NEPA manager for resolution and discussion of avoidance and minimization measures. HSD shall subsequently discuss with the National Flood Insurance Program (NFIP) Manager for Maine (Maine Department of Agriculture, Conservation and Forestry) for resolution and determine the need for possible follow-up action, such as a Letter of Map Revision (LOMR). The NFIP contact is currently Sue Baker (sue.baker@maine.gov).

All actions will be processed and documented in MaineDOT’s ProjEx database and MaineDOT’s Environmental CPD e-file for the administrative record.

4.0 Links

Executive Order 11988

[Executive Orders | National Archives](#)

Executive Order 13690

[Executive Orders | National Archives](#)

23 CFR 650

<https://www.law.cornell.edu/cfr/text/23/part-650>

National Flood Insurance Program Regulations – Appendix E (44 CFR parts 59, 60, 65, 70)

<https://www.ecfr.gov/current/title-44/chapter-I/subchapter-B/part-59>

FEMA Guidelines for Implementing EO 11988 and EO 13690

https://www.fema.gov/sites/default/files/documents/fema_implementing-guidelines-EO11988-13690_10082015.pdf