



2023 NEPA/404 Merger Process Update

North Carolina Department of Transportation

Environmental Policy Unit

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****Important Notes****

It is anticipated that all Merger Projects implement the new process by June 30, 2023. Please note the following Merger Process changes:

- There is now an internal NCDOT Merger Pre-screening process that should be applied to all NCDOT projects.
- Every project will have a Merger Plan. Projects currently in the Merger Process will need to develop a Merger Plan that shows completed concurrence points and the plan to move forward.
- There is a new public involvement process for Merger Projects that meets USACE needs for permitting – this replaces the Merger Permit Application.
- Merger Training modules are available and NCDOT Project Managers are encouraged to use them.
- Merger packet templates and supporting information examples are available and NCDOT Project Managers are expected to use them.

This guidance is specific to the Section 404/NEPA Merger Process. It does not take the place of any needed or required coordination for other regulatory compliance (e.g. effects determinations under Section 106 of NHPA). As such:

- NCDOT maintains its responsibility to ensure projects are permissible.
- Many Merger Projects have project-specific needs that may not be covered in this training. The NCDOT Project Manager should work with the MMT to ensure agencies are provided with any required information to achieve concurrence.
- If agency-specific issues arise, proactive coordination with that agency should take place.
- Agency representatives maintain their responsibility to ensure that all of their statutory and regulatory requirements are met.
- Project designs through CP 4C should be considered preliminary and subject to change. It is the responsibility of the NCDOT Project Manager to alert the Merger Team Chair if any proposed design change negatively impacts a previously agreed upon avoidance and minimization measure or project commitment. Their input will be shared with the Merger Team to determine if a design change requires revisiting a previously agreed upon concurrence point.
- If a project is placed into Merger after initially being screened out, all concurrence points must be completed.
- NCDOT has developed multiple trainings on NEPA, project management, and other technical requirements which should be used to ensure compliance with those requirements.
- The formal Merger Process is complete after comments on CP 4C have been addressed. All projects, including those in Merger, must comply with all agreed upon avoidance and minimization measures, commitments, and regulatory requirements through permitting, construction, and operations and maintenance.

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Section 404/NEPA Merger Process Memorandum of Understanding

amongst the

Wilmington District, United States Army Corps of Engineers

North Carolina Division, Federal Highway Administration

North Carolina Department of Environmental Quality

North Carolina Department of Transportation

Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish a transparent and coordinated process (i.e., Merger Process) for conducting environmental reviews and making authorized decisions for surface transportation projects in North Carolina that merges the requirements of Section 404 of the Clean Water Act (33 U.S.C. 1344) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.). The implementation procedures, as amended, are incorporated by reference.

Applicability

- A. The United States Army Corps of Engineers (USACE), Federal Highway Administration (FHWA), North Carolina Department of Environmental Quality (NCDEQ), and North Carolina Department of Transportation (NCDOT) are the [Merger MOU Signatories](#). These agencies will consult after the draft STIP has been released for public comment and apply screening criteria to identify specific projects that will follow the Merger Process. Potential Merger projects may include any highway project that has conflicting resources or would otherwise benefit from a structured and coordinated review process.

Note: If a project is being developed under the North Carolina Environmental Policy Act (SEPA) without FHWA involvement, this Process can be applicable but would be implemented without FHWA participation.

- B. Regulatory/Resource Agency participation in the Merger Process does not imply endorsement of a transportation plan or project. Nothing in these procedures is intended to diminish, modify, or otherwise affect the statutory or regulatory authorities of the agencies involved. In the event of any conflict between this process and other statutes or regulations, the statutes or regulations are the final authority.

Concurrence Points and Merger Plan Coordination

There are seven strategic decision (concurrence) points in the NEPA project development and permitting process.

1. Purpose and Need and Study Area Defined: The foundation upon which justification for the project is established.
2. Detailed Study Alternatives Carried Forward: Alternatives that satisfy the purpose and need for the project.
- 2A. Bridging Decisions and Alignment Review: Identification of major structures (including approximate lengths and dimensions) and a review of the preliminary alignment for each alternative.
3. Proposed Least Environmentally Damaging Practicable Alternative (LEDPA)/Preferred Alternative Selection: Selection of an alternative as the Proposed LEDPA.
- 4A. Avoidance and Minimization: A detailed, interdisciplinary, and interagency review to optimize the design and benefits of the project while reducing environmental impacts to both the human and natural environments.
- 4B. Hydraulic Design Review: A review of the development of the stormwater best management practices and hydraulic design.
- 4C. Permit Drawings Review: A review of the completed permit drawings after the hydraulic design is complete and prior to permit application.

At the outset of the process, NCDOT will establish a project-specific [Merger Plan](#) in coordination with the Merger MOU Signatories, which will include establishing coordination protocols, need for meetings (including pre-meetings), and an anticipated schedule for project development/permitting. Throughout the process, NCDOT will collaborate with the Merger MOU Signatories on the Merger Plan, including anticipated concurrence dates and project status updates, to determine the best approach for coordination (in-person meetings, virtual meetings, conference calls, or email conversations). The [Merger Team](#) will be given the opportunity to comment on project schedules and work collaboratively through the Merger Process to maintain those schedules.

Concept of Concurrence

Concurrence implies that each agency/organization representative does not object to decisions made at strategic points in the project development process and, in doing so, pledges to abide by the decision made, unless there is a profound changed condition. Each agency should enter the discussion of concurrence with a solution-oriented mindset that involves proactive sharing and examination of information to achieve sound decision-making. Each concurrence point builds upon prior decisions, so it is important to ensure that agencies/organizations concur on a decision before requesting the subsequent concurrence point decision.

NCDOT will use the project's Merger Plan to enhance communication and data sharing, which should in turn help an agency determine their concurrence decisions.

Decisions for concurrence points 1 through 4A will be documented by signature of a concurrence form summary statement. Decisions for concurrence points 4B and 4C will be documented with meeting minutes. Definitions of concurrence, non-concurrence, and abstention are provided below.

- Concurrence

"I do not object to the concurrence decision based on the laws and regulations of my program and agency."

- Concurrence by an agency or organization means that the specific agency/organization representative does not object to decisions made at strategic points in the project development/permitting process and agrees to abide by the decision made, unless there is a profound changed condition in the future. A profound changed condition does not include changes in agency/organization representatives.

- Non-concurrence (see [Conflict Resolution attachment](#))

"I do not concur as the information is not adequate for this stage and/or concurrence could violate the laws and regulations of my program and agency."

- If an agency/organization representative does not concur, that representative is responsible for documenting their reasons in writing and providing that documentation per the [Roles and Responsibilities](#).
- Non-concurrence should not be utilized based on lack of information without affording NCDOT a reasonable opportunity to provide the requested information.

- Abstention (Merger MOU Signatories cannot abstain)

"I do not actively object, but I am not signing the concurrence form. The Merger Process may continue, and I agree not to revisit the concurrence point subject to the guidance on revisiting concurrence points."

- If an agency/organization representative decides to abstain, that representative is responsible for documenting their reasons in writing and providing that documentation to all Merger MOU Signatories within five business days of the decision to abstain. The Merger MOU Signatories (FHWA, USACE, NCDEQ, and NCDOT) are responsible for reviewing the reason(s) for abstaining to determine if the process should move forward.

"I have no resources that are impacted by decisions made at this concurrence point."

- In this case, no follow up information is required by the agency.

A written request to revisit a previous concurrence point should be made to the Merger MOU Signatories and will include supporting documentation. Merger MOU Signatories will provide a written response to the entire Merger Team for that specific project request within 15 days.

Procedures

This agreement will be implemented through a series of guidance documents to be approved by the Merger MOU Signatories and published on [NCDOT's website](#). With the exception of the attached [Conflict Resolution](#) and [Roles and Responsibilities guidance](#), these documents can be updated with the approval of all the Merger MOU Signatories via their Merger Management Team representatives.

Modification

Substantive changes to this Memorandum of Understanding will require approval of all Merger MOU Signatories. Modification may be proposed by any participating agency/organization but must be endorsed for consideration by one or more Signatories. Proposals for modification will be circulated to all Signatories for a 30-day review period. Approval of such proposals will be indicated by written acceptance. A Signatory may terminate participation in this agreement upon 30-day written notice to all other Signatories.

Merger Team

NC DOT will coordinate with the USACE, FHWA, and NCDEQ to identify the participating agencies/organizations that should partner to comprise the Merger Team for a specific project. Each agency/organization will determine the appropriate staff person(s) empowered with decision-making to represent their specific regulatory/resource interests on the Merger Team. In addition to the MOU Signatory agencies, the following will normally participate as [Partnering Agencies](#).

- U.S. Environmental Protection Agency (EPA)
- U.S. Fish and Wildlife Service (USFWS)
- North Carolina Wildlife Resources Commission (WRC)
- North Carolina Department of Natural and Cultural Resources, Historic Preservation Office (HPO)
- Metropolitan Planning Organizations (MPOs) and/or Rural Planning Organizations (RPOs)

The following agencies will be requested to participate when there is any possibility that resources under their jurisdiction are in the project vicinity.

- North Carolina DEQ, Division of Coastal Management (DCM; within the 20 coastal counties)
- National Park Service (NPS)
- U.S. Coast Guard (USCG)
- U.S. Forest Service (USFS)
- Tennessee Valley Authority (TVA)
- U.S. Fish and Wildlife Service — Wildlife Refuge
- North Carolina Division of Marine Fisheries (DMF)
- National Oceanic and Atmospheric Administration (NOAA) Fisheries (formerly NMFS; staff could include Essential Fish Habitat and Protected Resource Division)

Federally-recognized tribes shall be invited to participate on the Merger Team for projects that may affect lands held in trust for the tribe or if the Merger Team is aware that a resource of importance to a tribe may be affected by a project.

Other Federally-recognized tribes with an interest in North Carolina that may have resources in or near a project area will be consulted with during project development and through the Section 106 consultation process. They may also be invited to participate on the Merger Team.

Each Partnering Agency will develop protocol to determine which office or individual(s) from each agency/organization will participate. During the Merger Process, team members who are not Merger MOU Signatories may conclude their participation if resources under their jurisdiction will not factor into the LEDPA selection and/or permit decision.

Signatures

The four agencies listed below as Merger MOU Signatories are the owners of the Merger Process. These agencies are the decision-making authorities regarding NEPA and Section 404 permitting and are responsible for conflict resolution.

By participating on a Merger Team, agencies/organizations agree to abide by the procedures agreed upon by the Merger MOU Signatories. Such agreement does not compromise or eliminate statutory or regulatory remedies available to the listed agencies/organizations (e.g., 404(q) or (c)), nor does it circumvent statutory requirements that are mandated to specific agencies/organizations. The intent of this agreement is to provide an interactive, defined process that allows agencies/organizations to address their statutory and regulatory requirements during the development of transportation projects within the State of North Carolina.



Benjamin A. Bennett
COL, U.S. Army
District Commander

3 May 23

Section 404/NEPA Merger Process Memorandum of Understanding

amongst the

Wilmington District, United States Army Corps of Engineers


North Carolina Division, Federal Highway Administration

North Carolina Department of Environmental Quality

North Carolina Department of Transportation

Signatures (cont'd)

DocuSigned by:



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John F. Sullivan III, Division Administrator
Federal Highway Administration, North Carolina Division

04/19/2023

Date

Section 404/NEPA Merger Process Memorandum of Understanding

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Wilmington District, United States Army Corps of Engineers

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North Carolina Department of Environmental Quality

North Carolina Department of Transportation

Signatures (cont'd)

DocuSigned by:
Elizabeth Biser
AD552E5D9A854B5...

Elizabeth Biser, Secretary
North Carolina Department of Environmental Quality

03/23/2023

Date

Section 404/NEPA Merger Process Memorandum of Understanding

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Wilmington District, United States Army Corps of Engineers

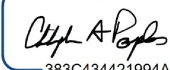
North Carolina Division, Federal Highway Administration

North Carolina Department of Environmental Quality

North Carolina Department of Transportation

Signatures (cont'd)

DocuSigned by:



383C434421994A4

Chris Peoples, Chief Engineer
North Carolina Department of Transportation

04/19/2023

Date



ATTACHMENT A: MERGER ROLES AND RESPONSIBILITIES

The Merger Process relies on individual participants to represent their agency/organization in a collaborative decision-making environment. The Merger Team participants are expected to enter the discussion of concurrence with a solution-oriented mindset that involves proactive sharing and examination of information and early identification and resolution of issues to achieve sound decision-making, thus supporting all relevant regulatory/resource interests. Key roles and responsibilities are outlined as follows.

NCDOT Roles

The NCDOT Project Team is made up of the NCDOT Project Manager, its consultant(s), and NCDOT's technical experts. The NCDOT Project Team will:

- Develop and maintain the [Merger Plan](#).
- Attend all relevant Merger Team meetings.
- Be introduced at the beginning of each Merger meeting.
- Support the Merger Team with information about the project to assist in reaching concurrence.

See below for the NCDOT Project Manager's roles.

Merger Team

The Merger Team is comprised of representatives of the MOU Signatory Agencies and Partnering agencies, as denoted in the [MOU](#). Merger Team Members are expected to provide a concurrence decision for all concurrence points.

Merger Team Chair

The USACE representative for the project is the Merger Team Chair. The Chair will guide the concurrence point meeting by:

- Coordinating process-related needs prior to the scheduled concurrence date
- Calling the meeting to order and stating the purpose of the meeting.
- Initiating introductions.
- Ensuring the meeting stays on course and refocusing discussion when appropriate.
- Polling other agencies for concurrence.
- Ensuring there is a discussion on next steps and action items.
- Adjourning the meeting.

NCDOT Project Manager

The NCDOT Project Manager will be clearly identified in all communications. The NCDOT Project Manager may indicate a designee (another NCDOT staff member or a consultant) who will perform project manager responsibilities on their behalf. The NCDOT Project Manager may change over the course of the project.

The NCDOT Project Manager, in coordination with the NCDOT environmental policy lead will:

- Coordinate the establishment of the Merger Team, in collaboration with the Merger MOU Signatory Agencies.



MERGER ROLES AND RESPONSIBILITIES

- Coordinate to implement the Merger Plan and will distribute materials timely in advance of concurrence points (i.e., at least two weeks ahead of Merger Meetings).
- Work with the Lead Federal Agency to coordinate with each agency representative after the circulation of the packet regarding concerns, questions, abstentions, or potential for non-concurrence.
- Announce to the Merger Team that concurrence has been achieved and distribute the signed concurrence form, with assistance from NCDOT EPU if necessary.
- Coordinate with NCDOT Environmental Policy Unit (EPU) in administering the [Conflict Resolution](#) process.

Merger Team Member

Merger Team Members include agencies/organizations (including NCDOT) with resources or jurisdiction within the geographic area of the project. Merger Team Members will:

- Work in a collaborative, problem-solving spirit.
- Assist in satisfying all applicable federal and state regulations and laws.
- Represent only their own agency and will make decisions based on the mission and authority of their agency.
- May provide their written concurrence, abstain (with the exception of the Merger MOU Signatory Agencies), or choose to not concur. For non-concurrence see [Conflict Resolution Guidance](#).
- Review the Merger Packet and provide ample notice (five working days minimum) to the Merger Team Signatory Agencies and pertinent members of the Merger Team when requesting any additional information for decision-making and/or if concurrence is questionable prior to the scheduled concurrence date. When requests for additional information are made, the Merger MOU Signatories will determine the most effective approach for resolving the request in consideration of the anticipated concurrence date and Merger Plan.
- When an agency or organization is not able to concur, they shall follow the [Conflict Resolution Process](#).
- Notify the NCDOT EPU of any changes in their agency's Merger Team membership.
- Notify the Merger Team via email when participation is no longer warranted for a specific concurrence point(s).
- Refrain from revisiting concurrence point decisions unless new, substantial information is brought to light. A request to revisit a previous concurrence point will be provided by email to the Merger MOU signatories and will include supporting documentation
- Notify the Merger Team Chair (USACE) within three days of the scheduled concurrence date if they are unable to participate. The Team Member should submit written comments and/or designate another agency representative with decision-making authority in their stead. Non-attendance or non-response by a particular Team Member is not a valid reason for non-concurrence.
- Provide a concurrence decision for all concurrence points.

Facilitator (optional)

A Facilitator is a neutral party who provides structure and process during meetings so the Merger Team may function effectively and make decisions. While a Facilitator is not necessary for all projects, one should be considered for large, complex, or controversial projects.



Merger Management Team (MMT)

The MMT is comprised of representatives from NCDOT, FHWA, USACE, and NCDEQ. The MMT will:

- Be responsible for addressing program-specific questions (e.g., methodology, regulatory changes, team performance, and program guidance).
- Periodically coordinate with their staff and partnering agencies to assess issues arising from Merger meetings and determine if programmatic changes are necessary.
- Review project-specific challenges that arise from Merger meetings.
- Participate in the [Conflict Resolution Process](#).
- Be led by an NCDOT EPU representative (the MMT Chairperson).

MMT Chairperson

The MMT Chairperson is the NCDOT Environmental Policy Unit Head. The MMT Chairperson will:

- Support the Merger Review Board for the [Conflict Resolution Process](#).
- Coordinate with the MMT to establish an agenda for regular meetings.
- Lead the coordination effort to train staff and consultants on the Merger Process.

Merger Review Board

The Merger Review Board is comprised of representatives from NCDOT, FHWA, USACE, and NCDEQ. If a conflict arises on a project in which an agency cannot concur and Informal Conflict Resolution is not successful, the Chairperson of the MMT will initiate the formal Conflict Resolution Process, involving the Merger Review Board. The Board will:

- Meet to resolve project-specific Merger Team conflicts as detailed in the [Conflict Resolution Process](#).
- Work in a collaborative, problem-solving spirit.
- Decide on conflicts brought to the board in a timely manner.



Attachment B: CONFLICT RESOLUTION PROCESS

Agreement (concurrence) at critical identified points during project development and permitting is the key to the success of each agency's mission, and a successful Merger Process enhances this collaborative effort. However, the [Merger MOU signatory agencies](#) recognize that there may be occasional conflicts between [Merger Team](#) Members. It is understood that every effort will be taken to resolve conflicts at the Merger Team level. This guidance provides an elevation procedure for resolving conflicts that cannot be resolved informally. (See also [Merger Roles and Responsibilities](#).)

Informal Conflict Resolution

If a Merger Team Member cannot concur prior to the Merger Meeting, they agree to provide a written explanation to the rest of the Merger Team at least five working days prior to the scheduled [concurrence](#) date. If, during a Merger Meeting, a Merger Team Member cannot concur, they agree to provide a written explanation to the Merger Team within five working days of the meeting, unless action items specified during the meeting will address the issue.

The Merger Team will inform the [Merger Management Team](#) (MMT) of the [non-concurrence](#) and will work to resolve the issue within a 10-day informal coordination period. In some circumstances, this period may be expanded if additional documentation is required, with the agreement of the Merger Team.

If, at the end of the informal coordination period, the issue is unable to be resolved, the non-concurring Merger Team Member(s) will initiate the formal Conflict Resolution Elevation Process by providing a written request to the NCDOT Environmental Policy Unit Head (the Chair of the MMT). Merger Team Members are responsible for keeping their respective chain of command informed.

Formal Conflict Resolution Elevation Process

The formal Conflict Resolution Elevation Process is administered by the MMT and overseen by the Merger Review Board. Members of the Review Board are:

- U.S. Army Corps of Engineers (USACE), Regulatory Division Chief
- North Carolina Department of Environmental Quality (NCDEQ), Division of Water Resources (DWR) Deputy Director
- Federal Highway Administration (FHWA), Deputy Division Administrator
- North Carolina Department of Transportation (NCDOT), Chief Engineer.

If the dispute is not resolved within the Merger Team, the parties in dispute will continue to attempt to resolve the issue(s) within the MMT and non-MMT agency chains of command. Each non-concurring agency will provide a written brief supporting their respective positions to the Chairperson of the MMT at least two weeks prior to the meeting. The Chairperson of the MMT will disseminate the brief(s), along with an explanation of the project involved and the concurrence point or issue which is unresolved, to MMT members and establish a meeting date. If resolution is achieved, it will be documented by signing the Concurrence Form (or a revised Form, as appropriate).



If the issue is not resolved within the MMT, the [Merger Review Board](#) will resolve the matter. The [Chairperson of the MMT](#) will schedule a Merger Review Board meeting within 30 days and disseminate the issues briefs from each non-concurring team member. All Merger Team members that are not represented on the MMT will be invited to attend the meeting. If the Review Board determines that additional information is needed, the decision will be delayed until the information is obtained for the Merger Review Board's use.

After the Merger Review Board makes a decision, all Merger Team Members will sign the Concurrence Form (or a revised Form, as appropriate). Merger Team members may sign the Form or provide written statements of abstention. Concurrence by all Merger Review Board members shall constitute a final decision.

It is understood that a Merger Team Member's participation in this conflict resolution process does not preclude other conflict resolution or elevation options available by regulation to that agency. Nothing in this guidance diminishes the USACE, FHWA, and NCDEQ responsibilities to make decisions regarding permit requirements, permits, certifications or approvals. Additionally, FHWA's SAFETEA-LU legislation ([Section 6002](#)) provides a formal process for resolving serious issues that may delay the project or result in a denial of a required approval for the project. NCDOT or the Governor of North Carolina may invoke the Section 6002 process for issue resolution at any time. While the Section 6002 process is a tool available to States and project sponsors for resolving issues of concern, there are other options that are available to lead and participating agencies. Those options include this guidance for Conflict Resolution, other procedures embodied in a project-specific coordination plan, and the Council on Environmental Quality (CEQ) referral process under 40 CFR Part 1504.

MERGER BASICS

The intent of this guidance document is to convey the context behind the Merger Process and fill in any possible gaps, hopefully anticipating many practitioners' questions.

What is Concurrence?

The Merger Team provides decisions at concurrence points 1 through 4A, which are documented via signature on a designated form that contains a summary of that concurrence point. Definitions of concurrence, non-concurrence, and abstention are provided below.

- Concurrence

"I do not object to the concurrence decision based on the laws and regulations of my program and agency."

- Concurrence by the Merger Team Members means that they do not object to decisions made at strategic points in the project development/permitting process and agrees to abide by the decision made, unless there is a profound changed condition in the future. A profound changed condition does not include changes in agency/organization representatives.

- Non-concurrence (see [Conflict Resolution guidance](#))

"I do not concur as the information is not adequate for this stage and/or concurrence could violate the laws and regulations of my program and agency."

- If a Merger Team Member does not concur, that representative is responsible for documenting their reasons in writing and providing that documentation per the [Roles and Responsibilities](#).
- Non-concurrence should not be utilized based on lack of information without affording NCDOT a reasonable opportunity to provide the requested information.

- Abstention (Merger MOU Signatories cannot abstain)

"I do not actively object, but I am not signing the concurrence form. The Merger Process may continue, and I agree not to revisit the concurrence point subject to the guidance on revisiting concurrence points."

- If a Merger Team Member decides to abstain, that representative is responsible for documenting their reasons in writing and providing that documentation to all Merger MOU Signatories within five business days of the decision to abstain. The Merger MOU Signatories (FHWA, USACE, NCDEQ, and NCDOT) are responsible for reviewing the reason(s) for abstaining to determine if the process should move forward.

"I have no resources that are impacted by decisions made at this concurrence point."

- In this case, no follow up information is required by the Merger MOU Signatory.

Who is on the Merger Team?

An important aspect of this collaborative effort is to have the right team members in the right conversations. The Division of Coastal Management will be included in the Merger Team for all projects located in the 20 Coastal Counties. NCDOT Project Managers will work with their Merger MOU Signatory counterparts to include the appropriate agency representatives and NCDOT subject matter experts in the discussions. To support the Team's decision-making, the appropriate NCDOT staff need to be present and prepared, as do the other Merger Team members. For example, if the Merger Team is trying to concur CP3 and there are traffic capacity reasons for eliminating certain alternatives, NCDOT should have a traffic capacity expert ready to answer questions on that topic. Additionally, other Merger Team members should have read the meeting information and informed NCDOT and the Merger Chair ahead of the meeting if they had any questions that the packet did not address.



How does NCDOT coordinate concurrence?

At the outset of the process, NCDOT will establish a project-specific Merger Plan in coordination with the Merger MOU Signatories. The Plan will include establishing the Merger Team and coordination protocols, anticipated meeting arrangements (including pre-meetings and the potential for combined meetings), and an anticipated schedule for project development/permitting. Throughout the process, NCDOT will collaborate with the Merger MOU Signatories on the Merger Plan and provide updates on anticipated concurrence dates and project status. This information will be used to determine the best approach for coordination and meeting arrangements (in-person meetings, virtual meetings, conference calls, email conversations, pre-meetings, combined meetings, etc.).

Traditionally, the Merger Team sought concurrence in formal, in-person meetings. Technology improvements and recent social distancing requirements have led to an increased use of virtual meetings or concurrence based on agency review of the Merger Packet without a meeting. For the purposes of this guidance, any instance in which concurrence is requested or achieved will be referred to as a Merger Meeting, regardless of whether it is an in-person, virtual, email, or packet concurrence.

Every effort will be made to achieve concurrence based on the information provided in the Merger packets which will be provided to the Team Members in advance of a scheduled concurrence date. At least five working days before a concurrence date, each agency will communicate their anticipated concurrence, abstention, or concerns that require additional information to arrive at a decision. At a minimum, agencies should communicate this anticipated concurrence decision via email the NCDOT Project Manager and the USACE Merger Team Lead. If agencies can concur based on the Merger packet information, no meeting will be necessary. If this occurs, the scheduled meeting will be cancelled, and the NCDOT Project Manager will circulate a concurrence form via DocuSign. This concurrence form will include any action items or next steps to be undertaken prior to the next concurrence point.

In some cases, concurrence may be achieved via email rather than having a meeting. If this is known in advance, this option will be identified in the Merger Plan and discussed and agreed upon with Merger Team Members at the prior concurrence meeting.

In those cases that require a meeting, the meeting will be held on the scheduled concurrence date to discuss agency concerns and questions. With the conversion to more online meetings in 2020, more and more meetings are anticipated to be held virtually in the future; therefore, the “default” concurrence format will be a virtual meeting on the designated Merger days each month. In some instances, an in-person meeting may be most efficient. In those cases, NCDOT will coordinate with the Merger MOU Signatories to ensure Merger Team Members are aware and available to meet in person. Merger Team Members may always choose to participate in meetings virtually when virtual means are available.

NCDOT will continue to reserve dates and a conference room each month in anticipation of hosting in-person concurrence point meetings in Raleigh. A [calendar](#) is posted each year with the reserved dates for western and eastern projects to allow all agency staff to schedule accordingly.

While it is expected that in-person Merger meetings will be held in Raleigh on the reserved dates to best allow Merger Team Members to attend, it is possible to have meetings on other dates or in other locations when circumstances warrant it. For instance, some meetings may require a field visit and would be held at a location near the project (e.g., NCDOT Division office). Additionally, if an NCDOT



Project Manager expects to need more than 4 hours to cover all meeting topics, their meeting may be scheduled outside of the reserved dates so it does not impact the needs of other projects. To schedule a pre-meeting outside of the reserved dates, the NCDOT Project Manager, or their designee, will poll the applicable Merger Team Members for available dates; this should be done as early as possible, as many Merger Team Members have other responsibilities and projects to review/process.

It should be noted that Merger meetings scheduled outside of the meetings outside of the reserved dates will adhere to the time requirements for notification and providing meeting materials; and will only be undertaken when all members of the Merger Team are available.

For information on concurrence points and specific roles for Merger Team Members, please refer to the [Merger MOU](#) and to the [Merger Roles and Responsibilities](#) guidance.

How is a project added to the Merger meeting agenda?

The NCDOT Project Manager, or their designee, must email NCDOT EPU with a request to be added to the agenda for one of the reserved meeting dates. The request should be submitted at least four to six weeks in advance of the requested date; NCDOT EPU recommends that requests should be submitted three months in advance to ensure adequate time is allotted for the project.

What is a Merger packet?

The Merger packet includes information about the project as it relates to the specific concurrence point that helps Merger Team Members reach a concurrence decision. Many Members consider this packet to be part of their project file and may rely on this information for their regulatory decisions and administrative record. Packet requirements specific to each concurrence point are included in the templates, and are the responsibility of NCDOT to ensure all appropriate information is included.

When do Merger packets need to be provided to the Merger Team?

Merger packets must be sent to the Merger Team **at least two weeks** prior to a scheduled concurrence date. This two-week period allows the agencies to review the packet and, if necessary, notify the NCDOT Project Manager and copy the Merger MOU Signatories of any missing information or questions. Professional courtesy dictates that this information does not change during this two-week period. Failure to meet this deadline will result in the meeting being cancelled. The NCDOT Project Manager provides the final packet to NCDOT EPU, who will then post the packet and distribute a link to the Merger Team. The packet distribution email should include a statement that each Merger Team Member is requested to provide their anticipated concurrence decision at least five working days before the concurrence date. The Merger Team Members are responsible for reviewing the packet during this two-week period and for notifying the NCDOT Project Manager and Merger MOU Signatories of any questions or concerns that arise from their review as soon as possible (minimum five days prior to the meeting), thereby giving the PM an opportunity to provide responses prior to or during the meeting. The NCDOT Project Manager is responsible for coordinating with NCDOT EPU and ensuring that the packet has undergone sufficient review by appropriate parties prior to distribution to the Merger Team. Please refer to the [Merger MOU](#) and to the [Merger Roles and Responsibilities](#) guidance for more details.

What should be included in Merger packets?



Specific expectations for each Merger packet are summarized in each concurrence point’s guidance and expanded upon using examples in the training modules. No packets are required for CP 4B and CP 4C. For all other concurrence points, all packets will contain the following information:

- Lead federal agency
- Primary point(s) of contact, including NCDOT PM, NCDOT GESC PM (if applicable), and consultant PM
- Meeting purpose
- Project description, vicinity map, and study area figure
- For CP 1, project history including cost/schedule and draft Merger Plan
- After CP 1, Summary of Merger Process decisions to date with CP links and Merger Team information such as purpose and need, public involvement activities, as well as cost, schedule, and proposed Merger Plan updates (if needed). If a change in the project study area is proposed, that should be included in this section.
- Discussion of the Concurrence Point(s) topic(s)
- Action Items/Next Steps

What is a “Merger Pre-Meeting” and when is it necessary?

Best practices suggest that the NCDOT Project Manager reach out to MOU Signatories or other Merger Team Members as appropriate prior to developing the Merger Packet if there are any issues that may impact the ability to achieve a given concurrence point. This can take any form from documented phone calls, emails, or meetings.

Prior to a scheduled concurrence point, the NCDOT Project Team may host a call or meeting with some members of the Merger Team to solicit any questions or concerns the agencies might have. These pre-meetings should include, at a minimum, NCDOT, FHWA (for federal projects), USACE, and NCDWR. Pre-meetings are **required for CP 1 and CP 3** and strongly encouraged for other concurrence points on large or complex projects. All pre-meetings will be scheduled a minimum of three weeks in advance of the respective concurrence point to allow adequate time to modify the merger packet and distribute it two weeks prior to the concurrence date. The NCDOT Project Manager, or their designee, will poll the applicable Merger Team Members for available dates; this should be done as early as possible, as many Merger Team Members have other responsibilities and projects to review/process.

Prior to the pre-meeting, the NCDOT Project Manager will provide a QC-reviewed draft Merger packet, along with any necessary maps and figures, to the Merger Team Members who are invited to the pre-meeting. To allow time for review, the packet should be provided at least one week before the pre-meeting. The NCDOT Project Team Members that attend the pre-meeting will be prepared to address any concerns expressed at the pre-meeting by updating and/or revising the Merger packet and meeting presentation.

What are Informational Meetings?

Informational meetings serve a variety of purposes and help with efficiency of subsequent meetings. Informational meetings should be considered when substantial time has passed since the most recent concurrence point, when project circumstances have changed, or to provide additional information for an upcoming concurrence point. This coordination can take place via email if practical, with agency comments and NCDOT responses circulated to the entire Merger Team. A formal packet is not required



for an informational meeting. No formal concurrence or decisions will be reached for informational meetings; however, this coordination can be invaluable for laying the groundwork for future concurrence points and may be integral in updating the Merger Plan for the project.

What is a typical agenda for a Merger meeting?

In those circumstances where a meeting of the Merger Team is required, the Merger meeting agenda should include the following:

- Meeting Purpose
- Team Introductions
- Project Description/Cost/Schedule
- Merger History (with links to prior documents as appropriate)
- Resource/Regulatory History and Considerations (to include context for the current concurrence point)
- Any notable changes to the project or new information
- Concurrence Point Specific Information
- Discussion
- Polling for Concurrence
- Summary of Avoidance/Minimization since last Concurrence Point
- Next Steps/Action Items/Merger Plan Updates

Who leads the Merger meeting?

The Merger Team Chair (USACE) will call the meeting to order, initiate introductions, ensure discussions stay on topic, and poll the agencies for concurrence. The NCDOT Project Manager or their designee will go over the agenda, give a brief presentation, take meeting minutes, and lead the technical discussion. The NCDOT Project Manager will also circulate a sign-in sheet at the meeting and is responsible for recording the names of participants on the phone.

NCDOT EPU will generally attend all meetings to provide a consistent NCDOT presence; they will also secure audio and visual equipment, telephone conference number, and video meeting link and will start these at the beginning of the meeting. NCDOT EPU staff will help meetings run smoothly and support the NCDOT Project Manager as needed. The NCDOT Project Manager is NCDOT's representative on the Merger Team; they have ownership of the project and should answer project questions and make decisions relative to the project. NCDOT EPU staff will help the Project Manager identify issues and are able to help facilitate unanticipated contentious discussions.

Some projects may benefit from having a formal facilitator. A facilitator should be considered on large, complex, or controversial projects. In those instances, the NCDOT Project Manager will coordinate with NCDOT EPU to retain a neutral facilitator.

Should the NCDOT Project Team bring displays and materials for use during the Merger meeting?

If an in-person meeting is required, it may be beneficial for the [NCDOT Project Team](#) to bring larger hard copy maps or displays. Also, the NCDOT Project Team should bring additional handouts to the Merger meeting for Merger Team Members to keep, such as copies of the presentation. Hard copy handouts of

the Merger packet are not necessary unless there is new or supplementary information requested by an agency to help facilitate concurrence.

The NCDOT Project Team should be aware that some Merger Team Members may be participating remotely and will not have the benefit of seeing these larger displays, maps, or additional handouts. To the extent possible, this material will be made available to all Merger Team Members, preferably in an electronic format, at least five business days ahead of the Merger meeting and online during the meeting. Online meetings will be conducted using technology available to all agencies. The NCDOT Project Team will not distribute materials electronically on the day of the meeting; as technological glitches often prevent this from working.

To orient all meeting attendees, it may be beneficial for NCDOT to provide a Google Earth (or similar) view of the project with available (at the time of the meeting) and appropriate layers overlaid (e.g., delineated waters (WET file), photographs, known historic resources, known federally listed species and/or critical habitat, impacts to waters, etc. Most Merger Team Members are now familiar with these tools, and a 2-D or 3-D aerial perspective can often kickstart discussions.

Should the NCDOT Project Team prepare a presentation for the Merger meeting?

Presentations are not required for a Merger meeting; however, most NCDOT Project Teams choose to use a presentation to help guide the discussion. Time limitations should be considered to make sure the Merger Team Members have adequate time for questions, comments, and discussion. Generally, presentations should be less than 15 minutes and will not include new information that was not in the Merger packet provided to Merger Team Members in advance of the meeting. Presentations will not rehash every detail that was contained in the packet; the expectation is that attendees are familiar with the packet and have provided any major comments or concerns to the Merger MOU Signatories in advance of the meeting and copied to the Merger Team. The presentation is typically led by the NCDOT Project Manager or their designee.

Can anyone attend Merger meetings? Are Merger meetings public?

Merger meetings are **not** considered public meetings. Guests may make a formal written request to attend a Merger meeting and occasionally attendance may be granted at the discretion of the Merger Team. Requests from stakeholders to attend a Merger meeting will be discussed with the Merger [MOU Signatories](#) and NCDOT EPU to determine if attendance is appropriate. Merger meetings are meant to be working meetings among NCDOT and its agency partners for a free and open exchange of ideas for projects, allowing for a collaborative process for decision-making. However, it should be noted that Merger packets and meeting summaries are subject to public information requests.

What happens at the end of and after a Merger Meeting?

There are three potential Merger outcomes, as discussed below. In some instances, one or more agencies may abstain from concurrence (see Merger MOU and Appendices).

1. Concurrence is achieved based on the packet or at the meeting. After concurrence is achieved, the NCDOT Project Manager will send a DocuSign form to the Merger Team within one week so that they can formally sign. Each Merger Team Member is expected to DocuSign within one week of receipt.



2. Concurrence is not achieved at the meeting but obtaining concurrence with informal follow-up coordination is anticipated. If an agency cannot concur based on the information provided in the Merger Packet, they will provide a written explanation to the Merger Team at least five working days prior to the scheduled concurrence date. If an agency determines that they cannot concur during a Merger meeting, they will provide a written explanation to the Merger Team within five working days after the meeting. However, no written explanation is needed if action items specified during the meeting are expected to address the agency's concerns and will lead to concurrence.

The NCDOT Project Manager, NCDOT EPU representative and relevant NCDOT Team Members will work, using the informal Conflict Resolution Process, to address the Merger Team Member's concerns in a timely manner, with a goal of reaching resolution within 10 working days. The follow-up coordination could take varying forms (emails, phone calls, an additional meeting), but the intent is to continue the conversation relevant to that concurrence point. As with the original meeting, the NCDOT Project Manager will ensure that any information provided to the non-concurring Merger Team Member is shared with all team members and will keep the Merger Chair apprised of progress. If concerns are adequately addressed, the NCDOT Project Manager will circulate the concurrence form electronically for signature. If, at the end of the informal coordination period, the issue is unable to be resolved, the non-concurring agency(ies) will initiate the formal Conflict Resolution Elevation Process by providing a written request to the NCDOT Project Manager and the NCDOT Environmental Policy Unit Head (the Chairperson of the MMT).

3. Concurrence is not achieved at the meeting and conflict resolution is anticipated. The formal Conflict Resolution Elevation Process is administered by the MMT and overseen by the Merger Elevation Review Board.

Please see the [Conflict Resolution Guidance](#) for more information.

At the end of each Merger meeting the Project schedule, including the timing of the next concurrence point will be discussed and the Merger Plan will be reviewed. If time allows, the next concurrence point topic should be discussed, particularly if agencies are likely to need specific information to concur or have any questions that need to be addressed.

NCDOT, or the designee, will document the substantive points of the Merger meeting and will send this Merger Meeting Summary to Merger Team Members for review within 2 weeks of the Merger meeting. It is expected that participating parties will review and provide any substantive comments within 2 weeks of receipt. If no comments are received at the end of the 2-week period, the meeting summary will be considered final. Once all items are final, NCDOT will upload the packet, electronically signed concurrence form, and meeting summary to the project's ATLAS Workbench.

Who is responsible for preparing Merger meeting summaries?

The NCDOT Project Manager, or their designee, is responsible for preparing the draft meeting summary using the templates included in this guidance. Summaries should emphasize decision points (including pertinent deliberations), action items, and next steps. The NCDOT Project Manager, or their designee,



will distribute the draft meeting summary to the Merger Team between one and two weeks after the Merger meeting, unless the Merger Team is notified that the meeting summary will be delayed. If additional information was requested during the meeting, the requested information may be included with the meeting summary or the meeting summary will provide a timeline for distributing the information to the team. The Merger Team will be given two weeks to review the summary. If no comments are received by the end of two weeks, or if all agencies have commented prior to the end of the two weeks, the meeting summary will be considered final and the NCDOT Project Manager, or their designee, will recirculate it as such and upload to the project's [ATLAS Workbench](#). The meeting summary can be revised and reissued if relevant comments are received after that time.

Meetings may be recorded at the request of the NCDOT Project Manager and Merger Team Members will be notified that the meeting is being recorded. The recording can be retrieved from NCDOT EPU following the meeting.

Where are Merger meeting materials stored?

Merger meeting materials are uploaded by NCDOT staff to the project External Collaboration SharePoint site and at <https://xfer.services.ncdot.gov/pdea/MergerMeetings>.

The NCDOT Project Manager will also store final Merger materials, including meeting summaries and signed concurrence forms, in the ATLAS Workbench using appropriate naming conventions.

Can a Concurrence Point be revisited?

Having concurred at a particular milestone, a Merger Team Member shall not request to revisit previous concurrence points unless there is profound new information that warrants consideration. Examples for such consideration may include:

- A change in the assumptions on which the project purpose or need was based;
- A change in regulatory authority that extends regulatory jurisdiction to include an area or resource that was not previously regulated;
- Discovery of an impact, resource, or additional information that was not previously identified or did not previously exist; or
- Discovery of engineering limitations.

In some cases, the Merger Team may decide that a change is minor in scope and can be agreed upon without revisiting a concurrence point. For example, if a traffic study prior to CP 3 determines that an intersecting road (Y-line) needs additional storage distance, it may be necessary to expand the project study area. If there are no conflicting resources, the Merger Team may agree that it is not necessary to revisit CP1 to accept this expansion of the project study area and instead agree to it during the CP 3 packet review. In that case, the expansion will be noted in the CP 3 meeting summary and on the CP 3 concurrence form.

Another example that may occur during project development is the determination that a resource in the project study area is eligible for inclusion in the National Register of Historic Places. This may require development of an avoidance alternative and the Merger Team may decide it is appropriate to revisit CP 2.



A change in agency/organization representation on the Merger Team is not sufficient reason to revisit a previous concurrence point, and newly involved representatives will abide by the project decisions made by previous representatives and the Merger Team. A request to revisit a previous concurrence point will be provided by email to the MOU Signatories and will be supported by documentation. The NCDOT Project Manager will provide the Merger MOU Signatories' response in writing to the entire Merger Team.

Can multiple concurrence points be addressed at a single meeting?

Yes. It is encouraged to combine concurrence point meetings when possible and is typically done for smaller, less complex projects. Please refer to the [Combining Concurrence Meetings](#) guidance. Combining concurrence meetings will be considered and, if chosen, noted as part of the [Merger Plan](#).

What are avoidance and minimization measures and how should they be applied throughout Merger?

Avoidance and Minimization Measures (AMMs) seek to avoid or reduce potential impacts to the human or natural environment. [Section 404 of the Clean Water Act](#) requires project proponents (e.g. NCDOT) to first avoid impacts to the aquatic ecosystem, then minimize impacts (to the maximum extent practicable) to the aquatic ecosystem that cannot be avoided, and finally, provide compensatory mitigation for those impacts that are unavoidable. This critical mitigation sequence is required to comply with the [Section 404\(b\)\(1\) guidelines](#). AMMs occur throughout the life of a project and proper documentation is essential to meet the requirements stated above. NCDOT has developed an [Avoidance and Minimization Measures Tracker](#) to be used by all projects, including those in the Merger Process, for documentation purposes. While AMMs are documented throughout project development (see EPU's [Avoidance and Minimization Measures Tracker Guidelines](#)), [CP 4A](#) focuses on documenting AMMs through CP 3 and in preparation for the development of permit drawings. At CP 4A, treatment goals required to meet water quality criteria should be outlined to the extent practicable.

What level of design is required for each concurrence point?

NCDOT will ensure that the design provided throughout the process includes appropriate horizontal alignment, vertical alignment, slope stake limits, and/or buffers to show quantifiable potential impacts to the resources evaluated at each concurrence point. This level of design may be dependent on project characteristics, types of resources in the area, schedule, and available mapping. Generally, impact calculations will be buffered 40 feet from [slope stake limits](#) for CP 2 and 2A and 25 feet from slope stake limits for CP 3 and CP 4A. The NCDOT Project Manager should consider service roads, utilities, and turn lanes when determining appropriate slope stake limit buffers and be prepared to discuss the range of impacts and costs that the slope stake buffers create. Designs are preliminary and subject to change. The NCDOT Project Manager will work with the Merger Team to determine when a design change will require revisiting a particular concurrence point.

What are alternative(s) evaluation criteria and when are they used?

Please see the definition contained in the [Merger Glossary](#). NCDOT uses [alternatives evaluation criteria](#) (aka performance measures or goals) to compare/contrast various alternatives and facilitate the determination of the least environmentally damaging practicable alternative (LEDPA) at CP3. Such measures are typically tied to a project's needs and regulatory requirements and are typically derived after the purpose and need and finalized prior to the alternatives analysis. Evaluation criteria create a



threshold to be met by all viable alternatives, which affords NCDOT (and our regulatory partners) a documented process to eliminate alternatives that do not meet the criteria, resulting in a defensible LEDPA determination. Evaluation criteria generally include quantitative data associated with the project’s defined needs. As referenced in the Merger Plan guidance, the use of evaluation criteria should be initially discussed during screening, with any planned criteria established at or prior to CP2.

While not directly related to alternatives evaluation criteria, NCDOT must also consider what is reasonable, prudent, and practicable. These considerations may tie directly to the project’s purpose and need, or they may include other factors related to cost, safety, public support, community impacts, and regulatory compliance requirements. The NCDOT Project Manager should discuss these evaluations and justifications with the relevant NCDOT and agency units/groups on a regular basis. Such coordination will help to deliver the best possible project.

What kind of permits may be required?

One of the benefits of the Merger Process is that NCDOT properly considers the Clean Water Act permitting requirements during project development and design. During the Merger Process, consideration of the type(s) of permits that may be required will be discussed (i.e., a [Section 404 Nationwide/Regional General/ Individual Permit](#), [Section 401 Water Quality Certification](#), [Buffer Authorization](#), [CAMA Permit](#), or [US Coast Guard Bridge Permit](#)). NCDOT should discuss the anticipated permit requirements with the Merger Team at each concurrence point to ensure they are generally in agreement with the permitting strategy and that decisions made during the Merger Process will allow for a smooth permit application process. The NCDOT Project Manager should consult with the applicable NCDOT Team Member knowledgeable in permitting issues throughout the Merger Process for advice on the permitting process.

Most Merger Projects are likely to apply for one of four different Section 404 permits: [Nationwide \(NWP\) 14](#), [Regional General Permit](#) (these are commonly referred to as GP) [31](#), [GP 50](#), or an Individual Permit (IP). If the project is a best-fit widening project, or a phase of a “phased” best-fit widening project, and the project impacts will exceed the impact thresholds or cannot meet other conditions for authorization under a NWP 14 and/or GP 50, a GP 31 or an IP will need to be considered. To qualify for use of a GP 31, the project (1) must have undergone interagency review and completed the interagency Merger Process, and (2) would cause only minimal individual and cumulative adverse environmental effects.

While there is no impact threshold under GP 31, the USACE will require an IP if the proposed impacts (permanent and/or temporary) of a best-fit widening project, or phases of a “phased” best-fit widening project, would have more than minimal individual and cumulative adverse environmental effects. Additionally, if the USACE determines, on a case-by-case basis, that the concerns for the aquatic environment so indicate, the USACE may exercise discretionary authority to override GP 31 and require an IP. To avoid any confusion about permit type(s) that will be required and allow NCDOT to calculate timelines, permit requirements should be discussed during the Merger Process. However, the USACE will not be able to issue a decision on the use of GP 31 before the Merger Process is completed and they have reviewed the complete application. Note that a GP 31 application usually takes less time to prepare and less time for the USACE to review and issue a verification letter (authorization). See the full text of [GP 31](#) for all requirements.



Are there public involvement requirements for Merger Projects?

Public involvement is a vital part of every NEPA/SEPA project. All projects will follow NCDOT's Statewide Public Involvement Plan. For Merger Projects, Public Involvement must occur prior to CP 3 and NCDOT will share the findings with the Merger Team. See the guidance for [Public Involvement in the Merger Process](#).

Is there a partial Merger Process? Can a project have just a CP 4B and 4C meeting?

There is no partial merger process. Projects can enter the Merger Process at any time during project development. However, concurrence on all points would need to be achieved to complete the Merger Process. This can be done by combining concurrence meetings (see guidance). For challenging projects that are not in the Merger Process, the NCDOT Project Manager may want to hold a meeting/meetings with one of more agency representatives to discuss LEDPA, or Avoidance and Minimization Measures, Hydraulic Design, or Permit Drawings. However, these are not considered Merger Process meetings and agencies should not be asked to sign concurrence forms. Nothing in the current Merger Guidance places a barrier to NCDOT working with resource agencies to achieve permittable projects.



Where can I go for more information?

If you have additional questions that are not included in this document, please refer to the [Merger MOU](#) and the [Merger Roles and Responsibilities](#) guidance. For those who are working on Merger Projects for the first time, coordination with NCDOT's Environmental Policy Unit is recommended.

In Summary...

- **Have a Plan.** Have you reviewed the Merger Plan? What was decided for each concurrence point? If it has been a significant amount of time between concurrence points, the plan may be worth revisiting.
- **Think ahead.** What has happened since the last Merger meeting? How much time does NCDOT need to get the required information for the next Merger meeting packet deadline? What information will help the Merger Team reach concurrence? What can NCDOT do at the meeting to prepare everyone for the next concurrence point? Revisit the true intent of the concurrence point and the intended result.
- **Provide accurate, concise materials.** Be cognizant of providing too much detail and potentially losing the true intent of the material, but also be sure to provide the appropriate level of project background in Merger packets to lay the groundwork for the concurrence being sought. Clearly state the purpose of what NCDOT is trying to achieve up front in the packet as well as in the presentation. Make sure Merger packets are complete and avoid having to present revised or updated information at the meeting itself.
- **Keep the Merger Team Informed.** Do not assume the agency representatives know the project as well as the NCDOT Project Team. If public meetings are being held, make sure Merger Team Members are invited; it is a good opportunity for other members of the Merger Team to stay informed and hear any concerns raised by the public. Keeping the Merger Team members updated is critical for ensuring that any emerging issues or concerns are identified and raised proactively so that the necessary approach for addressing and resolving issues can be pursued in an effective and efficient manner.
- **Keep it simple and consistent.** Many of the Merger Team Members go to Merger meetings multiple times a year for a number of different projects. Use this guidance and the provided templates to keep the presented information consistent with their expectations.
- **And, finally, know what the available resources are.** There are numerous resources at NCDOT's disposal to help navigate the process ([Tips for Virtual Meetings](#), [Agency Map](#), [NCDOT EPU staff](#), etc.). Regardless of your amount of experience, this guidance is meant to make your job easier as a Merger Practitioner!

To learn more about what Participating Agencies have to say about Merger Basics, click [here](#).

GUIDANCE FOR COMBINING CONCURRENCE MEETINGS

Note: Traditionally, the Merger Team sought concurrence in formal, in-person meetings. Technology improvements and recent social distancing requirements have led to an increased use of virtual meetings or achieving concurrence via email and based on the Merger Packet. For the purposes of this guidance, any instance in which concurrence is requested or achieved will be referred to as a Merger Meeting, regardless of whether it is in-person, virtual, or email.

Can we address multiple concurrence points on one concurrence date?

When developing the [Merger Plan](#), the [Merger Team](#) should consider addressing multiple concurrence points on a single scheduled concurrence date (i.e., combined concurrence meetings) when possible. This will allow for the most efficient use of the Merger Team's time and reduce holding unnecessary, additional Merger meetings for a project. However, it is the responsibility of the NCDOT Project Manager to ensure that (1) Merger Team Members are provided with adequate information for each concurrence point to be discussed in advance of the scheduled concurrence date, and (2) a sufficient amount of time is built into the meeting to allow discussion of all issues under consideration. The goal of all concurrence meetings, whether combined or not, is to achieve concurrence. Concurrence must be achieved in point order. For example, if in a combined CP 2, 2A, and 3 meeting if concurrence on CP 2 cannot be reached then concurrence on CP 2A and 3 also cannot be obtained. Each concurrence point should have its own concurrence form. This makes it easier for records retention and if a Concurrence Point needs to be reevaluated in the future (see Merger Basics).

What are the basics of combining Concurrence Meetings?

Since [CP 1](#) is typically held prior to substantive environmental work, it is recommended that CP 1 be addressed independently. Depending on project-specific issues, it is generally reasonable to combine other Merger meetings. Combinations may include CP 2 and 2A, CP 2, 2A and 3, CP 2A and 3, or CP 3 and 4A. For example, for a project with a single Build Alternative and few major hydraulic crossings that are recommended "retain and extend" it may be reasonable to combine CP 2 and CP 2A. For projects where there is only one logical Preferred Alternative or Least Environmentally Damaging Practicable Alternative (LEDPA), it may be reasonable to combine the [CP 3](#) and [CP 4A](#) meetings. Specific items to consider for each potential combined concurrence meeting are discussed below. Note, combining concurrence meetings is not usually recommended for EIS projects.

What items should the Merger Team consider?

Combining the CP 2, CP 2A, and CP 3 meetings

If the project has only one Build alternative, and the project is included in the Merger Process, one combined meeting for these concurrence points should be considered when developing the Merger Plan. It will be necessary for the Merger Team to concur on CP 2 and then CP 2A before CP 3 can be concurred upon. Note that sufficient public involvement must be carried out to meet agency requirements prior to CP3. Therefore, if the three concurrence points are combined and discussed in one meeting, required public involvement activities (see [Public Involvement in Merger](#)) must take place prior to the meeting.

Combining the CP 2 and CP 2A meetings

In some instances, it would not be reasonable to combine alternatives discussions (CPs 2 and 2A) with the LEDPA determination (CP 3). For example, once hydraulics recommendations for major stream crossing structures have been determined, it may be useful to have a separate discussion of potential stream crossings prior to the determination of LEDPA; in this case, a meeting that combines CP 2 and CP 2A should be used. Examples of this include projects where a current major culvert requires replacement due to condition of the culvert or hydraulic conditions or where a change to the type of structure(s) is recommended.

For projects that allow for elimination of alternative corridors once hydraulics information is available, a combined CP 2 and CP 2A meeting may also be useful. This would allow for a more complete discussion of potential impacts associated with various build alternatives, prior to making a decision on alternatives that require additional, detailed study.

Stand-alone CP 2 Meeting

A stand-alone CP 2 meeting is recommended for those projects where a substantive discussion of project alternatives is needed. Please refer to the [CP 2 guidance](#) for additional information for a stand-alone CP 2 meeting.

Stand-alone CP 2A Meeting

If the Merger Team has requested a field meeting, or if a substantive discussion of major crossing structures is needed, a stand-alone CP 2A meeting is recommended. Please refer to the [CP 2A guidance](#) for additional information for that meeting.

Combining the CP 2A and CP 3 meetings

For those projects that required a stand-alone CP 2 meeting, the Merger Team should consider combining the CP 2A and CP 3 meeting. If a combined CP 2A and CP 3 meeting is held, the Merger Team must concur on CP 2A at the meeting before CP 3 can be discussed and concurred upon. Note that sufficient public involvement must be carried out to meet agency requirements prior to CP3. Therefore, if the two concurrence points are combined and discussed in one meeting, required public involvement activities (see [Public Involvement in Merger](#)) must take place prior to the meeting.

Combining the CP 3 and CP 4A meetings

After either a stand-alone CP 2A meeting or a combined CP 2 and 2A meeting, the Merger Team should consider combining the CP 3 and CP 4A meeting. Under the new Merger Process guidance, avoidance and minimization will be discussed at each Merger meeting and will be documented in the Avoidance and Minimization Measures (AMM) Tracker. If the current designs for a project are sufficient to document avoidance and minimization of impacted resources, the combined meeting should be pursued.

Stand-alone CP 3 Meeting

A stand-alone CP 3 meeting may need to be held if a project has multiple viable alternatives. A stand-alone meeting for this reason is most common on new location projects. Frequently, when there are multiple alternatives on new location, the designs are based on LiDAR data. This reduces the amount of time and effort required for designs on alternatives that may ultimately be eliminated. The Preferred Alternative or LEDPA is chosen based on these designs and then revised with survey data. The Merger Team may request to see what additional AMMs were taken once the design of the LEDPA is developed with survey data prior to making a decision on CP4A.

Note that while a stand-alone CP 3 meeting for a project may be necessary, concurrence on CP 4A should be possible via email.

Stand-alone CP 4B and 4C Meetings

In most cases, separate meetings are recommended for [CP 4B](#) and [CP 4C](#).

What is required to combine Concurrence Meetings?

The Merger Plan should outline the plan for combining concurrence meetings to the extent possible and will identify anticipated level of detail to be available at each concurrence point.

Combining the CP 2, CP 2A, and CP 3 meetings

For this option, the following activities must be completed prior to developing the Merger packet:

- Stream, wetland, and buffer and sub-aquatic vegetation (SAV) (if applicable) delineations and verification by the regulatory agencies;
- Updated Environmental Features Map;
- Cultural resource reports and Section 106 and/or Section 4(f) effects determinations, as applicable;
- Surveys for federally listed species and federally designated critical habitat;
- Hydraulic recommendations for major structures;
- [Public outreach](#) sufficient to meet resource agency requirements detailing the potential impacts of the build alternative(s) with a summary of comments received (see [Public Involvement in Merger](#));
- Sufficient design to allow for a representation of impacts based on slope stake limits plus 25 feet (total stream impacts should be summarized to the nearest 10 feet, and total wetland impacts should be noted to the nearest tenth (0.1) of an acre);
- Impacts and detour duration for any off-site detours; and
- Avoidance and minimization measures committed to and/or implemented to date.

Combining the CP 2 and CP 2A meeting and not CP 3

For this option, the following activities must be completed prior to developing the Merger packet:

- Updated Environmental Features Map;
- Stream, wetland, and buffer and SAV (if applicable) location information;
- Locations of potential habitat for federally listed species and federally designated critical habitat;
- Cultural resource reports and location information, if available;
- Hydraulic recommendations for major structures;
- Sufficient design to allow for a representation of impacts based on slope stake limits plus 40 feet (total stream impacts should be summarized to the nearest 100 feet, and total wetland impacts should be noted to the nearest acre); and
- Avoidance and minimization measures committed to and/or implemented to date.

Combining the CP 2A and CP 3 meeting

For this option, the following activities must be completed prior to developing the Merger packet:



- Stream, wetland, and buffer and SAV (if applicable) delineations and verification by the regulatory agencies;
- Cultural resource reports and Section 106 and/or Section 4(f) effects determinations, as applicable;
- Hydraulic recommendations for major structures;
- [Public outreach](#) sufficient to meet resource agency requirements detailing the potential impacts of the build alternative(s) with a summary of comments received (see [Public Involvement in Merger](#));
- Sufficient design to allow for a representation of impacts based on slope stake limits plus 25 feet (total stream impacts should be summarized to the nearest 10 feet, and total wetland impacts should be noted to the nearest tenth (0.1) of an acre);
- If an off-site detour is required, the impacts and detour duration will need to have been determined; and
- Avoidance and minimization measures committed to and/or implemented to date.

Combining the CP 3 and CP 4A meeting

For this option, the following activities must be completed prior to developing the Merger packet:

- Stream, wetland, and buffer and SAV (if applicable) delineations and verification by the regulatory agencies;
- Cultural resource reports and Section 106 and/or Section 4(f) effects determinations, as applicable;
- [Public outreach](#) sufficient to meet resource agency requirements detailing the potential impacts of the Build Alternative with a summary of comments received (see [Public Involvement in Merger](#));
- Sufficient design to allow for a representation of impacts based on slope stake limits plus 25 feet (total stream impacts should be summarized to the nearest 10 feet, and total wetland impacts should be noted to the nearest tenth of an acre);
- If an off-site detour is required, the impacts and detour duration will need to have been determined; and
- Avoidance and minimization measures committed to and/or implemented to date.

Is a pre-meeting required?

For any meeting that includes CP 1 and CP 3, a pre-meeting with at least the Merger [MOU Signatories](#) in attendance is required. For other combined meetings, a pre-meeting is recommended to assist with concerns about the meeting structure or if the project is large or complex. It is anticipated that the pre-meetings will increase the possibility of achieving concurrence based on the final packet.

What happens at the end of and subsequent to the combined meeting?

During the meeting, it will be a Merger Team priority to reach concurrence on the points in the proper order. For example, for a combined CP 2, CP 2A, and CP 3 meeting, the highest priority will be to obtain concurrence on CP 2, then 2A, and finally on 3. If concurrence on all points is achieved based on the packet, next steps will be included in the DocuSign concurrence form. It is also important to discuss what critical information each agency needs prior to developing the next meeting packet to agree on the next concurrence point(s).

There are three potential outcomes of a combined Merger meeting:

1. Concurrence is achieved for all of the discussed concurrence points.
 - After the Merger meeting, the NCDOT Project Manager will send a DocuSign form(s) to the Merger Team within one week so they can formally concur. Each Merger Team Member should DocuSign within one week of receipt.
2. Concurrence is not achieved for all the concurrence points discussed at the meeting and follow-up coordination is needed to obtain concurrence.
 - While it is possible to discuss multiple concurrence points at one meeting, official concurrence is sequential (i.e., the Merger Team must agree on CP 2 before they can agree on CP 2A).
 - Occasionally, one or more Merger Team Member(s) may withhold or delay their concurrence, usually because more information is requested. The NCDOT Project Team will determine how to address the Merger Team Member's concerns to achieve concurrence. This may include:
 - providing additional information,
 - follow-up one-on-one discussions with the agency(ies) not concurring,
 - NCDOT deciding not to provide the additional requested information and asking the non-concurring agency(ies) to provide the reason for non-concurrence in writing, or
 - presenting additional information at a future Merger meeting to obtain concurrence.

The NCDOT Project Manager will ensure that any information provided to the non-concurring Team Member is shared with all members of the Merger Team. In accordance with the [Merger MOU](#), the Merger Team will attempt to resolve issues within 10 working days of the scheduled concurrence date. Once issues have been resolved, the NCDOT Project Manager will send a DocuSign to the Merger Team for signature. Each Merger Team Member should DocuSign within one week of receipt.

3. Concurrence is not achieved at the meeting or within 10 days of the scheduled concurrence date, which initiates the [Merger Conflict Resolution Process](#).
 - The [Merger Management Team \(MMT\)](#) makes a concurrence decision on the point in conflict and the project continues to the next concurrence point.

To learn more about what Participating Agencies have to say about combining Concurrence Meetings, click [here](#).

MERGER PLAN GUIDANCE

What is the Merger Plan?

A Merger Plan is a project-specific plan which details how a project will be processed through Merger. The project-specific Merger Plan provides flexibility to the team so that they can establish the appropriate Merger approach based on project complexity, and other variables specific to that project. The intention of a Merger Plan is to identify the best approach to evaluate a specific project, rather than using a “one-size-fits-all” approach. Considering the specific needs of the project and using this and other Merger guidance documents, the Merger Plan should outline the following:

- Identification of the NCDOT Project Team members, particularly the NCDOT Project Manager and the anticipated roles of any consultants;
- Identification of the lead federal agency and the Merger Team members (see [Merger Roles and Responsibilities](#));
- Factors that led the project to follow the Merger Process (e.g., conflicting resources, number/location of jurisdictional features, substantial controversy, etc.);
- Proposed methodologies, including whether or not alternatives evaluation criteria will be used and when they will be introduced, and level of design to be used at various stages of the project;
- Anticipated project schedule with Merger concurrence points identified, denoting any public involvement and concurrence meetings that may be combined (see [Combining Merger Meetings](#)); and
- Format that Merger meetings will use (e.g., meetings that address multiple concurrence points, field meetings, in-person/virtual meetings, or email concurrence).

The NCDOT Project Team will use the [Merger Plan template](#) to assist with developing the plan.

Who develops the Merger Plan?

The NCDOT Project Manager will lead development of the Merger Plan with support from NCDOT EPU.

When is the Merger Plan developed?

NCDOT will begin drafting a Merger Plan after [Merger Pre-Screening](#) determines the project will proceed to [Merger Screening](#). The draft Merger Plan will be discussed and endorsed by Merger [MOU signatories](#) at Merger Screening or, if unavailable, shortly thereafter. The Merger Plan will be provided to all Merger Team Members with the [Concurrence Point \(CP\) 1](#) meeting packet to allow Merger Team input. Merger Team Members need not concur with the Merger Plan; however, there should be general agreement with the Merger Plan, including advice regarding the project schedule and the type of concurrence meetings anticipated. The Merger MOU Signatories are responsible for overall implementation of the Merger Plan.

Development of the Merger Plan should be discussed at the Merger Screening or CP 1 pre-meeting, and the NCDOT Project Manager will work with the Merger MOU Signatories to streamline and customize the Merger Process to benefit the project. Many factors should be considered when developing the Merger Plan including permitting scenarios; anticipated alternatives and whether they would benefit

from alternatives evaluation criteria; anticipated resource and agency concerns; complexity of the project; and lessons learned from previous projects.

The goal of the Merger Plan is to facilitate efficient evaluation of a specific project to meet the expectations of all parties involved.

Who should be on the Merger Team?

The [Merger Roles and Responsibilities](#) provides further details on the potential Merger Team Members. The Merger Plan will identify, at a minimum, the following:

- Lead federal agency
- Cooperating agencies
- Merger MOU Signatories and partnering agency staff
- NCDOT Project Manager
- NCDOT Project Team Members (including key NCDOT and Consultant staff)

As stated in the Merger Roles and Responsibilities, the Merger [MOU Signatories](#), as well as US Environmental Protection Agency (USEPA), US Fish and Wildlife Service (USFWS), North Carolina Wildlife Resources Commission (NCWRC), NC Historic Preservation Office (NC HPO), and Municipal Planning Organization/Rural Planning Organization (MPO/RPO) representatives will always be invited to participate on the Merger Team. When identifying other Merger Team Members, consider additional permits that may be required for the project, the resources involved and agencies with interests in those resources, as well as other local/regional factors. For example, projects impacting coastal wetlands require Coastal Area Management Act (CAMA) permits and therefore, require NC Division of Coastal Management (NCDOM) input. It would be beneficial to include the NCDOM representative on the Merger Team.

If there are no resources in the [project study area](#) of interest to an agency that is always invited to be on the Merger Team, NCDOT should contact that agency to determine if they would prefer to opt out or have a reduced level of participation in the Merger Process for a project. It is better to let the agency make the decision rather than to assume they would not want to be involved. For example, if there are no federally listed threatened or endangered species or habitat present in the study area, USFWS and NCWRC may choose not to be involved or may choose to limit their involvement to certain concurrence points. The Merger Plan should document an agency's decision to participate or not participate at these concurrence points.

What project details are included in the Merger Plan?

Methodology and Level of Design

The Merger Plan should identify the design elements to be provided and any technical studies that will be completed prior to each concurrence point. For example, on projects with multiple alternatives or alternatives on new location, NCDOT may propose using available spatial datasets and/or predictive modeling for initial analyses. Other projects, such as widenings, may already have detailed survey data available when design begins. If NCDOT is proposing to wait until later in the process before conducting certain detailed field surveys (e.g., wetland delineations, federally listed threatened and endangered species surveys, etc.), this should be discussed and clearly identified in the Merger Plan. Also, the level of design precision and accuracy that will be available at each concurrence point should be noted,

including the source of data used to support each point (e.g., GIS data, field surveys, etc.). Generally, impact calculations will be buffered 40 feet from [slope stake limits](#) for CP 2 and 2A and 25 feet from slope stake limits for CP 3 and CP 4A. (also see [Merger Basics](#)).

For projects on new location or with numerous alternatives, consider developing the initial alternatives (prior to [CP 2](#)) to a lower level of detail, then doing additional work on detailed study alternatives (between [CP 2](#) and [CP 3](#)), and use more refined survey data for the [Preferred Alternative/Least Environmentally Damaging Practicable Alternative \(LEDPA\)](#). For a widening project with limited alternatives, it may make sense to begin design using survey data. At each point in the process, alternatives must be compared based on equivalent level of detail. NCDOT will include these assumptions in the Merger Plan and obtain agency input on the proposed methodology and level of detail for each phase.

If it is determined during Merger Screening that the project would benefit from [Alternatives Evaluation Criteria](#), these criteria will be included in the Merger Plan. Alternatives evaluation criteria are often associated with the ability of an alternative to meet purpose and need and aid in the determination of the least environmentally damaging practicable alternative (LEDPA) at CP 3; these criteria may be discussed at CP 1 but must be refined and endorsed by the Merger MOU Signatories at CP 2 or shortly thereafter. Evaluation criteria for the alternatives should not be arbitrary and capricious nor used to guide the Merger Team to choose a particular alternative or set of alternatives for detailed study. NCDOT's EPU can also help refine any evaluation criteria for the alternatives that are being proposed.

Permitting Considerations

The USACE is responsible for issuance of a [USACE Clean Water Act Section 404 permit](#) for the project (i.e., Nationwide/Regional General/Individual Permit), and the Merger Plan should indicate which type of Section 404 permit is anticipated. The Merger Plan should also indicate any other permits such as [Section 401 Water Quality Certification](#), [buffer authorization](#), [Coastal Area Management Act \(CAMA\) Permit](#), and [US Coast Guard Permit](#). The Merger Process was designed to meet the requirements of both NEPA and Section 404 of the CWA and can be particularly beneficial for projects that will likely require a Section 404 Individual Permit (IP). If an IP is anticipated by the USACE, noting this up front will help Merger Team Members provide meaningful input on project issues that could affect decision-making related to the permit.

Additionally, if the USACE is considering permitting the project using [USACE Regional General Permit 31](#) (commonly referred to as GP31), this should be factored into the development of the Merger Plan; however, as noted in GP31 the USACE cannot make the final determination about the applicability of the use of GP31 for a project until the Merger Process is complete and the application is reviewed.

Schedule and Meeting Format

The Merger Plan should identify anticipated dates for each concurrence point, public involvement activities (See [Public Involvement in Merger](#)) and commit to providing regular updates to the Merger Team. For instance, the NCDOT Project Manager will consider providing an update to the Merger Team every six months via email if there are longer than anticipated stretches between concurrence points. This will keep everyone up to speed on what's happening with the project and minimize surprises if a project is delayed or takes longer between meetings than anticipated. Such updates will benefit all parties over the course of a project's development.



If the NCDOT Project Team is considering combining concurrence meetings (see [Combining Merger Meetings](#)) or believes reaching concurrence can be done via email, this should be discussed with the Merger MOU Signatories at Merger Screening and included in the Merger Plan. The Merger Plan should also indicate the proposed timing and meeting format for each concurrence point and include whether meetings are anticipated to be in-person/virtual or via email.

What happens to the Merger Plan?

Once the Merger Plan is developed, the NCDOT Project Manager should email it to the Merger Team Members for review with the CP 1 Merger Packet. The Plan may be further discussed and refined by Merger Team comments to the Merger Packet or at the CP 1 meeting, if held. The Merger Plan will be a “living document,” meaning that it will be updated throughout the life of the Merger Process to reflect any changes that are made. For example, if after CP 1 the Merger Team decides that it would be appropriate to combine CP 2 and [CP 2A](#), this will be documented in the Merger Plan.

The Merger Plan will be uploaded to the project’s [ATLAS](#) Workbench and/or Connect SharePoint site when it is established and each time it is updated.

To learn more about what Participating Agencies have to say about the Merger Plan, click [here](#).

GUIDANCE FOR PUBLIC INVOLVEMENT IN THE MERGER PROCESS

What are the requirements for public involvement in the Merger Process?

Public involvement is a vital part of both the NEPA/SEPA and Section 404 Processes. All projects will follow [NCDOT's Statewide Public Involvement Plan](#). **For Merger projects, public involvement must occur prior to Concurrence Point (CP) 3** and NCDOT will share the findings with the Merger Team. If a project is to be documented under an Environmental Impact Statement (EIS) and Record of Decision (ROD), public involvement activities should be closely coordinated with the lead federal agency to ensure regulatory requirements (for the EIS distribution in particular) are met.

Public involvement can take many forms; however, at a minimum, NCDOT will send a mailing (postcard or newsletter) and/or hold a public meeting for Merger projects. The mailing and public meeting materials can reference a website (NCDOT project site or NCDOT Public Involvement Public Input site) where detailed information is provided. The public must be provided the following information:

- Project location;
- Existing conditions (land use, control of access type, and water resources including primary nursery areas, essential fish habitat, outstanding resource waters, high quality waters, water supply watersheds, etc.);
- [Purpose and Need](#) for project;
- Project Description;
- Explanation of [Detailed Study Alternatives](#);
- Figure that shows water resources and alternatives.
- Impact tables showing impacts of each alternative, including at a minimum:
 - Historic Architecture (include as a footnote: *"These initial findings are Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the Interim Guidance Documents for Appendix C dated April 25, 2005, and January 31, 2007. The District Engineer consulted district files and records and the latest published version of the National Register of Historic Places."*);
 - Archaeology (include as a footnote: *"These initial findings are Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the Interim Guidance Documents for Appendix C dated April 25, 2005, and January 31, 2007. The District Engineer consulted district files and records and the latest published version of the National Register of Historic Places."*);
 - Wetlands (acres);
 - Streams (feet);
 - Ponds/Open Waters (acres); and
 - Federally listed species and federally designated critical habitat.
- Avoidance and Minimization statement: *"Through development of the preliminary functional designs within the Detailed Study Alternatives (DSAs), NCDOT has attempted to avoid and minimize impacts to streams and wetlands to the greatest practicable extent; where avoidance was not possible, impacts were minimized to the greatest extent practicable. This included developing alignments and interchange configurations for the DSAs that avoided/minimized these resources as much as possible, while also minimizing impacts to other resources. NCDOT will continue to seek ways to avoid and minimize impacts in further design efforts for the selected Alternative."*



- Compensatory Mitigation statement: *“The purpose of compensatory mitigation is to offset unavoidable functional losses to the aquatic environment resulting from project impacts to waters of the United States. NCDOT will investigate potential on-site stream and wetland mitigation opportunities once a preferred alternative has been chosen. If on-site mitigation is not feasible, or if a sufficient amount of mitigation is not available on-site, mitigation will be provided by the NC Division of Mitigation Services (NCDMS), or an approved mitigation bank.”*

Standard Language

The following standard text will be included at the end of all NCDOT-produced materials for the project (e.g. newsletter/meeting handout). Text in brackets and red font (i.e. [Text]) should be replaced with the appropriate project information.

The information provided in this [postcard, newsletter, handout] is also provided on behalf of the Department of the Army, who will, at a future time, be asked for authorization to discharge dredged or fill material into waters of the United States.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments.

For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency’s 404(b)(1) guidelines (40 CFR Part 230).

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Native American Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to select the least environmentally damaging practicable alternative (LEDPA) for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and other public interest factors. Public interest factors may include, but are not limited to: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

All comments received will also be evaluated and used in the determination of whether to (1) process this project under an Individual Permit, in which case the Corps will prepare a project specific Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to NEPA, or (2) verify that this project meets the terms and conditions for use of Regional General Permit 31 or another general permit. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Although all comments provided on the subject project will be shared between the NCDOT Project Team and the Corps of Engineers, comments may also be provided directly to the Corps of Engineers representative for the subject project:



[NAME]

[ADDRESS]

[EMAIL/PHONE NUMBER]

How does this relate to the “Merger Permit Application”?

Following this guidance will eliminate the need for the previous “Merger Permit Application”. This guidance was developed in coordination with FHWA and USACE to ensure that the needs of both agencies are being fulfilled.


To learn more about what Participating Agencies have to say about the Public Involvement Process, click [here](#).

CONCURRENCE POINT 1 GUIDANCE

What is Concurrence Point 1 (Purpose and Need and Study Area Defined)?

Concurrence Point (CP) 1 establishes the project’s [Purpose and Need](#) and [Study Area](#). The primary product of CP 1 is achieving concurrence on a purpose and need statement that clearly states the needs, or problems, that require action in the study area as well as the purpose or objective that the project would achieve. Please refer to the [Roles and Responsibilities Guidance](#) for information on NCDOT and agency tasks.

The purpose and need is the foundation supporting the entire [NEPA/SEPA](#) decision-making and [Section 404 regulatory](#) processes, as established in [23 CFR 771](#) and [40 CFR 230](#), respectively. Per *Synchronizing Environmental Reviews for Transportation and Other Infrastructure Projects: 2015 Red Book* (Red Book), the purpose and need “explains the reason that the action being proposed is needed and serves as the basis for developing a reasonable range of alternatives.” The purpose and need statement is a critical factor in aligning the proposed transportation solution with the U.S. Army Corps of Engineers’ (USACE) [Least Environmentally Damaging Practicable Alternative \(LEDPA\)](#) at [CP 3](#).



TO BE THE LEDPA AND BE AUTHORIZED FOR CONSTRUCTION UNDER A USACE 404 INDIVIDUAL PERMIT, AN ALTERNATIVE MUST MEET THE 404(B)(1) GUIDELINES AND PURPOSE AND NEED

The need is the problem(s) that requires an action. The need sets the factual foundation for the project’s purpose by providing available data and information to identify and describe the nature, characteristics and extent of the problem(s); where feasible, need(s) should relate to quantifiable data. The need should never identify the solution, but instead it should focus on explaining the underlying cause of the problem.

The purpose is a basic statement, two or three sentences long, that succinctly defines the transportation objective(s) intended to satisfy the need(s). There may be more than one purpose that correlates with the needs identified. The purpose should always be achievable, unbiased, and comprehensive enough to generate a reasonable range of alternatives. As noted in the AASHTO Practitioner’s Handbook [Applying the Section 404\(b\)\(1\) Guidelines in Transportation Project Decision Making](#) (August 2016), “If the project purpose is not clearly defined, disputes regarding the practicability of avoidance alternatives become far more likely.”

The study area is the boundary in which potential effects are most likely to occur, based upon the project description and termini defined in NCDOT’s STIP. The boundary of a study area should be large enough that it covers the reasonable range of alternatives, but not so large that NCDOT expends effort (time and budget) on resources that will not be affected by the project.

What items should be considered at CP 1?

For many projects, the purpose and need will revolve around addressing deficiencies of an existing roadway facility or increasing connectivity. There may be multiple factors that are considered in the purpose and need. For examples, please refer to the [Identified Need Form](#) and/or [Problem Statement Guidance](#) on the [NCDOT Connect Site](#). The NCDOT Project Team will use NCDOT’s [Purpose and Need](#)



Guidance as well as other federal guidance documents to help validate the project needs and establish a defensible purpose statement. The NCDOT Project Team is encouraged to coordinate the draft purpose statement with the USACE/NCDWR to discuss how the statement may affect the future LEDPA decision.

Supporting information for CP 1 may be found in the [Comprehensive Transportation Plan \(CTP\)](#), the project Express Design, Merger Pre-screening form, Merger Screening summary, and the [Project Scoping Report](#); relevant supporting information will be summarized in a packet for CP 1, along with any known issues (data gaps, schedule constraints, public input, etc.) that could support the Merger Team’s decision. The NCDOT Project Manager will develop a draft Merger Plan prior to CP 1 and will discuss with agency partners at the CP 1 premeeting. Please see [Merger Plan Guidance](#) for more information.

When determining a potential study area, the NCDOT Project Team needs to strike a balance. If a study area is too large, it will waste time and money on unnecessary surveys. However, if a study area is too small and changes to the potential project take place, requirements for additional surveys can negatively impact schedules. It is generally best to establish a slightly wider than anticipated study area to ensure inclusion of service roads, potential roadway realignments, avoidance of impacts to parks and potential historic resources, and sufficient storage for turning movements.

In many situations, the [NCDOT Project Manager](#), or their designee, will have information on potential alternatives prior to the CP 1 meeting. It is important to not limit alternatives in the CP 1 phase. Alternatives must meet purpose and need to be LEDPA. It is necessary to craft a sufficiently detailed purpose to allow for a complete alternatives analysis.

If the lead federal agency is considering the use of (alternatives) evaluation criteria to assist with the LEDPA decision-making, this should be progressively discussed in the Merger Plan, CP 1 pre-meeting, CP 1 meeting, and future Merger Team meetings. [Evaluation criteria](#) (see inset) are not required on every project; if they are to be used, then they should be collaboratively developed amongst the Merger MOU Signatories and finalized at CP2 or shortly thereafter. Alternatives evaluation criteria are often associated with the ability of an alternative to meet purpose and need and can aid in the determination of the LEDPA at CP 3. Evaluation criteria should not be arbitrary or capricious, nor used to guide the Merger Team to choose a particular alternative or set of alternatives for detailed study. NCDOT Environmental Policy staff can help refine any evaluation criteria for the alternatives that are being proposed. Ultimately, the USACE may rely on the use of such evaluation criteria for their LEDPA concurrence, per their [404\(b\)\(1\) regulations](#).

Per [AASHTO Practitioner’s Handbook #14](#) regarding “evaluation criteria”:
*“Even when agencies agree on a project’s basic purposes, there can be significant disagreements about which alternatives meet those purposes. For example, highway projects often are proposed to address congestion problems. Establishing the existence of the congestion need may be relatively straightforward. The more challenging issue often involves determining how much improvement is needed in order for an alternative to meet the project purpose. **Evaluation criteria** can help to provide a framework for making this judgment. When an individual Section 404(b)(1) Guidelines permit is needed, it is important to engage the Corps as these evaluation criteria are developed.”*

Is a pre-meeting required?

Yes, a pre-meeting with the Merger MOU Signatories is required for CP 1. The NCDOT Project Manager, or their designee, will set up this meeting with the Federal Highway Administration (FHWA, for federal



projects), USACE, and North Carolina Department of Environmental Quality, Division of Water Resources (NCDWR) representatives. This is NCDOT's opportunity to preview the project purpose, need, and study area with regulatory partners prior to the official concurrence meeting, and to discuss potential issues or concerns the [Merger MOU Signatories](#) may have with the project. Other topics that might be discussed in the pre-meeting are [evaluation criteria](#), [logical termini](#), [independent utility](#), and [segmentation](#); these topics should be settled with [Merger MOU Signatories](#) prior to CP1 to avoid any further debate. Where NCDOT is prepared with the necessary information, the NCDOT Project Manager should consider combining this pre-meeting with the Merger Screening meeting. See [Merger Basics](#) for more information on pre-meetings.

What happens after the CPI Meeting?

See [Merger Basics \(What happens at the end of the merger meeting?\)](#) for information on specific items that must occur at the conclusion of every concurrence point meeting.

To learn more about what Participating Agencies have to say about Concurrence Point 1 in the Merger Process, click [here](#).



CONCURRENCE POINT 2 GUIDANCE

What is Concurrence Point 2 (Detailed Study Alternatives Carried Forward)?

The purpose of Concurrence Point (CP) 2 is to establish [Detailed Study Alternatives \(DSAs\)](#) that will be carried forward in the Merger Process for the project. The intent of CP 2 is to gain concurrence on which alternatives will be analyzed in detail for the environmental document. The [No-Build Alternative](#) is also included at CP 2 to serve as a baseline measure for evaluation of the build alternatives. This evaluation compares potential improvements to the baseline condition and helps determine if the project benefits are worth the impacts to the human and natural environment. Agreement on CP 2 does not preclude the development or modification of alternatives as the project moves through the Merger Process. Please refer to the [Roles and Responsibilities Guidance](#) for information on NCDOT and agency tasks.

What items should be considered at CP 2?

To determine which alternatives should move forward for detailed study, the Merger Team should be presented with enough information that allows for a sufficient evaluation of which alternatives meet the purpose and need of the project and a detailed evaluation of resource impacts. This should form the basis of the [Merger Packet](#). It is the responsibility of all Merger Team Members to ensure that agreement on an alternative carried forward at CP 2 means that they believe that alternative could be developed in a way that complies with their specific agency requirements. Asking “what additional information or other considerations may be necessary to achieve concurrence for CP 2” should help identify items that may need to be included in the packet, such as:

- What design criteria were used to develop a proposed typical section?
- Are there any proposed changes to the [project study area](#)? Any modifications should be discussed to determine if they are of sufficient magnitude to require CP 1 to be revisited.
- What alternatives were evaluated and what kind of alternatives analysis framework was used?
- How does each alternative moving forward meet the purpose and need agreed upon at CP 1?
- If evaluation criteria were previously agreed upon, how did each alternative fare under the criteria? The impacts of the alternatives should be analyzed using a buffer of slope stake limits plus 40 feet. At this stage, stream impacts should be summarized to the nearest 10 feet, and wetland impacts should be noted to the nearest tenth (0.1) of an acre.
- What alternatives were recommended for elimination from further consideration and on what basis was the decision made?
- Has there been any public outreach? If so, provide a summary of the outreach and any comments received. See [Public Involvement in Merger](#) for additional public involvement requirements.

Is a pre-meeting required?

A pre-meeting is recommended for this CP for large, complex projects but is not required. See [Merger Basics](#) for more information on pre-meetings.



What happens at the end of and subsequent to the CP 2 Meeting?

See [Merger Basics](#) for information on specific items that must occur at the conclusion of every concurrence point meeting.

To learn more about what Participating Agencies have to say about Concurrence Point 2 in the Merger Process, click [here](#).

CONCURRENCE POINT 2A GUIDANCE

What is Concurrence Point 2A (Bridging Decisions and Alignment Review)?

The purpose of Concurrence Point (CP) 2A is to determine the most practicable [major hydraulic structure\(s\)](#) and review the proposed alignment(s) of the [detailed study alternative\(s\)](#) agreed to at CP 2. This step is done for avoidance and minimization purposes. Please refer to the [Roles and Responsibilities Guidance](#) for information on NCDOT and agency tasks.

What items should be considered at CP 2A?

CP 2A discusses any major hydraulic structure (retained or new) on a project as well as the alignment of each alternative. Structure lengths and sizes are preliminary and subject to change. More detailed hydraulic analysis and plan development, including avoidance and minimization measures, may affect the final dimensions of hydraulic structures.

Culverts are considered major structures if they are equal to or larger than a 72-inch pipe or have an opening equal to or greater than 30 square feet. All bridges are considered major structures. This information is included in the Hydraulic Planning Report, which is used to determine the length of bridge or size of culvert that is needed for hydraulic conveyance. The report also details any issues with existing structures that require replacement/modification/extension due to current condition or hydraulic conditions. Cost estimates and impact analysis using slope stake limits plus a 40-foot buffer should be used for evaluating new or replacement structures. NCDOT recommends including estimated stream/wetland mitigation costs in the estimates, if possible, generally with a 2:1 ratio assumed. Estimates should be prepared to a level that provides an “apples to apples” comparison.

At a minimum, a line and grade alignment and impacts assessment using slope stake limits plus 40 feet of each alternative should be provided.

Unless a field visit is required, the Merger Team should consider discussing CP 2A on the same day as other concurrence point discussions. See [Combining Concurrence Meetings](#) guidance.

The alignment review is used to provide a summary of impacts, especially in areas where protected resources may be in conflict associated with the proposed crossing structures. Because the nature of potential conflicts vary, alignment reviews should be project specific. One best practice would be to provide an impacts matrix with the CP2A meeting packet.

What kind of meeting is needed?

Depending on the project’s hydraulic and alternatives considerations, the NCDOT Project Manager, in collaboration with the Merger [MOU Signatories](#), may opt for achieving concurrence via email, an in-person or virtual meeting, or a field meeting. The [Merger Plan Guidance](#) includes information in developing the tentative concurrence meeting format decisions.

Prior to the discussion with the Merger MOU Signatories concerning the type of meeting, NCDOT Project Team will furnish the Merger MOU Signatories with information about the major hydraulic structures, such as location, existing structure(s) versus proposed structure(s), photographs, and potential impacts. The NCDOT Project Manager should also review the Merger Plan and determine if there is a reason to



change the anticipated meeting type. If there are potential changes, the Project Manager should discuss with the Merger MOU Signatories.

Email Concurrence

The [Merger MOU Signatories](#) will determine if a meeting is not required and if concurrence can be achieved via email. If this is pre-planned, it will be noted in the [Merger Plan](#) and discussed at the prior concurrence meeting.

In-Person or Virtual Office Meeting

Depending on the number and location of the major hydraulic structures, or at the determination of the [Merger MOU Signatories](#), an in-person or virtual office meeting may be preferred. Sometimes it is more helpful and practical to show the project and major hydraulic locations using Google Earth and digital photos rather than visiting the site. The [NCDOT Project Manager](#) should discuss project-specific issues with the [Merger MOU Signatories](#) to determine the proper meeting format.

Field Meeting

Some Merger Team Members may want to visit the project site, particularly if the project is controversial, has resources within their agency's jurisdiction, and/or has problems related to right of way and the transportation setting. If the [Merger Team](#) determines that a field meeting is appropriate, the [NCDOT Project Manager](#) or their designee will consider the following:

- Is an on-site preliminary discussion needed? If so, determine location;
- Notify landowners at sites you intend to visit;
- Determine where Merger Team Members will meet (consider parking locations and carpooling);
- Have a plan of action of which sites to visit, preferably based on pre-meeting correspondence with Merger Team Member preferences;
- Determine how the team will access the site (sometimes it may be helpful to flag or clear a path a day or two before the meeting for ease of movement and safety); and
- Identify nearby hospitals and potential emergency needs.

If the Merger Team determines that a site review via Google Earth with appropriate GIS layers and photos is preferable to a site visit, individual Merger Team members may visit the site independently. If individual Merger Team members wish to visit the site independently, they will need to coordinate with NCDOT who will notify the landowners.

Is a pre-meeting required?

A pre-meeting is not required for CP 2A. It may be useful for more complex projects with substantial environmental concerns.

What happens at the end of and subsequent to the CP2A meeting?

See [Merger Basics](#) (What happens at the end of the merger meeting?) for information on specific items that must occur at the conclusion of every concurrence point meeting.

To learn more about what Participating Agencies have to say about Concurrence Point 2A in the Merger Process, click [here](#).

CONCURRENCE POINT 3 GUIDANCE

What is Concurrence Point 3 (Least Environmentally Damaging Practicable Alternative/Preferred Alternative)?

The purpose of Concurrence Point (CP) 3 is to establish the [Least Environmentally Damaging Practicable Alternative \(LEDPA\)](#). The LEDPA is the best solution to the problem satisfying the purpose and need, considers environmental and community resources, and meets the US Army Corps of Engineers' (USACE) [Section 404 \(b\)\(1\) guidelines of the Clean Water Act \(CWA\)](#) regulatory requirements. The Preferred Alternative is the solution that meets NCDOT's NEPA/SEPA requirements; if it satisfies all CWA requirements it will align with the LEDPA. CP 3 is the culmination of the merger decision-making process from a NEPA perspective, and it is a foundational element for the eventual USACE permit decision.

What items should be considered at CP 3?

Selection of the LEDPA at CP 3 is based upon the thorough analysis of alternatives selected for detailed study at [CP 2](#), excluding any alternatives removed from further study at CP 2A. Therefore, it's important to present to the Merger Team any differences in analyses between alternatives to inform their decision on the LEDPA. Determining these differences should form the basis of the Merger packet. Also asking "what additional information or other considerations may be necessary to achieve concurrence for CP 3" should help identify items that may need to be included in the packet:

- Has NCDOT identified a **Preferred Alternative**? How does the Preferred Alternative fulfill the transportation need(s)? Is there any unresolved issue or concern that could hinder getting concurrence? If so, what is the proposal for resolving the issue?
- If **evaluation criteria** were previously agreed upon, how did each alternative fare under the criteria? The alternatives are typically analyzed based on slope stake limits plus 25 feet.
- What **key issues** should be discussed regarding community effects, water resources, cultural resources, protected species, and design components that help to explain why the LEDPA has been identified?
- Will **cost estimates** be useful in comparing and contrasting the alternatives? If both regulatory and cost considerations will drive the LEDPA decision, both should be clearly presented in the packet and discussed in the pre-meeting.
- Is a summary of **public outreach** efforts (detailing the potential impacts of the build alternatives) available and **sufficient to meet resource agency requirements**? What input and insight into the assessment of the alternatives did the public provide that informed NCDOT's identification of their Preferred Alternative?

Is a pre-meeting required?

A pre-meeting among the Merger [MOU Signatories](#) is required for CP 3. Under the Clean Water Act, the determination of LEDPA is made by the USACE. Things to consider when having a pre-meeting for CP 3 with the MOU signatories could include:

- Do the MOU signatories have any questions related to the identification of the LEDPA that require resolution to allow concurrence?



- Is there a pending issue that could hinder getting concurrence? If so, what actions are needed to resolve the issue?
- Have there been any modifications to an alternative to such an extent that the Merger Team may need to revisit a previous concurrence point?
- Should any additional items be added to the agenda for the CP 3 meeting?

What happens subsequent to the CP3 Meeting?

Concurrence Point 3 directly correlates with the timing of NCDOT's NEPA/SEPA documentation:

- If NCDOT is preparing a [Categorical Exclusion \(CE\)](#) or a combined [State Environmental Assessment \(SEA\)/Finding of No Significant Impact \(FONSI\)](#), the environmental document will be completed after the CP 3 meeting.
- If NCDOT is preparing an [Environmental Assessment \(EA\)](#), followed at a later date by the FONSI, the EA may predate concurrence on CP 3, but the FONSI cannot be completed until after CP 3.
- If NCDOT is preparing an [Environmental Impact Statement \(EIS\)](#), the [Draft EIS](#) may predate concurrence on CP 3, but the [Final EIS](#) is generally completed after CP 3. CP 3 concurrence is required prior to development of the [Record of Decision \(ROD\)](#) if the project is in Merger.

See [Merger Basics](#) for more information on pre-meetings and information on **specific items that must occur at the conclusion of every concurrence meeting.**

To learn more about what Participating Agencies have to say about Concurrence Point 3 in the Merger Process, click [here](#).

CONCURRENCE POINT 4A GUIDANCE

What is Concurrence Point 4A (Avoidance and Minimization Measures)?

Concurrence Point (CP) 4A is the point at which NCDOT summarizes all [avoidance and minimization measures](#) (AMMs) committed to and/or completed throughout project development. AMMs can apply to a range of impacts to the natural and human environment. [Section 404 of the Clean Water Act](#) requires project proponents (e.g., NCDOT) to first avoid impacts to the aquatic ecosystem, then minimize impacts (to the maximum extent practicable) to the aquatic ecosystem that cannot be avoided, and finally, provide compensatory mitigation for those impacts that are unavoidable. This critical mitigation sequence is required to comply with the [Section 404\(b\)\(1\) guidelines](#). AMMs occur throughout the life of the project and proper documentation is essential to meet the requirements stated above. NCDOT has developed an [Avoidance and Minimization Measures Tracker](#) to be used by all projects, including those in the Merger Process, for documentation purposes. Please refer to the [Roles and Responsibilities Guidance](#) for information on NCDOT and agency tasks.

What items should be considered at CP 4A?

It is important to understand that AMMs should occur from project conception through final design. All AMMs for all resources must be documented by the NCDOT Project Team, using the Avoidance and Minimization Measures Tracker on the project's Connect SharePoint site.

The NCDOT Project Team will follow [NCDOT Avoidance and Minimization Measures Tracker Guidance](#) throughout the life of the project, to show that resources have been considered and effects of the project have been avoided or minimized to the extent practicable. The AMMs guidance is intended to not only explain how to use the Tracker, but also to facilitate discussion and documentation of avoidance and minimization measures throughout project development and at particular concurrence points. AMMs provided as a summary at each concurrence point are NOT part of the concurrence point for signature; they are documented to meet the requirements of [Section 404 of the Clean Water Act](#) and provided to the Merger Team for review.

Avoidance and minimization measures may concern either natural or human resources. A summary of the avoidance and minimization to date should form the basis of the CP 4A Merger packet. By also asking "what additional information or other considerations may be necessary to achieve concurrence for CP 4A?" should help identify items that may need to be included in the packet:

- What decision regarding the type of 4A meeting was made at the conclusion of CP 3 or included in the [Merger Plan](#)? The [NCDOT Project Manager](#), or their designee, may contact the Merger [MOU Signatories](#) to confirm if this concurrence point can be handled via email. If there have been substantive changes since CP 3, it may be helpful to have an in-person or virtual meeting to discuss changes.
- Are there any avoidance and minimization measures that occurred during the [Long Range Transportation Plan](#), [Express Design Evaluation](#), and/or [Project Scoping Report](#) phase, before entering project development? For example, a design concept may be determined to be infeasible due to its effects on surrounding resources during the planning phase, and it is important to share this information with the Merger Team.



- What decisions that avoid or minimize impacts to resources have been made with “engineering judgment” by the NCDOT Project Team? For example, when the project first starts, decisions may be made to avoid an important resource entirely or to use a particular slope ratio due to knowledge of the project area and existing resources. These decisions may feel like common sense, but it is important to make sure that they are properly documented and recorded to demonstrate to the Merger Team how these decisions impact later stages of project development and avoidance and minimization measures that have already occurred.
- What are the impacts of the project? Using the Avoidance and Minimization Measures Tracker, a summary of avoidance and minimization measures, including a table of impacts, should be provided as the CP 4A packet. The table of impacts should be based on [slope stake limits](#) plus an additional 25-foot buffer. Impacts will be documented using the following:
 - Jurisdictional resource delineations and mapping, including the [WET file](#);
 - CAMA Wetlands and SAV impacts, summarized to the hundredth of an acre and/or square feet;
 - Completed [Section 106 of the National Historic Preservation Act](#) and/or [Section 4\(f\) of Department of Transportation of 1966 Act](#) (if applicable) avoidance and minimization documentation, especially if it requires certain design elements;
 - If applicable, location, type, and size of [major hydraulic structures](#);
 - If applicable, completed [Section 7 of the Endangered Species Act](#) avoidance and minimization documentation, especially if it requires certain design elements;
 - Roadway and hydraulic design that includes a set alignment with slope stake limits;
 - If NCDOT has proposed on-site mitigation, a concept plan needs to be prepared for the meeting; and
 - Following requirements set by the Post Construction Stormwater Manual, an explicit determination of treatment goals that must be met to meet water quality needs should be outlined to the maximum extent practicable.

At this stage, total stream impacts shall be summarized to the nearest 10 feet, and total wetland impacts shall be noted to the nearest tenth (0.1) of an acre.

Is a pre-meeting required?

A pre-meeting is not required for CP 4A. However, if a project has unusual challenges or if avoidance and minimization measures noted at previous concurrence point meetings are no longer applicable, it is recommended that you discuss these with the [Merger MOU Signatories](#) prior to the scheduled concurrence date. See [Merger Basics](#) for more information on pre-meetings.

What happens at the conclusion of and subsequent to the CP 4A Meeting?

See [Merger Basics](#) for information on specific items that must occur at the conclusion of every concurrence point meeting. As the project progresses with more refined design, any avoidance and minimization measures taken must continue to be documented using the Tracker. The [NCDOT Project Manager](#) should ensure that any commitments made during the Merger Process are listed on the Project Commitments Dashboard, validated, and fulfilled.



If there are changes to the avoidance and minimization measures (from what was discussed at CP 4A), NCDOT will coordinate with the [Merger MOU Signatories](#) to determine how to best notify the other team members (e.g., meeting, teleconference, email, etc.).

To learn more about what Participating Agencies have to say about Concurrence Point 4A in the Merger Process, click [here](#).



CONCURRENCE POINT 4B GUIDANCE

What is Concurrence Point 4B (Hydraulic Design Review)?

The purpose of Concurrence Point (CP) 4B is to review the preliminary drainage design layout with the Merger Team, with the intent of incorporating the Merger Team's comments into the drainage design. CP 4B occurs once NCDOT completes a preliminary drainage design, and CP 4B needs to be completed prior to the Field Inspection Plan Set. For CP 4B and 4C, an in person or virtual meeting is typically required. Please refer to the [Roles and Responsibilities Guidance](#) and [NCDOT's Guidance for Concurrence Point 4B Meeting and Plans](#) for information on NCDOT and agency tasks. For all projects, including those not in Merger, permit pre-application meetings are always encouraged.

What items should be considered at CP 4B?

The NCDOT Guidance for Concurrence Point 4B Meeting and Plans includes step-by-step instructions on how the plan set and plan sheets should be developed for the meeting. The Merger Team should review the CP 4A Meeting summary. Items that facilitate agency review and understanding of the proposed plans should be provided to the Merger Team. The plan set may include:

- Plan set
- Design as a .kmz file for use with Google Earth
- Cross sections
- Roadway typical sections
- Existing drainage patterns and ditch descriptions
- Site Photos and field notes
- Information on any issues with utility relocations
- Fish passage for proposed/existing culverts
- Draft Stormwater Management Plan
- Resource/Regulatory History and Considerations (to include context for the current concurrence point)
- Data to evaluate appropriate burial depths, buffer requirements, sill/baffle needs, stream stabilization measures, or other proposed methods to address hydraulic and habitat issues
- Relevant materials identified in the NCDOT's [Guidance for Concurrence Point 4B Meeting and Plans](#); and
- Other relevant documentation and any outstanding issues.

Agency representatives will review structures, hydraulic features, buffers, and utility relocations with a potential to affect protected resources.

Is a pre-meeting required?

A pre-meeting is not required for CP 4B.

What happens at the end of and subsequent to the CP 4B meeting?

See [Merger Basics](#) for information on specific items that must occur at the conclusion of every concurrence point meeting.

There is no concurrence form for CP 4B.

To learn more about what Participating Agencies have to say about Concurrence Point 4B in the Merger Process, click [here](#).



CONCURRENCE POINT 4C GUIDANCE

What is Concurrence Point 4C (Permit Drawing Review)?

The purpose of Concurrence Point (CP) 4C is to allow the Merger Team to review the Permit Drawings (which includes the Buffer Permit Drawings, if applicable) before the drawings are submitted with the permit application(s). This allows for a smoother review of the permit application(s). CP 4C occurs after [CP 4B](#), NCDOT's field inspection meeting, final hydraulic design, right of way plans, utility relocation design, the FEMA compliance package, and FERC pre-application coordination (if applicable). Please refer to the [Roles and Responsibilities Guidance](#) for information on NCDOT and agency tasks. For all projects, including those not in Merger, permit pre-application meetings are always encouraged.

What items should be considered at CP 4C?

It is highly recommended that the MicroStation design file be converted to a .kmz for use in Google Earth and/or have the MicroStation design file available to be shown during the meeting. This will provide a better understanding of the design relative to known features and can allow for a more detailed examination of the design.

For projects that will require a Buffer Authorization, Buffer Permit Drawings will also be reviewed by the Merger Team at the CP 4C meeting. Buffer Permit Drawings will clearly delineate Zone 1 and Zone 2 buffers. If utility impacts are available, they will also be discussed during CP 4C.

What happens before the meeting?

The NCDOT Project Manager or their designee will prepare a CP 4C materials.

Information needed for the meeting:

- Stream and wetland delineations must be completed (WET file) with stream, wetland, buffer, and [CAMA](#) sites verified by the agencies, including stream flow classifications and mitigation ratio decisions;
- Location of water supplies, Outstanding Resource Waters and High Quality Waters;
- [Bridge Survey Report \(BSR\)](#) and [Culvert Survey Report \(CSR\)](#);
- Buffer treatment calculations, if necessary;
- If applying for a [Coastal Area Management Act \(CAMA\)](#) permit, the pre-application meeting with NC Division of Coastal Management (NCDPCM) should be completed.

The provided information shall include the following:

- Agenda and invitee list for the meeting;
- [Avoidance and Minimization measures](#) to date with any additional measures taken during final drainage design;
- Resource/Regulatory History and Considerations (to include context for the current concurrence point);



- Relevant materials identified in the NCDOT's [Guidance for Concurrence Point 4C Meeting and Plans](#); and
- Other relevant documentation and any outstanding issues.

What should be discussed during the meeting?

The NCDOT Hydraulic Engineer, or their designee, will introduce the project and then go through the permit drawing sheets one by one and explain the impacts at each jurisdictional site. Any stream relocations and/or ditching in wetlands should be discussed along with wetland impact types. For example, can hand clearing be done in areas to reduce permanent impacts? Discussions should also include final construction methods for bridges and culverts, and additional avoidance and minimization measures in design and during construction. The NCDOT Project Team will discuss all comments from resource agencies made at CP 4B concerning aquatic life passage (1) if NCDOT's analysis after CP 4B does not allow agency recommendations concerning issues such as installing baffles and/or sills, or not splitting baseflow, and (2) if NCDOT changes any agreed upon (at CP 4B) structures where baffles and/or sills were to be installed, or commitments to not split baseflow. Additionally, if NCDOT previously noted that they would, or would look into, addressing any existing deficiencies that are located at the inlet and/or outlet of the existing culvert/pipe by the proposed work, and have now determined that they cannot, NCDOT will detail reasons to the Merger Team at this meeting.

If available, NCDOT will discuss impacts to jurisdictional sites due to utility impacts. If applicable, any on-site mitigation designs could be discussed by NCDOT EAU and depicted on the permit drawing sheets.

Is a pre-meeting required?

A pre-meeting is not required.

What happens at the end of and subsequent to the CP 4C Meeting?

The NCDOT Hydraulic Engineer, or their designee, should leave enough time at the end of the CP 4C meeting to:

- Review any action items and discuss the permitting strategy and mitigation measures with the permitting agencies (USACE, NCDWR, and NCDOT).
- Discuss the schedule of the permit application and Let date along with any agreed upon [avoidance and minimization measures](#); these will be documented in the meeting minutes.

There is no concurrence form for CP 4C. After the meeting, the NCDOT Hydraulic Engineer, or their designee, shall:

- Circulate the draft meeting minutes for a two-week review. The final meeting minutes will serve as approval of CP 4C.
- Upload the final meeting documentation to the project's [ATLAS Workbench](#).

To learn more about what Participating Agencies have to say about Concurrence Point 4C in the Merger Process, click [here](#).

APPENDIX A

MERGER PRE-SCREENING INSTRUCTIONS

&

MERGER SCREENING GUIDANCE



What is Merger Pre-Screening?

Merger Pre-Screening is an internal NCDOT process to determine if a project could benefit from following the Merger Process and if formal [Merger Screening](#) should be pursued. Merger Pre-Screening is documented in the project's [ATLAS Workbench](#) on the [NCDOT Connect Scoping Site](#). The Merger Pre-Screening tab in the Workbench should be completed as part of the Project Scoping Report or during project initiation by the NCDOT Project Manager, or their designee.

There are two possible outcomes of pre-screening: 1) the Merger Process is not recommended for the project; or 2) Merger Screening is recommended. The recommendation is made based on an evaluation of available project information with respect to key merger indicators, including Clean Water Act Section 404 requirements, proposed project activities, potential conflicting impacts to resources, and intensity of potential impacts. Merger Screening is the formal process of coordinating with the [MOU Signatories](#) to decide if a project should be placed into the Merger Process.

Updates or revisions to the Merger Pre-Screening process will be discussed and reviewed by the [Merger Management Team](#) (MMT).

What are the instructions for completing Merger Pre-Screening?

Use the following instructions to complete the Merger Pre-Screening tab in the [ATLAS Workbench](#). If Merger Pre-Screening indicates that Merger Screening is recommended, see the [Merger Screening Guidance](#) for additional information. Once completed, notify NCDOT EPU that the pre-screening has been completed. Additional information may be uploaded or included in the project record to justify responses as needed.

MERGER PRE-SCREENING QUESTIONNAIRE

Answer the Merger Pre-Screening Questionnaire questions in the Workbench based on the best available information to determine if the project should be considered for the Merger Process. Select the appropriate response and follow the instructions for that answer.

Question 1: Is the project likely to require Section 404 approval?

Since the purpose of the Merger Process is to coordinate the National Environmental Policy Act (NEPA)/North Carolina Environmental Policy Act (SEPA) process with Clean Water Act Section 404 approvals, the first step in deciding if a project should use Merger is to determine if the project is likely to require any type of Section 404 approval. Section 404 approval is required from the US Army Corps of Engineers (USACE) for any project that impacts waters of the US (e.g., rivers, streams, wetlands, lakes, ponds, seeps, springs, etc., that are determined to be jurisdictional). This includes impacts that would require a General Permit (e.g., Nationwide or Regional General Permit) or an Individual Permit (IP).

Review available data for streams, wetlands, and surface waters. At this point, available data could be from ATLAS and/or field surveys. If there are any streams, wetlands, and/or other surface waters present in the study area (as defined in the express design/project scoping process or during project initiation for the project), then select YES. If the project is unlikely to have impacts to these resources,



either because there are no jurisdictional resources or the resources are so far from the proposed project that there is no chance of an impact, then select **NO**.

Question 1 Response:

If **YES**, Section 404 approval is likely to be required, proceed to question 2.

If **NO**, Section 404 approval is not likely to be required, then the pre-screening is complete, and Merger is not recommended for the project. Skip to the Conclusion section of the Merger Pre-Screening tab and notify NCDOT EPU that screening has been completed and Merger is not recommended.

Question 2: Is the project likely to require a Type III Categorical Exclusion (CE) or higher level of documentation?

Regardless of the actual funding for the project, review the FHWA/NCDOT [CE Agreement](#) (*Documentation Requirements and Approval Procedures for Federal-Aid Projects Classified as Categorical Exclusions*, October 21, 2019) to determine if the project would qualify as a CE (or state-funded equivalent Minimum Criteria Determination Checklist) and the type of CE the action would be considered. Appendices A, B, and D of the CE Agreement include listings of actions that are Type I and II. Appendix C describes Type III actions. Other actions that could have greater levels of impacts would require an Environmental Assessment (EA)/ State EA (SEA) or Environmental Impact Statement (EIS). Consult with NCDOT EPU if it is unclear what documentation the action may need.

If the project would fall into the **CE Type I (A, B, or C)** (*see Type I exception below*) or **Type II (A or B)** categories (*see Type II exception below*), the project is not likely to have conflicting impacts to regulated resources that would require Merger-level agency coordination. Therefore, select **NO**.

Type I Exception: *For purposes of Merger Screening, Type I Action #23 (federal funding and project cost) should not be used as the sole criteria for determining that an action would be a Type I.*

Type II Exception: *If the project is a Type II Action #13 (Actions described in paragraphs 26, 27, and 28 of Appendix A [Type I Actions] that do not meet the constraints in 23 CFR 771.117(e)(1-6)), then select YES. These actions may have conflicting impacts to resources and should be considered further.*

If the project would be a **CE Type III** or would require an **EA/SEA** or **EIS**, then it could have conflicting impacts to multiple resources and may benefit from being in Merger. Select **YES**.

Question 2 Response:

If **YES**, the project would require a Type III CE or higher level of documentation (or Type II #13), proceed to question 3.

If **NO**, the project would be classified as a Type I or II CE (except Type II #13), then Merger is not recommended for the project and the pre-screening is complete. Skip to the Conclusion section of the Merger Pre-Screening tab and notify NCDOT EPU that screening has been completed and Merger is not recommended.

Question 3: What resources have the potential to be impacted by the project?

At this phase of project development, the exact impacts of the proposed project are not known. Identify the resources that could be impacted by the project based on the environmental screening completed for the Project Scoping Report or during project initiation. The resources listed in question 3 are not all the resources that a project could affect; however, they are the resources that could trigger involvement of one or more regulatory agency(ies) and indicate that the project could be a candidate for the Merger Process.

Review the Project Scoping Report, specifically the Preliminary Environmental Considerations (PEC) Checklist, to determine what resources were identified in the vicinity of the project and if impacts are possible. **Table 1** below notes the applicable PEC Checklist question(s) for each resource. In general, select the resources that appear to be within the proposed right of way or in the study area and have the potential to be impacted by the project. When in doubt, err on the side of caution and select the resource. The responses will be used for discussion with agency representatives if it is concluded that Merger Screening is recommended.

Table 1. Study Area Resources

Resource	PEC Checklist Question(s)
NATURAL ENVIRONMENT	
Stream(s)	12
Wetland(s)	12
Surface water(s)	12
Water supply critical area(s)	10
Wild & Scenic River(s)	19
CAMA Area(s) of Environmental Concern	17
Threatened & Endangered species or potential habitat	1, 2, 8
Protected land(s)	20, 26, 27
HUMAN ENVIRONMENT	
Historic site(s)/District(s)	7, 14
Archaeological resource(s)	7, 14
EJ community(ies)	4
Park(s)/recreation area(s)	6, 26, 28
Federal land(s)	21
Major change(s) in access	22, 23, 24
Unusually large number of relocations	5
Other resource(s) of local importance	31



PUBLIC/STAKEHOLDER	
Substantial negative comments/organized opposition	3
Local government opposition	25
Other permit(s) required (FERC, USGC, etc.)	13, 18

Question 3 Response:

Select all that apply and proceed to question 4.

Question 4: Do any of the resource impacts conflict?

In reviewing the potential impacts of projects, it is important to consider the potential conflict of the important resources. Conflict means that avoiding or minimizing impacts to one resource could create impacts to another resource(s). Multiple resources may be involved or impacted by the project, but if they are not in conflict then Merger may not be needed. Resources should be shown on environmental features mapping, either developed using ATLAS or be reviewing existing mapping (available from the Project Scoping Report or project initiation process) and determine if there is a potential conflict between two or more resources. If there does appear to be a potential conflict or if it is unclear, select **YES**. If there do not appear to be any conflicts, then select **NO**.

Question 4 Response:

If **YES**, Merger Screening is recommended. Provide the completed Merger Pre-Screening Form, with attachments as needed, to NCDOT EPU for review. NCDOT EPU will review the form and attachments and coordinate with the NCDOT Project Manager to determine the next steps.

If **NO**, there do not appear to be conflicting resources. Proceed to question 5.

Question 5: If there are not conflicting resources, could there be substantial impacts to one or more resource(s)?

This question is intended to look at the intensity of potential project impacts to one or more resource(s) when there are no conflicting resources. The level of potential impacts and permitting should be evaluated to determine if the project could benefit from being placed in Merger.

Determine potential impacts to waters of the US (streams, wetlands, and surface waters) and other resources identified in question 3 using available GIS or field data for the resources for the proposed right of way (if available) for the project from the express design and project scoping process. Thresholds for potential impacts to most resources are subjective. In general, if the impacts seem high based on professional judgement or the project may benefit from the enhanced interagency coordination provided through the Merger Process, select **YES** and coordinate with NCDOT EPU.

Potential impacts should be rounded to the nearest tenth (0.1) acre (for wetlands, surface waters, and other property impacts) or to the nearest 100 feet for streams. If proposed right of way limits are not available, another method of estimating potential impacts could be used. Whatever method is used, it should be documented and attached to the Merger Pre-Screening Form. It should also ensure that



potential impacts are not underestimated. At this early phase of the project, it is better to be conservative and overestimate potential impacts.

Review permitting requirements and thresholds for a Section 404 Individual Permit, Regional General Permit 31, and applicable Nationwide Permits (available at <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Permits/>), and discuss potential impacts to waters of the US with NCDOT ECAP, the Division Environmental Officer (DEO), or another permitting specialist. If a Section 404 IP is required, or likely to be required due to potential project impacts, then it may benefit from the Merger Process. Select **YES** and coordinate with NCDOT-EPU.

Question 5 Response:

If **YES**, the project could have substantial impacts to one or more resource(s), and Merger Screening is recommended. Skip to the Conclusion section of the Merger Pre-Screening tab and notify NCDOT EPU that Merger Screening is recommended. NCDOT EPU will review the form and attachments and coordinate with the NCDOT Project Manager to determine the next steps.

If **NO**, the project is not anticipated to have substantial impacts then pre-screening is complete, and Merger is not recommended. Skip to the Conclusion section of the Merger Pre-Screening tab and notify NCDOT EPU that pre-screening has been completed and Merger is not recommended.

MERGER PRE-SCREENING DETERMINATION

Merger Pre-Screening will conclude with either of the following determinations and subsequent actions:

Merger is not recommended. Screening is complete; notify NCDOT EPU that pre-screening is complete and Merger is not recommended.

OR

Merger Screening is recommended. If Merger Screening is recommended, notify NCDOT EPU. NCDOT EPU will coordinate with the NCDOT Project Manager to determine if the project will proceed to formal Merger Screening and discussion with Merger MOU signatory agencies.

If NCDOT EPU disagrees with the pre-screening outcome, they will coordinate with the NCDOT Project Manager to resolve and determine a path to move forward.



What is Merger Screening?

Merger Screening is the formal process where the [NCDOT Project Team](#) coordinates with the [Merger MOU Signatories](#) to decide if a project should be placed into the Merger Process. The decision to place a project into the Merger Process is made based on an evaluation of available project information with respect to key merger indicators, including Section 404 Clean Water Act requirements, proposed project activities, potential conflicting resource impacts, amount of impacts, and intensity of impacts.

It is more efficient to put a project in the Merger Process early on and remove it later, rather than to screen it out and find out later that it should have been in Merger.

How do you know if a project should be placed in the Merger Process?

NCDOT will complete Merger Pre-Screening using the [Merger Pre-Screening Instructions](#). Merger Pre-Screening should be completed for all NCDOT projects through the project's [ATLAS Workbench](#). The pre-screening will result in one of two possible conclusions: 1) the Merger Process is not recommended for the project; or 2) Merger Screening is recommended. NCDOT EPU will review the completed pre-screening and supporting information. If NCDOT EPU agrees that Merger Screening is appropriate, then NCDOT EPU will coordinate with the NCDOT Project Manager to determine how to accomplish Merger Screening.

If new information is presented during project development that warrants a second look at whether the project should be in the Merger Process, the NCDOT Project Team should discuss that development with NCDOT EPU.

How does Merger Screening relate to Merger Pre-Screening?

[Merger Pre-Screening](#) is an internal NCDOT process to determine if a project could benefit from following the Merger Process and if formal Merger Screening should be pursued. Merger Pre-Screening should be completed by NCDOT through the project's [ATLAS Workbench](#) as part of the [Project Scoping Report](#) or during [project initiation](#).

When does Merger Screening occur?

While Merger Screening can occur at any time during project development, it will typically occur once the NCDOT has completed Merger Pre-Screening to determine whether Merger Screening is recommended. Merger Screening may also occur if new information is presented during project development that warrants the project being re-screened.

Who decides if a project should go through Merger Screening?

Based on Merger Pre-Screening, the NCDOT Project Team will determine if a project does not need to follow the Merger Process or if a Merger Screening is warranted. NCDOT EPU will review all pre-screening results and available project information to confirm the conclusion. If NCDOT EPU determines that the project does warrant Merger Screening, a meeting will be held that includes the NCDOT Project Team, NCDOT EPU, and the Merger MOU signatory agencies. The decision to include a project in the Merger Process is then made jointly by NCDOT, FHWA, USACE, and NCDWR. (Note: FHWA does not need to be included for state-funded projects; however, when in doubt, they should be involved in case a project obtains federal funding later in the process.)



What types of projects usually use the Merger Process?

Merger projects tend to be the larger and/or complex projects. Examples may include projects that are controversial; projects that have conflicting resources; new location projects; or projects that require a Section 404 Individual Permit (IP). Transportation projects processed as any NEPA/SEPA class of action (CE/MCDC, EA, EIS) may or may not benefit from utilizing the Merger Process and should be evaluated on an individual project basis.

Projects that are categorized as a Categorical Exclusion Type I or II action generally do not use the Merger Process. This includes non-ground disturbing projects, projects with ground disturbance within the operational right of way, and some ground disturbing projects such as bridge replacements, construction of bicycle/pedestrian facilities, or minor intersection improvements. These actions do not typically have considerable impacts to multiple regulated resources that would need to be coordinated. Questions about an action's CE Type can be referred to NCDOT EPU.

What information is needed for Merger Screening?

Merger Screening will occur during or following development of the Project Scoping Report and completion of Merger Pre-Screening. The Project Scoping Report will include basic information on the proposed project, environmental features mapping, some alternative concepts or conceptual design, other nearby projects, and a summary of potential impacted resources in the project scoping study area. The Project Scoping Report may still be in draft format at the time of Merger Screening.

In addition, the following data may also be available for use in Merger Screening:

- CTP Project Data Sheet, which may provide the local vision for the project;
- Project Needs Form submitted by Corridor Development Engineer/RPO/MPO;
- Express Design Evaluation, which may provide a range of possible alternatives;
- Project Scoping Report (may be Draft);
- Merger Pre-Screening information;
- SPOT submittal data to support study area definition*;
- Bridge inspection report (if applicable); and
- Summary of any public input available for the project from NCDOT or the RPO/MPO.

*The NCDOT Project Team will confirm that prior determinations regarding logical termini, segmentation, and independent utility remain valid.

What if the project doesn't have a Project Scoping Report?

Project Scoping Reports will be completed for all projects that are programmed in the STIP moving forward; however, until this process is fully implemented there may be some projects for which a Project Scoping Report has not been completed. In these cases, NCDOT should prepare environmental features mapping using the [ATLAS Search or Screening Tools](#) to complete the Preliminary Environmental Considerations Checklist and Merger Pre-Screening to aid in the decision-making.

Is a Merger Screening meeting needed?

If Merger Pre-Screening concludes that the Merger Process is not recommended and NCDOT EPU has concurred with that conclusion, then no additional Merger-related action is needed.

If Merger Pre-Screening indicates that Merger Screening is recommended, the NCDOT Project Manager will coordinate with NCDOT EPU to determine how to proceed with formal screening. Options for Merger Screening include phone or email coordination with Merger MOU signatories, a Merger Screening Meeting, or other discussion.

What should be discussed at Merger Screening?

This guidance provides a Merger Screening Meeting sample agenda and meeting summary template. In general, the NCDOT Project Manager and NCDOT EPU will work together to review the Merger Pre-Screening information and its underlying data sources with the Merger MOU signatories. This group will then discuss any additional agency input regarding the project area. If the Merger MOU signatories agree that the project should use the Merger Process, then the group will begin to discuss the project-specific [Merger Plan](#), elements of the Purpose and Need, and potential alternatives to be considered later in the process.

During Merger Screening, the Merger MOU signatories will also decide if project decision-making would be enhanced by having [Alternative Evaluation Criteria](#). Alternative Evaluation Criteria would be used to help make decisions on alternatives, beyond meeting Purpose and Need. Alternative Evaluation Criteria are most often used on projects that have a variety of alternatives or multiple similar alternatives.

What if it is obvious that a project needs to be in Merger?

In some cases, it is obvious that a project will benefit from and should follow the Merger Process. NCDOT should still complete Merger Pre-Screening and discuss it with NCDOT EPU. NCDOT Project Manager and NCDOT EPU coordination could opt to skip a Merger Screening Meeting and notify the Merger MOU signatories of NCDOT's recommendation to place the project into Merger. NCDOT EPU would then coordinate with the NCDOT Project Manager to develop a Merger Plan for the project that would be discussed with Merger MOU signatories at the CP 1 pre-meeting (see [CP 1 Guidance](#)).

Can a Merger Screening Meeting be combined with another meeting?

If Merger Pre-Screening indicates that Merger Screening is recommended and NCDOT is planning for a project initiation meeting with the agencies, that meeting may also be used for Merger Screening. Keep in mind, however, that only the Merger MOU signatories should make the decision on whether the project should follow the Merger Process.



The Merger Screening Meeting should also double as a CP 1 pre-meeting to initiate discussion on the project's purpose and need(s) with Merger MOU signatories (see CP 1 Guidance for additional information).

Some NCDOT Project Managers may choose to complete Merger Screening for one or more projects in combination with other regularly scheduled agency coordination meetings. As long as agencies are clearly notified of the expectations and the discussion/decisions are clearly documented and uploaded to the project's ATLAS Workbench, the format of the meeting is not important.

What happens after the Merger MOU Signatories agree a project should use the Merger Process?

Once the determination to use the Merger Process has been agreed upon by NCDOT and the other Merger MOU signatories, the NCDOT Project Manager will coordinate with NCDOT EPU to develop a project-specific Merger Plan. The NCDOT Project Manager will email the Merger Plan to the Merger Team for review prior to the CP 1 meeting.

Can you take a project out of Merger once it has started in Merger?

As project development proceeds and more detailed information becomes available, it may be determined that a project does not need to remain in Merger. At each concurrence meeting, NCDOT will evaluate the need for the project to stay in the Merger Process with other Merger MOU signatories. If everyone agrees, the NCDOT Project Manager will coordinate with NCDOT EPU to document the project's removal from Merger and appropriately notify all Merger Team Members.

If a project is removed from Merger, USACE's [Regional General Permit \(GP\) 31](#) will no longer be an available permit option.

Can you put a project in Merger once it is already underway?

You can include a project in Merger if there is a change in the project or new information becomes available that indicates agency involvement through the Merger Process may be beneficial. The NCDOT Project Manager should coordinate with NCDOT EPU to prepare a Merger Screening Form for placement on the project's ATLAS Workbench and to develop a Merger Plan to involve the Merger Team in the project moving forward. The Merger Plan should discuss how concurrence points will be met, particularly if the project has progressed beyond some of the traditional milestones. In developing the Merger Plan, the Merger Team should keep in mind that to use USACE's GP 31 all concurrence points must be completed.

To hear more about the Merger Process from Participating Agencies, click [here](#).

APPENDIX B

AGENCY INTERVIEWS

Merger Basics

[FHWA benefits of Merger Process - Clarence Coleman](#)
[Merger benefits for USACE - Monte Matthews](#)
[FHWA lead projects - best practices - Seth Wilcher](#)
[Differences when USACE is the lead federal agency - Monte Matthews](#)
[USACE thoughts on premeetings - Eric Alsmeyer](#)
[USACE thoughts on premeetings 2- Monte Matthews](#)
[Benefits of Merger Process for NCDWR - Amy Chapman](#)
[NCDWR thoughts on premeeting benefits - Amy Chapman](#)
[Why did NCDOT adopt Merger - Derrick Weaver](#)
[EPU role in Merger - John Jamison](#)
[EPU thoughts on Merger and permitting - Colin Mellor](#)
[NCDOT Best Practice - Monthly meetings with Resource Agencies - Mason Herndon](#)
[Benefits of additional coordination and premeetings for USFWS - Gary Jordan](#)
[Benefits of the Merger Process for SHPO - Renee Gledhill-Earley](#)
[Best Practices for DCM concurrence - Cathy Brittingham](#)
[Benefits of Merger Process for MPOs - Kenneth Withrow](#)
[RPO thoughts on premeetings - Patrick Flannigan](#)
[RPO best practices for concurrence - Patrick Flannigan](#)

Guidance for Combining Merger Meetings

[USACE thoughts on combining Merger meetings - James](#)
[Lastinger NCDWR thoughts on combining Merger](#)
[meetings - Amy Chapman](#)
[When USFWS thinks combining concurrence points is](#)
[appropriate - Gary Jordan](#)

Merger Screening Guidance

[USACE thoughts on Merger Screening - David Bailey](#)
[NCDWR and Merger Screening - Amy Chapman](#)

Merger Plan Guidance

[EPU thoughts on Merger Plan use - John Jamison](#)
[When are Merger Meetings needed as opposed to packet concurrence? - John Jamison](#)
[EPU thoughts on Merger Plan use - Collin Mellor](#)
[NCDWR concerns about High Quality Waters - Dave Wanucha](#)
[USFWS Biological Assessment vs Biological Opinion and how they fit into Merger - Gary Jordan](#)
[SHPO needs when cultural resources are present - Renee Gledhill-Earley](#)
[NCWRC and anadromous fish construction moratoria - Travis Wilson](#)
[MPO role in Merger - Kenneth Withrow](#)
[RPO role in Merger - Patrick Flannigan](#)

Guidance for Public Involvement in the Merger Process

[USACE thoughts on public involvement in Merger - Monte Matthews](#)

CP 1 Guidance

[USACE thoughts on logical termini and independent utility - Eric Alsmeyer](#) [USACE thoughts on purpose and need -](#)
[Monte Matthews](#)
[NCDOT - project study area and logical termini - Mason Herndon](#)

CP 2 Guidance

[FHWA - what should NCDOT consider at CP 2 - Donnie Brew](#)
[FHWA thoughts on design criteria and typical section at CP2 - Felix Davilla](#)



[USACE thoughts on documenting why an alternative is dropped - Monte Matthews](#)

[How to document alternatives developed in long range planning for USACE - Monte Matthews](#)

[USACE CP 2 issues - Andy William](#)

[EPU helpful hints for concurrence at CP2 - Derrick Weaver](#)

[Cultural resource issues In alternatives development - Renee Gledhill-Earley](#)

CP 2A Guidance

[USACE issues at CP 2A - Eric Alsmeyer NCDWR needs at CP 2A - Dave Wanucha](#)

[NCWRC and fish passage concerns - Travis Wilson](#)

CP 3 Guidance

[USACE explains LEDPA and the Clean Water Act - Monte Matthews USACE needs for LEDPA - David Bailey](#)

[NCDWR needs for LEDPA - Amy Chapman USFWS needs for LEDPA - Gary Jordan](#)

[Most common SHPO issues at CP 3 - Renee Gledhill-Earley SHPO needs for LEDPA - Renee Gledhill-Earley](#)

[NCWRC needs for LEDPA - Travis Wilson](#)

[What DCM needs for LEDPA - Cathy Brittingham What MPOs need for LEDPA - Kenneth Withrow What RPOs need for LEDPA - Patrick Flannigan](#)

CP 4A Guidance

[NCDOT on avoidance and minimization measures - Colin Mellor](#)

[SHPO thoughts on avoidance and minimization - Renee Gledhill-Earley](#)

[NCWRC and animal crossing structures - Travis Wilson](#)

CP 4B Guidance

[USACE needs at CP4B and CP4C USACE needs at CP4B and CP4C - David Bailey NCDWR thoughts on CP 4B and 4C - Dave Wanucha](#)

[NCDWR thoughts on required level of design - Dave Wanucha](#)

CP 4C Guidance

[USACE Input prior to developing their EA - Andy Williams](#)