



**US Army Corps
of Engineers**
Philadelphia District

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ATTN: CENAP-OP-R

Public Notice

Public Notice No.
SPECIAL PUBLIC NOTICE

Date: **FEBRUARY 17, 2004**

Application No.

File No.

In Reply Refer to:
Regulatory Branch

SPECIAL PUBLIC NOTICE FOR REGIONAL CONDITION CHANGES

On 14 November 2003, the Philadelphia District issued a public notice requesting comments on a proposed modification to the regional conditions for nationwide permits 39 and 42 (NWP39 and NWP42).

Department of the Army regulations provide for the development and approval of regional conditions for any or all nationwide permit authorizations as a mechanism to provide added protection to the aquatic environment, by assuring that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. Regional conditions can offer added protection for particular high value waters within a District or specific region. The enclosed regional conditions, which reflect a modification to the regional conditions for NWP39 and NWP42, have been approved for the States of New Jersey and Delaware and hereby replace the regional conditions previously approved for these NWPs and advertised in our public notice dated 29 March 2002.

The modification to the regional conditions for these NWPs specifically addresses the **regional conditions**, which limit these NWPs to 300 linear feet of stream impact under any circumstances. As noted in our previous public notice dated November 14, 2003, we believe that this restriction has unnecessarily restricted the use of these NWPs in upland drainage ditches, which have been identified as waters of the United States. It should be noted that NWP39 and NWP42 are restricted to 300 linear feet of impact in perennial stream habitat, and this limitation is unaffected by this regional condition change. The revised regional conditions for these NWPs would read as follows:

Activities associated with this NWP shall not cause the loss of more than 300 linear feet of streambed, except for man-made ditches constructed in uplands which are determined by the Corps of Engineers to be waters of the United States, and which are determined to be intermittent or ephemeral.

These regional conditions become effective on the date of this public notice. Unless otherwise noted, these regional conditions are applicable for NWP activities in the States of New Jersey and Delaware. These regional conditions are also posted on the Philadelphia District Internet home page at the following URL address: <http://www.nap.usace.army.mil/cenap-op/regulatory/regulatory.htm>.

Additional information concerning the nationwide permit regional condition changes within the States of New Jersey and Delaware can be obtained by contacting Mr. Edward Bonner at (215) 656-5932, by writing to the Philadelphia District at the address listed above, or by reviewing the Philadelphia district Internet Home Page at:

<http://www.nap.usace.army.mil/cenap-op/regulatory/regulatory.htm>.

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