



Memorandum

SENT BY ELECTRONIC MAIL

Subject: **INFORMATION:** USCG/FHWA Streamlining Procedures Date: 12/17/2001
For Projects That Require A U.S. Coast Guard Bridge Permit

Original Signed by:

From: Frederick Skaer HEPE
Director, Office of NEPA Facilitation
James D. Cooper HIBT-1
Office of Bridge Technology

To: Directors of Field Services
Resource Center Managers
Division Administrators
Federal Lands Highway Division Engineers

In response to requests from the field for clarification and streamlining of projects requiring a bridge permit, the Federal Highway Administration (FHWA) and the United States Coast Guard (USCG) recently examined ways to improve coordination and expedite bridge projects. FHWA HQ and USCG HQ met to assess issues identified by the field staff in both agencies, and to define activities needed to facilitate improved streamlined approaches.

A central concern is that the FHWA and USCG offices are interpreting the guidance delineated in the 1985 MOU inconsistently and are not taking advantage of opportunities to coordinate process improvements encouraged by the TEA-21 Environmental Streamlining mandate.

This memorandum and the related attachments serve to clarify the 1985 joint FHWA/USCG guidance for determining proper environmental documentation when assessing the impacts to historic bridges.

The FHWA and USCG have agreed to the following:

- The USCG will accept the FHWA NEPA classification and Section 4(f) determinations as the acceptable level of documentation for historic bridges when applicable.
- The FHWA will determine the applicability of 23 U.S.C. 144(h) using the procedures of 23 C.F.R. 650.805.

- The FHWA and USCG will promote the use of joint public notices/hearings whenever possible and will identify additional streamlining process improvements, especially opportunities for early coordination.

These agreements will be implemented through the following actions

Completed Actions:

- Summary of the FHWA/USCG issues and responses - (Attachment A)
- Clarification of existing procedures and amplification of opportunities for early coordination by updating the USCG Bridge Administration Manual (BAM) Enclosure 2 - (Attachment B). This includes a copy of the USCG transmittal.

Enclosure 2 is part of the USCG BAM and can be used by the FHWA as a stand-alone quick reference guide that delineates required steps needed for securing bridge permits.

Remaining Action Items:

A task team consisting of the USCG and FHWA field office representatives has been identified to work with headquarters to pursue these remaining action items:

Action Item	Completion Date
Identify opportunities for the USCG to participate in agency meetings, training, and workshops. The USCG will do the same for the FHWA.	Ongoing
Ensure the USCG participation as a member of the Federal Interagency Streamlining Group.	11/01
Examine possibilities for one DOT approach, longer term process improvement solutions and assess need to revise the 1981 guidance/1985 MOU.	Winter/02
Conduct FHWA/USCG streamlining workshop and provide training on the FHWA and USCG requirements/processes.	Spring/02

It is important that coordination with the USCG be initiated at an early stage of project development and that the opportunity exists for the USCG to be involved throughout the environmental review process. This will provide the opportunity to merge the FHWA and USCG processes and ensure that both land transportation and water navigation issues will be simultaneously addressed and not delay issuance of any necessary bridge permit(s).

If you have questions or comments, please contact me at 202-366-2058 or Lucy Garliauskas at 366-2068.

Attachments

cc: Cindy Burbank, Program Manager, HEP-1
King Gee, Program Manager, Infrastructure, HIF
Phil Thompson, HIBT-20
Nick Mpras, Office of Bridge Administration, USCG

ATTACHMENT A

Summary of Key FHWA and USCG Bridge Permitting Issues

FHWA HQ and the USCG conducted concurrent surveys to clarify the differences in determining the proper level of environmental documentation required for replacement of historic bridges and to identify opportunities to improve FHWA and USCG coordination and opportunities to streamline the permitting process. While most of the respondents noted that they enjoyed good working relationships with their FHWA or USCG counterparts, several concerns were identified. These are summarized below:

Issue: Level of environmental documentation required for historic bridges over navigable waters.

Inconsistent interpretations appear to be exacerbated by lack of early coordination to establish FHWA and USCG agreement regarding determination of “significant effect,” criteria for defining “significant effect” and the definition of “use and take” concerning 4(f) and historic properties.

Response:

Both agencies agree that an EIS is the proper level of documentation required for the replacement of a historic bridge, if the bridge is important for preservation and a “significant effect” exists. The FHWA will request USCG involvement early in the process to determine appropriate level of documentation.

A number of historic bridge replacements under FHWA’s program can qualify to be processed as categorical exclusions (CEs) under NEPA and under Section 4(f) programmatic agreements under Section 4(f). The FHWA applies a CE determination in a manner that ensures compliance with the requirements of 23 C.F.R. 771.117. The USCG will normally categorically exclude bridge replacements that the FHWA has classified as a categorical exclusion. Accepting the FHWA CE determination is not contrary to USCG regulations

The FHWA will also coordinate with the USCG using applicable guidelines associated with determining whether an individual or programmatic Section 4(f) evaluation is acceptable. The USCG will concur with any FHWA Section 4(f) evaluation provided it does not conflict with applicable guidance.

The USCG will cooperate with the FHWA to ensure bridge impacts are adequately addressed in the environmental documentation. The USCG will then adopt the bridge related portions of the environmental documentation and prepare its own decision

document (CE, FONSI, or ROD) based on applicant prepared environmental documentation.

Issue: 23 USC 144 (h)- Jurisdiction over navigational determinations

This is an FHWA statute that the USCG does not administer, however the decision is based on information on navigability for which the USCG has authority. Criticisms are that the USCG raises issues late in the process and related permitting delays are perceived to stem from the FHWA's lack of expertise in making navigational determinations and the need for early collaboration between the FHWA and USCG to determine if the waterway meets exemption criteria.

Response:

The streamlining procedures allow for early or pre-consultation between the two agencies when there are possible navigable waters in question in order to determine if the waterway has met the applicability criteria for certain waters under this section, and to avoid conflicts late in the process.

More guidance for defining navigable waterways is desired.

An up-to-date list of waters subject to the USCG jurisdiction would assist in making quick and accurate determinations under 23 U.S.C. 144(h). The FHWA and USCG are investigating a trial establishment of such a list for a selected part of the country.

Pre-consultation with the USCG is prudent to ensure concurrence with the navigability determination. The FHWA will make U.S.C. 144(h) determinations based on the USCG comments.

Issue: FHWA and USCG coordination and process improvements/Joint Public Notices and hearings.

Both agencies agree that when problems arise, they are often due to lack of coordination and a lack of partnership between the FHWA Division offices and USCG Districts. The agencies need to take advantage of the opportunities to hold joint public notices and hearings.

Response:

The streamlining procedures allow the USCG to engage in a pre-permit application consultation with the FHWA/State to determine the informational needs for a bridge permit and environmental classification.

Under the current procedures, consultation to clarify the scoping responsibilities associated with the environmental review should take place early in the process, but

usually occur later rather than earlier; however, the USCG assists the FHWA/State with the development of the EA or draft EIS.

The USCG is also encouraged to participate with the development of the preliminary environmental/location studies. If a permit is required, the FHWA will ask the USCG to serve as a cooperating agency as per NEPA, while continuing to conduct its responsibilities as the bridge permitting authority.

Both agencies are encouraged to participate in regional and national meetings to determine mutual needs, establish stronger partnerships, and define ways to better streamline the environmental review process.

The FHWA will involve the USCG early in the project development process provide sufficient details on bridge locations and clearances and will request the USCG to participate in joint public notices/ hearings where possible.

The USCG will hold joint hearings/public notices whenever sufficient information is provided on bridge locations and clearances.



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16590
6 December 2001

From: Commandant
To: Distribution

Subj: **IMPROVING BRIDGE PERMITTING COORDINATION WITH THE FEDERAL HIGHWAY ADMINISTRATION**

Ref: (a) Federal Highway Administration (FHWA) Survey on Coordinating with U. S. Coast Guard on Bridge Permits
(b) Enclosure (1), COMDTINST M16590.5B, BA Manual
(c) Enclosure (5), COMDTINST M16590.5B, BA Manual
(d) Enclosure (2), COMDTINST M16590.5B, BA Manual

1. The reference (a) survey of last summer is part of the Coast Guard's and the FHWA's ongoing effort to promote environmental streamlining, coordination and the project development process. This follow-up summarizes the major survey results, and advises of the process improvements and clarifications we have worked out in subsequent meetings with our FHWA partners, in response to the concerns identified in the survey responses.
2. In general, FHWA and Coast Guard field personnel responded that the quality of working relationships between the FHWA and Coast Guard were in the good to excellent range. However, with one exception, State Department of Transportation responses generally indicated poor to fair working relations with the Coast Guard. Additional comments received showed a need for clarification with regard to:
 - a. Responsibilities involving 23 U.S.C. 144(h).
 - b. Level of environmental documentation for historic bridge replacement projects.
 - c. Coast Guard early involvement with the project development process and joint public hearings and notices.
 - d. Acceptance of FHWA Categorical Exclusions involving Programmatic Section 4(f) Statements.
3. No changes in the basic Bridge Administration Program policy or coordination concepts and responsibilities contained in references (b) and (c) were determined necessary at this time. However, some clarification in procedures is warranted and we focused on doing this by revising

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HIGHWAY ADMINISTRATION**

reference (d), copy enclosed, to clarify the procedures between agencies for handling projects which require a Coast Guard bridge permit. Upon receipt of this letter substitute Enclosure (1) with the version presently contained in the Bridge Administration Manual (BAM). A future Change 2 to the BAM will formally replace BAM Enclosure (2).

4. If you have any questions on this effort to improve bridge permitting coordination with our FHWA/State partners, please do not hesitate to contact me.


N.E. MPRAS
By direction

Encl: (1) BAM Enclosure (2), revised

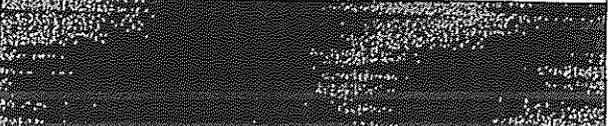
Dist: All District Bridge Staffs
FHWA - F. Skaer

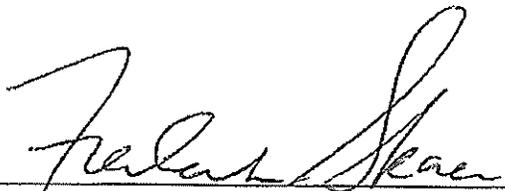
Coast Guard/FHWA Procedures for Projects Which Require a Coast Guard Bridge Permit

Federal Highway Administration (FHWA/State) Activities	U.S. Coast Guard Activities
1. <i>System Planning Activities</i> – Notify Coast Guard of projects on plan or Transportation Improvement Program that may require a bridge permit. (optional)	
2. <i>Project Initiation Activities</i>	
3. <i>Preliminary Environmental/Location Studies</i> - Assess potential for Bridge Permit and Coast Guard involvement early in the project development process.	3. Become involved early in process at FHWA's request.
3(a) <i>Data gathering</i> - Establish a Coast Guard contact (usually a Coast Guard District Office) and compile applicable information regarding location of potential crossing, i.e. waterway opening, waterway characteristics, type of waterway navigation, etc.	
3(b) <i>Determine if a Coast Guard permit is required</i> - Make 23 U.S.C. 144 (h) determination based on information obtained in 3(a) and through coordination with Coast Guard as per 23 CFR 650.805-807 (Subpart H).	3(b) Timely consult with FHWA/HA on permit jurisdictional issues. District will respond to FHWA/HA consultations within 30-days.
3(c) <i>Permit Pre-Application Consultation</i> - Coordinate with Coast Guard to determine information needed for meeting requirements of a Bridge Permit. Information needed by Coast Guard could include a description of overall project, proposed bridge design concepts waterway location, opening and height clearances, presence and disposition of existing bridge(s), etc. and preliminary environmental information.	3(c) Assess navigational needs and assist FHWA/State with draft EIS or EA; consider, as appropriate, preliminary public notice of project locations and evaluation of possible effects on waterway. Advise FHWA/State whether the proposed project meets the reasonable needs of navigation or is controversial.

<p>3(d) <i>Determine the Level of NEPA Environmental Documentation (CE, EA, or EIS)</i> - Based on project information, determine appropriate environmental class of action. For projects involving historic bridges, apply the provisions of Section 106 and Section 4(f) and the FHWA/Coast Guard guidance MOU of January 7, 1985. Coordinate with the Coast Guard using applicable guidelines. For multi-state bridge projects make sure that all of the affected State DOTs and responsible jurisdictions and oversight agencies carry out appropriate coordination efforts.</p>	<p>3(d) Become involved early in the process upon FHWA's request. Cooperate with FHWA in determining appropriate level of environmental documentation. Coast Guard will normally accept a FHWA CE provided it does not conflict with FHWA/Coast Guard guidance MOU of January 7, 1985 or other guidance.</p>
<p>3(e) <i>Bridge Permit Coordination</i> - Continue coordination with Coast Guard regardless of level of environmental class of action. For EIS projects formally request Coast Guard to be cooperating agency as per CEQ Regulations. FHWA will advise FHWA headquarters if there is a problem coordinating with Coast Guard field representative.</p>	<p>3(e) Coast Guard will meet and cooperate with the FHWA and the HA whenever requested to resolve problems and avoid unnecessary project delays. Coast Guard will serve as a cooperating agency when requested and will so advise FHWA within 30 days of receiving request.</p>
<p>4(a) <i>Environmental Documentation</i> - Prepare necessary environmental documentation based on project analysis. Include discussion of Bridge Permit application information as established in 3(d), potential impacts to the environment, and a discussion of results of ongoing coordination with the Coast Guard.</p>	<p>4(a) Comment on environmental documentation concentrating on the bridge(s) and approaches, with particular emphasis on adequacy of proposed clearances.</p>
<p>4(b) <i>Joint FHWA/State and Coast Guard Public Involvement</i> - Coordinate with the Coast Guard to determine if joint efforts for public notices, meetings, and hearing(s), especially in controversial projects are applicable.</p>	<p>4(b) Participate in joint public notice and hearing(s): Where requested by FHWA/State When sufficient information is available on a given bridge to avoid separate Coast Guard hearing. Coast Guard will hold/issue joint public hearings/notices whenever sufficient information is provided on bridge location and clearances.</p>

<p>5. <i>Environmental Documentation</i> – Continue environmental analysis, select preferred alternative and complete environmental documentation, furnish preliminary environmental documentation to Coast Guard for review, as appropriate, respond to comments received on navigation and environmental aspects of highway bridges. If the Coast Guard has not provided comments on the bridge permit related aspects, contact the Coast Guard and obtain their views on the adequacy of the current bridge permit information including navigational clearances.</p>	<p>5. Upon request, assist in preparing responses to any navigational issues received on environmental document.</p> <p>Review preliminary final EIS or FONSI and comment, as appropriate.</p>
<p>6. <i>FHWA approval of Final environmental documentation</i> - Complete permit application as required. Coordinate with Coast Guard to ensure adequacy of Permit Information. If Programmatic Section 4(f) is utilized, provide Coast Guard with the supporting information for determining its applicability, including alternatives, mitigation measures, and Section 106 FHWA/SHPO MOA coordination.</p>	<p>6. If bridge impacts are adequately addressed in environmental documentation, Coast Guard will adopt bridge related portions of EIS, prepare own FONSI based on applicant prepared EA, and concur with any FHWA Programmatic Section 4(f). Coast Guard field bridge staff will cooperate with FHWA/HA to ensure bridge impacts are adequately addressed.</p>
<p>7. <i>Permit Application</i> – Whenever practicable submit application for Coast Guard Bridge Permit. (Permit application(s) may include alternate bridge designs.) Resolve any outstanding issues.</p>	<p>7. When permit application is included, review for completeness and issue formal public notice.</p>

<p>8. <i>Permit Application</i> - If permit application has not been previously submitted, apply for permit as soon as practicable.</p>	<p>8(a) For applications submitted after approval of final EIS or FONSI, District reviews application and issues formal public notice.</p> <p>8(b) District concurs in resolution of any outstanding issues; forwards permit application with recommendation to Washington Headquarters or acts on permit application where appropriate.</p>
<p>9. <i>Complete bridge design</i> - If alternate designs result, notify Coast Guard of alternate design within 30 days of bid award.</p>	



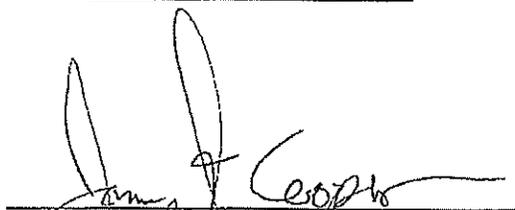
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Date: 12-10-2001



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U. S. Coast Guard
By direction of the Commandant

Date: DEC - 6 2001



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Director, Office of Bridge Technology
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Date: 12-16-01