

Rule Governing the Importation of Untreated Firewood into the State of Vermont

Section 1. Authority

This Rule is adopted pursuant to the authority of 10 V.S.A. §2681, 10 V.S.A. §2661, 2662, 2663 and 2664. Pursuant to 10 V.S.A. §2681, the Commissioner of the Department of Forests, Parks, and Recreation is required to adopt rules regulating the importation of untreated firewood into the State of Vermont. The Commissioner is authorized to conduct surveys and investigations of public and private lands and to require control measures and take other actions to prevent or control the infestation of forest pests pursuant to 10 V.S.A. §§2661-2664.

Section 2. Policy and Purpose

The purpose of this Rule is to protect forest health by preventing the long-distance movement of wood-borne invasive forest pests into the State of Vermont through the transportation of untreated firewood into the State.

Section 3. Definitions

The following definitions shall apply in the interpretation and enforcement of this Rule.

1. "Commissioner" means the Commissioner of the Department of Forests, Parks and Recreation or the Commissioner's designated representative.
2. "Firewood" means untreated or treated wood processed for residential, recreational, or commercial use in any wood-burning appliance or fireplace, either indoor or outdoor, that is cut to a length less than 48 inches, either split or unsplit. "Firewood" shall not mean wood chips, wood pellets, pulpwood, logs 48 inches or more in length, or other wood sold or transported for manufacturing purposes.
3. "Invasive species" means (A) nonnative plant pests that are capable of spreading into the State and that threaten forest health; and (B) native plant pests, designated by the Commissioner, that are present in the State, that are capable of spreading to new areas of the State, and that threaten forest health.
4. "Origin" means the location where the tree, from which the firewood was cut, was grown, and any other location where the firewood was cut, processed, or stored.
5. "Person" means any individual or combination of individuals, partnership, corporation, company, society, association, governmental organization, university, or other entity and each officer, agent, or employee.

6. "Plant pests" shall be defined as in 6 V.S.A. § 1030(12).

7. "Quarantine" means a legal declaration or rule adopted by the Commissioner to prevent the spread of highly injurious plant pests which specifies the plant pest, plants, parts of plants, plant products or the regulated articles, conditions governing movement, the area or areas quarantined, and any exemptions.

8. "Regulatory agency" means the United States Department of Agriculture or other agency that regulates plant pests in any state of the United States, Canadian province, or country where firewood is treated or is under a compliance agreement regarding treatment.

9. "Treated firewood" means firewood that has been processed and treated in a manner sufficient to prevent invasive species from surviving, as set forth in section 4.3 of this Rule.

10. "Untreated firewood" means firewood that is not "treated firewood."

11. "Wood sold or transported for manufacturing purposes" includes wood sawn into boards, planks, or structural members such as beams.

Section 4. Firewood Quarantine

4.1 No person shall transport untreated firewood into the State of Vermont from an origin outside the State of Vermont.

4.2 "Treated firewood" may be transported into the State of Vermont from an origin outside the State of Vermont, unless prohibited by any other state or federal rule or quarantine.

4.3 Firewood Treatment Requirements

Firewood shall be considered "treated firewood" when it has been heat treated in accordance with the following requirements:

(a) Treated Firewood must be heat treated to reach and maintain a minimum core temperature of 160° F (71.1° C) for at least 75 minutes.

(b) The heat treatment must be conducted at a facility that is certified by a regulatory agency to be capable of achieving the standard in 4.3(a). Heat treatment may employ methods approved by the regulatory agency to achieve this standard, including kiln-drying, steam, hot water, dry heat, or other methods. The heat treatment facility shall maintain records documenting the treatment method employed, the volume of firewood treated, the duration of treatment and the date of treatment. Such documentation shall be maintained by the treatment facility for at least three years and shall be made available for inspection by the Commissioner upon request.

(c) Treated firewood must be accompanied by certification of treatment stating that the firewood has been heat treated to reach and maintain a minimum core temperature of 160°F for at least 75 minutes. The certification may be included in a phytosanitary certificate, invoice, bill of lading, label or other documentation which includes the name and physical address of the heat treatment facility and the name of the regulatory agency that certified the facility.

4.4 Untreated firewood from an origin inside the State of Vermont may be transported through an adjacent state to reach a final destination within Vermont provided that it is not prohibited by any other state or federal rule or quarantine, and there are no stops in the adjacent state except for dropping off loads, refueling, or traffic conditions such as traffic lights or stop signs.

Section 5. Investigations and Controls

5.1 The Commissioner may inspect at reasonable times any public or private lands to determine the threat or presence of infestations and control of forest pests.

5.2 The Commissioner may inspect at reasonable times any firewood transported into the State of Vermont from an origin outside the State of Vermont and all documentation of any treatment of any firewood.

5.3 The Commissioner may require any person that possesses firewood from an origin outside the State of Vermont that is infested with an invasive species to:

- (a) Immediately treat the firewood in compliance with the firewood treatment standards in Section 4.3 of this Rule;
- (b) Immediately destroy the firewood as directed by the Commissioner; or
- (c) Comply with any other control required by the Commissioner.

Section 6. Waiver of Quarantine Requirements

6.1 Upon written request, the Commissioner may waive some or all of the requirements or prohibitions of this Rule if the Commissioner determines that the requested waiver is in the public interest and poses minimal threat to forest health.

6.2 A request for a waiver shall include the following information:

- (a) The origin(s) of the firewood;
- (b) When the firewood will be transported into Vermont;
- (c) The intended destination(s) and use(s) of the firewood in Vermont;
- (d) The amount of firewood subject to the waiver request;
- (e) The identification of the person(s) transporting the firewood;
- (f) If the firewood has been or will be treated: the type of treatment and the name(s) and location(s) of the treatment facility or a copy of a compliance agreement issued by a regulatory agency; and
- (g) Any additional information that would assist the Commissioner.

6.3 The Commissioner may deny a waiver, or grant a waiver in whole or in part. The Commissioner may impose any condition which, in the opinion of the Commissioner, will ensure that the importation of firewood poses minimal threat to forest health in the State of Vermont.

6.4 The Commissioner may at any time for any reason modify or revoke a waiver previously issued.

Section 7. Enforcement

7.1 Confiscation and Disposal

The Commissioner may confiscate and destroy any firewood from an origin outside of the State of Vermont that is transported into Vermont in violation of the requirements of this Rule. The Commissioner shall not be required to compensate any person for confiscation and destruction of firewood under this Rule.

7.2 Penalties

Pursuant to 10 V.S.A § 2681, any person or employee or agent of that person who violates any provision of this Rule shall be subject to:

- (a) An enforcement action pursuant to 10 V.S.A. chapter 201; or
- (b) a civil citation under 10 V.S.A §8019

Section 8. Effective Date

This rule shall take effect May 1, 2016.