

# 2017 NATIONWIDE PERMITS: THE FINAL RULE

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Regulatory Program Workshop  
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**US Army Corps  
of Engineers**



# TOPICS

- What are the Nationwide Permits?
- What's in the 2017 Nationwide Permit final rule?
  - What changes were made?
- General Conditions for the 2017 Nationwide Permits
- Sacramento District Regional Conditions
- Transitioning to the 2017 Nationwide Permits
- NWP Verification Process



## NATIONWIDE PERMITS

- Congressional intent (Clean Water Act Section 404(e))
  - Streamlined authorization process for small activities with no more than minimal adverse environmental effects
  - Issued for no more than 5 years
- Authorize ~35,000 activities per year (reported) plus ~30,000 non-reporting activities
- First issued in 1977
  - 15 nationwide permits
  - 14 general conditions
- NWP Issuance involves a full interagency and public interest review

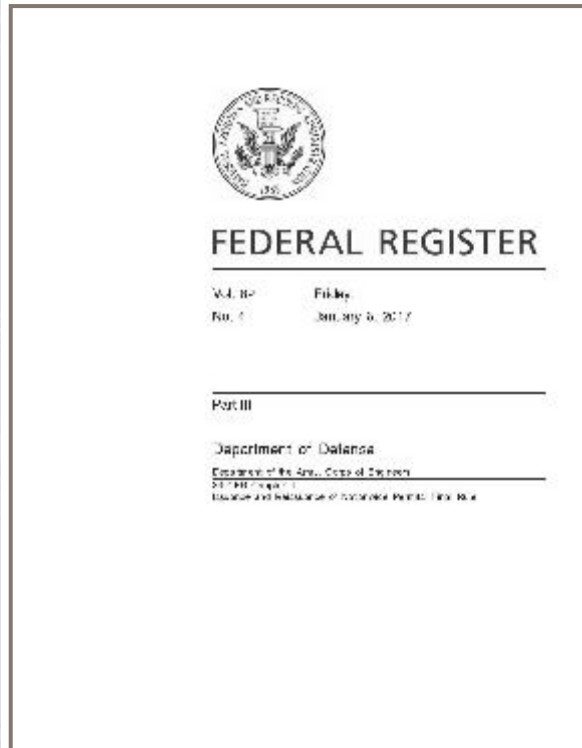


## NATIONWIDE PERMITS

- 2012 NWPs expired on March 18, 2017
  - 50 nationwide permits
  - 31 general conditions
- 2017 NWPs effective March 19, 2017
  - 52 nationwide permits
  - 32 general conditions
- To qualify for the use of a NWP, a proposed activity must:
  - Comply with all terms of the NWP
  - Comply with all General Conditions of the NWP
  - Comply with all Regional Conditions of the NWP
  - Comply with all Special Conditions of the NWP (if applicable)
  - Have no more than minimal individual/cumulative adverse effects



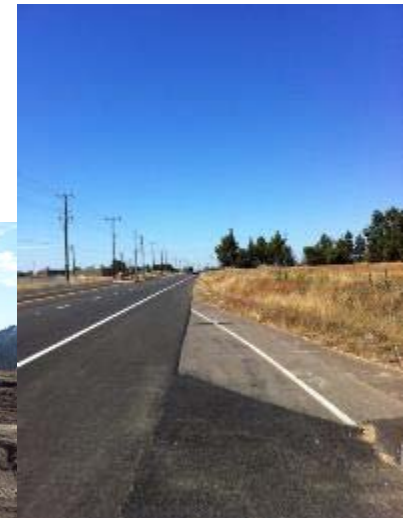
# SUMMARY OF JANUARY 6, 2017 FINAL RULE



- Reissued all 50 existing NWP's
- Issued two new NWP's
  - Removal of low-head dams
  - Construction and maintenance of living shorelines
- Issued one new general condition
  - Activities affecting structures or works built by the United States (federal water resources projects)
- Effective date: March 19, 2017
- Expiration date: March 18, 2022

# NATIONWIDE PERMITS

- Types of activities authorized
  - Residential, commercial, institutional developments
  - Structures in navigable waters
  - Renewable energy
  - Scientific research and survey activities
  - Mining
  - Utility line activities
  - Transportation
  - Recreational activities
  - Maintenance
  - Restoration





## SUMMARY OF 2017 FINAL RULE

- Nationwide permits
  - 26 NWPs reissued with changes
  - 24 NWPs reissued with no changes
  - 2 new NWPs issued
- General conditions
  - Reissued 12 general conditions with changes
  - Reissued 19 general conditions without changes
  - Issued 1 new general condition
- Definitions
  - Added 5 new definitions



# NATIONWIDE PERMITS

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Aquaculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
53. Removal of Low-Head Dams
54. Living Shorelines





# GENERAL CONDITIONS

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
19. Migratory Bird and Bald and Golden Eagle Permits
20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
22. Designated Critical Resource Waters
23. Mitigation
24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-by-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
31. Activities Affecting Structures or Works Built by the United States
32. Pre-Construction Notification



# SACRAMENTO DISTRICT REGIONAL CONDITIONS



## REGIONAL CONDITIONS (RC)

- 33 CFR 330.4(e)
  - Division engineer may assert discretionary authority by modifying, suspending, or revoking NWP authorization for a specific geographic area, class of activity, or class of waters within his division
- 33 CFR 330.5(b)(2):
  - Concurrent with the HQ notification of proposed, modified, reissued, or revoked NWPs, the District Engineer will notify the known interested public by a notice issued at the district level. The notice will include proposed RCs or proposed revocations of NWP authorizations for specific geographic areas, classes of activities, or classes of waters, if any, developed by the division engineer.



## REGIONAL CONDITIONS

- **Sacramento District: RCs for California, Nevada, Utah**
  - Public Notice of Proposed RCs and revocations of NWP's issued on June 15, 2016. Comment period ended on August 1, 2016.
  - 6 comment letters received (National Marine Fisheries Service; Placer County Flood Control and Water Conservation District; Pyramid Lake Paiute Tribe Environmental Department (Nevada); U.S. Environmental Protection Agency (USEPA), Region 8 (Utah); USEPA Region 9 (California and Nevada); Utah Department of Environmental Quality, Division of Water Quality
- **Albuquerque District: RCs for Colorado**



## REGIONAL CONDITIONS

Final Sacramento District Nationwide Permit (NMP)  
Annual Continuation for California, including the 100-year Flood  
(Physio Fact ID 2012-00106, 10/10/12)

## A. Revised RMPs.

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### E. Region

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ISBN 0-314-26111-1

<sup>10</sup> <http://www.fishbase.org>

Local Sacramento District Nationwide Permit (NWP)  
Revised Conditions for Nevada and the Lake Tahoe Basin in California  
May 1996 (Rev. 11/2017 and March 15, 2022)

#### a. Revoked RHPs

1. 41869 was collected on 20, 21, 32, and 38 April, recorded as *colobus* in the early literature, and made no other mention in the literature. The material is not well represented by the 2, 4, 10, 11, 12, 24, 25, 26, and 38, but these have been mostly based on *Urocyon* and *Canis* or do not have impact on *Urocyon* and/or *Canis* at all (see below). For 41869, 6, 12, 27, and 30 see *Revue de Zoologie* 1951.

#### B. Regional Conditions Applicable Before Authorization

17. After pre-construction mobilization (PCN) was ended, the permittee shall notify the U.S. Army Corps of Engineers, Sacramento District Office, in accordance with General Condition 10, listing when the South Pacific Herring Spawning Grounds will be closed to fishing. The permittee shall submit a letter to the U.S. Army Corps of Engineers, providing an estimate of compliance with all of the General and Regional Conditions, in addition to the PCN shall include:

7. <sup>1</sup> A writer concerned with how the policy has been designed to build and maintain subcultural norms, both temporary and permanent, in nations of the United States (1985).

- [illegible]

- A stimulus and derived psychophysical scaling experiment involving a series of scenes presented to respondents in the U.S. and in Mexico. The U.S. respondents were asked to rate the probability of the person in the scene being a criminal. The Mexican respondents were asked to rate the probability of the person in the scene being a criminal. The comparison of the results of the two experiments showed that the U.S. respondents were more likely to rate a person as a criminal than the Mexican respondents.

1.  $\mathcal{H}_1$  and  $\mathcal{H}_2$  are  $\mathcal{H}_0$ -orthogonal subspaces of  $\mathcal{H}$ , i.e.,  $\langle \mathcal{H}_1, \mathcal{H}_2 \rangle_{\mathcal{H}_0} = \{0\}$ .

- Approved by South Pacific Division Engineer on March 22, 2017
  - Changes made by District based on comments received and review of proposed NWPs
- California
  - 24 RCs
    - 3 Revocations
- Nevada
  - 23 RCs
    - 2 Revocations





# REGIONAL CONDITION CHANGES FROM 2012 NWPS

- Re-formatting
  - Section A: Revoked NWPs
  - Section B: RCs Applicable Before Authorization
    - Additional information required to be submitted with the PCN
    - Additional activities that require submittal of a PCN
    - Additional activity and NWP specific RCs to ensure the effects are no more than minimal
  - Section C: RCs Applicable After Authorization
    - Compensatory mitigation requirements
    - Measures that must be taken prior to/during construction to ensure the effects are no more than minimal
    - Post-construction reporting requirements



## REGIONAL CONDITION CHANGES FROM 2012 NWPS

- 3 RCs eliminated
  - 2012 RCs 4, 13, 24 (CA)/22 (NV)
- 2 RCs new for California
  - B(11): Discharge in standing or flowing waters
  - C(3): Installation of BMPs
- 3 RCs added for Nevada
  - A(2): All NWPs revoked in Lake Tahoe upon issuance of RGP
  - B(11): Discharge in standing or flowing waters
  - C(3): Installation of BMPs
- 7 RCs with little or no change

# TRANSITION FROM 2012 NWP's TO 2017 NWP's



## NWP GRANDFATHERING

- 33 CFR 330.6(b): Activities which have commenced (i.e. are under construction) or are under contract to commence in reliance upon an NWP will remain authorized provided the activity is completed within 12 months of the date of the NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5(c)
  - For those activities authorized under the 2012 NWPs, have until March 19, 2018 to complete the work if meets this provision, provided a Section 401 WQC is received prior to discharges of dredged/fill material into WOUS.



## NWP GRANDFATHERING

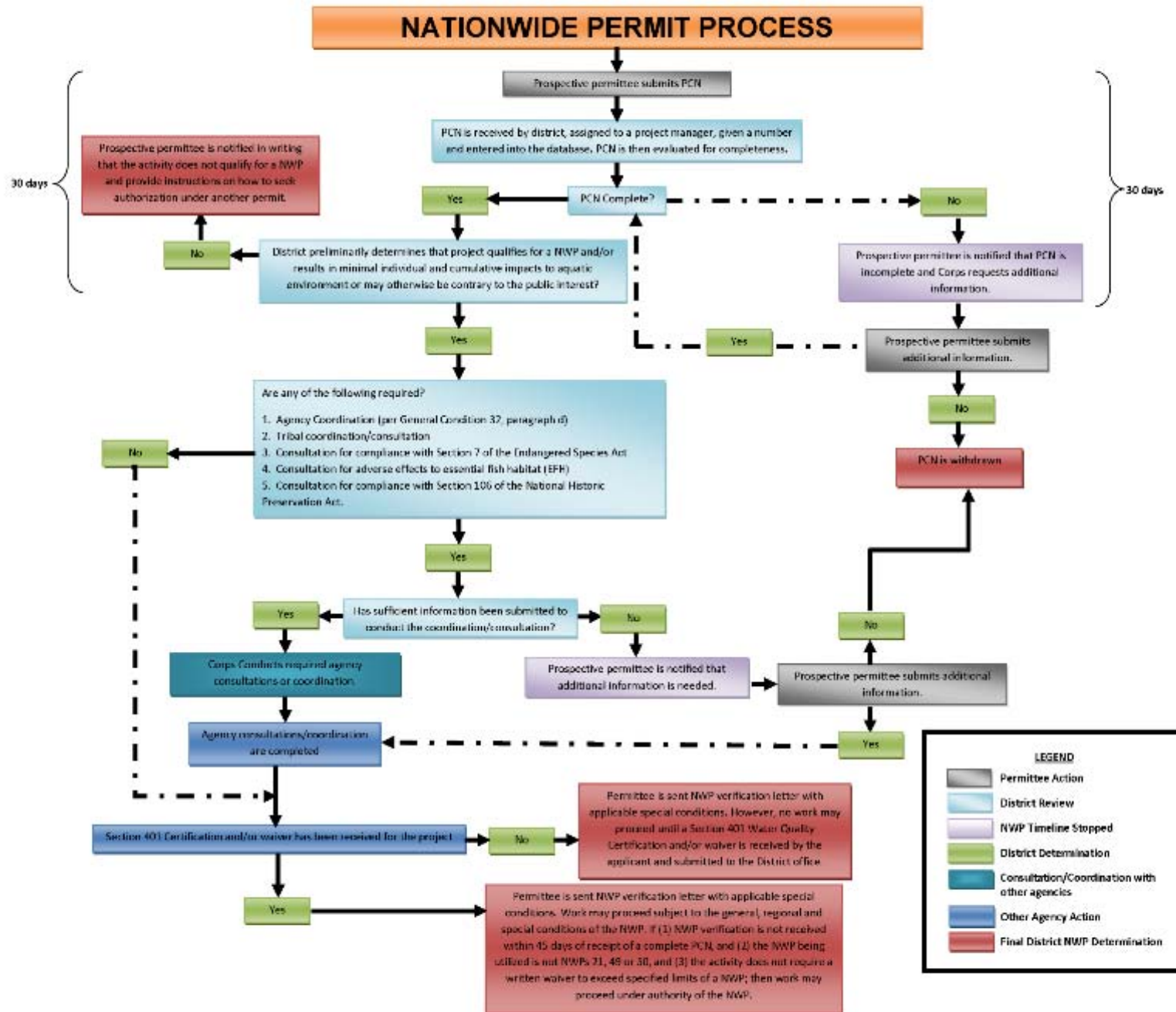
- If authorized under 2012 NWPs and does not meet grandfathering, submit a request for verification under 2017 NWPs.
  - If no change from previous authorization, submit letter that previous information valid and provide supplemental information to show compliance with terms, General Conditions or RCs that have changed
    - Additional information will be requested if necessary
  - If changes from the previous authorization, submit a new PCN to show compliance with the NWP terms and conditions





# NWP VERIFICATION PROCESS





## IS A PRE-CONSTRUCTION NOTIFICATION REQUIRED?

- 19 NWPs – no pre-construction notification (PCN) required
- 14 NWPs – some activities require PCN
- 19 NWPs – all activities require PCN
- For any NWP, PCN is required for:
  - Activities that might affect ESA-listed species or designated critical habitat
  - Activities that might have the potential to cause effects to historic properties
  - Activities that also require 408 permissions
  - Activities in Wild and Scenic Rivers



# IS A PRE-CONSTRUCTION NOTIFICATION REQUIRED?

- District Regional Conditions
  - Regional Condition B(2): PCN required for:
    - Discharge fill into vernal pool (B(2)(a))
    - Legal Delta, Sacramento River, San Joaquin River & Navigable tributaries (when another Federal agency not designated lead) (B(2)(b))
    - New/Replacement linear transportation crossings where pre-construction bankfull width would be reduced (B(2)(c))
    - Within 100' of point of discharge of known natural spring source (B(2)(d))
    - Activities by non-Federal applicants in EFH that would result in adverse effect to EFH (B(2)(e))
    - Activities on Tribal Lands (B(2)(f))



# IS A PRE-CONSTRUCTION NOTIFICATION REQUIRED?

- District Regional Conditions
  - Regional Condition B(3): PCN for **new** utility lines when
    - Discharge into perennial drainages or other perennial open waters, or special aquatic sites
    - Loss of greater than 100 linear feet of intermittent/ephemeral drainages or other intermittent/ephemeral open waters
    - Construction of temporary or permanent access road, substation, or foundation within waters of the U.S.
    - Utility line trenches in waters of the U.S. not restored within 30-days
    - Discharge of excess material associated with trench into waters of the U.S.
  - Regional Condition B(4): Bank Stabilization
    - **New** bank stabilization that involves hard armoring or placement of non-vegetated or non-bioengineered techniques below OHWM/HTL





# IS A PRE-CONSTRUCTION NOTIFICATION REQUIRED?

- District Regional Conditions
  - Regional Condition B(5): NWPs 3, 6, 20, and 27 in histosols, fens, bogs, peatlands, and in wetlands contiguous with fens.
  - Regional Condition B(6): NWP 23, all activities
  - Regional Condition B(7): NWP 27 activities when:
    - Discharge into perennial drainages or other perennial open waters, or special aquatic sites
    - Discharge into greater than 0.10 acre of 100 lf of intermittent or ephemeral drainages or other intermittent or ephemeral open waters of the U.S.



# PCN

- Opportunity for district to review proposed NWP activity to determine eligibility for authorization
  - Will the proposed activity result in only minimal adverse environmental effects?
  - Does proposed activity comply with all applicable general and regional conditions?
  - Is compensatory mitigation or other mitigation required to ensure no more than minimal adverse environmental effects?
  - Are any consultations required?
    - Endangered Species Act Section 7
    - National Historic Preservation Act Section 106
    - Essential Fish Habitat provisions of the Magnuson-Stevens Fishery Conservation and Management Act



# PCN

- Many NWP's require the submittal of a PCN prior to beginning work. PCN requirements can be found:
  - In the Terms of the NWP
  - In the General Conditions (e.g. General Conditions 18 and 20)
  - In the Regional Conditions (e.g. Sacramento District Regional Condition B(2) for California)

2. For all NWP's, the permittee shall submit a PCN in accordance with General Condition 32 and Regional Condition B(1), in the following circumstances:

- For all activities that would result in the discharge of fill material into any vernal pool;
- For all activities in the Primary and Secondary Zones of the Legal Delta, the Sacramento River, the San Joaquin River, and navigable tributaries of these waters, when the Corps has not designated another Federal agency as the lead for compliance with ESA, MSFCMA, and NHPA, as specified in Regional Condition B(12);
- For all new or replacement linear transportation crossings of perennial, intermittent, or ephemeral drainages (e.g. natural or relocated streams, creeks, rivers) or other open waters of the U.S., where the pre-construction bankfull width of waters of the U.S. at the crossing would be reduced;

d. For all activities in waters of the discharge of a known natural spring source emanates from a point in the ground (excavated channel);

e.\* For all activities proposed by n as Essential Fish Habitat (EFH) by the P; result in an adverse effect to EFH, in whi and extent of proposed impacts to EFH, at: <http://www.westcoast.fisheries.noaa.gov> or

f.\* For Water Quality Certificate is U.S. on Tribal Lands.

## 20. Historic Properties.

(a) In cases where the district engineer determines that properties listed, or eligible for listing, in the National Register of Historic Places are affected by the proposed activity, the permittee must submit a pre-construction notification to the district engineer.

(b) Federal permittees should follow their own procedures of the National Historic Preservation Act. If pre-construction activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding

**33. Temporary Construction, Access, and Dewatering.** Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard. This NWP also authorizes temporary structures, work, and discharges, including cofferdams, necessary for construction activities not otherwise subject to the Corps or U.S. Coast Guard permit requirements. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if the district engineer determines that it will not cause more than minimal adverse environmental effects. Following completion of construction, temporary fill must be entirely removed to an area that has no waters of the United States, dredged material must be returned to its original location, and the affected areas must be restored to pre-construction elevations. The affected areas must also be revegetated, as appropriate. This permit does not authorize the use of cofferdams to dewater wetlands or other aquatic areas to change their use. Structures left in place after construction is completed require a separate section 10 permit if located in navigable waters of the United States. (See 33 CFR part 322.)

**Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the activity is conducted in navigable waters of the United States (i.e., section 10 waters) (see general condition 32). The preconstruction notification must include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions. (Authorities: Sections 10 and 404)



## COMPLETE PCN – GC 32

Name, address and telephone numbers of the prospective permittee.

- ☐ Location of the proposed activity.
- ☐ Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity.
- ☐ Description of the proposed activity
  - ☐ the activities purpose;
  - ☐ direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure;
  - ☐ a description of any propose mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity;
  - ☐ any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification;
  - ☐ Sketches containing sufficient detail to provide an illustrative description of the proposed activity.



## COMPLETE PCN – GC 32

Delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site, prepared in accordance with the current method required by the Corps.

- ☐ If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, a statement describing how the mitigation requirements will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required.
- ☐ For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the name(s) of endangered or threatened species that might be affected by the proposed work, or utilize the designated critical habitat that may be affected by the proposed work, **OR**, for Federal agencies, documentation demonstrating compliance with the Endangered Species Act.
- ☐ For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic properties. **OR**, for Federal agencies, documentation demonstrating compliance with the National Historic Preservation Act.
- ☐ For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, identify the Wild and Scenic River or the “study river”.
- ☐ For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized civil works project, include a statement confirming that the prospective permittee has submitted a written request for Section 408 permission from the Corps office having jurisdiction over the Corps project.





# COMPLETE PCN – RC B(1)

- ☐ A complete *South Pacific Division Preconstruction Notification (PCN) Checklist* or application form (ENG Form 4345) with an attachment providing information on compliance with all of the general and regional conditions.
- ☐ A written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S.
- ☐ Drawings clearly depicting the location, size and dimensions of the proposed activity, as well as the location of waters of the U.S. on the site. Unless specifically waived by the Sacramento District, all drawings shall follow the South Pacific Division February 2016, *Updated Map and Drawing Standards for the South Pacific Division Regulatory Program*, or most recent update (available on the South Pacific Division website at: <http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences.aspx/>);
  - ☐ Plan view Drawings
    - ☐ Title Block;
    - ☐ Legend and Scale;
    - ☐ Amount (in cubic yards) of fill in Corps jurisdiction, including permanent and/or temporary structure or fills;
    - ☐ Area (in acres) of fill in Corps jurisdiction, including permanent and/or temporary structure or fills;
    - ☐ Ordinary high water mark, or, for tidal waters, mean high water mark and high tide line, based on National Geodetic Vertical Datum (NGVD) or other appropriate reference elevation.
  - ☐ Cross-section view Drawings
    - ☐ Title Block;
    - ☐ Legend and Scale;
    - ☐ Amount (in cubic yards) of fill in Corps jurisdiction, including permanent and/or temporary structure or fills;
    - ☐ Area (in acres) of fill in Corps jurisdiction, including permanent and/or temporary structure or fills;
    - ☐ Ordinary high water mark, or, for tidal waters, mean high water mark and high tide line, based on National Geodetic Vertical Datum (NGVD) or other appropriate reference elevation.



# COMPLETE PCN – RC B(1)

Numbered and dated pre-project color photographs showing a representative sample of waters proposed to impacted on the site, and all waters of the U.S. proposed to avoided on and immediately adjacent to the project site. The compass angle and view position of each photograph is identified on the required plan view drawing.

- ☐ Delineation of aquatic resources in accordance with the Sacramento District's Minimum Standards for Acceptance of Aquatic Resources Delineation Reports (available at [http://www.spk.usace.army.mil/Portals/12/documents/regulatory/jd/minimum-standards/Minimum\\_Standards\\_for\\_Delineation\\_with\\_Template-final.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/jd/minimum-standards/Minimum_Standards_for_Delineation_with_Template-final.pdf)), or updated standards adopted by the Sacramento District, unless specifically waived by the Sacramento District
- ☐ **Best Management Practices:** A description of proposed construction Best Management Practices (BMPs) and highly visible markers to be used during construction of the proposed activity, as required by Regional Conditions C(3) and C(4). If no BMPs or highly visible markers are proposed, the PCN shall provide a description of why their use is not practicable or necessary;
- ☐ **Temporary access and construction:** For all activities proposed for the purpose of temporary access and construction which would result in the placement of dredged or fill material into waters of the U.S. (see also Regional Condition C(5):
  - ☐ The reason(s) why avoidance of temporary fill in waters of the U.S. is not practicable;
  - ☐ A description of the proposed temporary fill, including the type and amount (in cubic yards) of material to be placed;
  - ☐ The area (in acres) of waters of the U.S. and, for drainages (e.g. natural or relocated streams, creeks, rivers), the length (in linear feet) where the temporary fill is proposed to be placed; and
  - ☐ A proposed plan for restoration of the temporary fill area to pre-project contours and conditions, including a plan for the re-vegetation of the temporary fill area, if vegetation would be removed or destroyed by the proposed temporary fill;



# COMPLETE PCN – RC B(1)

- ☐ **Dewatering:** For all dewatering activities that propose structures or fill in waters of the U.S. that require authorization from the Corps (see also Regional Condition B(11)):
- ☐ The proposed methods for dewatering;
  - ☐ The equipment that would be used to conduct the dewatering;
  - ☐ The length of time the area is proposed to be dewatered;
  - ☐ The area (in acres) and length (in linear feet) in waters of the U.S. of the structure and/or fill;
  - ☐ The method for removal of the structures and/or fill; and
  - ☐ The method for restoration of the waters of the U.S. affected by the structure or fill following construction.
- ☐ **All Linear Transportation Crossings:** For linear transportation crossings that propose to alter the pre-construction course, condition, capacity or location of open waters, sufficient justification to determine that the proposed activity would result in a net increase in aquatic resource functions and services. Functions and services to be considered in the justification include, but are not limited to: short- or long-term surface water storage, subsurface water storage, moderation of groundwater flow or discharge, dissipation of energy, cycling of nutrients, removal of elements and compounds, retention of particulates, export of organic carbon, and maintenance of plant and animal communities. (See also Regional Condition B(10)(b) and B(10)(c))
- ☐ **Replacement Linear Transportation Crossings:** For replacement linear transportation crossings that would result in a reduction in the pre-construction bankfull width and depth of open waters of the U.S. at the crossing, as compared to the upstream and downstream open waters (see also Regional Condition B(10)(b) and B(10)(c)):
- ☐ Information on why it is not practicable to approximate the pre-construction bankfull width of the upstream and downstream open waters, and;
  - ☐ Sufficient justification to determine that the reduction in the pre-construction bankfull width would result in a net increase in aquatic resource functions and services. Functions and services to be considered in the justification include, but are not limited to: short- or long-term surface water storage, subsurface water storage, moderation of groundwater flow or discharge, dissipation of energy, cycling of nutrients, removal of elements and compounds, retention of particulates, export of organic carbon, and maintenance of plant and animal communities.



# COMPLETE PCN – RC B(1)

- ☐ **Request for Waiver:** For any requests to waive the applicable linear foot limitations for NWP 13, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52 and 54:
  - ☐ A narrative description of the stream. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and characteristics observed associated with an Ordinary High Water Mark (e.g. bed and bank, wrack line or scour marks); a description of the adjacent vegetation community and a statement regarding the wetland status of the adjacent areas (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information;
  - ☐ An analysis of the proposed impacts to the waterbody, in accordance with General Condition 32 and Regional Condition B(1);
  - ☐ Measures taken to avoid and minimize losses to waters of the U.S., including other methods of constructing the proposed activity(s); and
  - ☐ A compensatory mitigation plan describing how the unavoidable losses are proposed to be offset, in accordance with 33 CFR 332.
- ☐ **Nationwide Permit 23:** A copy of the signed Categorical Exclusion document and final agency determinations regarding compliance with Section 7 of the Endangered Species Act (ESA), Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), and Section 106 of the National Historic Preservation Act (NHPA), in accordance with General Conditions 18 and 20 and Regional Condition B(12).
- ☐ **Nationwide Permit 27:** Sufficient justification to determine that the proposed activity would result in a net increase in aquatic resource functions and services. Functions and services to be considered in the justification include, but are not limited to: short- or long-term surface water storage, subsurface water storage, moderation of groundwater flow or discharge, dissipation of energy, cycling of nutrients, removal of elements and compounds, retention of particulates, export of organic carbon, and maintenance of plant and animal communities. (See also Regional Condition B(7)).
- ☐ **Nationwide Permit 29 or 39:** For any NWP 29 or 39 activities that propose channelization or relocation of perennial or intermittent drainages: Justification on how the proposed relocation would result in a net increase in aquatic resource functions and services. Functions and services to be considered in the justification include, but are not limited to: short- or long-term surface water storage, subsurface water storage, moderation of groundwater flow or discharge, dissipation of energy, cycling of nutrients, removal of elements and compounds, retention of particulates, export of organic carbon, and maintenance of plant and animal communities. (See also Regional Condition B(8))



# COMPLETE PCN – RC B(1)

- ☐ **Activities in Standing or Flowing Waters:** For construction activities that would occur within standing or flowing waters: Information on why it is not practicable to conduct construction activities when the area is dewatered naturally or through an approved dewatering plan. (See also Regional Condition B(11)).
- ☐ **New Bank Stabilization Activities:** For all new bank stabilization activities that would not involve the sole use of native vegetation or other bioengineered design techniques: Information on why the sole use of vegetated techniques to accomplish the bank stabilization activity is not practicable. (See also Regional Condition B(4)).
- ☐ **Activities in designated critical habitat for Federally-listed threatened and/or endangered anadromous fish species (California Only):** For activities located in designated critical habitat for Federally-listed threatened and/or endangered anadromous fish species where the activity would result in a reduction or alteration in the quality and availability of the Physical and Biological Features (also known as Essential Features or Primary Constituent Elements):
  - ☐ The reasons why it is not practicable to avoid the reduction or alteration in the quality and availability of the Physical and Biological Features of the designated critical habitat.
  - ☐ Information demonstrating that the reduction or alteration will have no more than minimal individual or cumulative adverse effects.

Information regarding the Physical and Biological Features of designated critical habitat may be found at the following websites:

- Winter-run Chinook Salmon (Essential Features beginning on page 33218):  
<http://www.westcoast.fisheries.noaa.gov/publications/frn/1993/58fr33212.pdf>
- Steelhead and Spring-run Chinook salmon (Primary Constituent Elements beginning on page 52521): <http://www.westcoast.fisheries.noaa.gov/publications/frn/2005/70fr52488.pdf>
- Green Sturgeon (Primary Constituent Elements/Physical and Biological Features beginning on page 52322):  
[http://www.westcoast.fisheries.noaa.gov/publications/protected\\_species/other/green\\_sturgeon/g\\_s\\_critical\\_habitat/frn\\_10092009\\_green\\_sturgeon\\_ch.pdf](http://www.westcoast.fisheries.noaa.gov/publications/protected_species/other/green_sturgeon/g_s_critical_habitat/frn_10092009_green_sturgeon_ch.pdf)



## COMPLETE PCN – RC B(2) (CALIFORNIA ONLY)

- ☐ **Essential Fish Habitat (California Only):** For all activities proposed by non-Federal applicants located in areas designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council, and that would result in an adverse effect to EFH, an EFH assessment and extent of proposed impacts to EFH. Examples of EFH habitat assessments can be found at: [http://www.westcoast.fisheries.noaa.gov/habitat/fish\\_habitat/efh\\_consultations\\_go.html](http://www.westcoast.fisheries.noaa.gov/habitat/fish_habitat/efh_consultations_go.html). (See also Regional Condition B(2)(e))



# SPD PCN CHECKLIST

## U.S. Army Corps of Engineers South Pacific Division



### Nationwide Permit Pre-Construction Notification (PCN)

This form integrates requirements of the U.S. Army Corps of Engineers (Corps) Nationwide Permit Program within the South Pacific Division (SPD). Boxes 1-10 must be completed to include all information required by General Condition 32. Box 11 (or other sufficient information to show compliance with all General Conditions) must be completed for activities in Arizona, California, Nevada, and Utah, and is recommended for activities in Colorado and New Mexico. If additional space is needed, please provide as a separate attachment. Please refer to the *Instructions for the South Pacific Division Nationwide Permit Pre-Construction Notification (PCN)* (Instructions) for instructions for completing the PCN, as well as additional information on the attachments and tables included with this PCN that may be used.

0. To be filled by the Corps		
Application Number:	Date Received:	Date Complete:
1. Prospective Permittee and Agent Name and Addresses (see Instructions)		
<b>a. Prospective Permittee</b>		
First - _____	Middle - _____	Last - _____
Company - _____		Email Address - _____
Address - _____		City - _____ State - _____ Zip - _____
Phone (Residence/Mobile) - _____		Phone (Business) - _____
<b>b. Agent (if applicable)</b>		
First - _____	Middle - _____	Last - _____
Company - _____		Email Address - _____
Address - _____		City - _____ State - _____ Zip - _____
Phone (Residence/Mobile) - _____		Phone (Business) - _____
<b>c. Statement of Authorization:</b> I hereby authorize _____, to act in my behalf as my agent for the proposed activity. (Obtain and attach instructions)		
Signature of Applicant _____		Date _____



# SPD PCN CHECKLIST INSTRUCTION

## Instructions for the South Pacific Division Nationwide Permit Pre-Construction Notification (PCN):

**Box 0:** This box is to be completed by the U.S. Army Corps of Engineers (Corps). Skip to Box 1.

**Box 1:** Box 1 must be completed to provide the contact information of the prospective permittee, as required by General Condition 32.

**Box 1(a):** As identified in General Condition 32(b)(1), the PCN must contain the name, address, and telephone number of the prospective permittee. The email address of the prospective permittee is not required, but is recommended.

**Box 1(b):** If the prospective permittee chooses to have an agent, the contact information for the agent may be provided here.

**Box 1(c):** Completion of this box is optional if the prospective permittee would like the Corps to contact the agent with any question regarding the PCN submittal or the proposed activity. If Box 1(c) is not completed, the Corps will contact the prospective permittee directly with any questions.

**Box 2:** Box 2 must be completed to provide the location of the proposed activity, per General Condition 32(b)(2). If the proposed work would involve multiple single and complete projects, check the box, and provide the location information identified in Boxes 2-10, and 11, if applicable, in a separate attachment.

Single and Complete Linear Project and Single and Complete Non-Linear Project are defined in the *Definitions* section of the NWP, which can be found at the Corps' headquarters website at: <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>. For questions regarding the definition of single and complete project, please contact your District Regulatory office. For multiple single and complete projects, a table identifying the location of each single project should be recommended. The "Location" worksheet in Table 2, or alternate table may be used. For activities with multiple single and complete projects, submittal of the GIS shapefiles with the location of each project is recommended.

**Box 2(a):** Provide the name of the proposed activity. For example: 123 Main Avenue Boat Dock Project, Upper Joes Creek Rehabilitation Project, Jane Doe Residential Development Project.

**Box 2(b):** Provide the County and State where the proposed activity is located.

**Box 2(c):** Provide the name of the nearest waterbody to the proposed activity, if known. Also include the watershed (8-digit USGS hydrologic unit code) and downstream named tributary if available.

**Box 2(d):** Provide the coordinates of the proposed activity if known. The coordinates should be provided using NAD 83, and in either decimal degrees or degree/minutes/seconds.

**Box 2(e):** This box should be completed if the coordinates of the proposed activity are not known, and should be sufficient for the Corps to determine the location of the proposed activity. This may include the project street address, assessor's parcel number, municipality, section/township/range, etc. If there is an existing Corps' identification number for the site, please provide that here.



# SPD PCN CHECKLIST ATTACHMENT 3

## U.S. Army Corps of Engineers Sacramento District



### Attachment 3: Additional PCN Requirements for Sacramento District Boundaries of California, Nevada, and Utah

This attachment contains additional information required to be submitted with the PCN for proposed activities within the Sacramento District boundaries of California, Nevada, and Utah. You must submit the completed attachment, or other attachment containing the required information, for a complete PCN for Sacramento District Regional Condition B(1). For multiple single and complete projects, provide the information defined below for each single and complete project. If additional space is needed, provide as an attachment to the form and please reference each section accordingly.

<b>1. Form of PCN (Regional Condition B(1))</b>
Have you submitted a completed South Pacific Division PCN Checklist or an application form (ENG Form 4348) with an attachment providing information on compliance with all of the General and Regional Conditions? <input type="checkbox"/> Yes, see attached <input type="checkbox"/> No Note: If you checked your PCN will be considered incomplete.
<b>2. Avoidance and Minimization (Regional Condition B(1)(a))</b>
Written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S.:   
<b>3. Drawings (Regional Condition B(1)(b))</b>
The following drawings are enclosed: <input type="checkbox"/> Plan-View drawing clearly depicting the location, size and dimensions of the proposed activity, as well as the location of delineated waters of the U.S. on the site. <input type="checkbox"/> Cross-Section view drawings clearly depicting the location, size and dimensions of the proposed activity, as well as the location of delineated waters of the U.S. on the Site. The plan-view and cross-section view drawings contain the following: Title block: <input type="checkbox"/> Yes <input type="checkbox"/> No Legend and scale: <input type="checkbox"/> Yes <input type="checkbox"/> No Amount (in cubic yards) of fill in Corps jurisdiction (including permanent and temporary fill structures): <input type="checkbox"/> Yes <input type="checkbox"/> No Area (in acres) of fill in Corps jurisdiction (including permanent and temporary fill structures): <input type="checkbox"/> Yes <input type="checkbox"/> No The ordinary high water mark (non-tidal waters) or mean high water mark and high tide line (tidal waters) shown in feet based on National Geodetic Vertical Datum (NGVD) or other appropriate reference elevation: <input type="checkbox"/> Yes <input type="checkbox"/> No Do all drawings follow the South Pacific Division February 2018, <i>Updated Map and Drawing Standards for the South Pacific Division Regulatory Program</i> , or most recent update? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, describe why this requirement is proposed to be waived):

## TIMING

- **GC 32:**
    - Corps has 30 days to determine if PCN is complete.
      - If not complete, Corps will request additional information (specify the information needed for a complete PCN)
    - Prospective permittee shall not begin work until either:
      - Notified in writing by the Corps that activity may proceed under the NWP with any special conditions
      - 45 calendar days have passed from the Corp's receipt of the complete PCN and prospective permittee has not received written notice from Corps.
- HOWEVER:
- If required to notify the Corps pursuant to GCs 18 or 20, cannot begin activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties.
  - If NWPs 21, 49, or 50, cannot begin work until receive written approval from the Corps
  - If the proposed activity requires a written waiver to exceed specified limits of an NWP, may not begin activity until the Corps issues the waiver
  - If permittee is notified in writing within 45 calendar days of receipt of a complete PCN that an individual permit is required, cannot begin activity until an individual permit has been obtained



## AGENCY COORDINATION (GC 32)

- Required for the following NWP activities:
  - Activities that will result in the loss of greater than 1/2-acre
  - Activities authorized by NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 that require PCNs and will result in loss of greater than 300 linear feet of intermittent and ephemeral stream bed
  - NWP 13 and 54 activities, where waivers are requested
- Copies of PCN to federal and state resource agencies
  - Change – removed SHPO/THPO
- 10 calendar day review period, may be extended by 15 days
- Consider agency comments on actions to ensure no more than minimal adverse environmental effects





# QUESTIONS?

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Matthew Roberts, 530-223-9538, [matthew.j.roberts@usace.army.mil](mailto:matthew.j.roberts@usace.army.mil)

