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Process II – Widening and Other Improvement Projects

General

A process flow chart that outlines the Section 404/NEPA Merger Process (Merger Process) for projects on new location is attached (Process I). This flow chart depicts the major milestones in the process but it does not include all of the many activities that NCDOT must complete in the project development process. These other activities will be completed by NCDOT and input provided into the merger process at the appropriate time. For example, public involvement is a critical component of the project development activities and will be ongoing throughout the process. Information developed through public involvement will be made available to Project Team members for consideration in the decision making process.

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NOTE: This Section 404/NEPA Merger Process may be utilized as a 23 U.S.C. 139 Coordination Plan.

Project Team Meetings

Team meetings will be held at each of the concurrence points in the Process. The Project Teams may hold additional meetings as determined necessary. NCDOT's Project Development Engineer should coordinate closely with the appropriate USACE, FHWA, and NCDENR team members in scheduling any meetings and clearly defining the purpose of the upcoming meeting. The Project Development Engineer or Hydraulics Project Engineer will send the package of information for the meeting to team members so that they will have it in hand at least two weeks prior to the meeting. The transmittal to each team member should clearly state the purpose and objective of the meeting. This will allow team members time to review the information and be prepared to discuss any issues or concerns they have at the meeting. Appendix A provides guidance on information to be presented at each concurrence meeting.

At the end of each meeting, the Project Development Engineer or Hydraulics Project Engineer, with the team's help, should summarize the results of the meeting, including agreements or concurrence points achieved. If agreement or concurrence is not obtained the next steps or action should be clearly identified.

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If additional information or action is required, the type of information or action needed and the responsible agency(s) or team member(s) should be clearly noted.

The Project Development Engineer is responsible for preparing a summary of all meetings for distribution to all team members, except the summary for the 4B and 4C Concurrence Meetings, which will be completed by the Hydraulics Project Engineer. Each team member will read the meeting summary that includes issues agreed upon, outstanding issues, and action statements (next steps) carefully to ensure accuracy of the project records. Substantive errors and omissions will be identified and provided within 30 days to the Project Development Engineer or Hydraulics Project Engineer for prompt resolution.

On-site project field reviews can be very beneficial in helping to understand a project's purpose and need, human and natural environmental features and alternative analysis. Project Teams are encouraged to hold combined field reviews/meetings as needed to assist in the decision making process.

Step-by-Step Implementation Procedures

The following discussion is intended to provide more detailed guidance and explanation on the various steps and concurrence points in the attached flow chart. The numbered paragraphs correspond to steps or blocks in the chart.

1. Initiation of Project Study

For projects requiring Federal Environmental Impact Statements, NCDOT will send a project initiation letter to the FHWA -- North Carolina Division Administrator. The project initiation letter will contain the type of work, termini, length, and general location of the proposed project. This letter will also provide a list of any other Federal approvals (e.g., Section 404 permits) anticipated to be necessary and will indicate the timeframe within which the environmental review process should be started. NCDOT will begin the project study by gathering background data and information and sending out the project scoping letter and/or start of study letter. This letter initiates the project's concept and solicits input from federal and state agencies (including the State Clearinghouse), local government agencies, the public, and other NCDOT units and branches. The level of detail provided in these letters includes a TIP description and a vicinity map.

2. Data Collection

The Project Development Engineer will collect all available information, including aerial photography (digital mosaic), and background data, needed to hold the project scoping meeting, as identified by responses to the scoping letter and standard requirements.

3. ***Environmental Features Map***

NCDOT - with consultation from the agencies - will develop an environmental features map illustrating resource areas of concern as well as topographic or photogrammetric mapping. The purpose of this mapping is to provide a means for identifying alternatives that warrant study on a screening level basis. This mapping could also be used by the team to gauge the applicability of the Merger Process. Such features on the mapping will include but are not limited to:

- ◆ Infrastructure and topography
- ◆ Community features (i.e., boundaries, schools, churches, community centers, hospitals, transit dependent populations, demographics, etc.)
- ◆ Floodplains
- ◆ Historic properties and possible areas of archaeological concern
- ◆ Wetlands, streams, buffers, river basins, and water supply watersheds (GIS level information)
- ◆ Wildlife refuges and game lands
- ◆ Recreational areas and parks
- ◆ Hazardous material sites
- ◆ Existing land use map and locally adopted land use plan
- ◆ Threatened and Endangered Species information
- ◆ Significant Natural Heritage Program Areas
- ◆ Utilities within project study area using best available information

Based on the environmental features map, the study area may be re-confirmed. Generally, the study area will not be redefined unless new information necessitates re-evaluation.

4. ***Develop Preliminary Purpose and Need***

Transportation Planning provides a Planning Level Purpose and Need for each project that was developed during the system planning process to the Project Development Engineer. In cases where Transportation Planning does not have personnel assigned to a particular area, the Project Development Engineer will develop the Purpose and Need (P & N). Also, additional engineering and environmental inventory data may be obtained for use in further developing and refining the purpose and need for a project. The type of information and level of detail collected must be determined for each project and could include information such as the following:

- ◆ Preliminary limits of the study area
- ◆ Existing traffic and future no-build average daily traffic
- ◆ Roadway geometric deficiencies and accident history
- ◆ Transportation plans
- ◆ Land use plans
- ◆ Areas of interest to local citizens and elected officials

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- ◆ Legislative mandates
- ◆ Economic initiatives
- ◆ Intermodal relationships, including bicycle/pedestrian systems, transit (rail and bus), port facilities and airport facilities
- ◆ Project history and background information including feasibility studies and community issues
- ◆ Highway Needs Inventory (HNI) status
- ◆ MPO Constrained Long Range Plan status
- ◆ Major Investment Study (MIS) status/information
- ◆ GIS Mapping
- ◆ Aerial Photography
- ◆ Available Mapping with Delineated Jurisdictional Areas
- ◆ Traffic Study and Capacity Analysis

5. **Develop Project Team**

The Project Development Engineer will consult with the appropriate USACE, NCDENR and FHWA representative to identify specific Project Team members. NCDOT will provide written verification of team members to all the team members. If an agency declines to participate on the team, their decision will be documented in writing to NCDOT, NCDENR, USACE, and FHWA. If an agency drops from the Project Team during the process, their self-removal will also be documented in writing. The NCDOT will provide written verification of team members to all the team members prior to Step 10 (Concurrence Point 1).

For federally funded projects, the Lead Federal agency will be the Federal Highway Administration, and NCDOT will be a Joint Lead agency in accordance with 23 U.S.C.139(c). If the project is state funded, the Lead Federal Agency will usually be the U. S. Army Corps of Engineers, with NCDOT serving as a Joint Lead agency. The designation of the Lead Federal agency and any Joint Lead agencies will satisfy 23 U.S.C. 139 (c) requirements (see Appendix). All Project Team members will be considered as Participating agencies in accordance with 23 U.S.C.139(d).

In the case of projects requiring an EIS, the Merger Agreement serves as a standing invitation to all the Participating agencies named in the Merger Process Information (this includes Primary and Partnering signatories to the Memorandum of Agreement as well as other agencies when a project is within their respective geographic area) to participate in the environmental review process for individual projects, as appropriate based on jurisdiction. These agencies are:

- U. S. Army Corps of Engineers
- Federal Highway Administration
- North Carolina Department of Transportation

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<#> Develop Project Team¶

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The Project Development Engineer will consult with the appropriate USACE, NCDENR and FHWA representatives to identify specific Project Team members. NCDOT will provide written verification of team members to all the team members prior to Step 9 (Concurrence Point 1). If an agency declines to participate on the team, its decision will be documented in writing to NCDOT, NCDENR, USACE and FHWA. If an agency drops from the Project Team during the process, its self-removal will also be documented in writing.¶
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- U. S. Environmental Protection Agency
- U. S. Fish and Wildlife Service
- North Carolina DENR, Division of Water Quality
- North Carolina Wildlife Resources Commission
- North Carolina Department of Cultural Resources
- North Carolina DENR, Division of Coastal Management (within the twenty coastal counties)
- Metropolitan Planning Organizations (MPO's) (in MPO areas)
- National Park Service (in the vicinity of national parklands)
- U. S. Coast Guard (Coast Guard permitted bridges)
- U. S. Forest Service (in the vicinity of national forest property)
- Tennessee Valley Authority (within TVA region)
- U. S. Fish and Wildlife Service – Refuge (in the vicinity of federal refuges)
- Eastern Band of Cherokee Nation-Tribal Historic Preservation Officer
- North Carolina Division of Marine Fisheries and National Oceanic and Atmospheric Administration (NOAA) (when there is any possibility that resources under their jurisdiction are in the project vicinity)
- Rural Planning Organizations (RPO's) may be invited to participate as advisory members for projects within their geographical area.

Therefore, no 23 U.S.C. 139 invitation letter needs to be issued to agencies that are listed above. However, if the Joint Lead agencies, FHWA and NCDOT, after consulting with the other two Primary Signatory Agencies of the Merger Process (USACE and NCDENR) agree to invite governmental agencies with an interest in the project other than those listed above, then a specific invitation to participate will be issued. The decision to invite an additional agency to participate will be based largely on that agency's jurisdiction or authority with respect to the project, whether that agency has expertise or information relevant to the project, and whether that agency intends to submit comments on the project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the Lead agencies for good cause. Any Federal agency that is invited by the Lead agencies to participate in the environmental review process for a project shall be designated as a Participating agency by the Lead agencies unless the invited agency informs the Lead agencies, in writing, by the deadline specified in the invitation that the invited agency - (A) has no jurisdiction or authority with respect to the project; (B) has no expertise or information relevant to the project; and (C) does not intend to submit comments on the project. The process for inviting Participating agencies satisfies 23 U.S.C. 139(d) requirements (see Appendix).

NCDOT will provide written verification of team members to all the team members prior to Step 10 (Concurrence Point 1). If an agency declines to participate on the team, its decision will be documented in writing to NCDOT, NCDENR, USACE and FHWA. If an agency drops from the Project Team during the process, its self-removal will also be documented in writing. For projects

requiring an EIS, “Participating agencies” as defined by Section 6002 are those represented on the Project Team for a given project.

6. Project Scoping

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The Project Scoping Meeting is held by NCDOT to discuss background data, preliminary purpose and need, engineering, environmental inventories, the proposed scope of the project and potential substantial project issues. The Project Team members will be invited to attend and provide input. For EIS projects, this may be the only opportunity for the Project Team members to review preliminary purpose and need information prior to presenting it to the public (see Step 7 below). Agencies should attend the scoping meeting and provide written input in response to the scoping letter.

For federal EIS projects, the Lead agencies shall determine, in collaboration with Participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project, in compliance with 23 U.S.C. 139(f)(4)(c) (see Appendix). This collaboration should begin during the scoping process. Decisions on methodologies and the level of detail will be documented and presented to the Project Team at appropriate times during the project development process.

At the project scoping meeting, NCDOT will provide the proposed project schedule. The meeting attendees will present any issues that may impact the proposed schedule. Needed revisions to the project schedule will be identified and adjusted appropriately by NCDOT. Timeframes for review within the project schedule, and modification to the schedule will be consistent with requirements of 23 U.S.C. 139(g) (see Appendix). Also, the project schedule, and any modifications, will be made available to all Participating agencies and the public.

7. Hold Citizens Informational Workshop

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After the project scoping meeting, citizens’ informational workshop will be held to introduce the project to the public. The general scope of the project work will be discussed with the public. Also, the public will be informed that NCDOT and agency staff will begin work in the project vicinity to gain the necessary survey and environmental information to proceed with the development of the NEPA document. If the project requires an EIS, then the workshop must also present preliminary purpose and need information, the range of project alternatives, and solicit input on it. Any public input will be considered before the purpose and need and the range of alternatives to be studied is determined. This workshop will then satisfy the requirements of 23 U.S.C. 139(f).

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8. Request Environmental Input and Preliminary Mapping

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After the Citizens Information Workshop, the PDEA engineer will request environmental input from PDEA's Office of Natural Environment and Office of

Human Environment or a private engineering firm, using available mapping and request forms. A study corridor should be developed which would encompass the worst case-widening scenario on both sides of the existing facility.

The Design Engineer, in coordination with the PDEA Project Development Engineer, will request either preliminary plan sheet mapping or final surveys and base plan sheets so the plan sheets and environmental delineations will be available at the Concurrence Point 2 meeting. It should be noted that final surveys will normally be requested for short projects (usually about 5 miles or less in length) that are to be constructed in one project segment. Preliminary plan sheet mapping will normally be requested for projects that are long (greater than 5 miles) and have multiple project segments.

9. Concurrence Point 1 - Purpose and Need and Study Area Defined

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The Purpose and Need (P & N) Statement forms the basis for identification of alternatives to be evaluated. Therefore, concurrence will be obtained on the Purpose and Need before potential alternatives are identified. NCDOT will prepare a draft Purpose and Need Statement, along with supporting technical documentation and a summary of any public comments. The P & N information package will be sent to team members so that they will receive it at least two weeks prior to the team meeting. The supporting technical information will include the environmental features map of the study area and a summary of any information or comments from the public concerning purpose and need and community concerns. This statement should clearly demonstrate that a "need" exists and should define the "need" in terms understandable to the general public. The statement should clearly describe the problems that the proposed action is to correct.

A team meeting will be held to discuss the preliminary P & N Statement and Study Area along with supporting data. Team members will review the information prior to the meeting and be prepared to discuss any concerns. At the meeting, the NCDOT Project Development Engineer will provide the environmental features map of the Study Area. Also, any other readily available information will be presented for the team's information.

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It may be necessary to conduct more than one meeting on purpose and need if additional information is needed. The goal of the meeting is for team members to concur with and sign the Purpose and Need and Study Area Concurrence Form.

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If concerns are raised at the team meeting, which require additional documentation or revisions to the P & N Statement, the NCDOT will incorporate the additions or revisions and redistribute the P and N Statement for concurrence or comment. This will be done prior to the follow-up Concurrence Point 1 meeting or as soon as possible if it is determined that a second meeting is not required.

Also, at this meeting, the Project Team should concur that the project's purpose can be accomplished by upgrading the existing highway corridor and that new location alternatives will not be studied at this time. As the project progresses, new environmental input and public comment could necessitate studying new location alternatives. If, during the project study, NCDOT determines that new location alternatives should be investigated, then the Merger Process for New Location Projects (Process 1) should be followed.

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Once concurrence is obtained for Purpose and Need, the Team can address Concurrence Point 2. Concurrence for both Concurrence Points 1 and 2 can be obtained in one meeting, if possible, as long as the public has had an opportunity for involvement in determining the range of alternatives and any comments they provided are considered at this time. Refer to Step 14, – Concurrence Point 2, for information needed for the Concurrence Point 2 meeting.

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The NCDOT project manager may elect to delay the Concurrence Point 1 meeting until the environmental input has been collected, especially, if it is unclear whether the project is a candidate for the Merger Process.

NCDOT will provide the current schedule. Any changes made to the schedule since the last concurrence meeting will be presented along with the reasons for the change. The meeting attendees will present any issues that may impact the project schedule. Needed revisions to the project schedule will be identified and adjusted appropriately by NCDOT.

10. Environmental Analysis

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For federal EIS projects, the Lead agencies shall determine, in collaboration with Participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project, in compliance with 23 U.S.C. 139(f)(4)(c) (see Appendix). The potentially impacted human and natural resources will be delineated for the entire study corridor. NCDWQ wetland ratings and wetland type will be identified and will include any CAMA wetland Areas of Environmental Concern. In addition, where it is available, use NCDOT's GIS wetland data to identify wetland significance. An agency wetland and field review meeting will be held to:

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- Verify jurisdictional wetland and stream boundaries. These boundaries will be established to a level of detail sufficient for the purposes of project planning. The USACE will provide written jurisdictional determinations.
- Review any potential wetland mitigation sites that may be noted during the delineation effort and coordinate with EEP.

The field review meeting will be set up by PDEA's Natural System Specialist.

11. *Notice of Intent (When Applicable)*

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If NCDOT and FHWA determine an EIS should be prepared, a Notice of Intent will be filed in the Federal Register. If it is not clear at this point that potential project impacts warrant an EIS, the decision to prepare a Notice of Intent may be delayed until more information is available. The preparation of an EIS is typically unlikely for a widening project, which usually requires the preparation of an EA.

12. *Develop Design Options*

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PDEA should coordinate with the Roadway Design Unit, Utilities Section, Traffic Engineering (Congestion Management), the Division, and FHWA to determine design options that meet the purpose of the project. Design options can include typical section options (number of lanes, curb and gutter, shoulder, median section, or 5 lane, etc.) and hydraulic structure requirements (bridge or culvert and length of bridge).

13. *Concurrence Point 2 – Design Options for Detailed Study*

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The intent of the Concurrence Point 2 meeting is to obtain consensus from the Project Team on which design options will be fully evaluated as alternatives, including the “no build” alternative, in the Environmental Assessment. Any public comment on the range of alternatives to be considered would be shared with the Project Team at this time. The alternatives selected must meet the Purpose and Need of the project, with the exception of the “no build” alternative. If possible, the Concurrence Point 2 meeting will be held at the same time as the Concurrence Point 1 meeting. Design options to consider include typical sections, hydraulic structures, potential utility impacts, and widening scenarios.

Typical Section: The typical section components (number of lanes, lane width, and shoulder treatment) should address the facility deficiencies as stated in the Purpose and Need of the project. At the Concurrence Point 2 meeting, NCDOT will present the typical section which best addresses the Purpose and Need of the project. NCDOT should present information supporting the typical section recommendation such as capacity analyses, AASHTO design standards, bicycle and pedestrian needs, local government recommendations, utility accommodations, development and environmental constraints, and traffic flow/access concerns.

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After viewing the proposed typical section and supporting information, the team will decide if additional typical section alternatives need to be studied and compared at Concurrence Point 2A.

Widening Scenarios: At the Concurrence Point 2 meeting, team members should provide guidance to NCDOT to aid in preparing a widening scenario which would minimize impacts to the human and natural environment. The team should also decide if alternative widening scenarios should be developed due to

environmental conflicts existing on both sides of the road. Based on information received at this meeting, NCDOT will develop the designs for the widening alternatives identified by the team to present at the Concurrence Point 2A meeting for review and possible further refinement.

Hydraulic Structures: Based on available information, any potential need for special bridging accommodations should be discussed at Concurrence Point 2. The final bridging decisions will be made at Concurrence Point 2A. If there is a discrepancy concerning the type of hydraulic structure to carry forward at the Concurrence Point 2 meeting, NCDOT will prepare alternatives to be reviewed at Concurrence Point 2A.

Information which should be presented at the Concurrence Point 2 meeting includes: the environmental features map, environmental input obtained from the Offices of Human and Natural Environment (requested in Step 6), local government comments, public comments, traffic flow/access concerns, safety concerns, and preliminary mapping. Delineated wetlands and streams will be included on the environmental features map.

The NCDOT will request formal concurrence at this meeting by asking the team members to sign the Concurrence Point 2 form which specifies the widening scenarios and typical section alternatives which will be studied and compared at Concurrence Point 2A. If additional documentation or revisions to the alternatives are necessary, the NCDOT will incorporate the additions or revisions and redistribute the information. If necessary, an additional team meeting will be scheduled to resolve outstanding concerns.

NCDOT will provide the current schedule. Any changes made to the schedule since the last concurrence meeting will be presented along with the reasons for the change. The meeting attendees will present any issues that may impact the project schedule. Needed revisions to the project schedule will be identified and adjusted appropriately by NCDOT.

14. Preliminary Design of Detailed Study Alternatives

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After receipt of the delineations and necessary preliminary plan sheet mapping, the Design Engineer will begin to develop the preliminary design for the best fit alignment using the guidance provided at the Concurrence Point 2 meeting, public input, potential utility impacts, local government input, and environmental input. A preliminary design is a very specific design that includes horizontal and vertical alignments, edge of pavements, slope stakes, turn lanes, superelevation, and right of way limits.

If typical section, widening scenarios, or structural alternatives were identified at Concurrence Point 2, the preliminary designs will be developed for these alternatives also. The right of way, utility, and construction cost estimates will also be obtained after completion of the preliminary designs. During the development of the design, care will be taken to avoid impacts to the natural and human environment, where practicable. The Design Engineer will coordinate the preliminary design for each detailed study alternative with the Utilities Section. The Utilities Section will identify areas where any known utilities are impacted. Where it is not practicable to avoid impacts, minimization measures will be employed.

After the preliminary designs are completed, impacts will be identified and quantified. Upon completion of the preliminary designs, the PDEA Engineer will prepare a Preliminary Alternatives Report. The report will identify the impacts and costs associated with each design option. This report will be sent to the merger team members for preparation of the Concurrence Point 2A meeting. At this time, the preliminary designs will include any recommended control of access that will be acquired for the project. (The control of access limits are needed so they can be reflected in right of way estimates, shown to the public, and for the Project Team's review).

15. Concurrence Point 2A - Bridging Decisions and Final Alternatives to Carry Forward

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The purpose of this meeting will be for the team to concur on the alignment refinement, alternatives to carry forward, and bridging decisions. This concurrence includes selecting the hydraulic structures to be carried forward, as well as which typical sections and widening scenarios to carry forward.

Information to be presented at this meeting include the preliminary design alternatives, GPS wetlands and streams overlaid on the preliminary designs, bridge and culvert alternative designs (if alternatives were identified at Concurrence Point 2), typical section alternative designs (if alternatives were identified at Concurrence Point 2), comparison of impacts (wetlands, streams, Section 4(f) resources, historic properties, CAMA AEC's, relocatees, potential utility impacts, etc) among all alternatives that were identified at Concurrence Point 2.

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Using the hydraulic recommendations and all available environmental information, the Project Team will determine the placement and length of bridges. In addition, a review will be made to determine which natural resources warrant additional avoidance measures. The bridge locations and approximate lengths will be identified on each alternative.

The team will decide if typical section and widening alternatives identified at Concurrence Point 2 need to be carried forward or if some alternatives can be eliminated. Any alternative that does not receive concurrence to be eliminated will be carried forward in the EA and at the public hearing. If appropriate, only one alignment design may be carried forward through the EA and public hearing.

During the Concurrence Point 2A meeting, the Project Team will discuss which federal, state, and local environmental statutes and regulations may apply to each of the detailed study alternatives. Within NCDOT, the Office of the Natural Environment (ONE) is responsible for ensuring that the specific required steps are followed for each of the environmental permits, certifications, consultations, reviews and determinations that may be required throughout the project's life. The Hydraulics Unit will ensure that FEMA flood insurance program regulations are followed where applicable.

All team members will be asked to sign a Concurrence Form at the meeting to signify that they agree with the bridge locations and approximate lengths, alternatives eliminated, and refined alternatives. After the bridge locations and alternative refinements are determined, an updated construction cost estimate and summary of impacts for each remaining alternative will be developed. This information will be provided for each alternative carried forward in the Environmental Assessment.

NCDOT will provide the current schedule. Any changes made to the schedule since the last concurrence meeting will be presented along with the reasons for the change. The meeting attendees will present any issues that may impact the project schedule. Needed revisions to the project schedule will be identified and adjusted appropriately by NCDOT.

16. Prepare Draft EIS/EA, Conceptual Mitigation Proposal and Section 404 Application

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The environmental document will be completed according to NEPA and an identification of impacts will be made for each of the alternatives that are studied in detail. There will be a discussion of why preliminary alternatives were eliminated.

NCDOT will address potential on-site compensatory mitigation options. For potential on-site mitigation sites, NCDOT ONE will prepare a feasibility study that includes an environmental evaluation that identifies historic resources, threatened and endangered species, parks, community issues, etc. NCDOT

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ONE may arrange an agency field meeting to review any potential on-site mitigation opportunities, discuss the environmental evaluation results, and determine which sites are acceptable to the agencies.

Pursuant to the Memorandum of Agreement among the NCDOT, NCDENR, and USACE signed July 22, 2002, the Ecosystem Enhancement Program (EEP) will provide all compensatory mitigation that is not satisfied by acceptable on-site mitigation.

Preliminary determinations about the Federal, state, and local environmental statutes and regulations that may apply to each of the detailed study alternatives will be included within the environmental document. If the project is within a CAMA county(ies), then potentially relevant CAMA land use plan policies that may apply to each detailed study alternative will also be included within the draft environmental document.

All information produced in previous studies will be incorporated in an environmental document.

The FHWA and NCDOT will review the preliminary environmental document for adequacy as it relates to NEPA requirements. NCDOT will revise the environmental document based on these comments or consult further with FHWA to resolve issues.

The NEPA document shall develop an analysis of secondary/indirect and cumulative impacts of sufficient scope and detail to fulfill all NEPA requirements. In addition, the analysis should be developed, in concurrence with current policies and procedures, to a level of detail sufficient to make decisions required by all other state and Federal laws, statutes, rules, and regulations.

17. Issue DEIS/EA and Submit Section 404 Application

NCDOT and FHWA will sign the title page of the environmental document (DEIS or EA) prior to NCDOT circulating it. NCDOT will submit the Section 404 permit application to the USACE at the time of document approval. NCDOT will also provide the USACE with a mailing list developed in the public involvement process that includes adjacent property owners and mailing labels. The environmental document will be distributed to federal agencies, State Clearinghouse, and local agencies and organizations for review and comment.

After issuance of the environmental document, an interagency field review will be made unless the Project Team determines otherwise. The purpose of this meeting is for team members to review alternatives in the field prior to the Concurrence Point 3 meeting; however, it may not be necessary if team members have reviewed alternatives in the field previously.

18. Notice of Availability and Section 404 Public Notice

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The USACE will issue the Section 404 Public Notice. The environmental document and Public Notice are made available for public and agency comment for the prescribed time frames. NCDOT should consult with the USACE, NCDOT Board Members, and other interested parties to set the public hearing date. Once the date is set, the Corps should be immediately notified of the location, time and place. NCDOT will publicize the public hearing.

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19. Design Public Hearing

NCDOT will hold the Design Public Hearing. Team members are encouraged to attend the public hearing to fully understand the public concerns. The USACE and other team members will be invited to attend the public hearing.

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20. Agency and Public Comment Period

The public may submit written comments to NCDOT, FHWA and/or the USACE after the public hearing. Also, agency and public comments on the environmental document and the Section 404 Public Notice may be submitted to NCDOT and the USACE, respectively. The agencies will format their letters to identify which comments are pertinent to the selection of the Least Environmentally Damaging Practicable Alternative (LEDPA)/Preferred Alternative. For projects requiring a Federal EIS, the commenting period for the Draft EIS will be a maximum of 60 days after publication in the Federal Register of notice of the date of availability, unless a different deadline is established by agreement of the lead agencies, the project sponsor, and all participating agencies, or the deadline is extended by FHWA and NCDOT for a good cause (23 U.S.C. 139(g)(2)(a)). For all other comment periods, the comment period will be no more than 30 days from availability of the materials on which the comment is requested, unless a different deadline is established by agreement of the lead agencies, the project sponsor, and all participating agencies, or the deadline is extended by FHWA and NCDOT for a good cause. NCDOT will adequately address those specific comments prior to selection of the LEDPA/Preferred Alternative and distribute their responses within the information material for the Concurrence Point 3 meeting.

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21. Post Hearing Meeting

Following the comment periods, NCDOT will review and summarize the comments received from the document review and public hearing process. The USACE will forward the comments on the Section 404 Public Notice for inclusion in the summary. NCDOT will then hold a post hearing meeting. Project Team members are invited to attend this meeting. The purpose of this meeting is to evaluate all substantive comments received and determine if any additional studies or changes are needed to properly address issues that have been raised. Any additional work or studies to resolve comments will be completed by

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NCDOT. All agency comments on the environmental document and Section 404 Public Notice that affect the selection of the LEDPA/Preferred Alternative will be addressed and appropriate information or responses prepared prior to the Concurrence Point 3 meeting.

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22. Concurrence Point 3 – LEDPA/Preferred Alternative Selection

A Project Team meeting will be held to determine the Least Environmentally Damaging Practicable Alternative (LEDPA) [Preferred Alternative under NEPA]. The Project Development Engineer will send the package of information for the meeting to Project Team members so they will have it in hand at least two weeks prior to the meeting. The package will include a matrix (for example, summary information from DEIS) illustrating a comparison of impacts for the detailed study alternatives and a brief summary of previous Project Team decisions. The package will also include a summary of substantive comments received from agencies and the public and how these comments were addressed.

When all substantive comments submitted by the agencies during the environmental document review and the public hearing/public notice commenting period have been adequately addressed and no new issues have been identified, the Project Team will select a LEDPA/Preferred Alternative. At the time it is selected, Project Team members will be reasonably certain that the LEDPA/Preferred Alternative will comply with all relevant regulations and permit requirements, is safe, and can be authorized. Project Team members in agreement with the LEDPA/Preferred Alternative will provide their formal concurrence at this meeting by signing the Concurrence Point 3 Form.

During the Concurrence Point 3 meeting, the Project Team will confirm the preliminary determination made during the Concurrence Point 2A meeting about the federal, state, and local environmental statutes and regulations that may apply to the LEDPA/Preferred Alternative. This confirmation is required due to changes that may have occurred in the project design and/or in the statutes and regulations since the preliminary determination was made during the Concurrence Point 2A meeting. Within NCDOT, the Office of the Natural Environment (ONE) is responsible for ensuring that the specific required steps are followed for each of the environmental permits, certifications, consultations, reviews and determinations that may be required throughout the project's life. The Hydraulics Unit will ensure that FEMA flood insurance regulations are followed where appropriate.

NCDOT will provide the current schedule. Any changes made to the schedule since the last concurrence meeting will be presented along with the reasons for the change. The meeting attendees will present any issues that may impact the project schedule. Needed revisions to the project schedule will be identified and adjusted appropriately by NCDOT.

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The public will be notified, by the NCDOT, of the selection of the LEDPA/Preferred Alternative via newsletter, news release or other means determined satisfactory by NCDOT policy.

23. Concurrency Point 4A – Avoidance and Minimization

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Following selection of the LEDPA/Preferred Alternative, a Project Team meeting will be held to discuss additional avoidance and minimization efforts not included in the preliminary design during the alternative analysis phase of the project. This concurrence point should address issues such as minor alignment shifts, horizontal and vertical alignment, slopes, potential utility conflicts and impacts, and construction techniques. For projects where bridge length and location were not previously agreed to, a decision on these parameters will be included in the Concurrence Point 4A meeting. Upon agreement that project jurisdictional impacts have been avoided and minimized to the maximum extent practicable based on current information and design available at that time, the Project Team members will sign the Concurrence Point 4A Form. When avoiding and minimizing jurisdictional resource impacts, other resources will be considered.

It should be recognized that additional minimization may be achieved during the final design process with more precise mapping, including the project hydraulic design (Concurrency Point 4B and 4C), and utility relocation design. Upon reaching this concurrence point, the project development engineer will document all avoidance and minimization that has been achieved to this point in project development. This information will be provided to the Project Team and to the Office of Natural Environment for inclusion in the updated permit application.

NCDOT will provide the current schedule. Any changes made to the schedule since the last concurrence meeting will be presented along with the reasons for the change. The meeting attendees will present any issues that may impact the project schedule. Needed revisions to the project schedule will be identified and adjusted appropriately by NCDOT.

24. Prepare Final EIS or FONSI

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NCDOT/FHWA will prepare the Final EIS or FONSI. The Final EIS will discuss the rationale behind the selection of the LEDPA/Preferred Alternative. It is not necessary to complete Concurrence Point 4A prior to the completion of the Final EIS or FONSI. However, any additional avoidance and minimization measures that have been identified or incorporated up to that point in the project development should be included in the Final EIS or FONSI. The FHWA and NCDOT will review the final environmental document for adequacy as it relates to NEPA requirements. NCDOT will revise the environmental document based on these comments or consult further with the FHWA to resolve issues. The Final EIS or FONSI will include all environmental commitments and the mitigation plan to address all resources requiring mitigation, such as wetlands, streams, Section 106, Section 4(f), public access, etc.

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Preliminary determinations about the federal, state, and local environmental statutes and regulations that may apply to the LEDPA/Preferred Alternative will be included within the final environmental document.

If the project is within a CAMA county(ies), then potentially relevant CAMA land use plan policies that may apply to the LEDPA/Preferred Alternative will also be included within the final environmental document.

25. Issue Final EIS or FONSI

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NCDOT and FHWA will sign the title page of the Final EIS or FONSI prior to NCDOT circulating it. The environmental document will be distributed to federal agencies, State Clearinghouse, and local agencies and organizations for review and comment.

26. Agency and Public Comment Period

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The agencies and the public may submit written comments to NCDOT and FHWA concerning the Final EIS or FONSI. NCDOT will respond directly to the commenting agencies concerning comments received on a FONSI. Comments received on a FEIS will be addressed in the ROD with copies provided to the commenting agency.

27. Prepare and Issue ROD (For EIS Projects Only)

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FHWA will issue the ROD. The ROD will address any comments received on the FEIS. A Notice of Availability will be issued.

(For phased projects, refer to the text at the end of this document)

28. Development of Right of Way Plans

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After achieving Concurrence Points 3 and 4A, the Design Engineer will request final surveys (plan sheet mapping) if necessary to develop the right of way plans for the project. The design will be based on the alignment as agreed to at Concurrence Point 4A and will incorporate all agreed upon commitments contained in the FONSI or ROD. After the design engineers complete the horizontal and vertical alignment for the roadway, the Utilities Section will review the horizontal and vertical alignment for the roadway and will begin to coordinate with the Hydraulics Unit regarding the utility locations. The Hydraulics Unit begins the development of the proposed drainage design and the Geotechnical Engineering Unit begins the detailed geotechnical investigations for the project.

29. Concurrence Point 4B – 30 Percent Hydraulic Review

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At the time the hydraulic design for the project is 30 percent complete, the Hydraulics Project Engineer will hold a Concurrence Point 4B meeting to review the development of the drainage design. All appropriate Project Team members should attend (USACE and NCDWQ attendance is mandatory. If the project is within a CAMA county(ies), NCDOT attendance is mandatory).

If a project requires a State Stormwater Management Permit, the Hydraulics Project Engineer will work with the NCDWQ Stormwater Management Section to obtain the permit and report its progress to the team members. The Hydraulics Project Engineer will provide the package of information to team members so that they receive it two weeks in advance of the meeting.

Also, before the Concurrence Point 4B meeting is held, the Hydraulics Project Engineer will consult with the ONE staff to ensure that the environmental surveys (wetlands, threatened and endangered species, streams, and buffer) for each project is complete and current. At the 4B meeting, the Hydraulics Project Engineer will present preliminary drainage designs to the team members. The drainage plans will depict the boundaries of the affected environmental areas (wetlands, perennial and intermittent streams, buffers, CAMA AEC's, etc.), existing draining structures, layout of proposed drainage structures, and stormwater best management devices. Large structures such as bridges and box culverts will also be discussed.

The Utilities Section will coordinate the determination of the utility conflicts and the development of the utility relocation preliminary designs with the utility owners and the design engineers. Concurrence will include selecting the hydraulic structures to be used at each stream crossing.

The Hydraulics Project Engineer will take notes of comments received during the meeting. The Hydraulics Project Engineer will distribute meeting minutes, which will include how comments will be addressed. Also, the meeting minutes will identify onsite mitigation opportunities that will be incorporated into the project design as appropriate. Any other mitigation identified that was not included in the final environmental document will be included.

It is understood minor vertical changes may be needed due to hydraulic needs. If vertical changes occur that result in additional environmental impacts, minor horizontal adjustments in alignment may be appropriate.

NCDOT will provide the current schedule. Any changes made to the schedule since the last concurrence meeting will be presented along with the reasons for the change. The meeting attendees will present any issues that may impact the project schedule. Needed revisions to the project schedule will be identified and adjusted appropriately by NCDOT.

30. Complete Right of Way Plans for the Project

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Upon receiving the completed hydraulic design for the project, Design Engineers will incorporate the hydraulic design and establish the proposed right of way limits for the project.

The Structure Design Engineers begin to develop the designs for bridges and culverts.

The project is then reviewed with Construction and Right of Way Personnel to note any additional changes that may be required. The right of way plans are completed and sent to the Right of Way Branch to begin purchase of land required for the project.

31. *NCDCM On-Site Pre-Application Meeting*

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For projects within a CAMA county(ies) that require a CAMA major permit, the NCDOT ONE Permit Specialist will request an on-site pre-application meeting with the appropriate NCDCM Field Representative. The purpose of this meeting is to review the plans and/or permit drawings and information that will be submitted with the CAMA permit application. This will ensure that, when the CAMA major permit application is formally submitted, it contains all of the information necessary for processing. The purpose of this meeting is not to make changes to the project design, construction methodology or construction timeframe. However, if any potential changes to the project are identified at the on-site pre-application meeting, they will be discussed with the full Project Team at the Concurrence Point 4C meeting prior to approval.

32. *Concurrence Point 4C - Permit Drawings Review*

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At the time the hydraulic design is 100 percent complete and the permit drawings for the project are finalized, the Hydraulics Unit will hold a 4C meeting. At the 4C meeting, the Hydraulics Project Engineer will present copies of the Stormwater Management Plan to the Project Team members. A Stormwater Management Plan is a narrative, project-specific, Stormwater Design Report. It outlines project involvement, river basins, classifications of the involved water bodies, selected structural and non-structural best management practices, best management practice devices, and major structures (bridges and box culverts).

The final permit drawings for the permit application will also be reviewed and revised based on comments received at this meeting. Any area where utility relocations affect additional environmental resources beyond the footprint of the roadway will be shown on the permit drawings and will be included in the impacts presented in the application. In addition, if the project is within a CAMA county(ies) and a CAMA Major Permit is required, then all utility locations that are not included in the permit drawings will be described within the CAMA Major Permit application either in narrative form or in a separate spreadsheet. The level of detail of utility relocation information required with the CAMA Major

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Permit application will be determined on a project-by-project basis at the NCDOT on-site pre-application meeting.

The Hydraulics Project Engineer will record minutes of the meeting and will address the team's comments. Changes will be made based on the team's comments. The changes will be made in the permit drawings before the permit application is sent. The Concurrence form indicates that the Project Team agrees that the drawings as presented are satisfactory to be submitted with the application. (This does not supersede the regulatory review process.)

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After the changes are incorporated, the Hydraulics Project Engineer will ask for a signature of the Concurrence Point 4C Form. The Concurrence Form will be detailed enough to document and identify changes. Any changes to impacts to wetlands, streams, buffers, or CAMA AEC's that occur after the 4C document is signed will require the resource agencies to revisit the design, and may require a new 4C meeting. The NCDOT Permit Specialist will contact the agencies via e-mail, letter, phone call or scheduling a meeting as appropriate to facilitate review of these changes.

NCDOT will provide the current schedule. Any changes made to the schedule since the last concurrence meeting will be presented along with the reasons for the change. The meeting attendees will present any issues that may impact the project schedule. Needed revisions to the project schedule will be identified and adjusted appropriately by NCDOT.

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33. Compensatory Mitigation Requirements

Compensatory mitigation requirements will be identified based on final project impacts.

In those events where on-site mitigation opportunities are available and determined acceptable and/or necessary by the Project Team, the mitigation plan and design will be developed in concert with the overall project design. Removal of existing causeway fills is strongly encouraged to offset project impacts and/or create mitigation credits for future project impacts. The on-site mitigation will be developed and implemented by NCDOT in collaboration with the Project Team and EEP. Under no circumstances will the project be permitted until such time that the detailed on-site mitigation plan is complete and approved by the permitting agencies.

Pursuant to the Memorandum of Agreement among the NCDOT, NCDENR, and USACE, signed July 22, 2002, the Ecosystem Enhancement Program (EEP) will provide all compensatory mitigation that is not satisfied by acceptable on-site mitigation.

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34. Submit Permit Application(s)

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The Office of Natural Environment Permit Specialist submits updated permit application(s) as appropriate to all of the agencies for which permits are required. Permit application(s) will be submitted within two months of the 4C meeting. The permit application package will vary according to each agency's specific requirements.

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35. Permit Application Review and Processing

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Upon receiving the permit application from NCDOT, the permitting agency(ies) will review the application for completeness. If the permit application is determined to be incomplete, the permitting agency(ies) will return the application to NCDOT for additional information, and/or inform NCDOT of the additional information that is required.

After the permitting agency(ies) determine that the permit application is complete, the permitting agency(ies) will assemble and distribute the application package for comment to any designated review agencies. This process varies according to the permit being requested.

If the permit application is found to be incomplete or inaccurate after processing has begun, or if additional information from NCDOT is necessary to adequately assess the project, the permitting agency(ies) that have permit processing deadlines may place an application on hold. NCDOT may also request in writing that its permit application be placed on hold at any time. If the permit application is placed on hold by the permitting agency(ies), the processing shall be resumed upon receipt of the necessary changes or necessary information from NCDOT. If NCDOT requested that the permit application be placed on hold, the processing shall be resumed upon receipt of a written request from NCDOT to resume processing.

During the permit application review and processing period, additional discussions and/or meetings may be conducted between NCDOT and the environmental agency(ies) to resolve any outstanding issues. The goal of the Merger Process, however, is to resolve all of these issues before the permit application is submitted to prevent delays in the construction letting.

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36. Agency Public Notice if Required

If required by law or otherwise determined to be appropriate, the permitting agency(ies) will issue a Public Notice requesting comments from the public on the permit application. For example, the USACE is required to issue a Public Notice for any project that requires an Individual Permit. The USACE Public Notice is normally issued for a 30-day review and comment period. In such a case, the Public Notice would have been issued after the Draft EIS or EA and prior to Concurrence Point 3.

However, if, in the opinion of the USACE, an additional Public Notice is warranted due to changes in the project or new information, a second Public

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Notice will be issued. NCDOT is required to issue a 30-day Public Notice after a permit application is accepted as complete for any project that requires a CAMA Major Permit. NCDWQ generally is not required to issue a separate Public Notice.

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37. Permit Decision

After the relevant permitting agency(ies) have reviewed the permit application(s) for compliance, and comments have been received and properly considered from the public, as well as relevant state and federal review agencies, a permit decision will be made. The permit decision may be in the form of an approval, approval with conditions or denial. If a permit is issued, it will typically list specific conditions or restrictions on the development. The project must be constructed according to the permit conditions. A permit decision may be in the form of a denial if the outstanding issues have not been resolved satisfactorily. A permit denial is very unlikely for projects that follow the Merger Process provided that the full Project Team has reached concurrence at each concurrence point.

After a permit decision is made by a state permitting agency, the state agency decision can be appealed by NCDOT or by a third party. If this occurs, then the state permitting agency(ies) will respond according to their specific requirements.

38. Changes to the Project's Design, Construction Methodology or Construction Timeframe

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If changes to the project's design, construction methodology or construction timeframe are needed at any time, additional coordination with the relevant environmental agency(ies) will be required. This includes the agencies that have permit authority over the project, as well as any other agencies that implement federal, state and local environmental statutes and regulations that apply to the project. If changes occur after the permit decisions are made, these changes may require the submittal of a request for a modification, amendment, Letter of Refinement or renewal to the relevant permit(s). A primary goal of the Merger Process is to greatly reduce, and eliminate if possible, the number of changes that may require additional coordination with the environmental agency(ies) after the original permits are issued. Permit modifications, in particular, are very time-consuming and problematic for all concerned parties due to the relatively short timeframe required for resolution.

It is the responsibility of NCDOT, not the Contractor, to conduct any additional coordination that may be required with the relevant environmental agency(ies). Coordination with the relevant environmental agencies, including the submittal of any required permit modification requests, should occur at least 2-3 months before the work in question must be conducted to allow adequate time for processing.

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When reviewing the request, the relevant environmental agency(ies) may request additional information before making a decision. The decision may be in the form of an approval, approval with conditions or denial.

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39. Complete Final Plans for the Project

During the course of the right of way acquisition, the Design Engineers will begin to develop the final plans for the project. The final design is a very detailed design that also includes computing and summarizing the contract quantities required for the project, incorporating right of way revisions, compiling plans from various units (Traffic Engineering Branch, Roadside Environmental Unit, Utilities Section, etc) and incorporating them in the project. NCDOT will make sure that all environmental commitments and permit conditions are incorporated. NCDOT will ensure that construction drawings match the permit plan drawings and permit conditions, including any permit modifications.

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40. Let Project

The project is advertised so that all interested contractors can bid on the project. The bids are opened on the project letting date. After receiving bids, the project is considered for award by the Board of Transportation. The Board then usually awards the contract to the low bidder and construction will usually start approximately 45 days after the contract is awarded. The contractor will be bound to the permit conditions and any environmental commitments that were developed during the NEPA and/or NCEPA environmental documentation.

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41. Preconstruction Meeting

After the contract is awarded, and prior to the initiation of construction, NCDOT and the Contractor will hold a preconstruction meeting. NCDOT will provide all Project Team members with a copy of the final plans at least 2 weeks prior to the preconstruction meeting along with a description of any changes that have been made to the project's design, construction methodology or construction timeframe. The purpose of this meeting is to review the final plans and the contents of the bid package, including any permit conditions, and environmental commitments. The preconstruction meeting will be scheduled for a time when the USACE, NCDWQ and NCDCEM (if a CAMA major permit was issued) can attend. All of the Project Team members will be invited to the preconstruction meeting with a minimum of thirty (30) days' notice.

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42. Compliance Monitoring

The NCDOT Division Engineer will ensure that all permits, permit conditions and associated documents are readily available on site at all times. The Division Engineer is responsible for ensuring that all federal, state, and local environmental statutes and regulations are adhered to after the project is let, including any permit conditions and environmental commitments.

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The Division Environmental Officer will provide assistance to the Division Engineer in meeting these requirements. Representatives from USACE, NCDOT, NCDWQ and other environmental agencies may visit the project site, including any disposal or borrow areas, at any time to conduct compliance inspections.

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43. Project Completion

All work, including compliance with environmental conditions, must be completed prior to the expiration date of the permits. If necessary, a permit renewal may be requested. The decision to renew a permit may be in the form of an approval, approval with conditions or denial depending upon the relevant agency(ies) specific requirements. Renewal (extension) of permits must occur before the permits expire.

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, NCDOT will return the Certificate of Completion to the NCDWQ 401/Wetlands Unit after obtaining the Division Engineer's signature.

Upon completion of all work, the Division Engineer and Division Environmental Officer will sign and return the USACE compliance form to the USACE.

Permitting Process for Phased Widening Projects

Many project corridor lengths are broken into a number of project segments and are funded at different timeframes for right of way acquisition and construction. Therefore, right of way plan preparation and final plan preparation occur at various time frames depending upon the project segment's schedule.

For a project that has multiple project segments, the following process will occur: The NEPA document will be written for the entire project corridor length (Steps 1-28). At the time of the Draft EIS or EA issuance, NCDOT will submit a Section 404 permit application for the entire project corridor. The application will include the plan for how compensatory mitigation will be addressed for the entire project (Step 34). An approved compensatory mitigation plan must be provided for the entire project before any project segment is permitted. Following the submittal of the application, the steps in the process that extend to the issuance of the FONSI or ROD (whichever is applicable) will be completed for the entire project corridor length and Concurrence Point 4A will be achieved for the entire project corridor length.

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The development of right of way plans on through to the project letting and construction (Steps 29-44) will begin for the project segment(s) that are imminently scheduled for right of way acquisition and letting.

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At the time the right of way plans are completed, an updated permit application will be submitted that will include right of way plans for the project segment(s) that are imminently scheduled for right of way acquisition and letting. Preliminary designs will be submitted with the permit application for the remaining project segments that are scheduled for later years. The permitting agencies will then take final action on the permit application for all project segments. Any permits that are issued will have conditions that a final design will have to be submitted and written approval and/or permit modification obtained from the USACE and NCDENR before construction can begin on those project segments where only preliminary design was submitted with the application.

As the right of way and letting date draws near for the remaining project segment(s), the development of right of way plans and the completion of steps that lead to the project letting and construction will be completed (Steps ~~29-44~~). At the time the right of way plans for the remaining project segment(s) are completed, a request for a permit modification will be submitted for those project segment(s). This request will contain the final design information for the project segment(s). Prior to providing written approval and/or a permit modification, the USACE and NCDENR, in coordination with the Project Team, will ensure that all appropriate avoidance and minimization measures have been incorporated in the project design. NCDOT will be notified of the decision on the requested segment(s) approval.

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