



US Department  
of Transportation

**Federal Highway  
Administration**

# Memorandum

Subject "Applying the Section 404 Permit Process  
to Federal-aid Highway Projects"

Date

FEB 23 1989

From Associate Administrator for Right-of-Way  
and Environment  
Washington, D.C. 20590

Reply to  
Attn of

HEV-12

To Regional Federal Highway Administrators  
Direct Federal Program Administrator

This memorandum distributes the publication, "Applying the Section 404 Permit Process to Federal-aid Highway Projects." The publication was developed through an interagency effort by the Federal Highway Administration (FHWA), U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service. This final copy reflects comments made on the draft version by the field elements of each participating agency plus a number of State highway agencies.

The agencies responsible for this document believe that many problems associated with the permit process can be overcome through early and continued participation by all agencies having responsibilities under the Section 404 program. Active involvement helps ensure a clear recognition and consistent application of each agency's responsibility and authority in the permit process.

The document highlights the interagency communication and cooperation that is necessary whenever Federal-aid highway projects require permits under Section 404 of the Clean Water Act. For example, under the Section 404(b)(1) guidelines agency interaction is essential to the selection of practicable alternatives causing the least environmental damage and to the development of appropriate and reasonable mitigation measures.

One technique to promote early and active participation is the suggested integration of the National Environmental Policy Act (NEPA) with Section 404 as detailed in Chapter 11. We believe that by addressing the requirements of the Section 404 permit process during the NEPA phase of project development, significant time savings and the avoidance of prolonged controversy are possible. The agencies contributing to this document are committed to making the merger of Section 404 and NEPA a successful component of the Federal-aid highway development process.

As part of this commitment, the FHWA and the American Association of State Highway and Transportation Officials plan to sponsor a workshop this summer to develop possible ways to implement the recommendations of the document.

The workshop will also address other highway related permitting and wetland topics, such as the recommendations of the National Wetlands Policy Forum. We envision a broad representation by top officials of State, Federal and local agencies involved in the Section 404 process and highway project development.

Each agency is currently providing the document to its field organization. With this memorandum we have made distribution to the Regional Offices, with sufficient copies for every Division and State highway agency. Please contact Mr. Fred Bank at 366-2061 for additional copies or further information.

A handwritten signature in cursive script, appearing to read "A R Kane".

Anthony R. Kane