PRE-CONSTRUCTION NOTIFICATION

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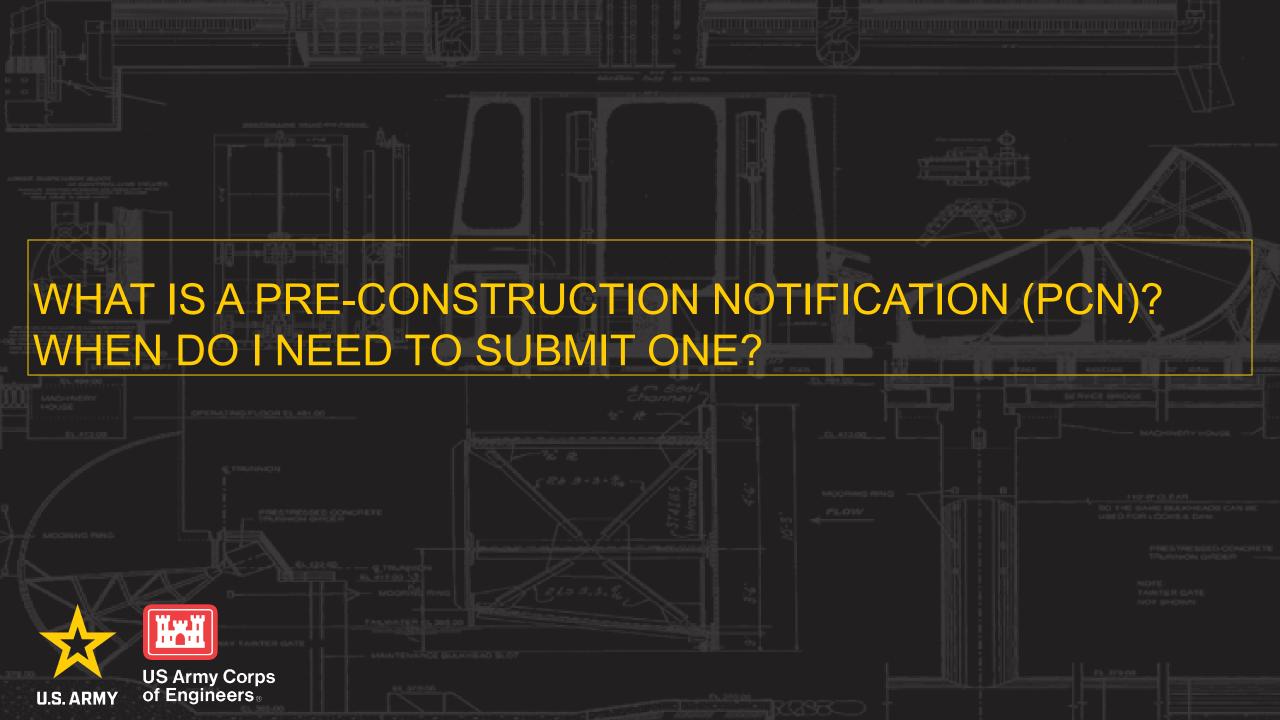
14 MAR 2024













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)

WHEN DO I HAVE TO SUBMIT A PCN?



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)



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



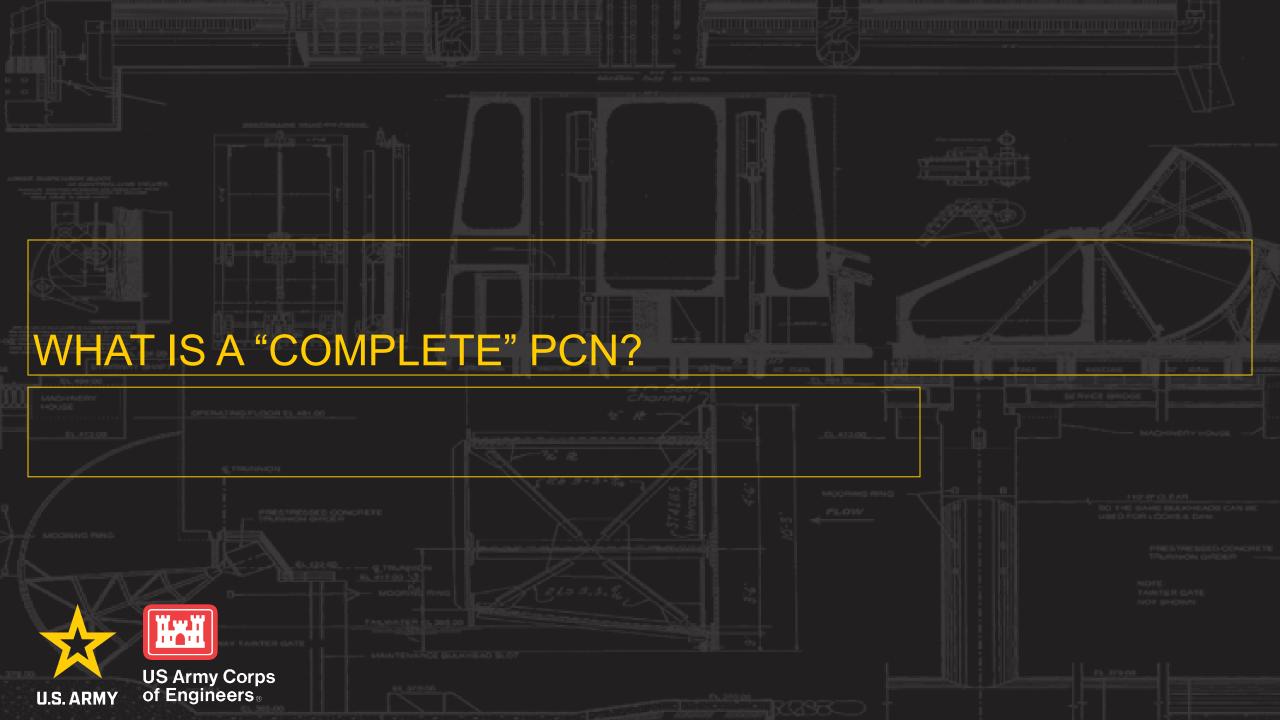
- Notification requirements identified in the <u>2021 Nationwide Permit</u>
 <u>General Conditions</u> and the <u>Regional Conditions</u>
- Each NWP fact-sheet also contains information about when notification is required for activities covered under that specific NWP
- Extremely important to read ALL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



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: <u>SPKRegulatoryMailbox@usace.army.mil</u> (NOT a specific Regulatory Project Manager)





 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





- 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





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



- 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



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 WITH PCN'S



1. Triggers for non-notifying

2. Block 20 of the ENG Form 6082 (Mitigation)

3. ESA and NHPA

4. After-the-fact authorization

PCN TRIGGERS FOR NON-NOTIFYING NWP



- 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

BLOCK 20 FORM 6082



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

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 <u>before commencement of work</u> if you have questions about if a permit is required



SECTION 7 AND NHPA



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

SUMMARY



 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!

