



**MaineDOT**

# NEPA Quality Assurance and Quality Control Guidance for NEPA Categorical Exclusions, Environmental Assessments, and Environmental Impact Statements

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## 1. Introduction

The Maine Department of Transportation (MaineDOT) is committed to quality environmental reviews and documentation in compliance with the National Environmental Policy Act and other applicable laws, regulations, and executive orders.

Pursuant to 23 United States Code (U.S.C.) 326 and the implementing Memorandum of Understanding (MOU) executed on 10/9/2024, 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) for Categorical Exclusions.

Pursuant to 23 U.S.C. 327 and the implementing MOU executed on XX/XX/XXXX, 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) for Categorical Exclusions, Environmental Assessments, and Environmental Impact Statements.

MaineDOT's assumption includes all MaineDOT-sponsored highway projects in Maine with FHWA federal funding or other FHWA federal action. This assumption of FHWA's responsibilities includes responsibility for environmental review, interagency consultation, and approval of NEPA actions.

MaineDOT-sponsored highway projects with FHWA funding that do not fall under the 23 U.S.C. 326 or the 23 U.S.C. 327 MOU will be led by the Federal Highway Administration.

Under the MOU, FHWA cannot provide any project-level assistance to MaineDOT in carrying out any of the responsibilities assumed under the NEPA Assignment Program. Project-level assistance is generally defined as any advice, consultation, or document review associated with a particular highway project. However, FHWA may provide program-level assistance concerning the interpretation of any applicable law contained in the United States Code, interpretation of any environmental review-related regulation, interpretation of FHWA policies, or formal guidance.

In assuming the USDOT Secretary's responsibilities under 23 U.S.C. 326 MOU and 23 U.S.C. 327 MOU, MaineDOT is subject to the same procedural and substantive requirements that apply to the USDOT Secretary in carrying out these responsibilities. Such procedural and substantive requirements include federal laws, federal regulations, Executive Orders, policies, guidance, and interagency agreements such as programmatic agreements, memoranda of understanding, memoranda of agreement, and other similar documents that relate to the environmental review process.

In carrying out the responsibilities assumed under the 23 U.S.C. 326 MOU and 23 U.S.C. 327 MOU, MaineDOT is required to carry out regular quality assurance and quality control reviews to ensure that the assumed responsibilities are being conducted in accordance with applicable laws, regulations, and the MOU. The MaineDOT's quality control requirements are outlined in sections IV E of the 326 MOU and states the following:

1. The State agrees to carry out regular quality control activities to ensure that its CE determinations are made in accordance with applicable law and this MOU.
2. At a minimum, the State shall monitor its processes relating to project determinations, environmental analysis, and project file documentation, and

check for errors and omissions. The State shall take corrective action as needed. The State shall document its quality control activities and any needed corrective actions taken.

3. If the State implements training to meet the capability requirements of this MOU or as a corrective action, the State shall be responsible for the training. The State shall provide notice of formal training to FHWA.

The MaineDOT's quality control requirements are outlined in sections 8 of the 327 MOU and states the following:

In carrying out the responsibilities assumed under this MOU, MaineDOT agrees to carry out regular quality assurance and quality control (QA/QC) reviews to ensure that the assumed responsibilities are being conducted in accordance with applicable law and this MOU. At a minimum, MaineDOT's QA/QC process will include the review and monitoring of its processes and performance relating to project decisions, completion of environmental analysis, including project file documentation, checking for errors and omissions, and legal sufficiency reviews, and taking appropriate corrective action as needed.

## **2. Quality Assurance and Quality Control Overview**

MaineDOT emphasizes internal communication and collaboration among its various bureaus, Environmental Office (ENV) NEPA staff, and technical subject matter experts to produce a quality process and documentation that supports balanced decisions. Quality Assurance (QA) and Quality Control (QC) are part of ENVs process that occurs at a program level and at multiple points during a project.

QA is utilized to proactively focus on the prevention of issues and manage the quality of the process. QA involves assessing a program/process after tasks have been completed to identify issues that need to be addressed. A MaineDOT example of NEPA QA is conducting our annual NEPA quality review and identifying any program process or documentation issues and areas ENV can improve or streamline.

QA includes, but is not limited to:

- Team collaboration
- Review of guidance documents, standard operating procedures, ProjEx database documentation requirements, environmental baseline requirements, and NEPA CE process (Environmental Office Director, Senior Environmental Managers, technical Environmental Office staff)
- Internal quality reviews completed by the Environmental Office Director, Senior Environmental Manager (NEPA Manager), and Environmental Specialist-NEPA
  - Conducted annually
  - Certification assessment, details, and documentation accurate, complete, and sufficient to inform and support the decision
  - Evaluations to determine if:
    - Process was adhered to
    - Findings were appropriate
    - Decisions were made by authorized staff
    - Tasks required by the project were completed and properly documented in the ProjEx database and CPD e-file
    - Public Involvement met minimum requirements
    - Timelines for all steps are appropriate

- Determine if MaineDOT and ENV's assessments, details, and documentation are accurate, complete, and sufficient to inform and support the decision
- Ensuring consultants preparing environmental documents are qualified (Environmental Technical leads)
- Coordinating with the agencies to ensure process and communication meet their expectations (Environmental Office Director, Senior Environmental Managers, technical environmental staff)
  - Ensure communication is clear and timely
  - Ensure MaineDOT documentation is adequate and appropriate for the agency's needs
  - Ensure MaineDOT complies with agency regulations

QC is utilized to verify the quality of the project process and documentation. QC is the daily effort of identifying and correcting deficiencies and errors. This occurs at the project level and in MaineDOT's and ENV's production process. A MaineDOT example of NEPA QC is the Environmental Office Director reviewing the draft Environmental Assessment section on historic resources and identifying deficiencies addressed before finalizing comments and edits for QC on the historic section of an EA. This is conducted through track changes within the document.

QC is a review process that occurs after the document is complete, and before document approval to:

- Ensure procedures were followed, including:
  - Complete environmental analysis
  - Project file documentation
- Identify and correct errors and omissions

QC includes, but is not limited to:

- Oversight of project production (ENV project schedule and milestones) by ENV Team Leaders and Senior Environmental Manager
- Review of technical reports, assessments, and documentation before approval. May include:
  - Review by technical subject matter experts (includes internal and consultant-prepared reports)
  - Review by ENV Team Leaders, Senior Environmental Managers
- Legal Sufficiency Reviews [Individual Section 4(f)] shall involve MaineDOT's Legal Office and the Maine Attorney General's Office
- Ensuring the proper staff member approves the CE document (Team Leaders, Senior Environmental Manager, Environmental Specialist-NEPA, and Environmental Office Director are the only staff at MaineDOT that can certify NEPA)
- Ensuring the person who prepares the document does not approve the document before it has been reviewed (excludes CE Classification)
- Ensuring environmental consultants and Local Public Agencies are properly following the NEPA process (Technical Staff, Team Leaders, Senior Environmental Managers)
- Ensuring all reviews are performed by trained staff (Environmental Office Director, Senior Environmental Managers)

MaineDOT quality review responsibilities are on the following page.

**Figure 1. MaineDOT Quality Review Responsibilities**

Action	Responsible Staff		
	Preparer	Quality Reviewer	Approver
Categorical Exclusions	ENV Team Leader	QC-Team Leader QA-Environmental Specialist-NEPA	ENV Team Leader
Environmental Assessments - Draft EA and Final EA/FONSI	ENV Team Leader, Senior Environmental Manager, Environmental Specialist-NEPA	ENV Director	Chief Engineer
Environmental Impact Statement - Draft and Final EIS/ROD	ENV Team Leader, Senior Environmental Manager, Environmental Specialist-NEPA	ENV Director	Chief Engineer
Section 7 Biological Assessment	Biologist	Senior Biologist	Senior Environmental Manager (Natural Resources)
Section 106 MOA	Historic Coordinator	ENV Director	Chief Engineer
Section 4(f) - De minimis	Historic Coordinator	ENV Team Leader	Senior Environmental Manager (NEPA Manager)
Programmatic 4(f)	Historic Coordinator	Senior Environmental Manager (NEPA Manager)	ENV Director
Individual Section 4(f)	Historic Coordinator	Senior Environmental Manager (NEPA Manager)	ENV Director
Legal Sufficiency –Individual Section 4(f)	Historic Coordinator	MaineDOT Legal Counsel	Maine Attorney General's Office
Legal Sufficiency - EIS		MaineDOT Legal Counsel	Maine Attorney General's Office

### 3. Quality Reviews

This section addresses the MOU requirement (See executed [MOU](#))

#### 3.1 Technical Documents

During project development, the team identifies the necessary technical studies to support the development of the environment document. QA is incorporated into the development of the technical reports through coordination between the team and subject matter experts, as appropriate, regarding methodologies and approaches for the technical studies.

Required technical documents (written by consultants or MaineDOT technical staff) undergo a technical report QC review, and can be conducted by:

- A member of the Environmental team who was not directly involved in the report preparation
- A peer reviewer
- Another subject matter expert, depending on the resource area

Technical report QC review should:

- Confirm the adequacy and accuracy of the document
- Ensure appropriate coordination and regulatory requirements are met
- Verify clarity, grammar, and internal consistency of the information
- Document review comments and responses are typically kept in track changes and placed in the project file as a draft document as evidence of the review and to communicate any necessary document changes. The review will use the file naming convention with the date of the review (see MaineDOT NEPA Guidance Appendix T)
- ProjEx contains master QC checks for:
  - Section 4(f) de minimis, programmatic, and individual documents (located in the Historic Assessment Details tab)
  - Section 106 MOA (located in the Historic Assessment Details tab)
  - NEPA CE, EA, EIS (Located in the NEPA Checklist tab)
- A Biological Assessment for formal consultation under the Endangered Species Act will be signed by the Senior Environmental Manager indicating a quality review was conducted and the document is ready to submit for consultation.

### 3.2 Categorical Exclusions

MaineDOT FHWA-funded projects are classified as CEs approximately 99% of the time. MaineDOT's Environmental Team Leaders are responsible for ensuring the NEPA process is adhered to, and all technical specialists provide the appropriate information and documentation to support the NEPA decision. CE quality control reviews are conducted by the Environmental Team Leader before certifying a CE. These reviews utilize the CPD e-file and ProjEx Permits, Assessment, Assessment Details, and CE pages and ProjEx built-in checklists. Quality Assurance reviews are conducted by the Environmental Specialist-NEPA on environmental analysis, project file documentation, checking for errors and omissions in ProjEx assessments, assessment details, and NEPA Certification. The Quality Assurance review covers all "d" list CEs and approximately 20% of all "c" list CEs. This QA is typically conducted weekly. The review will cover projects in the Bridge, Highway, Regional, and Multimodal Programs. The review is documented using the MaineDOT CE Quality Assurance Checklist. Gaps/errors, etc. are discussed with the Team Leader and applicable technical staff. This process will also support the Self Assessments discussed in Section 5.

### 3.3 Environmental Assessments/Environmental Impact Statements

QC review is completed for the draft and final EAs and EISs, the decision document (FONSI or ROD), technical reports, and other supporting documents. QC review comments, comment responses, and resolutions are documented through track changes and saved as a draft document.

EAs and EISs will receive varying degrees of QC as they move through the process; however, the focus of the review and documentation requirements is generally the same. MaineDOT's QC process focuses on the

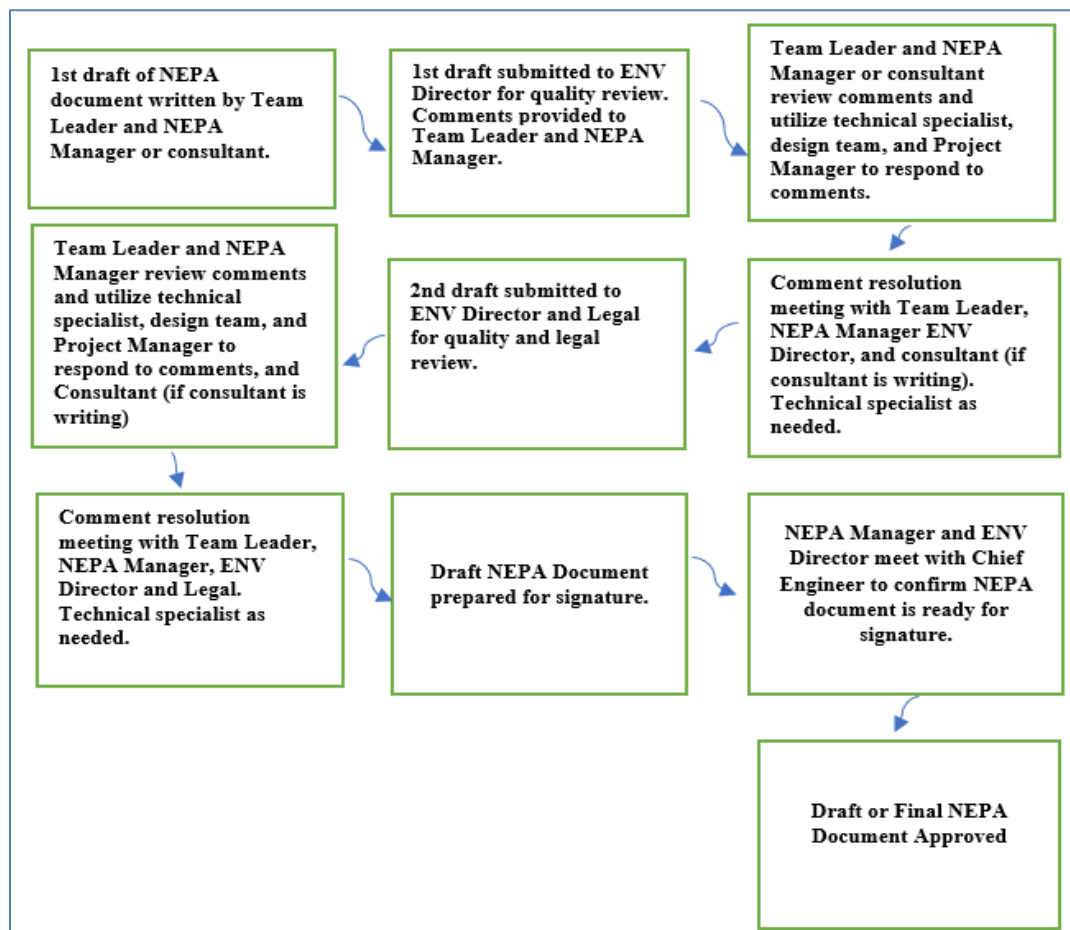
following:

- Accuracy of content
- Completeness
- Compliance with CEQ and FHWA NEPA regulations regarding EISs (40 CFR 1508.9 and 23 CFR 771.123)
- Compliance with MaineDOT procedures
- Compliance with MaineDOTs PIP and NPIP
- Consistency – both within the environmental document and between the environmental document and supporting technical reports
- Errors and omissions

The Senior Environmental Manager and Environmental Director are responsible for ensuring the documents and process comply with regulatory requirements and are technically sound.

Typical QC process for a NEPA document on the following page.

**Figure 2. Typical QC Process for an EA and EIS**



### 3.4 Re-evaluations



Re-evaluations are required by 23 C.F.R. §771.129 and are conducted to assess whether the approved environmental document remains valid. The Environmental Office Team Leader prepares the Re-evaluation document in accordance with the NEPA Guidance document. The re-evaluation review follows Figure 1 and is documented in ProjEx.

### **3.5 Legal Sufficiency Review**

MaineDOT conducts legal sufficiency reviews of draft FEISs, draft FEISs/RODs, and Individual Section 4(f) evaluations, as required under Federal regulation [see 23 C.F.R. §771.125(b) and 23 C.F.R. §774.7(d)]. These reviews are conducted by the Maine Attorney General's Office. These reviews assess the document to ensure compliance with legal standards, avoid litigation risk, and improve legal defensibility. The Senior Environmental Manager submits the draft FEIS, FEIS/RODs, and Individual Section 4(f) evaluation to the MaineDOT Environmental Attorney. The MaineDOT Environmental Attorney will provide the document to the Maine Attorney General's Office for a legal sufficiency review. The FEIS, FEIS/RODs, and Individual Section 4(f) evaluations may not be approved until it has been determined to be legally sufficient [23 CFR 771.125(b)]. The Maine Attorney General's Office provides the MaineDOT Environmental Attorney written confirmation that the FEIS, FEIS/RODs, and Individual Section 4(f) evaluations are legally sufficient and can be approved. This letter is provided to the Senior Environmental Manager for the file.

### **3.6 Locally Administration**

Locally Administered Projects fall under the 326 MOU for CE actions and the 327 MOU for EA and EIS actions. The responsibility of MaineDOT related to NEPA compliance. Locally Administered Projects follow the same approval processes as MaineDOT-led projects. When environmental documents are submitted, they are subject to the same QA/QC reviews performed on MaineDOT projects, including legal sufficiency reviews (if applicable).

### **3.7 Meetings**

MaineDOT Environmental Office staff meet on a reoccurring schedule for informal discussions on NEPA, NPEA Assignment, regulations, process, production, project issues, regulations, solutions, efficiencies, ProjEx, and the CPD e-file. Meetings with federal and state agencies also occur to discuss similar topics. The goal of these discussions is to identify any issues or areas for improvement and to develop strategies for improvement.

### **3.8 Data Management and Record Retention**

MaineDOT Environmental Office maintains its project and administrative files about its NEPA Assignment Program responsibilities in the CPD e-files and ProjEx. Records are managed as required by MaineDOT's retention program [per Administrative Policy Memo No. 121](#). Record retention meets [FHWA's Recommended Final Project Records Retention periods](#). These files are accessible by the FHWA Maine Division.

## **4. NEPA Web Pages**

MaineDOT's NEPA webpages will be updated when guidance documents are revised, or the Senior Environmental Manager and Environmental Office Director determine a need to update. MaineDOT NEPA Assignment Self Assessments and FHWA annual NEPA Assignment Program audits may also lead to the need to update the Environmental Office NEPA web pages. The NEPA Web pages will be managed by the Environmental Specialist-NEPA.

## **5. NEPA Assignment – Self-Assessments**

MaineDOT will conduct annual self-assessments to determine the effectiveness of its guidance and procedures under the NEPA Assignment Program, as well as adherence to the provisions of the NEPA

Assignment Program MOU. Self-assessments are quality assurance reviews conducted using a variety of methods, including NEPA project file reviews and MaineDOT's ProjEx database. The assessments will be led by the Environmental Office Director, Senior Environmental Manager, and Environmental Specialist-NEPA.

MaineDOT will use the self-assessment to:

- Identify areas that are working well, as well as areas that need improvement
- Make specific recommendations to improve adherence to guidance and procedures
- Evaluate areas of concern previously identified in FHWA audits
- Assess the need for corrective action and implement necessary corrective actions
- Evaluate improvements from previous corrective actions
- Assess whether specific problems are systemic, confined to specific areas of the state, or specific individuals, and identify root causes of problems
- Focus on select NEPA Assignment Program components

## **6. FHWA 23 U.S.C. 327 MOU Audit Coordination**

The Senior Environmental Manager, Environmental Specialist-NEPA, and Environmental Office Director working in cooperation with the FHWA Maine Division, are responsible for arranging access to necessary information and ensuring employees are available for FHWA interviews or answering questions. FHWA audit coordination requires MaineDOT to meet the following responsibilities:

- Facilitate audit planning communication with ENV management, technical teams, and other MaineDOT operational staff and management
- Plan for the audit, including review of FHWA pre-audit questions, and coordination and scheduling of remote electronic reviews
- Coordinate the audit visit with FHWA
- Ensure the availability of files
- Help to arrange for interviews with MaineDOT personnel during the audit visit
- Review the draft audit report and coordinate with FHWA for the final audit report posting in the Federal Register

## **7. Title 23 U.S.C. 327 MOU Performance Measures**

Compliance with NEPA, the provisions of the NEPA Assignment MOU, and other Federal environmental statutes, regulations, executive orders, policies, and guidance.

- A. Compliance with NEPA, FHWA NEPA regulations, and other Federal environmental statutes and regulations:
  - Maintain documented compliance with the requirements of all applicable Federal statutes and regulations for which responsibility is assumed (e.g., Section 106 of the NHPA, Section 7 of the ESA, etc.).
    - Measure: Percent of approved environmental documents that have approvals for other applicable laws in the project file supporting decisions for NEPA.
- B. QA/QC for NEPA decisions.
  - Maintain and apply internal quality control and assurance measures and processes, including a record of:
    - Completion of legal sufficiency reviews by Maine's Attorney General's Office
      - Measure: Percent of required legal sufficiency reviews conducted and documented.

- Compliance with FHWA's and MaineDOT's environmental document content standards and procedures, including those related to QA/QC.
  - Measure: Percent of quality control reviews for EAs and EISs with a completed Quality Control Checklist in the QAQC review file. Percent of Quality Control reviews for Categorical Exclusions with a completed QC review in ProjEx - NEPA Certification Checklist.
- C. Relationships with agencies and the public.
  - Maintain communication among MaineDOT, Federal and State resource agencies and the public.
    - Measure: Percent of projects with approved CE/EA/EIS that have documentation of required regulatory notifications/consultations with resource agencies (e.g., USFWS/NMFS/SHPO/USACE, tribes, the public).
  - Maintain effective responsiveness to substantive comments received from the public.
    - Measure: percent of EA/EIS projects that have a documented response to public comments in the file.
  - Maintain effective NEPA conflict resolution processes whenever appropriate.
    - Measure: Percent of NEPA conflict resolution process on EA/EIS projects requesting a formal issue resolution meeting in accordance with 23 U.S.C. 139(h)(6).
- D. Efficiency and timeliness in the completion of the NEPA process.
  - Maintain completion of NEPA and all required environmental reviews and approvals within regulatory timeframes for EAs and EISs.
    - Measure: Percent of EA and EIS meeting 23 U.S.C. § 139(g)(1)(B)(iii) time limits.