

An aerial photograph of a winding river or stream flowing through a dense, green forest. The water is a deep blue color, and the surrounding land is covered in thick vegetation. The river meanders through the landscape, creating several small islands and bends.

**U.S. ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT**

**REGULATORY PROGRAM
&
HIGHWAY METHODOLOGY
OVERVIEW**

**MAINE TURNPIKE AUTHORITY
PUBLIC MEETING FOR YORK TOLL PLAZA
JANUARY 21, 2010**



PERMIT AUTHORITIES

What triggers Corps jurisdiction?

New England District

Section 10 - Rivers and Harbors Act of 1899

- Regulates work in navigable waters of the U.S.

Section 103 - Marine Protection Research Sanctuaries Act

- Regulates transportation of dredged material ocean disposal.

Section 404 - Clean Water Act of 1972

- Regulates dredged & fill material discharges in waters of the U.S.
- Includes ANY temporary or permanent fill as well as certain excavation/demolition activities
- Waters of U.S. = all navigable waters and all others



PERMIT AUTHORITIES

Section 404 of the Clean Water Act

New England District

- Issue permits for the discharge of dredged or fill material into all waters of the U.S. including navigable waters as well as their tributaries and adjacent wetlands.
- Federal jurisdictional boundaries:
 - High tide line in navigable waters.
Ordinary high water line in other waterways.
 - Wetland boundaries are delineated using the Jan. '87 Corps Wetlands Delineation Manual



Section 404



Driveway Crossing

Section 404



Camp Road



Section 404



Commercial Development



TYPES OF PERMITS

New England District

■ Programmatic General Permits (“PGP”)

- Abbreviated permit process (60 days)
- Reserved for minimal impact projects

■ Individuals Permits

- Reserved for more complex or controversial projects
- Require public notice & full public interest review
- Permits processed within 120 days

Key Elements of Permit Process



New England District

■ PRE-APPLICATION

■ APPLICATION

- DEP, LURC or COE application form
- Clear, reproducible, & legible plans (locus map, plan view, & cross section(s))
- Clear summary of project purpose & need
- Clear summary of project impact
- ALTERNATIVES ANALYSIS
- Wetland Delineation & Functional Assessment
- Mitigation/Compensation(?)

■ AGENCY/PUBLIC REVIEW

■ PERMIT ISSUANCE

■ COMPLIANCE & ENFORCEMENT

Clean Water Act Section 404(b)(1) Guidelines



New England District

Corps can issue a permit only if a project is: Least Environmentally Damaging Practicable Alternative (“LEDPA”).

Sequence:

Avoid impacts to aquatic resources

Minimize impacts

Mitigate unavoidable impacts

Alternatives analysis drives LEDPA decision

How is LEDPA determined for complex, linear projects?



HIGHWAY METHODOLOGY

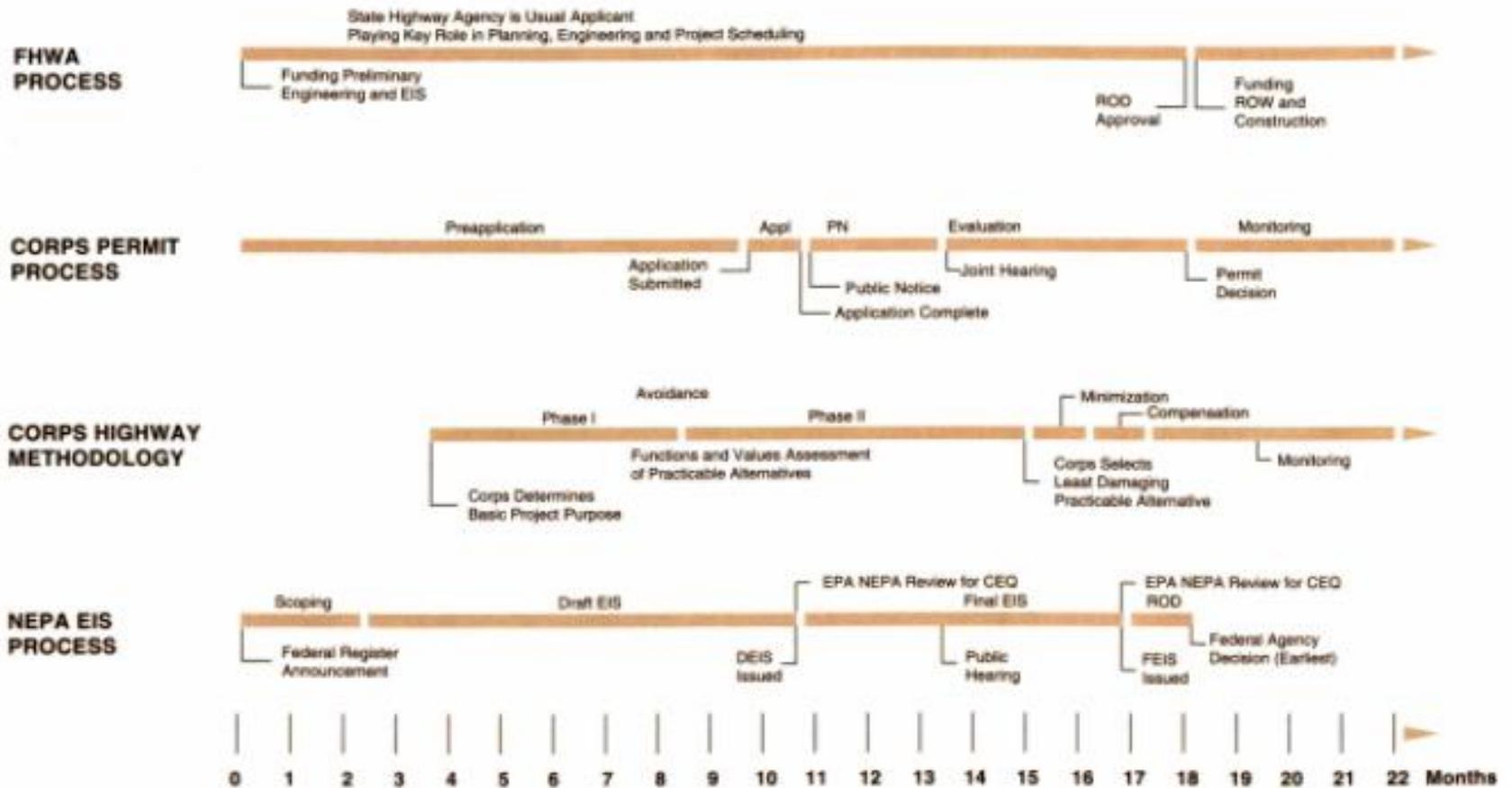
New England District

Overview of Highway Methodology

- Developed New England District, 1987
- A way to integrate highway or other linear project planning and design with Corps permit regulations, NEPA and other Federal and State review processes
- Builds on review milestones and interagency consensus.

COMPOSITE TIME LINE SCHEDULE

INTEGRATING THE CORPS OF ENGINEERS SECTION 404 PERMIT PROCESS WITH HIGHWAY PROJECTS AND NEPA



HIGHWAY METHODOLOGY



Pre-Application

New England District

- Review Applicant's scope of work
- **Determine Basic Project Purpose**
- ID Study Area
- Corps Concurrence w/above
- Project Schedule
- **Avoidance - Phase I** = First iteration of viewing potential alignments
- ALL reasonable major alternatives are drawn relative to a constraint map
- **Refine alternatives - Phase 2** (much more detail on fewer alternatives)

HIGHWAY METHODOLOGY



New England District

Application/Public Notice

- Application tied to Phase 2 submittal
- Application often includes applicant's preferred option
- Reviewed for completeness
- Sufficient info to issue a Public Notice
- Clear concise plans on 8½ X 11 Paper!
- Public Notice & Possible Hearing/Meeting
- Goal of public notice is to identify the LEDPA

PUBLIC INTEREST REVIEW

A balancing process.....



New England District

FACTORS CONSIDERED DURING PUBLIC NOTICE INCLUDE:

- CONSERVATION
- ECONOMICS
- AESTHETICS
- GENERAL ENVIRONMENTAL CONCERNS
- HISTORIC VALUES
- FISH AND WILDLIFE VALUES
- FLOOD DAMAGE PREVENTION
- LAND USE
- NAVIGATION
- RECREATION
- WATER SUPPLY
- WATER QUALITY
- WETLAND VALUES
- ENERGY NEEDS
- SAFETY
- FOOD PRODUCTION
- THE NEEDS AND WELFARE OF THE PEOPLE



NOTE:

Corps focus is on aquatic environment, natural environment, and human environment (in that order).

Impacts to human environment do not overrule impacts to aquatic or natural resources.

HIGHWAY METHODOLOGY



LEDPA Selection

New England District

- No discharge shall be permitted:
 - If there is a practicable alternative...which would have less adverse impact on the aquatic ecosystem
 - Provided alternative does not have **OTHER** severe environmental consequences
- LEDPA is determined by Corps, with input from Federal/ State Agency Partners, Public Comments. Only the LEDPA may receive a Corps permit.
- Critical Steps:
 - (1) Is Alternative **Practicable??**
 - (2) Is it **Least Environmentally Damaging??**



MITIGATION

New England District

- Occurs late in the process but early planning is encouraged
- Conceptual/Adjustable at time of Public Notice preferred
- Final Design is based upon selection of LEDPA
- New Guidelines/Mitigation Ratios:
http://www.nae.usace.army.mil/reg/1073_001.pdf
- Should target functions/values of impacted resources (i.e., in-kind mitigation)
- In lieu fee, mitigation banks, or traditional wetland restoration, enhancement, or creation are all viable options.



STATUS OF MTA PROPOSAL

New England District

- No application to Corps or DEP has been submitted to date
- Basic Project Purpose has been defined: “To replace/rehabilitate the existing barrier toll plaza on the Maine Turnpike at York, Maine incorporating High Speed Tolling (HST) and addressing settling/subsidence and facilities deficiencies, safety deficiencies and existing and projected traffic volumes.” April 2007
- Corps met with town and “Think Again” July 2, 2008.
- Awaiting Phase 1 submittal



QUESTIONS

?????



CONTACT INFORMATION

New England District

- **Jay Clement, Senior Project Manager**
- **U.S Army Corps of Engineers**
Maine Project Office
675 Western Avenue, #3
Manchester, Maine 04351
- **207-623-8367 Ph.; 207-623-8206 Fax**
- **jay.l.clement@usace.army.mil**
- **www.nae.usace.army.mil**