

State of Connecticut
REGULATION
of

NAME OF AGENCY

Connecticut Agricultural Experiment Station

Sections 22-84-5d, 22-84-5e, 22-84-5g.

Amendments to Secs. 22-84-5d and 22-84-5e and addition of Sec. 22-84-5g to Title 22 of the Regulations of Connecticut State Agencies.

Section 1. Section 22-84-5d of the Regulations of Connecticut State Agencies is amended as follows:

Sec. 22-84-5d. Definitions

For purposes of sections 22-84-5e [and 22-84-5f] through 22-84-5g inclusive, the following definitions apply:

- (1) "Asian longhorned beetle" means an invasive insect to the United States of genus and species *Anoplophora glabripennis*.
- (2) "Emerald ash borer" means an invasive insect to the United States of genus and species *Agrilus planipennis*.
- (3) "Authorized person" means an inspector or other person authorized by the Director of The Connecticut Agricultural Experiment Station to examine regulated articles, implement survey, suppression, control or eradication activities, establish regulated areas, and enforce quarantine regulations, including restrictions on intrastate movement of regulated articles.
- (4) "Regulated article" means any stage of Asian longhorned beetle or Emerald ash borer, or any living or dead plant material including nursery stock or wood products, or any means of conveyance that is infested or has the potential to be infested or may contribute to the spread of the Asian longhorned beetle or Emerald ash borer. "Regulated articles" include, but are not limited to:
 - (A) Trees of the following genera: Maple, Boxelder (*Acer* spp.); Horse-chestnut, buckeye (*Aesculus* spp.); Birch (*Betula* spp.); Katsura (*Cercidiphyllum* spp.); Willow (*Salix* spp.); Elm (*Ulmus* spp.); Ash (*Fraxinus* spp.); Sycamore (*Platanus* spp.); Poplar (*Populus* spp.); Mimosa (*Albizia* spp.); Mountain-ash (*Sorbus* spp.); Hack-berry (*Celtis* spp.);
 - (B) Raw wood products, including composted or uncomposted chips of *Fraxinus* spp. for Emerald ash borer quarantines, green lumber, cut logs, all firewood, and wood debris [of one-half inch or more in diameter] greater than one inch in two dimensions;
 - (C) Any other item identified by an authorized person to be a "regulated article" that is infested or has potential to be infested by the Asian longhorned beetle or Emerald ash borer or that has the ability to contribute to the spread of the Asian longhorned beetle or Emerald ash borer.
- (5) "Regulated area" means a geographic area infested with Asian longhorned beetle or Emerald ash

borer or an adjacent area potentially infested with either such insect that is established by an authorized person to quarantine regulated articles.

(6) (NEW) “Firewood” means any kindling, logs, timber or other portions of a tree of any hardwood species or length, cut or split, or not cut or split but intended to be cut or split into a form and size appropriate for use as fuel for fires in open pits, grills, fireplaces, stoves, or other wood burning furnaces or devices. “Firewood” does not include kiln dried dimensional lumber or wood that has been chipped to a maximum piece size that is no greater than one inch in two dimensions.

(7) (NEW) “Director” means the Director of the Connecticut Agricultural Experiment Station.

(8) (NEW) “Quarantined areas” means areas, counties, or regions of a state that are designated as part of a federally imposed quarantine area related to Emerald ash borer or Asian longhorned beetle.

(9) (NEW) “Non-quarantined areas” means areas, counties, or regions of a state not subject to a federal quarantine for Emerald ash borer or Asian longhorned beetle.

(10) (NEW) “Limited permit” means a United States Department of Agriculture document in which a United States Department of Agriculture Inspector or a person operating in accordance with a compliance agreement affirms that the article not eligible for a certificate is eligible for interstate movement only to a specified destination and in accordance with conditions specified on the permit.

(11) (NEW) “Certificate” means a United States Department of Agriculture document that is issued for a regulated article by a United States Department of Agriculture inspector or other person operating in accordance with a compliance agreement and that represents such article is eligible for interstate movement.

(12) (NEW) “Compliance agreement” means a written agreement between the United States Department of Agriculture-Animal and Plant Health Inspection Service and a person engaged in growing, handling, or moving regulated articles that are moved interstate, in which the person agrees to comply with federal quarantine regulations as applicable and any conditions imposed by federal authorities under such a quarantine.

(13) (NEW) “Specialized permit” means a permit issued by the Connecticut Agricultural Experiment Station to a person engaged in growing or handling regulated articles that places conditions on the intrastate movement of regulated articles that are required to be met to comply with federal or state quarantine regulations or orders imposed by The Connecticut Agricultural Experiment Station.

(14) NEW “Treatment certificate or label” means official documentation affixed to a load of firewood that indicates the firewood to which it is affixed was treated in accordance with applicable federal standards by an authorized facility.

(15) NEW “Waybill” means an official shipping document that travels with a shipment, identifies its consignor, consignee, origin and destination, describes the goods, and shows their weight and freight.

Sec. 2. Section 22-84-5e of the Regulations of Connecticut State Agencies is amended as follows:

Sec. 22-84-5e. Prohibition or restriction on transport; survey and eradication programs in regulated areas of Connecticut

- (a) No person shall transport any regulated article in the State of Connecticut that is:
- (1) Infested or potentially infested with Asian longhorned beetle or Emerald ash borer; or
 - (2) Subject to quarantine pursuant to subsections (c) and (d) of this section.
- (b) Nursery stock and other regulated articles may be inspected by authorized persons for the purpose of ascertaining the presence of Asian longhorned beetle or Emerald ash borer.
- (c) Upon discovery of Asian longhorned beetle or Emerald ash borer, authorized persons may cooperate with federal, state, and local officials and survey public and private areas surrounding the initial point of infestation to determine the extent of the insect pest's geographic distribution, establish the regulated area in the state or any portion thereof, and quarantine regulated articles. Infested trees, firewood, or other regulated articles in regulated areas or shipped into Connecticut, upon direction by an authorized person and after notice specified in subsection (d) of this section, may be destroyed by chipping, incineration, burning, or other approved methods or treated by acceptable procedures without expense to or indemnity paid by The Connecticut Agricultural Experiment Station or the State of Connecticut. Intrastate movement of regulated articles is restricted and shall comply with permit or specialized permit provisions established pursuant to subsection (d) of this section.
- (d) Authorized persons shall notify persons in possession of inspected, regulated articles that such articles are subject to quarantine restrictions and that regulated articles cannot be moved anywhere without obtaining a permit or specialized permit from the Director or an authorized person. The Director shall issue a permit or specialized permit to ensure proper movement and disposal of regulated articles. Regulated articles infested with Asian longhorned beetle shall not be moved from a quarantined area within Connecticut unless chipped to one-inch or less in two dimensions. Requests for a permit or specialized permit to move regulated articles shall be submitted to the Director or an authorized person. Authorized persons may issue quarantine or abatement orders concerning Asian longhorned beetle or Emerald ash borer infestations. Affected parties shall be provided five days notice prior to public hearing on any quarantine order in accordance with *Section 22-84 of the Connecticut General Statutes*. Abatement orders may require the destruction or treatment of trees, firewood or other regulated articles not less than five days from the date of issuance. Notice of abatement orders shall be provided by personal service, certified mail or publishing in two local newspapers. When infested regulated articles are received by authorized persons and destroyed, written documentation shall be given by the Director or authorized persons to the owner of said regulated articles identifying the quantity and type of regulated materials surrendered by the owner. Copies of such certificates shall be maintained by the Office of the State Entomologist.

Sec. 3. The Regulations of Connecticut State Agencies are amended by adding section 22-84-5g as follows:

(NEW) Sec. 22-84-5g. Regulation of firewood transported into and within Connecticut

- (a) Transport of firewood

- (1) Notwithstanding section 22-84-5e of the Regulations of Connecticut State Agencies, no person shall transport firewood, by any means, originating from quarantined areas into Connecticut without:
 - (A) a certificate or limited permit issued under a compliance agreement with the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) confirming that the subject firewood may be transported interstate from an area currently under federal quarantine and that it has been handled or treated in accordance with the conditions of an applicable compliance agreement or treated in accordance with the following applicable federal standards articulated in the USDA Plant Protection and Quarantine Treatment Manual and addenda as may be revised from time to time:
 - (i) Removal of the bark and additional one-half inch of wood;
 - (ii) Kiln sterilization treatment;
 - (iii) Fumigation according to a treatment schedule; or
 - (iv) Heat treatment;
 - (B) a certificate issued by an APHIS inspector pursuant to 7 CFR 301.53-5(a) or 7 CFR 301.51-5(a); or
 - (C) a limited permit issued by an APHIS inspector pursuant to 7 CFR 301.53-5(b) or 7 CFR 301.51-5(b).

- (2) Notwithstanding section 22-84-5e of the Regulations of Connecticut State Agencies, no person may transport firewood, by any means, originating from a non-quarantined area and not passing through a quarantined area into the state of Connecticut without:
 - (A) a permit or specialized permit from the Director;
 - (B) a treatment certificate or label from a United States Department of Agriculture qualified treatment facility indicating that the firewood has been treated to protect against the Emerald ash borer and Asian longhorned beetle in accordance with applicable federal standards articulated in the USDA Plant Protection and Quarantine Treatment Manual and addenda as may be revised from time to time;
 - (C) documentation from the USDA or a state agency with authority to control, suppress, or exterminate plant pests and diseases indicating that the firewood has been treated to protect against the Emerald ash borer and Asian longhorned beetle in accordance with applicable federal standards articulated in the USDA Plant Protection and Quarantine Treatment Manual and addenda as may be revised from time to time; or
 - (D) a treatment certificate or label from the Canadian Food Inspection Agency or a facility authorized by the Canadian Food Inspection Agency to issue such documentation.

- (3) Notwithstanding section 22-84-5e of the Regulations of Connecticut State Agencies, no person may transport firewood, by any means, originating from a non-quarantined area and passing through an area quarantined for Emerald ash borer into the state of Connecticut unless the firewood is handled and transported in compliance with the applicable requirements of 7 CFR 301.53-4(b)(2).

- (4) Notwithstanding section 22-84-5e of the Regulations of Connecticut State Agencies, no person may transport firewood, by any means, originating from a non-quarantined area and passing through an area quarantined for Asian longhorned beetle into the state of Connecticut unless the firewood is handled and transported in compliance with the applicable requirements of 7 CFR 301.51-4(a)(2)(ii).

- (5) Notwithstanding subdivisions (1) to (4), inclusive, of this subsection, the United States Department of Agriculture may move firewood into the state of Connecticut for scientific and experimental purposes in accordance with 7 CFR 301.53-4(b)(1) or 7 CFR 301.51-4(a)(1).
- (b) The Director or an authorized person may issue written permission to transport firewood into Connecticut from a non-quarantined area without a treatment certificate or label, or other documentation referenced in subdivision (a)(2) of this section on a case-by-case basis if, after review, and in consultation with the Commissioner of Energy and Environmental Protection or the Commissioner's designee, it is determined that:
- (1) The firewood does not present a threat of Emerald ash borer or Asian longhorned beetle infestation because of verifiable origin from a non-quarantined area; and
 - (2) the firewood has been examined by an authorized inspector or authorized certified forester, its handling was conducted in accordance with 7 CFR 301.53-4 (b)(2) or 7 CFR 301.51-4(a)(2)(ii), or it was otherwise treated to eliminate any threat.
- (c) The Director or authorized persons may inspect any firewood being transported into or through Connecticut, being sold, or intended for sale, and may obtain information concerning the verifiable origin of that firewood and, if necessary upon inspection, request production of necessary certificates, waybill, labels, or limited permits regarding its origin or treatment.
- (d) All transporters and retail sellers of firewood in Connecticut shall be able to demonstrate that any firewood in their possession or offered for sale is:
- (1) Of a verifiable in-state origin and complies with any applicable requirements of a state or federal quarantine imposed in the state of Connecticut; or
 - (2) accompanied by a certificate, a limited permit, treatment certificate or label, or waybill verifying its origin and handling in accordance with subsection (a) of this section, if the firewood originated from out-of-state.

If the transporter or retail seller is not able to produce evidence of conformity with subdivision (1) or (2) of this subsection, the firewood shall be subject to confiscation by the Director or authorized persons in accordance with section 22-84 of the Connecticut General Statutes.

- (e) Any firewood, transported into or possessed within Connecticut, that is of undisclosed or unverifiable origin or that lacks treatment certificates, appropriate labels, permits, or certificates required by this section or that of a federal or state quarantine shall be returned to its point of origin, disposed of at the site of detection if feasible, or transported via a tarped or otherwise enclosed vehicle to the nearest facility designated by the Department of Energy and Environmental Protection (DEEP) for responsible disposal, including a DEEP permitted resource recovery facility or solid-waste facility, unless otherwise directed by the Director or authorized person.

STATEMENT OF PURPOSE: To amend and adopt regulations to prevent the spread of destructive forest pests detected in the state of Connecticut and currently impacting neighboring states consistent with the authority of the Director of the Connecticut Agricultural Experiment Station under General Statutes § 22-84. Section 22-84-5d is amended to add and clarify necessary definitions and apply the definitions to new section 22-84-5g. Section 22-84-5e is amended to clarify restriction applicable to Asian longhorned beetle and specify use of compliance agreements as a means to regulate and authorize movement of firewood and other regulated articles. Section 22-84-5g is added to specify regulations on the importation of firewood into Connecticut.

This amendment is to further affirm the state of Connecticut's dedication to preventing the spread of destructive wood-boring insects that threaten forest resources, associated forest industries, including nurseries, lumber mills, and timber harvesting operations, and homeowner properties. The firewood regulations are requested under the authority granted to the Director of the Connecticut Agricultural Experiment Station under General Statutes § 22-84, which allows the Director to control the movement of wood products that are susceptible to destructive insect infestations. The unregulated movement of firewood into and within Connecticut presents a grave risk to the state's forest resources, related industries, and homeowner properties and will likely ensure the continued spread of wood-boring pests throughout Connecticut and into other areas of New England currently not infested. There are known infestations of the Emerald ash borer in the state of New York near Connecticut's western border, in western Massachusetts to the north and extending further west to Kansas and of the Asian longhorned beetle in central Massachusetts adjacent to Connecticut's northern border.

These new firewood regulations and amendments to existing regulations are necessary to address a known vector for the spread of wood-boring insects as it applies to movement into and within the state of Connecticut. It is vital to clarify that firewood transported into Connecticut must be treated in some manner for these wood-boring pests and it provides authority for confiscation and destruction if not so treated. These regulations and amendments are a necessary step to prevent or at least curtail through appropriately tailored procedures the spread of these wood-boring insects into and throughout Connecticut.

Section 22-84 of the General Statutes specifically provides the Director with regulatory authority. This broad authority also recognizes the federal regulatory presence. The director is authorized to issue regulations but must determine if the pest of concern is also federally regulated. In the cases of Emerald ash borer and Asian longhorned beetle, both pests are subject to federal quarantines and associated regulations. Federal regulations at 7 CFR 301.53-1 et seq. and 7 CFR 301.51-1 cover interstate transport of articles infested or potentially infested with Emerald ash borer and Asian longhorned beetle respectively. The Director is aware of these regulations and is in constant communication with federal regulatory partners about the role Connecticut and its Agricultural Experiment Station need to play in preventing or slowing the spread of destructive forest pests. 7 CFR 301.1 et seq. specifically authorizes states to regulate these pests as long as the regulations are consistent with and do not exceed federal regulations and orders. By referencing federal regulations cited above and associated standards, these regulations ensure the consistency required by 7 CFR 301.1 et. seq while allowing the Director to regulate transport and possession of infested or potentially infested articles as authorized and required by § 22-84 of the General Statutes.