WestlawNext **New York Codes, Rules and Regulations**

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OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CHAPTER II. LANDS AND FORESTS
PART 192. FOREST INSECT AND DISEASE CONTROL

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192.5 Firewood restrictions to protect trees and forests from invasive species.

(a) Definitions.

For the purposes of this section, these terms shall be defined as follows:

(1) *Department* shall mean the New York State Department of Environmental Conservation.

(2) *Firewood dealer* shall mean any person, including a firewood producer, that sells firewood at retail.

(3) *Firewood* shall mean all wood of any species, cut or not cut, split or not split, regardless of length which is:

(i) in a form and size appropriate for use as a fuel; or

(ii) which is destined for use as fuel. Firewood shall not include kiln dried dimensional lumber, and wood that has been chipped to a maximum piece size that is no greater than 1-inch in 2-dimensions. Firewood shall not include logs or wood being transported to or possessed by the following operations and facilities, for use in their primary manufacturing process:

(a) sawmill for dimensional lumber;

(b) pulp and/or paper mills;

(c) wood pellet manufacturing facilities;

(d) plywood manufacturing facilities;

(e) wood biomass-using refineries or power plants;

(f) re-constituted wood or wood composite product manufacturing plants;

(g) facilities treating firewood in accordance with paragraph (13) of this subdivision.

(4) *Firewood producer* shall mean any person who processes firewood for sale at the wholesale level or sells firewood at the wholesale level.

(5) *New York-approved treated firewood/pest-free* shall mean a labeling standard for firewood that may be used by a firewood producer who complies with the provisions of subdivision (d) of this section.

(6) *Origin* shall mean the village, town, city, or street address where firewood for personal use was grown.

(7) *Person* shall mean an individual, organization, corporation, business, or partnership, public authority, county, town, village, city, municipal agency or public corporation, other than the department.

(8) *Personal use* shall mean the use of firewood as a fuel, under the conditions specified in subdivision (e) of this section.

(9) *Phytosanitary certificate* or *plant health certificate* shall mean an official document issued by a State Department of Agriculture and Markets or the United States Department of Agriculture animal plant health inspection service or equivalent certification from the country in which the treated firewood was produced which certifies that the firewood meets the phytosanitary regulations of New York State in accordance with the provisions of paragraph (13) of this subdivision.

(10) *Self-issued certificate of origin* shall mean a document for the possession of firewood for personal use as specified in subdivision (e) of this section which specifies the date, name of the possessor, the street address, city, state and zip code of the possessor, the origin of the firewood being possessed, the final destination of the firewood, and the approximate volume in cords or cubic feet being possessed. A sample self-issued certificate of origin shall be available on the department's website and at the department's regional offices.

(11) *Source* shall mean the village, town, or city designated by a firewood dealer or firewood producer as the location no greater than 50 miles from where said untreated firewood was grown. For untreated firewood produced from pallets, or which is a by-product of industrial, commercial, or wood milling operations, *source* shall mean the actual business or mill street address where such firewood is produced.

(12) *Source documentation* shall mean a document which shall include the name and legal address of the firewood producer or firewood dealer, the source of the firewood, and the approximate volume of firewood if greater than one cord or 128 cubic feet. Source documentation may consist of a bill of lading, purchase receipt or invoice accompanying all such firewood sold or a label attached to each package or bundle of firewood.

(13) *Treated firewood* shall mean firewood, including any wood by-products of the operations or facilities listed in paragraph (3) of this subdivision and which are destined for use as fuel: (a) (b)

(i) treated to achieve a minimum core temperature of 71°C for a minimum of 75 minutes employing kiln-drying or other treatments, *e.g.* steam, hot water, or dry heat, approved by the department that achieve this specification; or

(ii) such other methods approved in writing by the department which achieve comparable results.

(14) *Untreated firewood* shall mean any firewood that has not been treated in accordance with the provisions of paragraph (13) of this subdivision including any wood by-products of the manufacturing operations or facilities listed in paragraph (3) of this subdivision, which are not treated in accordance with paragraph (13) of this subdivision, and which are destined for use as fuel.

(15) *50 miles* shall mean a 50 mile linear distance determined by using the scale-bar on a New York State road map, atlas, or gazetteer.

(b) Prohibitions.

(1) No person shall buy, sell, possess, or import, by any means, untreated firewood into this state from any location outside the state.

(2) No person shall buy, sell, or possess untreated firewood within the state without source documentation, as defined in paragraph (12) of this section, or a self-issued certificate of origin, as defined in paragraph (10) of this section.

(3) No person shall buy, sell, or possess untreated firewood produced from trees that are grown in New York State, more than 50 miles from the source of the firewood.

(4) No person shall sell at the retail level treated firewood unless it is labeled in accordance with subdivision (d) of this section.

(5) No person shall buy, sell, possess or import, by any means, treated firewood in this state unless the treated firewood is accompanied by a label as specified in subdivision (d) of this section or a phytosanitary certificate or a plant health certificate.

(c) Untreated firewood.

(1) Firewood dealers of untreated firewood, produced from trees that are grown in the State, shall provide source documentation to all purchasers.

(2) Firewood dealers of untreated firewood shall maintain records of their firewood purchases or procurement to verify the firewood was grown no more than 50 miles from the source. Records shall also include the name and address of the person(s) from whom the firewood was obtained and the date(s) of purchase or procurement. Such records shall be retained for two years and shall be made available for inspection by the department upon request.

(3) Firewood producers of untreated firewood shall provide to firewood dealers written source documentation for all untreated firewood supplied to them.

(4) Firewood producers of untreated firewood shall maintain records of log or wood purchases or procurement to verify firewood was grown no more than 50 miles from the source. Records shall also include the name and address of the person(s) from whom the logs or wood made into firewood were obtained and the date(s) of purchase or procurement. Such records shall be retained for two years and shall be made available for inspection by the department upon request.

(d) Treated firewood.

(1) Treated firewood sold at the retail level in New York shall be labeled "New York-Approved Treated Firewood/Pest-Free" or shall include a phytosanitary certificate or plant health certificate. The above wording or certification shall be prominently displayed on the bill of sale or lading, purchase receipt or invoice for bulk shipments or sales or on a label affixed to any bundle or package. This labeling shall constitute the firewood dealer's certification that the firewood is treated firewood.

(2) Treated firewood sold at the wholesale level in the state shall be labeled "New York-Approved Treated Firewood/Pest-Free" or shall include a phytosanitary certificate or plant health certificate. The above wording or certification shall be prominently displayed on the bill of sale or lading, purchase receipt or invoice for bulk shipments or sales or on a label affixed to any bundle or package. This labeling shall constitute the firewood producer's certification that the firewood is treated firewood.

(3) Producers of "New York-Approved Treated Firewood/Pest-Free" firewood shall maintain, for at least two years from the date of treatment, records that document the treatment method and the volume of firewood treated, and shall also allow department officials to inspect such records and the facilities used to treat firewood upon request.

(e) Firewood for personal use.

(1) Persons who possess untreated firewood not purchased from a firewood producer or a firewood dealer, for personal use, must complete and possess a self-issued certificate of origin.

(2) A self-issued certificate of origin shall be signed by the person possessing the untreated firewood for personal use.

(3) No person shall possess untreated firewood for personal use more than 50 miles from the origin of the firewood.

(4) Untreated firewood which originates from a person's own property, for personal use on that same property, is exempt from the requirements of this section.

(5) Persons possessing untreated firewood or treated firewood on property other than State land under the department's jurisdiction as described in section 190.0(a) of this Title or under the jurisdiction of the New York State Office of Parks, Recreation and Historic Preservation where it will be used for fuel are exempt from the requirement of possessing source documentation or a self-issued certificate of origin as specified in paragraph (b)(2) of this section and paragraph (1) of this subdivision, or a label, phytosanitary certificate or a plant health certificate as specified in paragraph (b)(5) of this section.

(f) Enforcement.

In addition to any other enforcement authority provided by law or regulation, where there is reasonable cause to believe that untreated firewood is moving or may have been moved in violation of any provision set forth in this section and/or section 192.6 of this Part, any law enforcement officer may order that such untreated firewood be returned to its source, or confiscated and destroyed, at the expense of the violator and without cost to the State, in order to control the spread of forest insects in any stage of development and forest tree diseases pursuant to ECL section 9-1303.

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