



# LPA MANUAL SECTION 4 ENVIRONMENTAL REVIEW

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# ENVIRONMENTAL REVIEW - OVERVIEW

## 1. MaineDOT Environmental Office vs. Local Responsibility

## 2. Laws and Regulations Commonly Encountered

- National Environmental Policy Act (NEPA)
  - Section 106 of the Historic Preservation Act
  - Section 7 of the Endangered Species Act
  - Section 4(f) of the Department of Transportation Act
  - Section 6(f) of the Land and Water Conservation Act
  - Executive Order 12898 (Environmental Justice)
  - Clean Water Act
- Maine Natural Resources Protection Act (NRPA)

## 3. Submittals to MaineDOT (Environmental)

- Letter 11 – NEPA Checklist
- Letter 12 – Environmental Certification

## 4. LAP Environmental Checklist



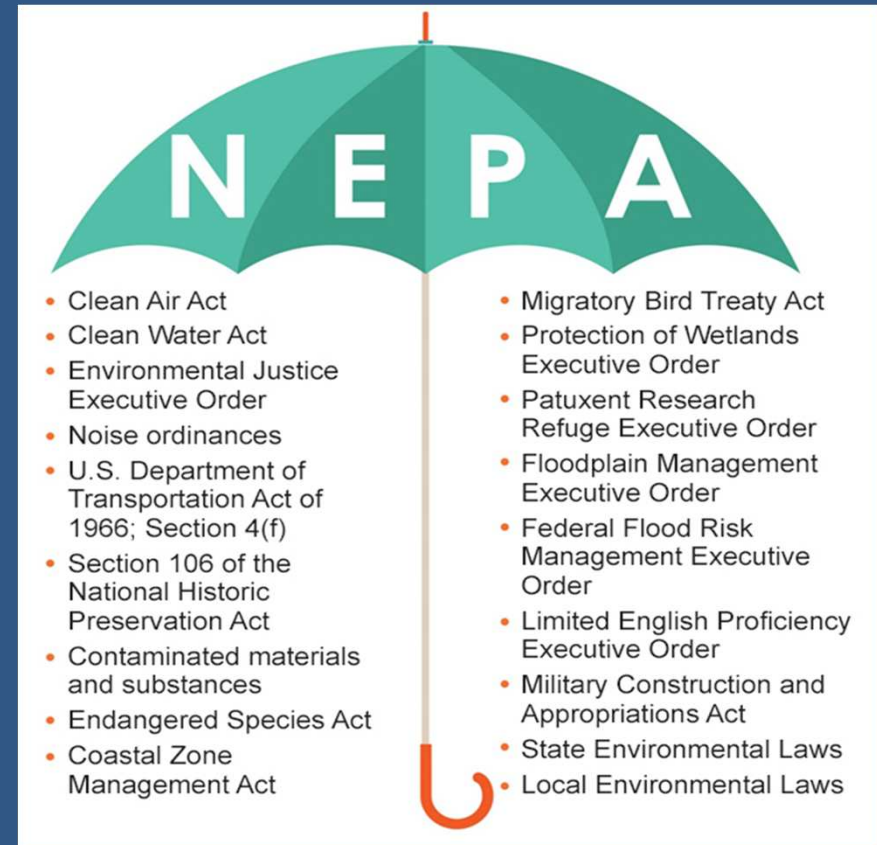
# 1. MAINEDOT VS. LOCAL RESPONSIBILITY

TASK	RESPONSIBILITY
National Environmental Policy Act (NEPA)	Federal funds: MaineDOT State funds only: Local Agency through federal permit
Section 106 of the Historic Preservation Act	Federal funds: MaineDOT State funds only: Local Agency through federal permit
Section 4(f) of the Department of Transportation Act	Federal funds: MaineDOT No U.S. DOT funds: 4(f) does not apply
Endangered Species Act (Section 7) and Essential Fish Habitat	Federal funds: MaineDOT State funds only: Local Agency through federal permit
Executive Order 12898 (Environmental Justice)	Federal Funds: MaineDOT
Hazardous Materials	MaineDOT with assistance from Local Agency
Wetland and Stream Surveys, Environmental Permits, Dredged Material Evaluation and Approvals, Mitigation, All Stormwater Permits (Chapter 500, MPDES, Erosion & Sedimentation Control Law)	Local Agency
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## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

### National Environmental Policy Act (NEPA)

- Required for any Federal Action
  - Federal funds, Federal (ACOE) Permit
- Involves documenting compliance and consultation with a variety of federal laws and Executive Orders
- Must be approved before negotiating ROW
- **Purpose and Need Statement**
- Especially important when evaluating project alternatives for larger scopes of work
- Are there any alternatives that have less environmental impact?
- **Types of NEPA review**
- Environmental Impact Statement
- Environmental Assessment
- Categorical Exclusion (most common)

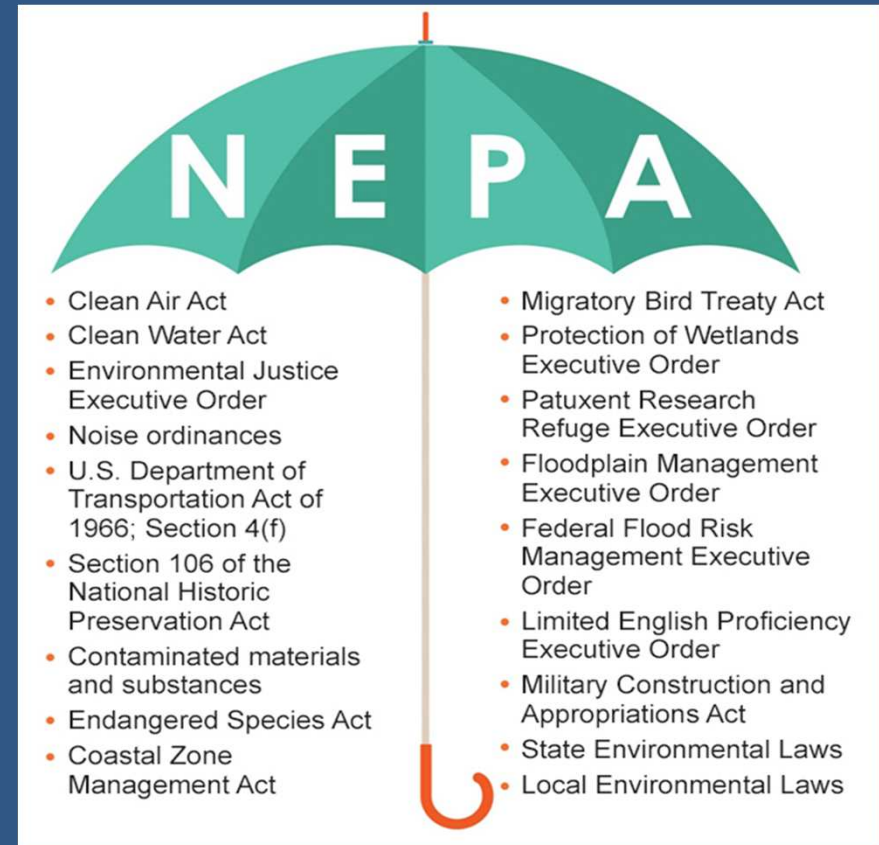




## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

### Section 106 of the National Historic Preservation Act

- Completed by MaineDOT for Federally-Funded projects.
- Required for State-funded projects *if there is a federal permit* then completed by the Local Agency.
- **Especially for projects**
  - within historic districts,
  - near buildings more than 45 years old, or
  - Soil disturbance adjacent to rivers or streams.



## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

### Section 7 of the Endangered Species Act

- Completed by MaineDOT for Federally-Funded projects.
- Required for State-funded projects *if there is a federal permit*. Completed by the Local Agency.
- **Especially for projects with:**
  - in stream work or
  - work in coastal waters,
  - tree clearing,
  - certain geographical areas.
- The Endangered Species list is available at: 50 CFR § 17.11 and 50 CFR § 17.12



## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

### Magnuson-Stevenson Fishery Conservation Act (Essential Fish Habitat)

- Completed by MaineDOT for Federally-Funded projects.
- Required for State-funded projects *if there is a federal permit*. Completed by the Local Agency.
- **Especially for projects with**
  - in stream work or work in coastal waters
  - certain geographical areas

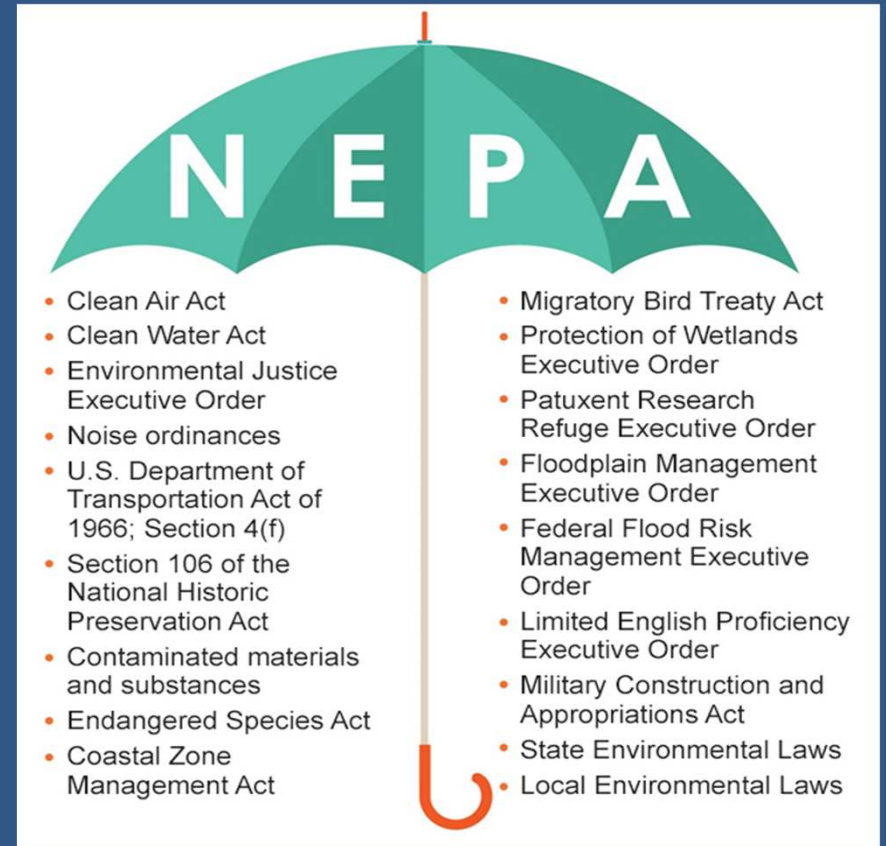


## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

### Section 4(f) of the USDOT Act of 1966

- Applies only to USDOT-funded projects
- Publicly owned lands designated as parks or recreational areas, historic properties, or wildlife and waterfowl refuges.
- **Especially for projects with**
  - **ROW impacts and adverse effects to Section 106 resources**
  - **Permanent or temporary impacts to designated Parks or Public Space**

More coordination with the Environmental Office will be required.





## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

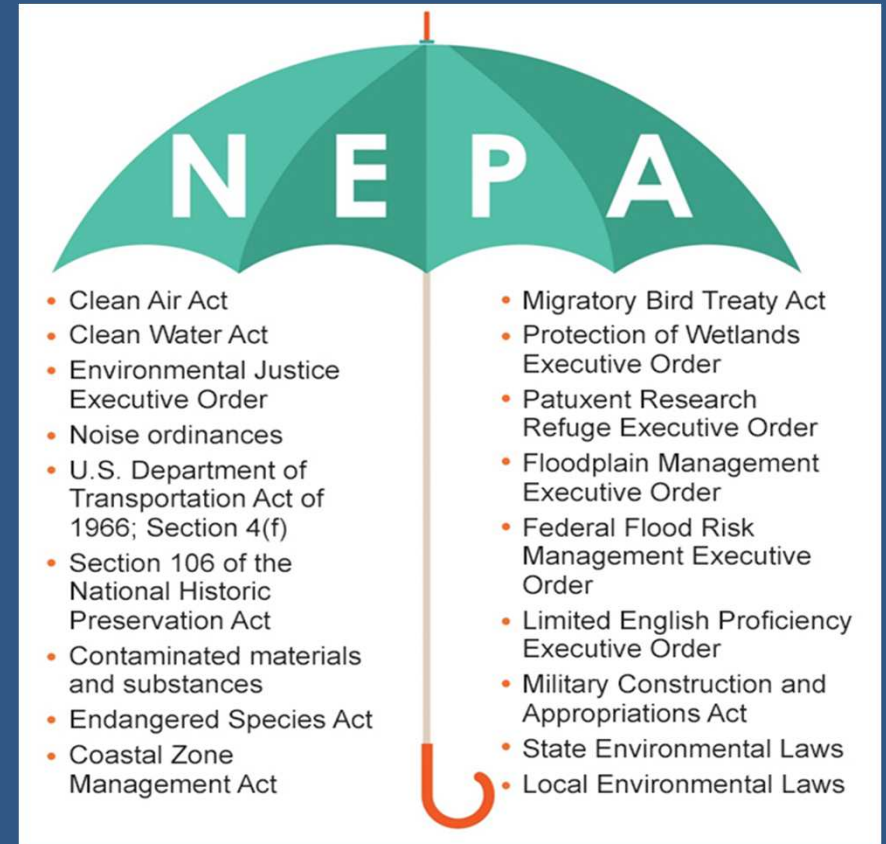
### Section 6(f) of the Land and Water Conservation Act

Land and Water Conservation Program funds projects for recreation with public access.

- Applies to impacts that convert any portion of those properties which used those program funds.
- Can be expensive, complicated, time consuming: AVOID

#### Especially for projects adjacent to

- **Community recreation facilities**
- **Schools**
- **Parks or playing fields**
- **Other recreational facilities:**
  - boat launches, parking for access



## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

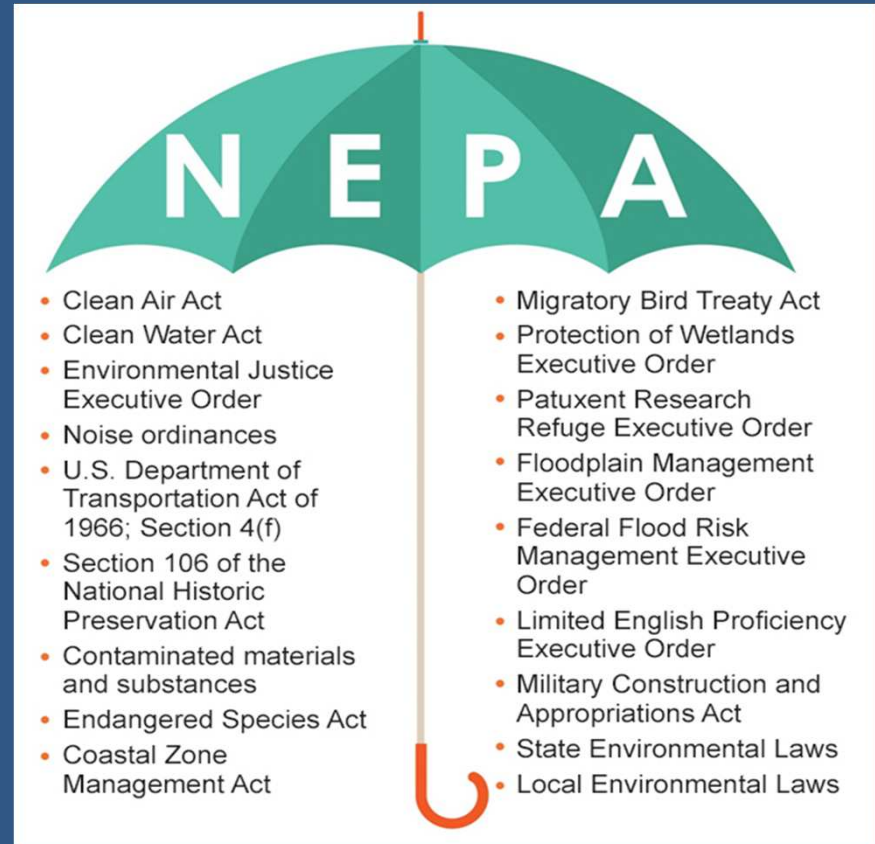
### Executive Order 12898 (Environmental Justice)

Applies to areas of your community which have more than 15% of the population: people of color and/or living below the federal poverty guidelines. Consider:

- Accommodations for including underserved communities in the public process.
- Impacts and access to community resources during and after construction
- “Burden vs Benefit”

Generally, projects do not have disparate or disproportionate adverse effects, but public process is critical. Consider:

- Virtual meeting options
- Document how the public meeting is advertised
- Contact community groups representing those populations
- Document responses to comments received

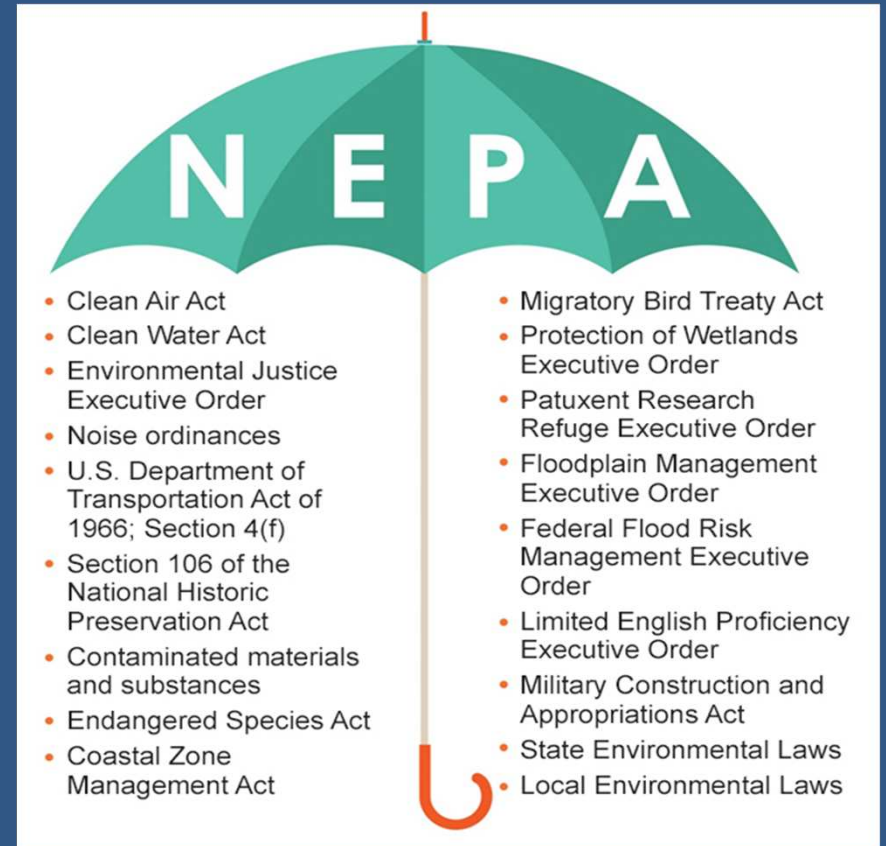


## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

### Contaminated Materials and Substances

- Applies to all projects
- MaineDOT will assist the Local Agency on federally-funded projects
- May require construction provisions for impacted soil and/or groundwater handling and disposal.
- **Especially for projects with**
  - **Soil disturbance outside the operational ROW.**
  - **Excavation in the vicinity of sites potentially impacted by contamination (current or former gas stations, mills, dry cleaners, etc.)**

Additional investigation and more coordination with the MaineDOT Environmental Office or Consultant may be required.



## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED

### Maine Natural Resources Protection Act (NRPA)

- Required if impacting wetlands or adjacent to certain resources.
- Completed by Municipality
  - Check exemptions Title 38, Chapter 480-Q
  - Hire a consultant. See [www.mainewetlands.org](http://www.mainewetlands.org) for qualified wetland delineators.
- Permit-by-Rule 11 (Transportation) is not allowed.
- Call the Maine DEP for guidance:  
<https://www.maine.gov/dep/land/contacts/>

**For projects with in-water work, wetland impacts, or adjacent to certain resources.**





## 2. LAWS AND REGULATIONS COMMONLY ENCOUNTERED



### Clean Water Act - Army Corps of Engineers

- Required if impacting wetlands or waterways.
- All wetland impacts are regulated (permanent or temporary fill).
  - Less than 15,000 SF and no stream impacts is a lower tier permitting process.
- Completed by Municipality.
  - Wetland rules have been updated.
  - Hire a consultant for wetland delineation or permitting [www.maine wetlands.org](http://www.maine wetlands.org)
- Call the Maine Projects Office of the Corps for guidance: 207-623-8367



**For projects with in-water work or wetland impacts.**



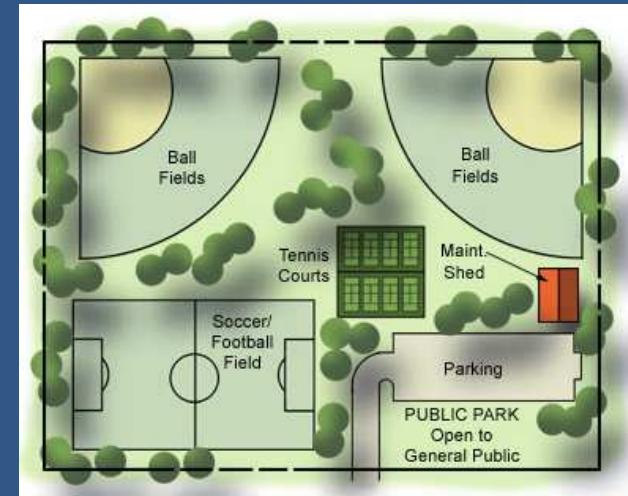
# 3. SUBMITTALS TO MAINEDOT (ENVIRONMENTAL)

## Letter 11 – NEPA

- NEPA Checklist (*UPDATED IN 2022*)
- Public Notification (Communication 10), show no public opposition.
- May require more coordination by MaineDOT before NEPA is certified complete.
- MaineDOT issues the Categorical Exclusion (CE)

## Letter 12 – Environmental Certification

- All approved environmental permits (ACOE and/or MDEP).
- MaineDOT issues summary sheet.



# 4. LAP ENVIRONMENTAL CHECKLIST

Updated in 2022.

Please use newest version.

Added questions:

- tree clearing (3.d.)
- Impacts to community resources for Environmental Justice (5)

<b>1.) <u>Public Involvement:</u></b> Is there substantial public opposition to proposed action? <i>The answer should become apparent at a public meeting.</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Documentation:</b> Approved capital plan; meeting records; letters from the public; board meeting minutes; or <u>Communication 10</u> (Public Process).	
<b>2.) <u>Right-of-Way:</u></b> Does action include a residential or commercial displacement or acquisition of property rights that will result in substantial abutter impacts? <i>For help with "substantial," contact your Project Manager at MaineDOT.</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Documentation:</b> Design Plan Impacts Complete for the project	
<b>3.) <u>Endangered Species &amp; Essential Fish Habitat:</u></b>	
a. Has a qualified person surveyed the project area for streams, rivers, tidal waters, wetlands, or vernal pools identified coastal waters, wetlands, and vernal pools?	Yes <input type="checkbox"/> No <input type="checkbox"/>
b. Any streams, rivers, tidal waters, wetlands, or vernal pools identified?	Yes <input type="checkbox"/> No <input type="checkbox"/>
c. Is any work proposed in or adjacent to a stream, river or coastal waters?	Yes <input type="checkbox"/> No <input type="checkbox"/>
d. Does the project require clearing trees or trimming limbs 3" or greater in diameter?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Documentation:</b> Resource delineation and plans with location of resource and work planned. If in-water work is proposed, project will be screened by the MaineDOT Environmental Office for intersection with habitat for endangered species and critical fish. Additional coordination with the Environmental Office will be required if the project is in one of these areas and includes in-water work or involves clearing.	
<b>4.) <u>Section 4(f) or 6(f):</u></b>	
a. Does project area include or abut resources protected by Section 4(f) of the Department of Transportation Act: publicly owned land, parks, recreation areas, wildlife and waterfowl refuges, or historic sites?	Yes <input type="checkbox"/> No <input type="checkbox"/>
b. Will project require temporary or permanent rights on any protected 4(f) resource listed above?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Documentation:</b> Existing and proposed right-of-way plan, and a description of how impacts to these properties were avoided and minimized.	
<b>5.) <u>Executive Order 12898 (Environmental Justice):</u></b> Does the project affect businesses, housing agency property, community services, public transportation or pedestrian access; or will it limit access to these services (permanently or temporarily)?	
Yes <input type="checkbox"/> No <input type="checkbox"/>	

# ENVIRONMENTAL OVERVIEW

The take-home messages for today:

NEPA must be re-evaluated AFTER 5 YEARS or IF THE PROJECT CHANGES (if NEPA was already completed).

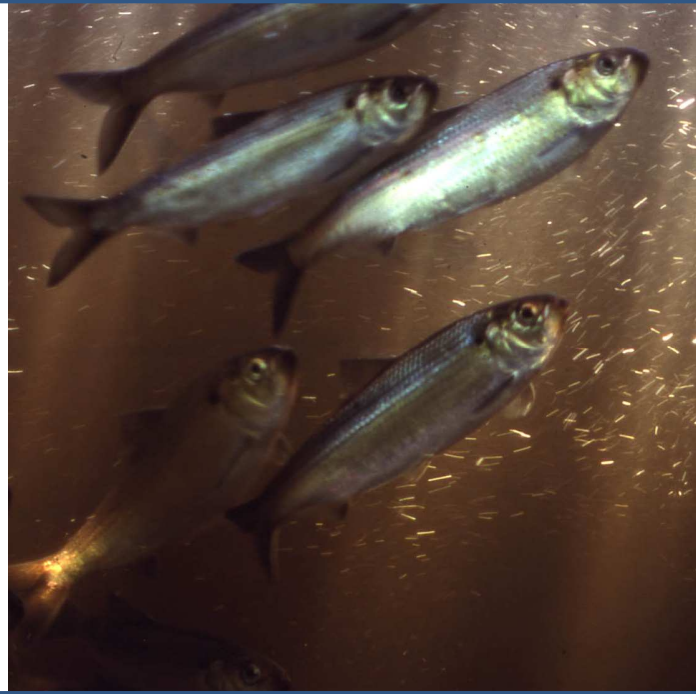
Copies of ALL PERMITS AND APPROVALS are REQUIRED to complete the Environmental Summary Sheet and Contract Package.

PBR 11 – State Transportation Facilities CANNOT be used by Municipalities

**If you have questions, please call your PM or the Environmental Office.**



# QUESTIONS?



MAINEDOT  
ENVIRONMENTAL OFFICE

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