

Completing a Section 404 – NEPA Merger Application

Project Development and Environmental Analysis Branch		Approved: 6/7/12 Version 1.2
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Purpose

The purpose of the procedure is to guide the Project Development Engineer through the process of filling out and submitting a Section 404 - NEPA Merger Application to the USACE. For additional information, refer to [Background](#).

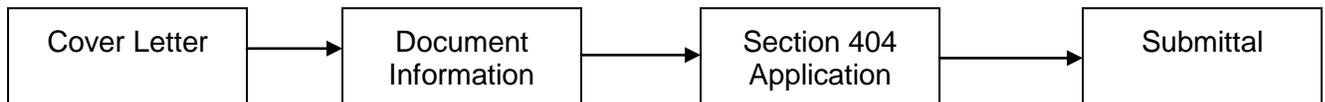
Responsibility

The Project Development Engineer (PDE) is responsible for filling out and submitting the Section 404 - NEPA Merger Application after the Environmental Assessment or Draft Environmental Impact Statement has been issued, which occurs between Concurrence Point 2A and Concurrence Point 3 for Process I and Process II and after Concurrence Point 4C for Process III. Refer to the [Merger Process](#) for additional information on each of these processes.

Scheduling and Time Constraints

The Section 404 - NEPA Merger Application must be submitted to allow the USACOE time to issue a Notice of Availability 30 days prior to the public hearing. The public comment period for the USACOE runs concurrently with NCDOT's 30 day public comment period that begins after the joint Public Hearing. Refer to the Merger Process Chart for additional guidance.

Procedure



- Step 1.** Open up the appropriate Cover Letter template and save a copy to your computer under a different name. Revise the letter based on your project. The letter must be signed by the PDEA Branch Manager or appropriate Unit Head. The two formats to choose from are based on the type of planning document that was produced for the project.
- [Cover Letter 1](#) is for EIS and EA documents (including bridge replacement projects)
 - [Cover Letter 2](#) is for bridge replacement projects that have been placed in the Merger Process, but only require a CE document.
- Step 2.** Check the list of additional recipients at the end of the cover letter to verify that it is up to date.
- Step 3.** Start with the summary written for the draft planning document. Edit the document summary further, if possible, to provide project details in a concise format, deleting information that is not related to jurisdictional issues. Refer to the examples for additional guidance.
- New Location or Widening with EIS or EA document.
[Sample Project Summary](#)
 - Bridge Replacement Project with CE document.
[Sample Project Summary](#)
 - Note: CE documents do not have project summaries. The engineer will have to start with the original document.
- Step 4.** Provide, as a minimum, the following project information:
- A brief introduction
 - A summary of the Purpose and Need for the project.
 - Scheduling and Costs (in table format)
 - A summary of the alternatives that were studied in detail.
 - Jurisdictional Issues (streams, wetlands, floodplains, etc) and estimated impacts to date
 - Avoidance, minimization, and mitigation efforts discussed or implemented
 - Threatened and Endangered Species
 - Other natural resources such as Anadromous Fish, Areas of Environmental Concern (AEC's), and Wild and Scenic Rivers
 - Cultural Resources
 - Hazardous Materials
 - Brief discussion showing that the project limits have logical termini, independent utility, and do not restrict alternatives for other reasonably foreseeable transportation improvements as outlined in [23 CFR 771.111\(f\)](#). This discussion is not needed if the document is a SEPA document.
- Step 5.** Fill out the [USACE ENG Form 4345](#). The application must be signed by the PDEA Branch Manager or appropriate Unit Head before sending in the application. Instructions for filling out the form are in the PDF file for the Permit Application.

- Step 6.** Reproduce any figures and tables referred to in the project summary. In general, the figures that should be provided are:
- Vicinity Map
 - Figure showing the location of the various study alternatives or corridors
 - Proposed typical section
 - Additional figures only as needed to clarify the discussion
- Step 7.** Print out mailing labels. There are three lists that must be provided to the USACE. They are:
- The general mailing list produced for the project for newsletters, notices, etc
 - The Property Owners Contact list consisting of those individuals directly impacted by the project
 - 404 Mailing List (List from NEU used to notify property owners w/ wetlands)
- Refer to the procedure for requesting a mailing list.
- Step 8.** Compile the Merger Application and have it reviewed by the appropriate Group Leader
- Step 9.** Obtain the required signature from the PDEA Branch Manager or Unit Head
- Step 10.** Send the Merger Application to reproduction. Print a copy of the mailing labels on standard paper and place in the packet for reproduction. You will need 25 copies.
- Step 11.** Distribute the application packet as follows:
- The original Merger Application (with labels printed on label paper) is sent to the USACE
 - One (1) copy to file
 - The remaining copies to the recipients listed at the end of the cover letter as directed
- Step 12.** Mail the Merger Application once the EIS/EA/CE has been signed and is ready for distribution.
- Note: The USACE Project Manager may also request an electronic copy of the Summary of Project information for use in preparing the Notice of Availability.
- Step 13.** Follow up with the appropriate USACE Division Project Manager to verify that the application has been received within two weeks after it has been mailed. Note that the USACE Representative may ask for an electronic copy as well to aid in the development of the Notice of Intent.
- Step 14.** Confirm the Prepare and Submit 404 Merger Application activity in STaRS.

Background

The Section 404/NEPA Merger Application (Merger Application) is submitted to the USACE to begin the process for setting up a joint Public Hearing for the project. In order for the USACE to issue a permit for fill in Waters of the United States, it is required to identify the “least environmentally damaging practicable alternative (LEDPA)” for the project. They are required to

issue a Notice of Availability and hold a public hearing as part of this identification process. Therefore, the Merger Application provides them with a summary of information from the planning document for their use in issuing the Notice of Availability. The timing of the application allows for NCDOT and USACE to hold a joint Public Hearing for the project, thereby expediting the permitting process. Reference the [Additional Background Information](#) for this procedure.

Policy, Regulatory, and Legal Requirements

[National Environmental Policy Act of 1969](#), as amended

[Clean Water Act of 1977](#), as amended

[Freedom of Information Act](#), as amended 2002

[Intermodal Surface Transportation Efficiency Act of 1991 \(ISTEA\)](#), as amended

[Transportation Equity Act for the 21st Century \(TEA-21\)](#), as amended

[Safe, Accountable, Flexible, Efficient Transportation Equity Act – Legacy for Users \(SAFETEA-LU\) of 2005](#)

Warnings and Precautions

If the Section 404 – Merger Application is not completed and submitted on time, delays with the project could occur.

Resources and Tools

[Cover Letter 1](#)

[Cover Letter 2](#)

[Sample Project Summary](#) – EIS/EA

[Sample Project Summary](#) – Bridge Replacement w/ CE Document

[USACE ENG Form 4345](#)

Contacts

- For suggestions to change this procedure contact: Karen Capps, (919) 715-7299
- For questions about performing this procedure contact: Beth Smyre (919) 733-3141

User Access

- Restricted NCDOT, FHWA, MPO, RPO, Consultants, etc.

