

PRE-CONSTRUCTION NOTIFICATION

Ashley Bernard
Regulatory Program Manager

14 MAR 2024



U.S. ARMY



US Army Corps
of Engineers®

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



U.S. ARMY



US Army Corps
of Engineers®



U.S. ARMY

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)



U.S. ARMY

WHEN DO I HAVE TO SUBMIT A PCN?

4



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)



U.S. ARMY

5



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](#)



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 (**NOT a specific Regulatory Project Manager**)

WHAT IS A "COMPLETE" PCN?



U.S. ARMY



US Army Corps
of Engineers®



U.S. ARMY

COMPONENTS OF A COMPLETE PCN



- **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



COMPONENTS OF A COMPLETE PCN CONT.

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



COMPONENTS OF A COMPLETE PCN CONT.



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



U.S. ARMY



US Army Corps
of Engineers®



U.S. ARMY

COMMON ISSUES WITH PCN'S

14



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 before commencement of work 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



U.S. ARMY

SUMMARY

19



- 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



U.S. ARMY



US Army Corps
of Engineers®