Screening Process

The screening process is applicable for TIP Projects that will have an environmental document prepared by NCDOT.

General

As stated in the MOU, the Section 404/NEPA Merger Process will generally apply to all new location projects and projects that will likely require an individual permit under Section 404 of the Clean Water Act. FHWA, USACE, NCDEQ, and NCDOT will consult early in the project development process, during the Project Scoping phase, to identify specific projects that will follow this process. Additional guidance is provided to assist in identifying specific projects that will follow this process.

It is recognized that there are substantial benefits in carrying projects through the Merger Process. The Merger Process requires a high degree of commitment of resources by the many agencies that are involved in the process. Consultation between the USACE, FHWA, NCDEQ, and NCDOT to determine applicability is necessary and important.

The guidance listed below will be used to determine if projects should be moved through the Merger Process:

Guidance for Applicability Determination

Merger screening typically occurs concurrently with a project’s internal and external scoping efforts. Internal scoping can provide NCDOT and FHWA, as appropriate, insight into whether a project should follow the Merger Process and thus prepare the transportation agencies to consult with USACE and NCDEQ on the matter. The consultation between the FHWA, USACE, NCDOT, and NCDEQ should generally be a meeting so that all data can be reviewed including aerial photography. Phone calls and e-mail may also be appropriate for projects with a certain level of impacts that do not require a detailed review of data. In reviewing the potential impacts of projects, it is important to consider topics such as, but not limited to, the following:

* The project’s setting
* Potential intensity of impacts
* Competing Natural and Human environmental resources
  + Environmental Justice Communities
  + Section 4(f)/Section 106 properties
  + Relocations
  + Wetlands and Streams
  + Buffer Rules
  + Water Supply Critical Areas
  + CAMA – Areas of Environmental Concern
  + T&E species present
  + Level of public controversy associated with project, potential impacts, etc.

The need for detailed alternative analysis studies to avoid impacts to these important resources and evaluate the conflict between resources should determine the basis for applying the merger process to projects. The NCDOT Project Development Engineer will document the results of this consultation and provide copies to FHWA, USACE, and NCDEQ.

If it is clear that the project should be screened either in or out of Merger, then that decision could be made at or immediately following the external scoping meeting. If the project is complex and/or new concerns are brought forward by stakeholders at the external scoping meeting, then a plan of action, with deadlines, should be identified to help resolve the screening-related questions in timely manner. The last step within the plan of action should be a separate screening meeting where all information can be discussed and a decision made on the applicability of Merger for the project.

If the project team members for USACE, FHWA, NCDEQ and NCDOT cannot reach agreement, the decision will be referred to the Merger Management Team (MMT) for resolution.

Screening Considerations

New location and widening projects:

In addition to assessing the project’s setting and the topics that could indicate potential project impacts, as described above in the Guidance for Applicability Determination, also consider the following questions:

Question 1: Is a Section 404 Individual Permit likely?

* If a Section 404 IP is likely, FHWA, USACE, NCDEQ, and NCDOT will discuss the full scope of the project and whether there is a need "for detailed alternative analysis studies to avoid impacts" to important resources and evaluate the conflict between resources. Please reference the Guidance for Applicability Determination above.
* If a project's scope is in question or if it is unclear or undecided if the Merger Process will aid in the overall evaluation of the project, the team has two options:

1. Place the project in the Merger Process with the understanding that it may be removed if later project information supports the removal, or
2. Elevate the decision as directed in the Guidance for Applicability Determination above.

Question 2: Is a Section 404 regional or Nationwide permit likely and will the project potentially impact a Critical Water Supply Area or Total Direct Impacts > one acre of wetlands or > 500 feet of stream?

* If a Section 404 regional or Nationwide permit is likely and the project impacts one of the criteria above, the FHWA, USACE, NCDEQ and NCDOT will consult as part of project scoping prior to scheduling the Concurrence Point No. 1 meeting to determine if the project should be placed in the Merger Process. Other resource agencies may be consulted for input as appropriate.

Question 3: Is the project potentially a best-fit widening?

* Give consideration that the project may possibly use a Regional General Permit (RGP) 31 , if the project proceeds through the Merger Process.

Bridge Projects

In addition to assessing the project’s setting and the topics that could indicate potential project impacts, as described above in the Guidance for Applicability Determination, also consider the following questions:

Question 1: Is the project a replace in-place (in existing right-of-way) only bridge project?

* If the only alternative under consideration is replace in-place with off- site detour, then no merger should be needed.

Question 2: Is an Individual Permit (IP) required from USACE?

* If an IP is required, or is likely to be required due to potential project impacts; then the NCDOT Rep. will consult with USACE, NCDEQ, and FHWA to determine if merger is recommended.

Non-Merger Projects

For projects that do not go through the merger process, it is important to note that NCDOT will still be submitting an alternative analysis and fulfilling the avoidance and minimization requirements. Resource agencies will have the opportunity to review these projects through the normal NEPA and permitting process when the EA is circulated for comments or when the CE is signed. Additionally, the USACE, FHWA, NCDEQ, and NCDOT will confer to determine the appropriate interagency coordination for the project (e.g. the need for a Pre-Application Meeting).

If information becomes available on a non-merger project that warrants it being considered for placement in the merger process, USACE, FHWA, NCDEQ, and NCDOT will meet to determine if it should be placed in the merger and at what point based on the project status.

Projects in Merger

As the project development advances and more detailed information becomes available, it may be possible to determine that a project in the Merger Process does not need to remain in merger. At each concurrence meeting, the Project Team should evaluate the need for the project to stay in the merger process. If these agencies agree, the project may be dropped from the merger process. The final decision to remove a project from the merger process rests with NCDOT, NCDEQ, USACE, and FHWA. The project development engineer will document the results of the consultation and provide copies to all project team members.

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