

# Process for 2021 Nationwide Permits

October 21, 2022

Regulatory Program Workshop, Sacramento

**Erin Campbell**

Senior Project Manager, CA Delta Section

US Army Corps of Engineers, Sacramento District



US Army Corps of Engineers  
**BUILDING STRONG®**



# Overview

- **Complete Application/Pre-Construction Notification (PCN)**
- **Resources**
- **Sub-Actions**
- **Components of a PCN**
- **Timeframes**



# Contents of a Complete Application/PCN

## 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)		
a. Prospective Permittee		
First - <input type="text"/>	Middle - <input type="text"/>	Last - <input type="text"/>
Company - <input type="text"/>	Email Address - <input type="text"/>	
Address - <input type="text"/>	City - <input type="text"/>	State - <input type="text"/> Zip - <input type="text"/>
Phone (Residence/Mobile) - <input type="text"/>	Phone (Business) - <input type="text"/>	
b. Agent (if applicable)		
First - <input type="text"/>	Middle - <input type="text"/>	Last - <input type="text"/>
Company - <input type="text"/>	Email Address - <input type="text"/>	
Address - <input type="text"/>	City - <input type="text"/>	State - <input type="text"/> Zip - <input type="text"/>
Phone (Residence/Mobile) - <input type="text"/>	Phone (Business) - <input type="text"/>	
c. Statement of Authorization: I hereby authorize <input type="text"/> to act in my behalf as my agent for the proposed activity. (Optional, see instructions)		
Signature of Applicant <input type="text"/>		Date <input type="text"/>

Can use either the:

- Preconstruction Notification form (ENG Form 6082)
- An application form (ENG Form 4345)





# Contents of a Complete Application/PCN Continued..

- 1. Name, address, and telephone numbers of the prospective permittee;**
- 2. Location of the proposed activity;**
- 3. Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;**



# Contents of a Complete Application/PCN Continued..

- 4. (1) Description of the proposed activity
  - (2) Activity's purpose
  - (3) Direct & indirect adverse environmental effects including anticipated amount of loss of wetlands, other special aquatic sites, or other WOUS in acres, linear feet, or other appropriate measure
  - (4) Description of proposed mitigation measures to reduce adverse environmental effects (not compensatory mitigation)
  - (5) Any other permits used/intended to be used to authorize any part of project or any related activity, including other separate/distant crossings for linear projects that require DA permit but not PCN
  - (6) Sketches containing sufficient detail to provide description of proposed activity



# Contents of a Complete Application/PCN Continued

- **Delineation of aquatic resources, including wetlands**
- **List of potentially affected listed species or designated habitat (Section 7 ESA)**
- **List of potentially affected historic properties (Section 106 NHPA)**



# 2021 NWPs General Conditions

- **Address compliance with each general condition (or N/A)**
- **Common to use supplemental pages to the application.**



# 2021 NWP Regional Conditions

- **No PCN Regional Conditions**
- **Overall: simplified compared to 2017 NWP Regional Conditions**
- **Remember to use current Regional Conditions**

## ***Final 2021 Nationwide Permit (NWP) Regional Conditions for the State of California***

*(Effective February 25, 2022 until March 14, 2026)*

### **A. Regional Conditions for the State of California:**

1. The permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, in the following circumstances:
  - a. Activities involving new bank stabilization that do not incorporate bioengineering techniques. Bioengineering techniques include using live plants alone or in combination with dead or inorganic materials, including rock, sand, or gravel;
  - b. Activities resulting in a discharge of dredged or fill material in waters of the U.S. on Tribal lands<sup>1</sup>;
  - c. Activities involving the permanent channelization, realignment, or relocation of streams; and,
  - d. Activities that have the potential to adversely affect Essential Fish Habitat (EFH), as designated by the Pacific Fishery Management Council. The PCN shall include an EFH assessment and analysis of effects of the action on EFH, in accordance with 50 C.F.R. § 600.920 (e). For Federal permittees, if a PCN is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with the Magnuson-Stevens Fishery Conservation and Management Act.
2. In the Sacramento District, the use of any NWP (except NWPs 3, 6, 16, 20, 24, 27, 37, 38, 52, 53, and 59) authorizing the discharge of dredged or fill material in peatlands<sup>2</sup> containing histosols, including bogs and fens, is prohibited.



# Complete Application/PCN – Resources

**Resources to reference for ensuring your PCN is Federally Complete:**

- **General Conditions - 18, 20, and 32**
- **USACE Sacramento District Website > Missions > Regulatory > Jurisdiction/Permitting**
- **<https://www.spk.usace.army.mil/>**



# Information NOT required for a complete PCN... but

- Biological assessment/information sufficient to initiate consultation for Section 7 ESA
- Cultural resources report/other information sufficient to initiate consultation for Section 106 NHPA
- Verified aquatic resource delineation
- Proposed compensatory mitigation for less than 1/10 acre wetlands or any amount of other special aquatic sites or other waters of the U.S.
- Draft/Final mitigation/monitoring plan/long-term management plan for proposed permittee-responsible compensatory mitigation
- Section 401 CWA permits



# Sub-Actions

## Sub-Action Types:


- Information Requests
- Tribal Coordination
- National Historic Preservation Act
- Endangered Species Act/Essential Fish Habitat
- Internal Corps Coordination
- 401 Water Quality Certification



# Timeframes

## As part of the tentative 60-day processing timeframe

- ▶ Information Requests
- ▶ Water Quality Certification
- ▶ Tribal Consultation
- ▶ National Historic Preservation Act



**GUIDELINES FOR COMPLIANCE WITH  
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT**  
March 24, 2014

---

**U.S. ARMY CORPS OF ENGINEERS** **BUILDING STRONG.**

Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), requires Federal agencies to take into account the effects of their undertakings on Historic Properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. Therefore, prior to the issuance or authorization of any permit under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, the U.S. Army Corps of Engineers, Sacramento District, Regulatory Division (Corps) must consider the effect the permit may have on Historic Properties. Historic Properties may include prehistoric or historic districts, sites, buildings, structures, objects, sacred sites, and traditional cultural places, that are included in, or eligible for inclusion in, the National Register of Historic Places.





# Timeframes, Continued

**As part of the tentative 60-day processing timeframe:**

- ▶ Endangered Species Act and Essential Fish Habitat
- ▶ Internal Corps Coordination
- ▶ After the resolution of the last sub-action, the Project Manager has 15 days to issue the verification letter.



## **ESA INFORMATION GUIDELINES FOR THE REGULATORY PROGRAM**

U.S. ARMY CORPS OF ENGINEERS

**BUILDING STRONG®**

March 2018

Section 7(a)(2) of the Endangered Species Act (ESA) requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (Services), to ensure that actions authorized, funded, or carried out by that agency are not likely to jeopardize the continued existence of any Federally-listed endangered or threatened species. Therefore, before any activity can be authorized by the U.S. Army Corps of Engineers, Sacramento District Regulatory Division (Corps) under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, we must ensure that the project is in compliance with the ESA. The Sacramento District has developed this guidance in coordination with the Services to improve the quality of the ESA information the District submits to the Services when initiating consultation under the federal Endangered Species Act.



# Thank You

