

recommended adopting existing PCN requirements rather than a modified PCN only for this NWP, to avoid confusion by both the regulated public and the resource and regulatory agencies.

We continue to believe that the PCN process is necessary for the Corps to examine projects on a case-by-case basis to determine compliance with the single-family housing NWP and to ensure that the impacts are minimal. Furthermore, the PCN will maintain nationwide consistency and continue to provide adequate environmental protection. At this time we are requiring the PCN for all activities qualifying for this NWP. However, we will monitor the NWP use and, if appropriate, will propose, at a later date, any necessary thresholds below which the PCN would not be required. Although having two notification procedures may seem confusing, the PCN process for this NWP is simpler than the existing PCN and will result in less burdens on the applicant. We believe that the PCN process for this NWP should be different from the existing PCN for the reasons discussed below.

A few commenters addressed the 30-day timeframe. Specific concerns were that Corps personnel may not be able to adhere to this limiting factor, thus, verifying projects that would not otherwise qualify for authorization under this NWP; the 30-day timeframe will discourage case-by-case review and site visits to independently monitor impacts; and the Corps will have to verify authorization prior to State water quality and CZMA certification being issued or denied. One recommendation was that the Corps should detail how the PCN process will be undertaken to ensure that only a minimum number of projects exceed the 30-day limit. A few commenters stated that the 30-day timeframe was inadequate and should be extended; one suggested a 90-day timeframe. One commenter questioned whether the District Engineer will send notification to the permittee as to the date that notification was received. Another commenter suggested that the permittee should be able to rely on the 30-day timeframe for the Corps to raise issues and that the District Engineer should not be able to intervene after that point.

The Corps believes that the 30-day timeframe is sufficient, based on the nature of these activities and the information required to be submitted by the permittee, to review and determine if an activity qualifies for this NWP. Currently, the Corps reviews approximately 40,000 general permit activities and reaches a decision in an

average of 16 days. State 401 water quality certification and CZMA consistency determinations will not be affected by the 30-day timeframe. Permittees may proceed under the NWP upon verification by the Corps, if the State issues 401 certification or 401 certification conditions for the NWP. However, if the State denies 401 certification for the NWP, the Corps will verify the activity within the 30-day timeframe, subject to the permittee individually obtaining 401 certification from the State. Until then, authorization for the activity is denied without prejudice. (This also applies to CZMA consistency determinations.) Therefore, during the 30-day timeframe the Corps will only verify that authorization under the NWP will be valid if the permittee does successfully obtain State water quality certification or waiver thereof and/or CZMA concurrence or presumed concurrence, where applicable. Some Corps districts may have some mechanism in place whereby permittees are informed that their notification has been received. However, there is no requirement that the districts send such notification. Permittees may use certified mail to document receipt of their notice by the Corps district office. The Corps expects to evaluate all activities under this NWP, on a case-by-case basis. However, we do not believe that minor activities will require on-site inspections in every situation. If, subsequent to verification, the Corps discovers that false information has been furnished, then appropriate action will be taken. Finally, if the Corps does not respond within the 30-day timeframe, then the permittee may proceed with the project.

Many commenters expressed their views concerning the proposal to not notify the Federal and State resource agencies as part of the notification procedures. Several commenters disagreed that notifying the resource agencies would result in significant increases in permit processing time. Many stated that review of the public notice was insufficient consultation and that notification with the agencies should be retained. However, the issue of greatest concern was the belief that the Corps' would be in violation of Section 404(q) of the Clean Water Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, associated Memoranda of Agreement, and the National Historic Preservation Act. Many commenters stated that the modified PCN process provided inadequate evaluation of fish and wildlife impacts, impacts to threatened and endangered species, and all

potential adverse impacts in general. One commenter stated that the Corps lacks the expertise to protect fish and wildlife resources as its primary responsibility and, therefore, coordination with resource agencies should be required. One commenter recommended that coordination should be maintained if the activity is within close proximity to an "endangered species area." A few commenters suggested establishing a process by which the USFWS and a representative State agency coordinates review of activities which could potentially impact Federally threatened or endangered species. A few commenters questioned how the Corps intends to implement the NWP general conditions that prohibit jeopardizing endangered species and impacting historic resources. Also offered were recommendations that the Corps should notify agencies who issue building permits about proposed projects and the Corps should notify the NRCS of any agricultural projects. One commenter posed several questions in an effort to justify the need for notification with the resource agencies. Specifically, the commenter asked if the Corps had examined statistics on the number of homes to be built under this NWP, amount of ground disturbance, and amount of impacts to known archaeological sites. Another commenter recommended that a review for the presence of archaeological resources be conducted prior to commencement of the activity. One commenter stated that not requiring a PCN will reduce the accuracy of USFWS' records of wetland losses for its national status and trends report. One commenter stated that the NWP limits the States' involvement in reviewing proposed activities that may affect State resources. Other commenters stated that the public should have the opportunity to comment on projects in areas under developmental pressure; the public should have the opportunity to comment on all projects (e.g., rescind all NWPs); PCNs should include notification to all adjacent property owners within 500 feet of the project site; and the Corps should not only require resource agency coordination but also include a provision that allows any Federal resource agency the authority to require an individual permit.

The purpose of NWPs is to authorize activities having minimal impacts, with little or no review, in a timely manner. Based on our experience, third party involvement adds little to the review process, but decreases the efficiency of