

Local Project Administration Manual & Resource Guide

Environmental Review



MaineDOT

Integrity - Competence - Service

Chapter 4 - Updated February 2025

Environmental Review

Before moving ahead, transportation projects must be assessed for their potential impacts to natural and cultural resources, such as wildlife habitats and historic places. These required environmental reviews stem from a series of landmark laws – primarily the National Environmental Policy Act of 1969.

Chapter 4 provides a summary of environmental requirements, a breakdown of state and local responsibilities, and sample submittals to MaineDOT. It contains the following:

- A summary of the major requirements – *updated* (pages 4-1 to 4-7);
- Environmental review checklist (page 4-2);
- State and local responsibilities (page 4-3);
- Appendix 4A: Submittals to MaineDOT – *updated* (page 4-8).



4.1 National Environmental Policy Act (NEPA)

The National Environmental Policy Act (NEPA) is a landmark environmental law requiring federal agencies to assess a variety of potential environmental impacts. MaineDOT completes the NEPA process for projects with federal transportation funding in accordance with a Programmatic Agreement between MaineDOT and the Federal Highway Administration (FHWA).

Projects with no significant environmental impacts to natural or cultural resources are considered “Categorically Excluded,” according to Title 23 in the Code of Federal Regulations, part 771.717. Most MaineDOT and locally administered projects meet the Categorical Exclusion criteria.

NEPA review is required on projects with a federal action (funding/permits), as follows:

- MaineDOT completes the NEPA process if a project has federal transportation funding or requires an approval from the U.S. Department of Transportation. The local public agency managing a project must provide information addressed in Letter 10 and Letter 11, found on pages 4-9 through 4-11.
- A city, town or other local public agency must complete the environmental review process when there is no federal transportation money, typically through federal permitting.
- All work on Section 106 (historic properties), Section 7 (endangered species), Section 4(f) (public parks, et. al.,) public involvement, contaminated materials review, and the level of federal permit must be finished before the NEPA process can be completed.
- The NEPA finding must be reviewed if a project is not constructed within **five years** of the original NEPA completion date. Additionally, a re-evaluation may be needed if a project changes in scope or requires new federal approvals after the NEPA process is complete.

ENVIRONMENTAL REVIEW CHECKLIST

National Environmental Policy Act (federally funded projects)

- ☐ When a project is kicked off, review the NEPA checklist (page 4-11) and gather economic and demographic information for the project area from sources that include the MaineDOT MapViewer tool: <https://www.maine.gov/mdot/mapviewer/>
- ☐ Upon completing the Preliminary Design Report (PDR), provide MaineDOT with the public process certification (**Letter 10**) and completed NEPA checklist (**Letter 11**), found on pages 4-9 through 4-11 of this section.

Environmental Permits

- ☐ **Contact appropriate state and federal agencies for permit requirements and approvals.**
 - Maine Department of Environmental Protection: <https://www.maine.gov/dep/permits/>
 - Augusta (Central Maine): (207) 287-7688
 - Bangor (Eastern Maine): (207) 941-4570 • (888) 769-1137
 - Portland (Southern Maine): (207) 822-6300 • (888) 769-1036
 - Presque Isle (Northern Maine): (207) 764-0477 • (888) 769-1053
 - U.S. Army Corp of Engineers, Maine Project Office, Augusta: (207) 623-8367 or <https://www.nae.usace.army.mil/Missions/Regulatory/>
- ☐ **Contact appropriate state agencies for their comments and concerns about the project.**
 - Maine Department of Inland Fisheries and Wildlife:
 - Fisheries Division for timing approval, freshwater fisheries and fisheries passage issues: (207) 287-8000
 - Wildlife Division for rare, threatened and endangered species: (207) 287-8000
 - Maine Department of Marine Resources, Wetlands and Permit Section
 - Sea-run fisheries, coastal resources and fish passage issues: <https://www.maine.gov/dmr/science-research/searun/index.html>
- ☐ **Complete appropriate state and federal permit applications**

Environmental Certification

- ☐ Send an environmental certification (Letter 12) and copies of all permits obtained for your project to the MaineDOT project manager. An example is on page 4-12 of this section.
 - The certification and documentation must be part of the final Plans, Specifications and Estimate (PS&E) package.
 - MaineDOT must receive this paperwork before giving authorization to advertise a project for construction.

State & Local Responsibilities

TASK	RESPONSIBILITY
National Environmental Policy Act (NEPA)	Federal funds: MaineDOT
	State funds: Local Public Agency
Section 106 of the Historic Preservation Act	Federal funds: MaineDOT
	State funds: Local Public Agency
Section 4(f) of federal D.O.T. Act	Federal funds: MaineDOT
	No U.S. DOT funds: 4(f) does not apply
Endangered Species Act (a.k.a. Section 7)	Federal funds: MaineDOT
	State funds: Local Public Agency
Contaminated Materials	MaineDOT with help from Local Public Agency
Environmental Permits	Local Public Agency
Dredge Materials	Local Public Agency
Natural Resources (wetlands, streams, fisheries)	Local Public Agency
Mitigation	Local Public Agency
Stormwater Permits	Local Public Agency

MaineDOT Environmental Office contact:

Danielle Tetreau, Environmental Team Leader	207-592-2358 (Danielle.Tetreau@maine.gov)
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Completion of NEPA review takes **3 to 6 months** from finalization of the Preliminary Design Report and a local public agency's submittal to MaineDOT of Letter 10, Letter 11 and the NEPA Checklist. Examples of those documents are found on pages 4-9 through 4-11 of this chapter.

MaineDOT's Environmental Office encourages the agency administering a project to consult with the assigned MaineDOT project manager and environmental team leader early – **ideally at kickoff**.

Remember: Right-of-way negotiations with property owners cannot begin until NEPA is complete.

4.2 Section 106 of the National Historic Preservation Act

Section 106, found in 36 CFR Part 800, “Protection of Historic Properties,” covers properties of historic and archeological significance. If a project has federal money, MaineDOT typically surveys buildings at least 45 years old in a project area for historic significance and potential adverse impacts. Section 106 commonly affects buildings, culverts, bridges, monuments, and cemeteries – especially those within historic districts.

Responsibility for Section 106 review is as follows:

- **MaineDOT** coordinates Section 106 review with the Maine Historic Preservation Commission on federal-aid projects. The local project administrator must provide MaineDOT with plans showing impacts, which enable MaineDOT to make final determinations of effect.
- If a project has state funds only, the administering **local public agency** must take care of Section 106 coordination if a federal permit is needed. The local administrator should contact the Maine Historic Preservation Commission: <https://www.maine.gov/mhpc/programs/project-review>



4.3 Section 7 of the Endangered Species Act of 1973

Section 7 of the Endangered Species Act directs federal agencies to use their authority both to conserve threatened and endangered species and to ensure that their actions don’t jeopardize listed species or harm critical habitat. In Maine, the law most commonly affects projects in waters for Atlantic salmon and in habitat for Canada lynx, the northern long-eared bat and the rusty-patched bumble bee. In such cases, MaineDOT may have to place restrictions on projects with in-water work or tree clearing to protect listed species.

- If a project has federal money, **MaineDOT** will complete Section 7 review. MaineDOT will need design plans and the scope of work, construction timing and techniques, and proposed timeframe from the local public agency administering the project.
- If a project has only state money or federal funding other than from the U.S. Department of Transportation, the U.S. Army Corps of Engineers (ACOE) or other federal action agency is responsible for consultation under Section 7. In such a case, the administering **local public agency** must coordinate Section 7 review with the ACOE or other federal agency. This coordination is usually performed during the permit application process.



Threatened and endangered species are listed in 50 CFR §17.11 and 50 CFR §17.12.

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

Section 4(f) affects projects with federal transportation funding. It applies to public parks, recreation areas, wildlife refuges and historic properties. (Requirements can be found in federal regulation 23 CFR Part 774.) Under the law, an agency must consider potential impacts if federal transportation money is used, as follows:

- **MaineDOT** completes the Section 4(f) process for projects with federal transportation funding. The Local Agency administering a project must provide design plans showing proposed right-of-way impacts.
- Section 106 reviews (historic preservation) must be concluded before Section 4(f) documentation is approved by the U.S. Department of Transportation. The right-of-way impacts must be provided as part of the review process.

4.5 Section 6(f) of the Land & Water Conservation Fund Act

Section 6(f) of the Land & Water Conservation Fund Act (LAWCON) protects lands purchased or developed with LAWCON funds for public outdoor recreation purposes from being converted to non-recreational uses. The program covers publicly owned parks, recreation areas, wildlife or waterfowl refuges, and any significant historical or archeological site.

In Maine, the Department of Agriculture, Conservation and Forestry (DACF) oversees the program to assist in preserving and developing outdoor recreation resources, as follows:

- For projects funded by the FHWA, **MaineDOT** completes Section 6(f) review and coordination with DACF. The local public agency administering a project must provide MaineDOT with design plans showing proposed right-of-way impacts.
- Agencies undertaking projects with federal funds should avoid making permanent acquisitions that would convert land covered by Section 6(f) to a non-recreational use.
- If such a conversion is unavoidable, MaineDOT will consult with DACF to determine remediation measures and will notify the FHWA of such.

4.6 Environmental Justice – *Repealed*

In 2025, Executive Order 12898 (Environmental Justice) was repealed by Executive Order 14173. As a result, MaineDOT and local public agencies no longer must consider Environmental Justice impacts (low-income and minority populations) when developing federal-aid projects.

4.7 Maine Natural Resources Protection Act

In Maine, the Natural Resources Protection Act (NRPA) is the primary state environmental law that applies to transportation projects. The law covers natural resources such as great ponds, coastal and freshwater wetlands, significant wildlife habitats, fragile mountain areas, and rivers, streams and brooks. The Maine Department of Environmental Protection (DEP) administers the NRPA in municipalities and other organized areas.

The law affects projects with activities in, on or over the protected natural resources listed above – or activities adjacent to certain protected natural resources. The NRPA defines an “activity” as:

- dredging, bulldozing, removing or displacing sand, soil, vegetation or other materials;
- draining or dewatering; and
- filling, or any construction, repair or alteration of a permanent structure.

The **local public agency** administering a project must comply with the NRPA. The local agency or its consultant must contact the DEP to determine whether a permit will be needed. *Note that Permit-by-Rule 11 is not allowed for use by municipalities on locally administered projects.*

For additional NRPA information, visit:

The DEP’s NRPA page: www.maine.gov/dep/land/nrpa/index.html

4.8 Environmental Permits

The **local public agency** administering a project must obtain all permits and follow federal and state laws and regulations, including Maine’s Natural Resources Protection Act (Section 4.7) and the federal Clean Water Act. Before advertising for construction bids, the local project administrator must provide MaineDOT’s project manager with copies of approved permits and a signed environmental certification modeled after Letter 12, found on page 4-12 of this section.

4.9 Contaminated Materials and Substances

MaineDOT is tasked with assessing whether there may be soil or groundwater contamination from petroleum or other hazardous materials in a project area. The **local public agency** administering a project must provide MaineDOT with design plans showing proposed areas of excavation. If additional site investigation is warranted, MaineDOT will provide the local public agency with guidance.



If the initial assessment or additional site investigation finds that a contractor is likely to encounter contamination, MaineDOT either will prepare a general note or negotiate, with the DEP, a special provision to be included in the project contract book advising the contractor to use caution when excavating or providing guidance for handling and disposing of affected soil and/or groundwater.

4.10 Stormwater Permits

Maine’s stormwater management law provides standards for projects that disturb at least **1 acre**. Stormwater permits are the responsibility of the **local public agency** administering a project – including erosion and sedimentation control requirements and DEP Chapter 500 Stormwater Management Rules. Either the local project administrator or an agency’s engineering consultant should contact the DEP to determine the required permits.

Once permits are obtained, the local project administrator must provide MaineDOT’s project manager with copies as part of the environmental certification. (Refer to Letter 12, page 4-12.)

4.11 Dredge Materials

Maine's solid waste management regulations define dredge materials as sand, silt, mud, gravel, rock, or other natural substance removed from beneath any body of water, based on the classification of the water quality of the waterbody. The regulations typically apply to stream/river crossings and harbor improvement projects, which can require dredging. Under the regulations, some dredge materials must be handled as special waste.

Beneficial Use Permits required by state law and associated regulations – Title 38 M.R.S.A. §1301-1319, Maine DEP Chapter 418 – are the responsibility of the **local public agency** administering a project. The local project administrator must provide the MaineDOT project manager with an environmental certification and copies of approved permits. (Refer to Letter 12, page 4-12.)

Remember: Letter 12 and copies of all permits must be submitted to the project manager at MaineDOT before your project may be advertised for construction.

Appendix 4A:

Submittals to MaineDOT

- ❑ Electronic documents are found in the Environmental Review section of MaineDOT's LPA web page: <https://www.maine.gov/mdot/lpa/lpadocuments/>

Instructions: *This certification must be submitted on letterhead to MaineDOT with Letter 11 and the NEPA Documentation Checklist, found on the next two pages.*

(DATE)

(NAME), Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Public Process Certification, Federal Project
MaineDOT WIN:

Dear (NAME):

The Municipality of (NAME) hereby certifies that a public process was carried out for the (LOCATION and SCOPE) project in accordance with Title 23 in the Code of Federal Regulations, Part 771.111, “Early coordination, public involvement, and project development.”

IF APPLICABLE, DESCRIBE ANY PUBLIC OPPOSITION HERE.

I have attached for your information the following:

- A copy of the formal notification sent to abutters;
- A copy of the meeting notice; and
- Meeting minutes / hearing transcript.

Sincerely,

(NAME), Local Project Administrator

(Revised, February 2025)

Instructions: *This letter must be submitted on letterhead to MaineDOT with the checklist on the next page once MaineDOT approves the Preliminary Design Report.*

(DATE)

(NAME), Environmental Team Leader
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: NEPA Documentation, Federal Project
MaineDOT WIN:

Dear (NAME):

Attached is the required NEPA documentation checklist for the (LOCATION and SCOPE) project in the Municipality of (NAME).

Also attached is Letter 10, certifying that the Municipality carried out a public process in accordance with the regulations in 23 CFR 771.111.

If you need additional information, please let me know.

Sincerely,

(NAME), Local Project Administrator

Enclosures:

- NEPA documentation checklist
- Public process certification (Letter 10)

NEPA DOCUMENTATION CHECKLIST

Project Title & Location: _____

Federal Project #: _____ MaineDOT WIN: _____

Description of Work: _____

MaineDOT Project Manager: _____

Answer the following questions and attach supporting documentation. If there is a “yes” response, explain on a separate sheet or contact your MaineDOT Project Manager for guidance.

1.) Public Involvement: Is there substantial public opposition to proposed action? Yes ☐ No ☐
The answer should become apparent at a public meeting.

Documentation: Meeting records; letters from public; or Letter 10 (Public Process).

2.) Right-of-Way: Does action include a residential or commercial displacement or acquisition of property rights that will result in substantial abutter impacts? Yes ☐ No ☐
For help with “substantial,” contact your Project Manager at MaineDOT.

Documentation: Design Plan Impacts Complete for the project

3.) Endangered Species & Essential Fish Habitat:

- a. Has a qualified person surveyed the project area for streams, rivers, tidal waters, wetlands or vernal pools?
Please provide details on any identified resource below. Yes ☐ No ☐
- b. Is any work proposed in or adjacent to a stream, river or coastal waters? Yes ☐ No ☐
- c. Does the project require clearing trees or trimming limbs 3” or greater in diameter? Yes ☐ No ☐
- d. Does the project require night work or percussive noise (e.g. pile driving)? *See below* Yes ☐ No ☐
- e. Can clearing or limbing be completed between November and April? *See below* Yes ☐ No ☐

Additional Information: _____

Documentation: Resource delineation and design plans with location of resource and planned work. The MaineDOT Environmental Office will screen the project for intersection with habitat for endangered species and fish habitat. If in-water work is proposed, additional coordination with MaineDOT will be required for compliance with the Maine Atlantic Salmon Programmatic Agreement or other considerations for bat species.

4.) Section 4(f) or 6(f):

- a. Does the 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 ☐ No ☐
- b. Will project require temporary or permanent rights on any protected 4(f) resource listed above? Yes ☐ No ☐

Documentation: Existing and proposed right-of-way plan and a description of how impacts to these properties were avoided/minimized. The local public agency overseeing a project will provide contact information to the park’s Official with Jurisdiction (as applicable).

Signed by: _____
 (Name, Local Project Administrator)

Date: _____

Instructions: This must be submitted on letterhead to MaineDOT with the final plans, specifications and estimate (PS&E) package.

(DATE)

(NAME), Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Environmental Certification
MaineDOT WIN (NUMBER)

Dear (NAME):

If permits were required, use this paragraph:

The Municipality of (NAME) hereby certifies that it has obtained all environmental permits and approvals for the subject project, satisfying one of the pre-construction requirements in the executed project agreement with MaineDOT. Attached are copies of the permits, which are required for MaineDOT to complete the Environmental Summary Sheet for the contract package.

If NO permits were required, use this paragraph:

The Municipality of (NAME) hereby certifies that no environmental permits were needed for the subject project. This certification satisfies one of the pre-construction requirements in the executed project agreement with MaineDOT.

Sincerely,

(NAME), Local Project Administrator

Cc: MaineDOT Environmental Office

NOTE: Please attach permits, if applicable

END OF CHAPTER 4