



US Army Corps  
of Engineers  
Portland District

# Special Public Notice

## 2012 Nationwide Permits Regional Condition 8 – Withdrawal

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On March 19, 2012, the U.S. Army Corps of Engineers, Portland District published a Public Notice concerning the February 21, 2012 Federal Register Notice re-issuing existing Nationwide Permits (NWP), related general conditions, definitions and issuing two new NWPs. The public notice also announced the issuance of Regional Conditions (RC) specific to the state of Oregon.

The list of regional conditions included RC 8 (Chemically Treated Wood) which stated:

**Regional Condition 8. Chemically Treated Wood:** Permittee shall not allow wood products treated with biologically harmful leachable chemical components (e.g. copper, arsenic, zinc, creosote, chromium, chloride, fluoride, and pentachlorophenol) to be placed over or come in contact with waters or wetlands.

- a. **New structures:** Wood may be permanently or temporarily sealed with non-toxic products such as water-based silica or soy-based water repellants or sealers to prevent or limit leaching. Acceptable alternatives to chemically treated wood include untreated wood, steel (painted, unpainted or coated with epoxy-petroleum compound or plastic), concrete and plastic lumber.
- b. **Removal of existing chemically treated wood:** Permittee shall prevent chemically treated wood debris from entering any waters or wetlands. In the event chemically treated wood debris inadvertently enters a water or wetland, permittee shall remove the material as soon as practicable and dispose of the material at an approved upland facility.
  - 1) Permittee shall make every practicable effort to remove chemically treated wood piles in their entirety using a vibratory hammer.
    - i) In uncontaminated sediment, piling that breaks off during extraction shall be cut off at least three (3) feet below the surface of the sediment.
    - ii) In contaminated sediment, piling that breaks off above the surface shall be cut off at the sediment line. If the break occurs within contaminated sediment, no further effort shall be made to remove the pile. Any resulting hole shall be filled with clean, native substrate.

New considerations of RC 8 indicate that a blanket prohibition against the use of treated wood under the NWP program may not be the best approach. Rather, Portland District will conduct case-specific reviews of projects proposing to use treated wood or an alternative product. During this review, the Corps will determine whether the proposal meets the terms and conditions of the 2012 NWPs and whether it may affect species listed under the Endangered Species Act or their designated critical habitat. Therefore, the Corps has withdrawn RC8.

All other RCs applicable to the state of Oregon remain as originally issued and can be viewed at <http://www.nwp.usace.army.mil/Missions/Regulatory/Nationwide.aspx>.