



## NEPA Farmland Guidance

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### 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 prime farmland identification and the appropriate level of coordination that is required.

In accordance with the Farmland Protection Policy Act (FPPA) and the implementing regulations at 7 CFR 658, Federal-aid highway projects that require right-of-way acquisition are required to consider the type of impacts a proposed project may have upon prime, unique, statewide importance, and local importance farmland and to determine what avoidance, minimization and mitigation measures may be needed.

Prime Farmland is farmland that has the best combination of physical and chemical characteristics for producing food, feed, and crops.

Unique Farmland is land other than prime farmland that is used for the production of a specific high-value food or crop and has a special combination of soil quality, location, growing season, and moisture needed to produce sustained high-quality or high yields of specific crops (e.g. cotton, tobacco).

Farmland of statewide importance is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some States, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law.

Farmland of local importance is land where there is a concern for certain additional farmlands for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned. In places, additional farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinances.

MaineDOT Team Leaders are responsible for assessing, ensuring compliance, and consulting with USDA under NEPA Assignment. Farmland information is incorporated into the overall NEPA decision.



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### 1.0 Prime and Unique Farmland Initial Project Questions and Documentation

The following question is required to be answered by the MaineDOT Team Leader:

1. Are right-of-way acquisitions required on prime or unique farmland greater than 10 acres (for new highways) or greater than 3 acres (for existing highways)?

These thresholds are part of exempted categories under the FPPA Manual Section 523.11 (E)(1).

A Yes response to Question 1 requires review of the Natural Resources Conservation Service (NRCS) Web Soil Survey mapping to identify Prime and Unique Farmland (go to 2.0). A No response concludes the Prime and Unique Farmland assessment as this resource will not be converted to non-agricultural use. Compliance with the FPPA is satisfied. All actions will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file.

### 2.0 Identifying Prime and Unique Farmlands

If right-of-way acquisitions are required, the MaineDOT Environmental Team Leader will use the NRCS Web Soil Survey to identify Prime and Unique Farmlands within the proposed project area and save this information to the CPD e-file in the NEPA folder.

To use NRCS Web Soil Survey, first go to the link below:  
<http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

Click on the Start WSS tab and follow the four basic steps to produce the map for the project area.

### 3.0 Prime and Unique Farmland Project Questions, Identifying Impacts, and Documentation

After completing the Web Soil Survey and mapping, the Team Leader is required to answer the following question. The answers to the question will indicate whether or not form NRCS-CPA-106, the FARMLAND CONVERSION IMPACT RATING FOR CORRIDOR TYPE PROJECTS is required to be filled out and submitted to NRCS. MaineDOT will always use this form.

2. Are right of way acquisitions required on Prime and Unique Farmlands (soils classified as Prime or Statewide Importance in the NRCS Web Soil Survey) and a Farmland Conversion Impact Rating required?

A Yes response to Question 2 requires form NRCS-CPA-106 to be submitted to NRCS (go to 4.0). A No response concludes the Prime and Unique Farmland Assessment as this resource will not be converted to non-agricultural use. All actions will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file.

### 4.0 Prime and Unique Farmland Document (form NRCS-CPD-106) Process

The Team Leader will initially fill out sections I and III and submit form NRCS-CPA-106 and required maps to NRCS via email for proposed projects that may convert farmland, as defined in the FPPA to nonagricultural uses. If the site is concurred by NRCS to be subject to the Act, then NRCS will measure the relative value of



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the site as farmland on a scale of 0 to 100 according to the information sources listed in 7 CFR § 658.5(a). NRCS will fill out sections II, IV and V. NRCS will respond to these requests within 10 working days of their receipt except that in cases where a site visit or land evaluation system design is needed, NRCS will respond in 30 working days. In the event that NRCS fails to complete its response within the required period, if further delay would interfere with construction activities, the agency should proceed as though the site were not farmland.

After MaineDOT receives the score of a site's relative value from NRCS as described in 7 CFR § 658.4(a), The Team Leader will then apply the site assessment criteria which are set forth in 7 CFR § 658.5 (b) and (c), and fill out sections VI and VII, assigning to the site a combined score of up to 260 points, composed of up to 100 points for relative value and up to 160 points for the site assessment. With this score MaineDOT will be able to identify the effect of its project on farmland, and make a determination as to the suitability of the site for protection as farmland. Once this score is computed, USDA recommends:

- (1)** Sites with the highest combined scores be regarded as most suitable for protection under these criteria and sites with the lowest scores, as least suitable.
- (2)** Sites receiving a total score of less than 160 need not be given further consideration for protection and no additional sites need to be evaluated.
- (3)** Sites receiving scores totaling 160 or more be given increasingly higher levels of consideration for protection.
- (4)** When making decisions on proposed actions for sites receiving scores totaling 160 or more, MaineDOT should consider:
  - (i)** Use of land that is not farmland or use of existing structures;
  - (ii)** Alternative sites, locations and designs that would serve the proposed purpose but convert either fewer acres of farmland or other farmland that has a lower relative value;
  - (iii)** Special siting requirements of the proposed project and the extent to which an alternative site fails to satisfy the special siting requirements as well as the originally selected site.

To meet reporting requirements of section 1546 of the Act, 7 U.S.C. 4207, and for data collection purposes, after MaineDOT has made a final decision on a project in which one or more of the alternative sites contain farmland subject to the FPPA, a copy of the Form, which indicates the final decision, will be provided to NRCS.

Compliance with the FPPA will be accomplished as part of the National Environmental Policy Act (NEPA) process. The project file must contain the necessary evidence that the FPPA has been followed before NEPA can be approved.

### **5.0 Prime and Unique Farmland Document (form NRCS-CPA-106) Assessment Criteria**

Criteria were developed by the Secretary of Agriculture in cooperation with other Federal agencies. They are in two parts, (a) the land evaluation criterion for which NRCS will provide the rating or score, and (b) the [site](#) assessment criteria, for which MaineDOT must develop its own ratings or scores. The criteria are as



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follows:

- a. Land Evaluation Criterion - Relative Value.** The land evaluation criterion is based on information from several sources including national cooperative soil surveys or other acceptable soil surveys, NRCS field office technical guides, soil potential ratings or soil productivity ratings, land capability classifications, and important farmland determinations. Based on this information, groups of soils within a local government's jurisdiction will be evaluated and assigned a score between 0 to 100 for agricultural production of the farmland to be converted by the project compared to other farmland in the same local government jurisdiction. This score will be the Relative Value Rating on the Form.
- b. Site Assessment Criteria.** MaineDOT will use the following criteria to assess the suitability of each proposed site or design alternative for protection of farmland along with the score from the land evaluation criterion described in 7 CFR § 658.5(a). Each criterion will be given a score on a scale of 0 to the maximum points shown. Conditions suggesting top, intermediate and bottom scores are indicated for each criterion. MaineDOT will make scoring decisions in the context of each proposed site or alternative action by examining the site. Where one given location has more than one design alternative, each design should be considered as an alternative site. The following criteria are to be used for transportation projects:
- (1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?  
More than 90 percent - 15 points  
90 to 20 percent - 14 to 1 point(s)  
Less than 20 percent - 0 points
  - (2) How much of the perimeter of the site borders on land in nonurban use?  
More than 90 percent - 10 points  
90 to 20 percent - 9 to 1 point(s)  
Less than 20 percent - 0 points
  - (3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?  
More than 90 percent - 20 points  
90 to 20 percent - 19 to 1 point(s)  
Less than 20 percent - 0 points
  - (4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?  
Site is protected - 20 points  
Site is not protected - 0 points
  - (5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County? (Average farm sizes in each county are available from the NRCS field offices in each state (MaineDOT contacts the NRCS office in Bangor). Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)



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As large or larger - 10 points

Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points

(6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?

Acres equal to more than 25 percent of acres directly converted by the project - 25 points

Acres equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)

Acres equal to less than 5 percent of the acres directly converted by the project - 0 points

(7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?

All required services are available - 5 points

Some required services are available - 4 to 1 point(s)

No required services are available - 0 points

(8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?

High amount of on-farm investment - 20 points

Moderate amount of on-farm investment - 19 to 1 point(s)

No on-farm investment - 0 points

(9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?

Substantial reduction in demand for support services if the site is converted - 25 points

Some reduction in demand for support services if the site is converted - 1 to 24 point(s)

No significant reduction in demand for support services if the site is converted - 0 points

(10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?

Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points

Proposed project is tolerable to existing agricultural use of surrounding farmland - 9 to 1 point(s)

Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points

### 6.0 Links

Farmland Protection Policy Act (7 USC 4201-4209)

<https://www.law.cornell.edu/uscode/text/7/chapter-73>

Regulation 7 CFR 658

<https://www.law.cornell.edu/cfr/text/7/part-658>

USDA Farmland Protection Policy Act

[Farmland Protection Policy Act | Natural Resources Conservation Service \(usda.gov\)](#)

NRCS Web Soil Survey

<http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

NRCS-CPA-106 Form

[NRCS-CPA-106NRCS-CPA-106.PDF \(usda.gov\)](#)