Executive Order 11990 Wetlands Finding Overview

The FHWA must issue a Wetlands Findings confirming compliance with Presidential Executive Order 11990 for any federally-aided projects with work in wetlands (see EO 11990 text). EO 11990 prohibits any federally-aided construction project from occurring in wetlands unless there are no practicable alternatives to construction in the wetlands and all practicable measures to minimize harm to the wetland have been included in the project.

An EO 11990 Wetlands Finding is required from FHWA if a DOT project is federally-aided and involves fill in wetlands requiring a COE Section 404 Individual or NWP Permit or a DEC/APA Article 24 Wetlands Permit. However, a Wetlands Finding is not needed if the only permit required is a DEC Article 24 permit for work in the regulated adjacent area.

Under certain circumstances, projects which are NEPA Categorical Exclusions may meet the Programmatic Wetlands Finding for the New York State Department of Transportation (see Programmatic EO 11990). The Programmatic Wetlands Finding includes specific information which must be included in the Design Approval Document.

For projects that do not qualify for the Programmatic Wetlands Finding for New York, at or prior to Design Approval, the Region should prepare and send a Draft Wetlands Finding to the FHWA Division Administrator for signature (see attached example). A "Notice of Construction in Wetlands" must also be published in a local newspaper, with a 30 day comment period, before FHWA’s Wetlands Finding may be completed. Document in the Design Approval Document that the project requires an Individual EO 11990 Wetlands Finding from FHWA and include a copy of the Wetlands Finding in the DAD Appendices.