

# PRE-CONSTRUCTION NOTIFICATION

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# WHAT IS A PRE-CONSTRUCTION NOTIFICATION (PCN)? WHEN DO I NEED TO SUBMIT ONE?



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# WHAT IS A PRE-CONSTRUCTION NOTIFICATION (PCN)?



- A PCN is a request submitted by the project proponent (i.e. the applicant) to the Corps for verify that a particular activity is authorized by a Nationwide Permit (NWP)
- In most cases, a PCN must be submitted to, and verified by, the Corps for verification **prior to commencement of construction activities** in waters of the U.S (WOTUS)



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# WHEN DO I HAVE TO SUBMIT A PCN?

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A PCN must be submitted if:

1. Required by the terms and conditions of a specific NWP
2. Required by the terms and conditions of the Regional Conditions
3. Consultation with federal agencies is required
  - National Historic Preservation Act (NHPA)
  - Endangered Species Act (ESA)
  - Wild and Scenic Rivers Act (WSA)
4. Section 408 Permission (impact to Corps Civil Works Projects)





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# WHERE CAN I FIND INFORMATION ABOUT WHEN I NEED TO SUBMIT A PCN?

- Notification requirements identified in the [2021 Nationwide Permit General Conditions](#) and the [Regional Conditions](#)
- Each NWP fact-sheet also contains information about when notification is required for activities covered under that specific NWP
- **Extremely important to read ALL three documents when using a NWP!**
- This information can be found on our [website](#)



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## HOW DO I SUBMIT A PCN?

- A PCN may **be submitted electronically** in one of two formats (or a combination):
  - USACE Nationwide Permit Pre-Construction Notification, ENG Form 6082 (most common)
  - Narrative/report providing all information required by General Condition 32
- Submissions should be sent to our **general inbox:**  
[SPKRegulatoryMailbox@usace.army.mil](mailto:SPKRegulatoryMailbox@usace.army.mil) (**NOT a specific Regulatory Project Manager**)

# WHAT IS A “COMPLETE” PCN?



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# COMPONENTS OF A COMPLETE PCN

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- **General Condition 32** identifies the minimum information necessary for a complete PCN:
  1. **Name, address, telephone, email, company or agency** of prospective permittee and their agent, if applicable
  2. **Location** of the proposed activity
  3. Identify specific NWP or NWP(s) you want to use





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# COMPONENTS OF A COMPLETE PCN CONT.

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4.(i) A description of the proposed activity

a. **activity's purpose**

b. **direct and indirect** adverse environmental effects

c. proposed **mitigation measures** to reduce adverse environmental effects

d. any **other permits** used or intended to be used to authorize the activity or related activity

- Other federal agencies involved



# COMPONENTS OF A COMPLETE PCN CONT.



4.(ii) For linear projects where one or more single and complete crossings require pre-construction notification, PCN must include the **quantity of anticipated loss of aquatic resources for each single and complete crossing** of those wetlands, or other special aquatic sites, or other waters

4.(iii) **Sketches** that contain sufficient detail to provide an illustrative description of the proposed activity



# COMPONENTS OF A COMPLETE PCN CONT.



5. **A delineation of aquatic resources** (wetlands, other special aquatic sites, and other waters) on the project site

- Minimum standards
- Appropriate regional supplement
- 1987 Delineation Manual

6. **A compensatory mitigation plan** for activities resulting in the loss of greater than 0.10 acre of wetlands or 0.03 acre of stream bed

7. If applicable, **description of listed species or designated critical habitat** that may be affected by the project



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# COMPONENTS OF A COMPLETE PCN CONT.

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8. If applicable, **description of historic properties** that may be affected by the project
9. If applicable, identification of the **Wild and Scenic River** or **“study” river** the project is proposing to affect
10. If applicable, **Section 408** permission

# COMMON ISSUES ENCOUNTERED WITH COMPLETENESS



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# COMMON ISSUES WITH PCN'S

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1. Triggers for non-notifying
2. Block 20 of the ENG Form 6082 (Mitigation)
3. ESA and NHPA
4. After-the-fact authorization





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# PCN TRIGGERS FOR NON-NOTIFYING NWP

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1. Any time **consultation** with federal agencies is needed
  - ESA
  - NHPA
  - Tribal
  - 408
  - Wild and Scenic Rivers
2. Need for **compensatory mitigation**
3. Any time a **waiver** is required/requested



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# BLOCK 20 FORM 6082

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- Mitigation refers to a three-step process: **Avoidance, Minimization, and Compensation**
- **Biggest issue:** Missing statement on avoidance and minimization
- Only **after** impacts to aquatic resources have been avoided and minimized will compensatory mitigation requirements for **unavoidable** losses be considered



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# AFTER-THE-FACT PERMITS

- Reduction of after-the fact permit authorizations
- **Administrative penalties** will likely be required (Section 309 (g) of the Clean Water Act)
- Please reach out to us before commencement of work if you have questions about if a permit is required



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## SECTION 7 AND NHPA

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Often not included with initial request

- Leads to **delay in permit authorization**
  
- ESA surveys
  - **Must be completed in accordance with USFWS guidelines** (time of year, qualified surveyors, methodology, etc.)
  
- NHPA Reports
  - Guidelines



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# SUMMARY

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- Best to include **everything** (NHPA, ESA, delineation, avoidance and minimization, etc.) with your initial submittal to prevent delays in permit authorization
- If you have questions, **please ask!**

# QUESTIONS



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