



## NEPA Environmental Justice and Title VI 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.

Title VI of the Civil Rights Act (42 USC 2000(d)(1-7)) states, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." This substantive law requires any recipient of federal funding, including MaineDOT, to ensure non-discrimination for all persons under Title VI and states that agency actions are subject to judicial review of compliance with Title VI.

MaineDOT is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants, and to ensuring that the public at large is afforded access to our programs and services. To that end, no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any MaineDOT program or activity on the grounds of race, color, or national origin.

MaineDOT will work with staff, sub-recipients, contractors, and service beneficiaries to promote awareness of the provisions of Title VI and the responsibilities associated with that Act.

In accordance with Executive Order 12898 (Environmental Justice), each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

The U.S. DOT Order (5610.2) on Environmental Justice defines "minority" in the definitions section of the appendix and provides clear definitions of the five (5) minority groups addressed by the Executive Order.

These groups are:

1. Black (a person having origins in any of the black racial groups of Africa).
2. Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).
3. Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands).
4. American Indian and Alaskan Native (a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition).
5. Native Hawaiian or Other Pacific Islander - a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.



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The FHWA Order defines "low-income" as "a person whose household income is at or below the Department of Health and Human Services poverty guidelines." The guidelines are updated annually and available online at <http://aspe.hhs.gov/poverty/>. The Department of Health and Human Services (HHS) poverty guidelines are used as eligibility criteria for the Community Services Block Grant Program and a number of other Federal programs. However, a State or locality may adopt a higher threshold for low-income as long as the higher threshold is not selectively implemented and is inclusive of all persons at or below the HHS poverty guidelines.

All reasonably foreseeable adverse social, economic, and environmental effects on minority populations and low-income populations must be identified and addressed. The definition of an adverse effect under environmental justice is the totality of significant individual or cumulative human health or environmental effects and the definition of disproportionately high and adverse as predominately borne by minority and/or low-income populations that is appreciably more severe or greater in magnitude than adverse effects that will be suffered by non-minority and/or low-income population. Adverse effects include, but are not limited to:

- Bodily impairment, infirmity, illness, or death.
- Air, noise, water pollution, and soil contamination.
- Destruction or disruption of man-made or natural resources.
- Destruction or diminution of aesthetic values.
- Destruction or disruption of community cohesion or a community's economic vitality.
- Destruction or disruption of the availability of public and private facilities and services.
- Vibration.
- Adverse employment effects.
- Displacement of persons, businesses, farms, or nonprofit organizations.
- Increased traffic congestion, isolation, exclusion, or separation of minority or low-income individuals within a given community or from the broader community.

During planning and project development, MaineDOT will use the following tools to the maximum extent possible to engage minority and low-income populations:

- Utilizing EPA's EJ Mapper to identify populations in the project area.
- Ensuring the participation of identified minority and low-income populations located within the limits of a proposed project by holding meetings that are close to or adjacent to the project areas.
- Providing good access for public participation – holding public forums and meetings at facilities that are ADA-accessible and providing translation services requested for non-English speaking populations when they are requested.
- Providing adequate notice of virtual or in-person meetings that are accessible to low-income populations/limited Internet population (e.g., providing meeting materials in a



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mobile phone accessible format and/or placing meeting notices at town halls, libraries, and schools).

- Designating and training Environmental Justice liaisons – ensuring that they are knowledgeable about the EJ requirements of federal agencies.

See MaineDOT’s [Public Involvement Plan Section 3.2](#) and [MaineDOT’s NEPA Public Involvement Plan Section VI\(D\)](#) for further guidance.

MaineDOT Team Leaders in coordination with the Project Manager are responsible for assessing and ensuring compliance with these laws under NEPA Assignment. EJ information is incorporated into the overall NEPA decision.

### 1.0 Reviewing Project Scope

The Team Leader will answer the following Question in ProjEx:

1. Does the scope of the project have a potential for disproportionately high and adverse human health or environmental effects on minority populations and low-income populations?

The MaineDOT Environmental Office Team Leader will review the scope of the project to determine if there is potential for disproportionately high and adverse human health or environmental effects of the project on minority populations and low-income populations. If the scope has no potential for disproportionately high and adverse human health or environmental effects on minority populations and low-income populations, the Team Leader will document in ProjEx and the EJ screening will be complete **unless Environmental Justice issues are raised as a result of public involvement activities conducted as part of the proposed project**. If EJ issues are raised, MaineDOT will work with the community to assess disproportionate adverse impacts and issues.

If a project scope has the potential for disproportionately high and adverse human health or environmental effects of the project on minority populations and low-income populations, then the Team Leader will continue to 2.0.

Scopes of work with no potential for disproportionately high and adverse human health or environmental effects of the project on minority populations and low-income populations:

- Projects that do not lead to construction;
- Routine maintenance and repair of transportation assets (pavement, culverts, signs, guardrails, bridge-wearing surfaces, paint, railings, vegetation management, drainage, scour countermeasures);
- Replacement of transportation assets within the same general footprint with no permanent property acquisitions (pavement, culverts, signs, guardrails, fences, drainage, bridge-wearing surfaces, bridge paint, bridge railings); and
- Structural strengthening (piers, abutments, joints).

The basis for this determination is that these projects do not include any of the following:



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- residential or business relocations;
- permanent changes to roadway access or traffic patterns;
- more than minimal temporary traffic disruption; or
- special and unique circumstances;
- more than minimal human health or environmental effects

### 2.0 Identifying Environmental Justice Populations

MaineDOT's Bureau of Project Development and Bureau of Planning will conduct in-person public meetings when a minority population within the project-defined area (within a census tract) is at 5% or greater, as defined by the *Minority by County* document located on MaineDOT's Civil Rights Office website.

The MaineDOT Environmental Team Leader will use USEPA's EJSCREEN tool to identify Environmental Justice Population demographics within the proposed project area and upload this information to the CPD e-file in the NEPA folder. Team Leaders also utilize the [Climate and Economic Justice Screening Tool](#).

To use EJSCREEN, first go to the link below: <http://www2.epa.gov/ejscreen>

Click on the link in the box labeled "Launch the EJSCREEN Tool".

Follow the steps below to obtain US Census Data from this website for the project. You will want to obtain block group data for your specific project or study area.

For Minority Populations:

1. Type in the town and state in the search engine in which the project is located.
2. Click on the tab labeled 'Reports' (looks like a sheet of paper), then select 'Draw an Area'. Draw the project or study area by clicking on the map to draw the project area. Connect the last point to the first to complete the polygon. Click on the box and a pop-up box and label the area. Close out of the 'Chart or Report' pop-up box.
3. Click on the tab labeled 'Maps' (looks like a stack of paper) and select 'Additional Demographics'. Select the 2010 Census tab and then the Category Population. Next, select the Variable 'Pct. People of Color Population'. Then Click 'Add to Map'.
4. Once this layer is turned on you can click on the block groups to obtain the data for that block group.
5. To save the map as a pdf to the CPD e-file in the Project NEPA folder, click the tab labeled 'Tools' (looks like a pen and wrench), then select 'Print'. Make sure the Page Setup is 'Letter ANSI A landscape', and the File format is 'PDF'.
6. Title the Map with the town, WIN, and EJ Minority. If helpful add the Percent People of Color Population to the Title (e.g., "TOWN XXXXXX.XX EJ Minority (X.X %)")
7. Click Export, then click on the exported pdf file.
8. Print the Map and then select 'Save as PDF'. Click the 'Save' button and save to CPD E-file for the project in the NEPA folder.

For Low-Income Populations:

1. Utilizing the same screen in the EJSCREEN Tool that already has your project limits, find the box



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labeled 'Map Contents' and click on the 'X' to close the Pct. People of Color Population block group legend.

2. Click on the tab labeled 'Maps' (looks like a stack of paper) and select 'Additional Demographics'. Select the 2016-2020 ACS tab and then the Category Income/Poverty. Next, select the Variable 'Pct. Population Below Poverty Level'. Then Click Add to Map.
3. Once this layer is turned on you can click on the block groups to obtain the data for that block group.
4. To save the map as a pdf to the CPD e-file in the Project NEPA folder click the tab labeled 'Tools' (looks like a pen and wrench), then select 'Print'. Make sure the Page Setup is 'Letter ANSI A landscape', and the File format is 'PDF'.
5. Title the Map with the town, WIN, and EJ Low Income. If helpful, add the % to the Title (e.g., "TOWN XXXXXX.XX EJ Low Income (X.X%)").
6. Click Export, then click on the exported pdf file.
7. Print the Map and then select 'Save as PDF'. Click the 'Save' button and save to CPD E-file for the project in the NEPA folder.

### 3.0 Environmental Justice Initial Project Question

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

2. Are any of the minority or low-income block groups over 15% or were any issues raised during the public process?

The block group percentages from the map EJ Screen Tool are used to determine whether you have a block group of 15% or higher within your proposed project area.

A Yes response requires additional assessment (Go to 4.0).

A No Response concludes the Environmental Justice review. If all the block groups within your proposed project area indicate Environmental Justice populations below 15% **and no Environmental Justice issues were raised as a result of public involvement activities conducted as part of the proposed project**, then no additional Environmental Justice analysis or coordination is required. The proposed project will have no disproportionately high and adverse impacts on minority or low-income. Therefore, in accordance with the protections of Executive Order 12898 and FHWA Order 6640.23A, no further Environmental Justice analysis is required. All actions will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file. MaineDOT's Virtual Public Involvement Coordinator also tracks demographics and comments from the public on EJ concerns. All Public Meetings at MAineDOT include an on-demand meeting.

### 4.0 Environmental Justice Secondary Project Question and Identifying Impacts

The following question will need to be answered if the minority and/or low-income data indicate a population of 15% or greater within the project area.

3. Are there impacts on EJ communities? (residential or business relocations, changes in access, highway/bridge closures, neighborhood connectivity, access to transit, or were EJ issues raised by



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the public)

A Yes response requires additional assessment (Go to 5.0).

A No Response concludes the Environmental Justice review. The proposed project will have no disproportionately high and adverse impacts on minority or low-income. **No Environmental Justice issues were raised as a result of public involvement activities conducted as part of the proposed project.**

Therefore, in accordance with the protections of Executive Order 12898 and FHWA Order 6640.23A, no further Environmental Justice analysis is required. All actions will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file. MaineDOT's Virtual Public Involvement Coordinator also tracks demographics and comments from the public on EJ concerns. All Public Meetings at MAineDOT include an on-demand meeting.

### 5.0 Environmental Justice Project Question, Identifying Impacts, and Documentation

The following question will need to be answered if there are impacts to EJ communities Responses to the questions will indicate whether an Environmental Justice Analysis Report is required.

4. Are there disproportionately high and adverse impacts on EJ communities? (business relocation primarily serving EJ communities, substantial job loss to EJ communities, access to shopping, bus stops, schools, jobs, recreational resources, community centers, man-made dividers such as an overpass, bridge, 4-lane or greater roadway or railroad access to or use of the transportation improvement be denied to any low income or minority population or groups, were any Environmental Justice issues that could result in a disproportionately high and adverse effect raised during Public Involvement)

A Yes response requires a Justification Report and coordination (Go to 6.0).

A No Response concludes the Environmental Justice review. The proposed project will have no disproportionately high and adverse impacts on minority or low-income. No Environmental Justice issues were raised as a result of public involvement activities conducted as part of the proposed project.

Therefore, in accordance with the protections of Executive Order 12898 and FHWA Order 6640.23A, no further Environmental Justice analysis is required. All actions will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file.

### 6.0 Environmental Justice Analysis Report

The Environmental Team Leader will develop a report to address disproportionately high and adverse impacts on an Environmental Justice population and to document any avoidance and mitigation measures. The report will be reviewed by the Senior Environmental Manager and then forwarded to the Environmental Office Director for approval.

#### Outline for Environmental Justice Analysis Reports

1. Project Description
2. Purpose and Need
3. Underserved Population Data



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- a. Minority
- b. Low-Income
- c. Linguistically isolated
- d. Over age 64
4. Discussion of overall Impacts and Impacts to Environmental Justice population(s)
  - a. Amount of temporary and/or permanent right-of-way to be acquired
  - b. Number of residential relocations
  - c. Number of business relocations
  - d. If there are business relocations listed on a Small Business Administration
  - e. If the businesses primarily serve Environmental Justice populations
  - f. Results in job loss for an Environmental Justice population
  - g. Changes to access
  - h. Changes to transportation modes (transit, vehicles, bikes, pedestrians, etc.)
  - i. Environmental impacts (noise, air, vibration, water quality, etc.) to Environmental Justice populations
  - j. Secondary or cumulative impacts on Environmental Justice populations
5. Public Involvement Summary
  - a. Describe the Public Involvement process for the project and how Environmental Justice populations were included in this process.
  - b. State whether Environmental Justice issues were raised during the Public Involvement process.
  - c. If Environmental Justice issues were raised during Public Involvement, discuss these comments and the responses provided.
6. Discussion of Avoidance and Minimization or Mitigation Measures
  - a. Describe other alternatives and whether the impacts were different for each alternative
  - b. Describe any mitigation or enhancement measures and include them as environmental commitments
  - c. Describe temporary impacts, access changes during construction, maintenance, etc.
7. Summary
  - a. The summary should recap the report and include a final determination of whether the project will have a disproportionately high and adverse impact on the Environmental Justice population. The summary should include a justification for the determination.
  - b. Avoidance, Minimization, and/or Mitigation may be necessary if it is determined impacts will occur to these populations.

### 7.0 Findings

The Environmental Office Director will approve the action only if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse impact are not practicable. The Environmental Office Director will take the social, economic (including costs), and environmental effects of avoiding and mitigating the adverse effects into account when determining practicability.

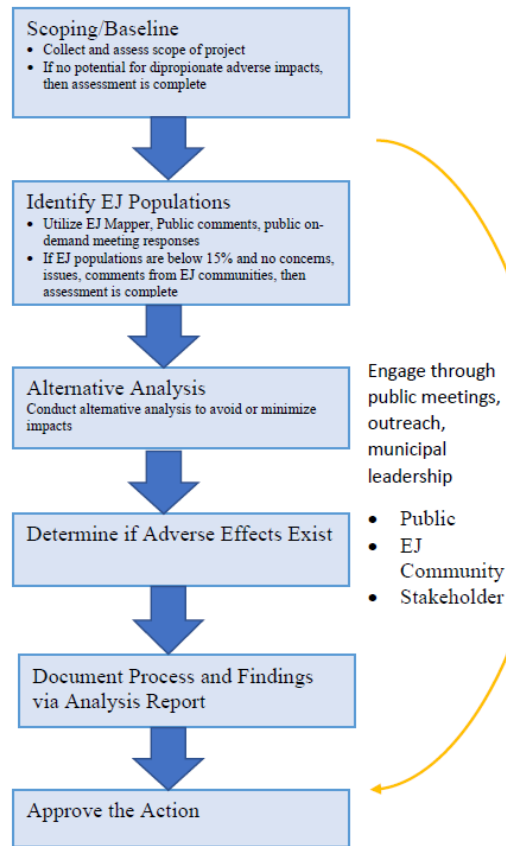


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The project must have a substantial need, based on overall public interest, and alternatives with less adverse impacts on protected populations have adverse social, economic, environmental, or human health impacts that are severe or would involve increased costs of extraordinary magnitude.

Once the report is approved by the Environmental Office Director the Environmental Justice review is complete. The Environmental Justice Report will be saved in MaineDOT’s Environmental CPD e-file.

### EJ Analysis Process



### 8.0 Links

Title VI of the Civil Rights Act

[42 U.S. Code § 2000d - Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](#)

23 U.S.C. 109(h)

[https://www.environment.fhwa.dot.gov/projdev/imp109\\_h.asp](https://www.environment.fhwa.dot.gov/projdev/imp109_h.asp)

Executive Order 12898

<https://www.archives.gov/federal-register/executive-orders/pdf/12898.pdf>





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DOT Order 5610.2(a) <https://www.transportation.gov/transportation-policy/environmental-justice/department-transportation-order-56102a>

FHWA Order 6640.23A  
<https://www.fhwa.dot.gov/legsregs/directives/orders/664023a.cfm>

FHWA Guidance on Environmental Justice and NEPA  
[https://www.environment.fhwa.dot.gov/projdev/guidance\\_ej\\_nepa.asp](https://www.environment.fhwa.dot.gov/projdev/guidance_ej_nepa.asp)

FHWA Environmental Justice Reference Guide  
[EJ in Environmental Review - Reference Guide 2015 - Publications - Environmental Justice - Environment - FHWA \(dot.gov\)](#)

MaineDOT Civil Rights Web Page  
<https://www.maine.gov/mdot/civilrights/>

FHWA Civil Rights Program  
[https://www.fhwa.dot.gov/civilrights/programs/title\\_vi/toolkit.cfm](https://www.fhwa.dot.gov/civilrights/programs/title_vi/toolkit.cfm)

FHWA Community Impact Assessment  
[https://www.fhwa.dot.gov/livability/cia/quick\\_reference/ciaguide\\_053118.pdf](https://www.fhwa.dot.gov/livability/cia/quick_reference/ciaguide_053118.pdf)