

**REVISED PROPOSED REGULATION OF
THE STATE QUARANTINE OFFICER**

LCB File No. R130-20

April 12, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-10, NRS 554.020 and 554.030; § 11, NRS 554.020, 554.030 and 587.360.

A REGULATION relating to agriculture; establishing a quarantine on firewood from certain areas; requiring the State Quarantine Officer to establish, maintain and make available a list of areas under quarantine; setting forth certain requirements for the heat treatment and labeling of firewood; requiring the State Department of Agriculture to inspect certain firewood; requiring certain records relating to firewood to be maintained and authorizing the Department to inspect such records; increasing certain inspection fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Quarantine Officer to proclaim and enforce a quarantine against any state, territory or district relating to the importation into or transportation through this State of certain agricultural commodities. (NRS 554.020) **Section 3** of this regulation establishes a quarantine against firewood that originates in certain areas to prevent the introduction or spread of invasive species in this State. **Section 3** requires the State Quarantine Officer to establish, maintain and make available on the Internet website of the State Department of Agriculture a list of areas under quarantine. **Section 2** of this regulation defines certain terms related to the quarantine.

Section 4 of this regulation prohibits, with limited exception, any firewood harvested in or shipped from an area under quarantine from entering this State unless the firewood has been heat treated and the firewood is properly labeled. **Section 5** of this regulation sets forth the manner in which firewood must be heat treated. **Section 6** of this regulation sets forth the manner in which a package of firewood must be labeled. **Section 7** of this regulation authorizes, under certain circumstances, the State Department of Agriculture to exempt certain persons from the requirements set forth in **sections 5 and 6**.

Existing law requires the State Quarantine Officer or his or her authorized representative to immediately seize any agricultural commodity imported into or being transported through this State in violation of any quarantine and further requires such agricultural commodity be treated in a manner approved by the State Quarantine Officer, destroyed or sent out of the State within 48 hours, at the option and expense of the owner thereof. (NRS 554.060) **Section 8** of this regulation requires the Department or its authorized representative to inspect firewood that is transported, offered, exposed or held for sale in this State. **Section 8** further requires the State

Quarantine Officer or his or her authorized representative to order the firewood treated, destroyed or removed from this State, at the option and expense of the owner thereof, if, upon inspection, it is discovered that the firewood: (1) contains any invasive species; (2) has not been treated; or (3) is not properly labeled.

Section 9 of this regulation: (1) requires any person who has transported, offered, exposed or held for sale any firewood in this State to maintain certain records for 2 years; and (2) authorizes the Department to inspect such records.

Section 10 of this regulation provides that any person who does not comply with the requirements set forth in **sections 4-9** or provides false, fraudulent or inaccurate information to the Department or its authorized representative is in violation of the quarantine established in **section 3** and subject to certain civil penalties.

Existing law authorizes the State Quarantine Officer to: (1) designate certain employees or agents of the Department to inspect or classify agricultural products in accordance with certain requirements; and (2) fix, assess and collect, or cause to be collected, fees for those services if they are performed by such employees or agents. (NRS 587.360) Existing regulations provide that the State Quarantine Officer or his or her designee will inspect onions or garlic or the planting areas for those plants during any time of the year to determine the presence of any stem and bulb nematode or any white rot fungus. For each inspection, existing regulations impose a fee of \$5 per acre for a field planted with any true seed specified by the State Quarantine Officer. (NAC 554.930) **Section 11** of this regulation increases this fee to \$8 per acre.

Section 1. Chapter 554 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 10, inclusive, of this regulation, unless the context otherwise requires:*

1. "Firewood" means unprocessed kindling, logs, timber or any other portion of a tree of any species that:

(a) Is cut or split or intended to be cut or split into a form and size appropriate for use as fuel for fires in an open pit, grill, fireplace, stove, wood burning furnace or related device; and

(b) Is or will be transported, offered, exposed or held for sale in this State.

2. "Invasive species" means any species not native to this State that the State Quarantine Officer has determined may cause economic or environmental harm and has the potential to spread within the State.

3. *“Person” means a natural person or a business, corporation, partnership, association or organization.*

Sec. 3. 1. *A quarantine is hereby established on firewood that originates in an area described in subsection 2 to prevent the introduction or spread of any invasive species in this State.*

2. *The State Quarantine Officer will establish, maintain and make available on the Internet website of the Department a list of areas under quarantine for firewood that includes, without limitation:*

(a) *Any area of Canada or the United States that the United States Department of Agriculture or State Quarantine Officer has declared to be at high-risk of infestation by any invasive species; and*

(b) *Any area prescribed as a zone of infestation pursuant to NRS 527.170.*

Sec. 4. *Except as otherwise provided in section 7 of this regulation, any firewood harvested in or shipped from an area included on the list established pursuant to section 3 of this regulation is prohibited from entering this State unless the firewood:*

1. *Has been heat treated in the manner set forth in section 5 of this regulation and the Department has received from the importer a certificate of such treatment before the firewood enters the State; and*

2. *Is labeled or includes a delivery ticket as described in section 6 of this regulation.*

Sec. 5. 1. *The heat treatment for firewood required by section 4 of this regulation must be conducted in a manner that raises the core temperature of the firewood to 160 degrees Fahrenheit (71.1 degrees Celsius) or more for 75 minutes or more, as verified by sensors*

placed in the coldest part of the kiln or heating apparatus, as determined by the affirming official. The verification sensors used for heat treatment must:

(a) Be placed at full depth inside the largest piece of firewood treated;

(b) Be sealed inside the firewood by a gasket or with non-hardening putty or similar material to ensure readings reflect the temperature inside the wood rather than the ambient air temperature;

(c) Be accurate within plus or minus 0.9 degrees Fahrenheit (0.5 degrees Celsius);

(d) Be capable of collecting temperature data every 5 minutes; and

(e) Be capable of recording or storing data for at least 30 days.

2. Each certificate of treatment of firewood must:

(a) Be signed by an authorized inspector of the state, district or territory in which the firewood was produced;

(b) Include the name and address of the exporter of the firewood;

(c) Include the name and address of the importer of the firewood; and

(d) Indicate the date the certificate was issued.

3. The Department must be in receipt of a copy of each certificate of treatment before the firewood enters this State. Copies must be sent by the importer to the Department:

(a) By facsimile machine at (775) 353-3661; or

(b) By electronic mail at ndoa@agri.state.nv.us.

Sec. 6. 1. Each package of firewood must bear a clear and conspicuous label that includes, without limitation:

(a) If the firewood is not easily identifiable through the wrapper or container, a description identifying the contents as firewood;

(b) If the package was not produced on the premises where it is offered or held for sale or sold, the name and address of the manufacturer, packer or distributor of the firewood;

(c) The net quantity of firewood in terms of weight, measure or count; and

(d) The origin of the firewood as identified by county and state or, if the firewood is not from the United States, country.

2. Firewood that is not packaged and sold in bulk must be accompanied by a delivery ticket that includes, without limitation:

(a) The name and contact information of the person who weighed or measured the firewood;

(b) The date the firewood was sold;

(c) The quantity of firewood sold as measured in cords or cubic meters including fractions or counts;

(d) If the firewood provided to the buyer is a partial delivery, the quantity of firewood on which the total price is based;

(e) The type of wood sold in the most descriptive terms commercially practicable; and

(f) The origin of the harvest of the firewood by county and state or, if the firewood is not from the United States, country.

3. Each package of firewood held out for sale or sold and each sale of firewood from a bulk source made in violation of this section is a separate violation of the quarantine established in section 3 of this regulation is subject to the civil penalties set forth in NRS 554.235.

Sec. 7. 1. The Department may, upon application, issue to a person an exemption from the requirements set forth in sections 5 and 6 of this regulation if the Department determines

that the risk of introduction or spread of any invasive species in this State is low. An application for a quarantine exemption pursuant to this section must be in writing and include, without limitation:

(a) The identity of the importer;

(b) The origin of the firewood to be imported, as identified by county and state or, if the firewood is not from the United States, country; and

(c) The type of wood to be imported.

2. The Department shall respond in writing to any application for a quarantine exemption within 10 business days after receipt of the application.

3. A quarantine exemption issued pursuant to this section expires 1 year after the date of issuance.

4. The Department may revoke a quarantine exemption issued pursuant to this section if the Department determines that the risk of introduction or spread of any invasive species has increased since the granting of the exemption. If the Department revokes a quarantine exemption, the Department must provide written notice to the importer of firewood that sets forth the reason or reasons for the revocation.

Sec. 8. *1. A person who intends to export firewood from an area included on the list established pursuant to section 3 of this regulation shall notify the Department before the arrival of the firewood into this State. The person who imports the firewood into this State shall inform the Department immediately upon the arrival of the firewood in this State and hold the firewood for inspection by the Department or its authorized representative.*

2. Not later than 10 days after the Department receives notification of the arrival of the firewood, the Department or its authorized representative shall inspect the firewood. The

Department or an authorized representative may take a sample of the firewood shipment for the purposes of detecting any invasive species.

3. Pursuant to NRS 554.060, the State Quarantine Officer or his or her authorized representative shall order firewood heat treated in the manner set forth in section 5 of this regulation, destroyed or removed from this State, at the option and expense of the owner thereof, if, upon inspection, it is discovered that the firewood:

- (a) Contains any invasive species;*
- (b) Has not been heat treated in the manner set forth in section 5 of this regulation; or*
- (c) Is not labeled in accordance with section 6 of this regulation.*

Sec. 9. 1. Any person who has transported, offered, exposed or held for sale any firewood in this State shall maintain for at least 2 years records regarding the origins and disposition of the firewood and any heat treatment the firewood underwent. The records must include, without limitation:

- (a) The state and county of origin, or if the firewood is not from the United States, the country of origin;*
- (b) The source and supplier of the firewood;*
- (c) A copy of any certificate of heat treatment for the firewood issued pursuant to section 5 of this regulation;*
- (d) The type of wood used to make the firewood; and*
- (e) The name of the person who imported the firewood into this State.*

2. The Department may inspect the records described in this section during normal business hours.

Sec. 10. *Any person who does not comply with the requirements set forth in sections 4 to 9, inclusive, of this regulation, or who provides false, fraudulent or inaccurate information to the Department or its authorized representative is in violation of the quarantine established in section 3 of this regulation and subject to the civil penalties set forth in NRS 554.235.*

Sec. 11. NAC 554.930 is hereby amended to read as follows:

554.930 1. The State Quarantine Officer or his or her designee will inspect onions or garlic or the planting areas for those plants during any time of the year which may be appropriate to determine the presence of any stem and bulb nematode or any white rot fungus.

2. For each inspection of a commercial production conducted pursuant to subsection 1, the State Quarantine Officer will, in accordance with NRS 587.360, impose a fee of:

(a) Fourteen dollars per acre for a field planted with any vegetative seed specified by the State Quarantine Officer; and

(b) ~~Five~~ **Eight** dollars per acre for a field planted with any true seed specified by the State Quarantine Officer.

3. Garlic bulbs grown in Nevada may be replanted if they have been inspected by the State Quarantine Officer or his or her designee during the growing season and found apparently free from stem and bulb nematode and white rot fungus.

4. All machinery and all bins and other equipment which have been used in handling, digging, planting, cultivating, harvesting or fertilizing an Allium crop must be free of any dirt, garlic, onions and other residue of the Allium species before being brought into Nevada.