



The Connecticut Agricultural Experiment Station

123 HUNTINGTON STREET BOX 1106 NEW HAVEN, CONNECTICUT 06504

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HEARING REPORT

**Prepared Pursuant to Section 4-168(d) of the
Connecticut General Statutes
Regarding the
New Regulations (Sections 22-84-5d, 22-84-5e, and 22-84-5f
On the Asian longhorned beetle and Emerald ash borer**

**Hearing Officer: Dr. Louis A. Magnarelli, Director
Date of hearing: October 28, 2009**

On September 15, 2009, the Director of The Connecticut Agricultural Experiment Station (CAES) published a Notice of Intent to Adopt Regulations of Connecticut State Agencies (RCSA), namely sections 22-84-5d, 22-84-5e, and 22-84-5f on the Asian longhorned beetle and Emerald ash borer, in the Connecticut Law Journal (Attachment 1). Legal notices for the public hearing were published on October 11, 2009 in the Hartford Courant and New Haven Register (Attachment 1). Although neither insect species has been found infesting trees in Connecticut, these pests are spreading in other states and regulations are needed in Connecticut to be prepared for potential infestations. Pursuant to such notice, a public hearing was held at 10AM on October 28, 2009 at the Department of Environmental Protection in Hartford, with the public comment period closing on that date at 4:30PM.

I. Hearing Report Content

As required by Section 4-168(d) of the Connecticut General Statutes (CGS), this report describes the proposal, identifies principal reasons in support of and in opposition to the proposal or parts thereof, and summarizes and responds to all comments on the proposal. A final recommended version of the full text is available on the CAES website (www.ct.gov/caes) or by request to the CAES Director.

II. Summary of Proposal

The main purpose of the proposal is to suppress, control, or eradicate infestations of the Asian longhorned beetle or Emerald ash borer in regulated areas by prohibiting or restricting the movement of these insect pests or the movement of infested nursery stock, cut logs, firewood, or other regulated articles. These insect pests destroy a wide range of hardwood tree species, such as maple, birch, ash, and elm, many of which are important in the nursery trade, furniture production, providing building materials, maple syrup production, enhancing tourism, or in preserving environmental quality. The state regulations will operate in concert with the federal quarantine and prevent the spread of the insect pests.

Phone: (203) 974-8500 Fax: (203) 974-8502

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The proposed regulations provide specific guidelines and procedures for the management of insect pest infestations under the authority of CGS 22-84. The following brief descriptions outline the content of the specific regulatory sections:

- RCSA section 2-84-5d: definitions of Asian longhorned beetle, Emerald ash borer, authorized person, regulated articles, and regulated area are given.
- RCSA section 22-84-5e: guidelines and procedures on the prohibition or restriction on transport of regulated articles and on the survey and eradication programs are described. Details on inspections of regulated articles are provided along with information on quarantine restrictions, abatement orders, the permit process, and giving proper notice.
- RCSA section 22-84-5f: records of infestations in Connecticut. The Office of the State Entomologist at the CAES in New Haven, CT shall maintain records of destroyed regulated articles, survey results, and a list of towns where infested regulated articles have been found.

The full text of the proposal is located in Attachment 2 to this report.

IV. Summary of Comments

The remarks of commenters and responses by the Director of CAES are briefly summarized below. Specific information on commenters' identities and copies of written testimonies and responses by the Director of CAES are included in Attachment 3 to this report.

Documents were submitted by 7 persons, who all favored the adoption of new regulations. Connecticut's Green Industries Coalition (CGIC), the New Canaan Garden Club, Connecticut Tree Protective Association, and the Connecticut Department of Environmental Protection fully support the CAES proposed rules and acknowledged the need for the new state regulations. No suggestions were made by these persons to modify the language of the proposal's text. Testimony submitted by CGIC correctly stated that without state regulations, the federal government would likely order a statewide quarantine if infestations are detected and that this outcome would "cripple the green industry". CGIC urged swift adoption of the proposed state regulations.

(A) In an e-mail statement sent by Mr. Eric Hammerling of the CT Forest and Park Association to the Director of the CAES, gratitude was expressed for the decision to move forward with adoption of the proposed regulations. There were two questions asked that required a response from the Director of the CAES. As requested, these questions were answered at the public hearing.

(1) It was unclear to Mr. Hammerling as to why the proposed regulations included the Asian longhorned beetle and the Emerald ash borer. CAES Director's response: Both insect pests can cause economic and environmental problems, and since we do not

know which pest will appear first in Connecticut, the proposed regulations should include both insect species. In either case, CAES staff would have to respond to infestations. A request was made by a DEP forester during the early drafting of the regulations that both insect pest species be covered by the regulations. The USDA Animal and Plant Health Inspection Service (APHIS) agreed with this approach because there is a federal quarantine for both species. Moreover, it was more efficient to include both insect species in one regulatory action rather than two separate actions.

(2) The second question focused on who would pay for the response activities. CAES Director's response: It is expected that federal funding appropriated by the US Congress and administered by USDA-APHIS would cover these costs. In other states where these insect pests have emerged, federal funds were used for survey, cutting and chipping trees, etc. There should be no costs for private, municipal, or other landowners.

(B) In a letter submitted by Mr. David Sutherland of the Nature Conservancy, testimony was given in support of the proposed regulations. Some recommendations for changes were proposed.

(1) The first recommendation was to address each insect pest separately in the proposed regulations. CAES Director's response: Although it is recognized that there are biological differences, such as differences in insect dispersal potential, that exist for each insect species, the current proposed regulations have enough flexibility for the CAES to make the necessary adjustments in defining a quarantine zone and for executing eradication efforts for either or both species. The commenter also expressed concern about being able to eradicate EAB. CAES Director's response: A small infestation of Emerald ash borer (EAB) can be eradicated if detected early. The state's arborists have been trained on how to identify exit holes (D shape) caused by adults emerging from trees. Also, a novel trapping procedure is now being used by CAES scientists to monitor for EAB adults in the environment. It is recognized that large-scale infestations of EAB would be difficult to eradicate, and appropriate assessments would have to be made concerning quarantine orders. Finally, since Connecticut's regulations must mirror the federal quarantines to be effective, the current proposed language should be sufficient for CAES to order quarantines and execute eradication programs.

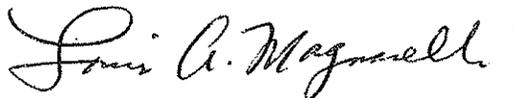
(2) A recommendation was made to provide more notice and assessment before infested trees can be destroyed. CAES Director's response: The Governor's legal counsel provided the current language on methods of public notice stated in Section 22-84-5e(d). Consistent with this section and CGS 22-84, a public hearing is required before a quarantine order can be issued. Abatement orders will be discussed at such hearings and be subsequently provided by personal service, certified mail, or publishing in two local newspapers. The sensitivity and impact of large-scale removal of trees on communities and state residents are fully recognized. Accordingly, good public education programs and sufficient notice will have to be a part of the overall effort. Reasonable decisions must be made regarding quarantine and abatement orders. These insect pests eventually kill trees, which become hazards and liabilities. We agree with the Governor's legal counsel, that there is sufficient notice in the proposed regulations.

(3) The commenter indicated that the proposed regulations hold the individual property owners liable for costs of removing trees. CAES Director's response: As observed in other states that have or had infestations of Asian longhorned beetle or Emerald ash borer, federal funds from USDA-APHIS covered the costs of tree removal and chipping. We expect that federal funding will be available for tree removal caused by federally quarantined insects if they appear in Connecticut. This approach encourages citizens' prompt reporting of infestations and proper management of infested wood. There is no language in the proposed state regulations which would allow the State of Connecticut or CAES to force a property owner to pay for tree removal costs. Aside from regulations on quarantined pests, if a tree dies because of other causes (e.g., ice or wind damage, fungus infections, etc.), the property owner is legally responsible for that dead tree. Under these circumstances, it would be inappropriate to include new language in the proposed regulations to state that landowners cannot be forced to pay for tree removal costs. Finally, we strongly agree with the commenter's ending statement in his letter to increase federal funding for these control efforts.

(C) In a letter submitted by members of the Litchfield Garden Club, statements were made in strong support of the proposed regulations. It was suggested that the word "shall" replace the word "may" in proposed sections (b) and (c). CAES Director's response: Regulations are extensions of statutes. The wording in CGS 22-84, 22-96, 22-97, and 22-98, as they relate to inspections for plant pests, use the word "may". Therefore, we prefer to retain the word "may" to be consistent with current statutory language and to follow the advice provided by the Governor's legal counsel in earlier review. The use of the word "may" in issuing quarantine or abatement orders allows regulators flexibility in making decisions. The nature and extent of insect infestations can vary greatly, and changing circumstances require continual regulatory assessment. Current language in the proposal is most appropriate. The seriousness of the potential economic and environmental damage caused by the insect pests will force the CAES staff to respond with all available resources and effort.

V. Conclusion

Based upon the comments in this Hearing Report, I intend to submit the proposal to the Attorney General and Legislative Regulations Review Committee for further review and adoption.



Louis A. Magnarelli, PH.D.

Director

October 30, 2009

ADMINISTRATIVE REGULATIONS

Regulations and notices published herein, pursuant to General Statutes Sections 4-168 and 4-173, are printed exactly as submitted by the forwarding agencies. These, being official documents submitted by the responsible agencies, are consequently not subject to editing by the Commission on Official Legal Publications.

A cumulative list of effective amendments to the Regulations of Connecticut State Agencies may be found in the Connecticut Law Journal dated September 1, 2009.

CONNECTICUT AGRICULTURAL EXPERIMENT STATION

Notice of Intent to Adopt Regulations

In accordance with the provisions of Section 4-168(a) of the Connecticut General Statutes (CGS), as amended, notice is hereby given that the Director of The Connecticut Agricultural Experiment Station proposes to adopt, under the authority of CGS-Section 22-84, regulations (Sections 22-84-5d through 22-84-5f) on the Asian longhorned beetle (*Anoplophora glabripennis*) and Emerald ash borer (*Agrilus planipennis*). Both insect pests are relatively new to the United States, are very destructive to hardwood trees, and can cause economic losses and environmental deterioration.

Statement of purpose: To suppress, control, or eradicate infestations of Asian longhorned beetle or Emerald ash borer in regulated areas by prohibiting or restricting the movement of these insect pests or the movement of infested nursery stock, cut logs, firewood, or other regulated articles. These insect pests destroy a wide range of hardwood tree species, many of which are important for nursery trade, furniture production, building materials, maple syrup production, enhancing tourism, or environmental quality. The quarantine program will prevent the spread of the insect pests and provide measures for suppression and control. The regulations provide specific guidelines and procedures for the management of pest infestations under the authority of Connecticut General Statute 22-84.

Copies of the proposed regulations and other supportive documents may be obtained by electronic mail (Louis.Magnarelli@ct.gov), fax (203 974-8502), phone (203 974-8440), post, or in person from Dr. Louis A. Magnarelli, Director, The Connecticut Agricultural Experiment Station, P. O. Box 1106, New Haven, CT 06504. In addition, the proposed regulations are posted on the agency's website (www.ct.gov/caes). All interested persons are invited to submit oral or written comments on the proposed regulations to Dr. Magnarelli by 4:30 PM on October 28, 2009. The Connecticut Agricultural Experiment Station will also hold a public hearing described below. Any person appearing at the hearing is asked to submit a written copy of his or her statement. Oral comments are also welcome at the hearing and will be made part of the hearing record.

PUBLIC HEARING

Wednesday, October 28, 2009 at 10 AM
Department of Environmental Protection
Fifth Floor, Holcombe Room
79 Elm Street, Hartford, CT

The Connecticut Agricultural Experiment Station, an affirmative action/equal opportunity employer, provides programs and services in a fair and impartial manner. In accordance with the Americans with Disabilities Act of 1990, persons with disabilities who need information in an alternative format to allow such individuals to benefit from and/or participate in the agency's programs and to receive services should call (203 974-8440) and make their request. Requests for accommodations to attend the noticed hearing must be made at least two weeks prior to the hearing date via electronic mail Louis.Magnarelli@ct.gov, post, or phone to Dr. Magnarelli.

Louis A. Magnarelli, *Director*

NEW Haven
Register
Oct. 11, 2009

LEGALS

Notice of Public Hearing

Notice is hereby given that a public hearing will be held at 10AM on October 28, 2009 in the Holcomb Room at the Department of Environmental Protection, 5th Floor, 79 Elm Street, Hartford, CT concerning the proposed adoption of CT State Regulations (22-84-5d through 22-84-5f) on the Asian Longhorned beetle and Emerald ash borer. Written and oral comments will be accepted. Dated in New Haven, CT this 28th day of September 2009.

Louis A. Magnarelli, Director
The Connecticut Agricultural Experiment Station
P.O. Box 1106
New Haven, CT 06504
Phone: (203) 974-8440

2291500

Hartford Courant Oct 11, 2009
Connecticut

Notice of Public Hearing

Notice is hereby given that a public hearing will be held at 10AM on October 28, 2009 in the Holcomb Room at the Department of Environmental Protection, 5th Floor, 79 Elm Street, Hartford, CT concerning the proposed adoption of CT State Regulations (22-84-5d through 22-84-5f) on the Asian Longhorned beetle and Emerald ash borer. Written and oral comments will be accepted. Dated in New Haven, CT this 28th day of September 2009.

Louis A. Magnarelli, Director
The Connecticut Agricultural Experiment Station
P.O. Box 1106
New Haven, CT 06504
Phone: (203) 974-8440

Attachment 2

PROPOSED FINAL WORDING October 30, 2009

The Connecticut Agricultural Experiment Station
Concerning
Asian Longhorned Beetle (*Anoplophora glabripennis*)
And
Emerald Ash Borer (*Agrilus planipennis*) Quarantine

Section 22-84

The Regulations of Connecticut State Agencies are amended by adding sections 22-84-5d through 22-84-5f, inclusive, as follows:

(NEW) Section 22-84-5d Definitions

For the purposes of sections 22-84-5e and 22-84-5f, 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; and to 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; living or dead woody plant material including nursery stock, wood products, or any means of conveyance that is infested, or have 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.*); Hackberry (*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 (hardwoods), and wood debris of one-half inch or more in diameter;
 - (C) Any item identified as a "regulated article" by an authorized person.

(5) "Regulated area" means a geographic area infested with Asian longhorned beetle or Emerald ash borer or an adjacent area potentially infested with this insect that is established by an authorized person to quarantine regulated articles.

(NEW) Section 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 must comply with permit provisions pursuant to 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 certificate issued by 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 three days from the date of issuance. Notice of abatement orders shall be provided by personal service, certified mail or publishing in two local newspapers. Any person aggrieved by any abatement order may appeal to the Superior Court for appropriate relief. When infested regulated articles are received or quarantined by authorized persons for the purpose of destruction, written certificates shall be given 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.

(NEW) Section 22-84-5f Records of infestations in Connecticut

The Office of the State Entomologist at The Connecticut Agricultural Experiment Station, 123 Huntington Street, P. O. Box 1106, New Haven, Connecticut 06504-1106, shall maintain records of destroyed regulated articles, survey results, and of a list of towns where infested regulated articles have been found. This list shall be available upon request.

Statement of purpose: To suppress, control, or eradicate infestations of Asian longhorned beetle or Emerald ash borer in regulated areas by prohibiting or restricting the movement of these insect pests or the movement of infested nursery stock, cut logs, firewood, or other regulated articles. These insect pests destroy a wide range of hardwood tree species, many of which are important for nursery trade, furniture production, building materials, maple syrup production, enhancing tourism, or environmental quality. The quarantine program will prevent the spread of the insect pests and provide measures for suppression and control. The regulations provide specific guidelines and procedures for the management of pest infestations under the authority of Connecticut General Statute 22-84.

ATTACHMENT 3

List of Commenters, Copies of Written Testimonies Submitted, Written Responses by the Director of CAES to Commenters

Written testimonies submitted by:

1. Mr. Robert Heffernan, Executive Director of the Connecticut Green Industries Coalition (CGIC). Oral testimony given by Mr. Kevin Sullivan, representing the Connecticut Nursery and Landscape Association, who read the statement by CGIC and offered his own separate remarks.
2. Mr. Eric Hammerling, Executive Director of the Connecticut Forest and Park Association.
3. Ms. Catharine S. Sturgess, representing the Board of the New Canaan Garden Club.
4. Mr. Don T. Parrott, President of the Connecticut Tree Protective Association .
5. Mr. Christopher R. Martin, Director/State Forester, Department of Environmental Protection (DEP). The letter was read by Mr. Ralph Scarpino of the DEP.
6. Mr. David Sutherland, Director of Government Relations, The Nature Conservancy.
7. Ms. Marana (Polly) Brooks, representing members of the Litchfield Garden Club. The names of 38 persons appear in this testimony.



Statement of
Bob Heffernan
Executive Director
Connecticut Green Industries Coalition
before the
Connecticut Agricultural Experiment Station
**Supporting the Proposed Regulation for
Asian Longhorned Beetle & Emerald Ash Borer Quarantine**

October 28, 2009

Connecticut's green industry fully supports the Experiment Station's proposed rule that would enable it to handle a future infestation of either the Asian longhorned beetle or the Emerald ash borer.

We have seen the devastation these pests have caused in other states, and the huge costs for clean-up after they arrived. Connecticut needs to be far ahead of such a problem before it strikes.

It's imperative that Connecticut's official plant regulation agency—the Experiment Station—have the powers to order quarantines and eradication measures within our state. Without this regulation, that control would fall to the federal government. Suppose, for a moment, that either pest is found on only one square mile of land inside our state. The feds would likely order a *statewide* quarantine; the Experiment Station's regulation would let it narrow down the restricted area to only the affected *region*.

Our green industry has over 3,300 companies operating on 48,000 acres of land in all 169 Connecticut towns. Our nursery industry alone can export as much as \$400-\$500 million worth of outdoor-grown plants (trees, shrubs, and perennials) in any given year. Without this proposed rule, a federal statewide quarantine could cripple the green industry—now more than half of all of agriculture in the state.

The Experiment Station has the scientists and the inspectors already at-work daily on these types of plant infestation issues. They work cooperatively with our nurseries and greenhouses every day to fix the problems and open roadblocks to plant exports, which bring much-needed cash into the Connecticut economy. They know the lay of our agricultural land.

We urge swift adoption of this regulation.

Magnarelli, Louis

From: Magnarelli, Louis
Sent: Tuesday, October 27, 2009 3:39 PM
To: 'Eric Hammerling'
Subject: RE: CFPA Statement for Tomorrow's Hearing on ALB and EAB

Good Afternoon Eric,

Thank you for submitting the constructive comments. I can answer your questions based on current knowledge. The Emerald ash borer was included in the regulations with the Asian longhorned beetle because both pests can cause economic and environmental problems. Moreover, we do not know which insect will appear here first. We need to respond quickly in either case. The response protocols are different for each pest, but the proposed regulations are flexible enough to make the necessary adjustments. The first draft of the proposed regulations focused only on the Asian longhorned beetle. A forester in the Department of Environmental Protection requested that both insect species be covered by the regulations to be most efficient and best prepared for either infestation. The USDA-APHIS regulators agreed with this approach. The process of adopting state regulations is lengthy, and taking care of two potential problems in one action is definitely in our best interests. There should be federal money available to cover the costs of response activities if Congress continues to appropriate the funds. I have been active in encouraging funding for this important program. The money would come from the USDA-APHIS, as done in other states where these insect pests have been found. My plan is to request funding for either infestation. I realize that receiving funds for the Asian longhorned beetle will be easier to get than for the Emerald ash borer. It is my understanding that federal payments would extend to private, municipal, and other landowners. A key issue will be the extent of the infestations and how much money is available for all affected states. The question of covering costs was asked by a reporter at the Governor's press conference on August 6, 2009. The USDA-APHIS officer at that event indicated that homeowners would not be responsible for payment of removing infested trees. It would be in the interest of the landowners to report any infestation to us as soon as possible. It is clear that dead trees become liabilities and a spreading infestation will cost more to correct. We greatly appreciate your support for these regulations and forest programs conducted at this Experiment Station. With best wishes.

Lou

Louis A. Magnarelli, PhD
 Director
 State of Connecticut
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 P.O. Box 1106
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 subject to Freedom of Information statutes and regulations.

From: Eric Hammerling [<mailto:EHammerling@ctwoodlands.org>]
Sent: Tuesday, October 27, 2009 2:18 PM
To: Magnarelli, Louis
Subject: CFPA Statement for Tomorrow's Hearing on ALB and EAB

Dear Dr. Magnarelli,

10/27/2009

I apologize that I will not be able to be present at the hearing tomorrow. That being said, we have reviewed the proposed regulations at CFPA with interest and found them to be satisfactory, and we thank you and your colleagues at CAES for your outstanding research and leadership on these dangerous forest pests! Thank you for your energetic efforts to have these regulations considered before any infestation in Connecticut has occurred. Your efforts will help ensure that Connecticut will be prepared to hit the ground running, at least administratively, and be able to appropriately respond if the unspeakable were to happen. We thank you and give you our strong support!

Again, we do not oppose the regulations, but there are a couple of questions that were raised during internal review that I hope will be explained at the hearing, namely:

- 1) We are unclear on the rationale for why the Asian longhorned beetle regulation has been combined with a regulation for the Emerald ash borer. It seems that the response protocols might be different for these different species?; and
- 2) Who will pay for the response activities (monitoring, quarantine, chipping, etc.)? The regulation appears to make it clear that the CAES or the State of CT won't be paying. Should we assume that this protection from payment would also extend to private, municipal, and other landowners? We believe the assumption is that APHIS or another federal agency would pay, but we believe it is important to clarify this matter for landowners so there will be no disincentive for landowners to report any infestation immediately.

Thanks again for the outstanding work you do!

All the best,

Eric

Eric Hammerling, Executive Director
Connecticut Forest & Park Association
16 Meriden Road
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Are you a fan of CFPA? Join us on Facebook--- <http://www.facebook.com/pages/Connecticut-Forest-Park-Association/56128454249>



CONNECTING PEOPLE TO THE LAND. CONSERVING CONNECTICUT.

**New Canaan Garden Club
35 Rosebrook Road
New Canaan, CT 06840**

October 27, 2009

Dr. Louis A. Magnarelli, Director
The Connecticut Agricultural Experiment Station
P.O. Box 1106
New Haven, CT 06504
Fax: 203-974-8502

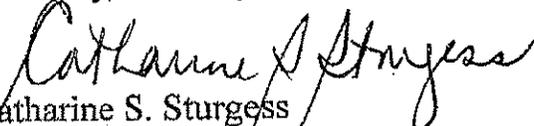
Dear Dr. Magnarelli,

The Board of the New Canaan Garden Club, on behalf of its 138 members, wholly supports your efforts to establish regulations to govern the actions of authorized persons, designated by the Director of the Connecticut Agricultural Experiment Station, should either the Asian Longhorned Beetle or the Emerald Ash Borer be discovered in the State of Connecticut.

We agree that State of Connecticut regulations should be in line with or stronger than any Federal regulations to prevent the need for quarantining the entire state. We understand that a program geared to suppress, control or eradicate beetle infestations must include inspection, quarantine, prohibition or restriction of transport and destruction of any regulated articles including nursery stock, infested trees, or firewood.

We appreciate your efforts to prevent significant damage to hardwood trees of Connecticut. We welcome any opportunity to be educated or help educate CT citizens on the signs or symptoms of injury caused by these insects. Please let us know how we can get educational materials for distribution within our community.

Sincerely,


Catharine S. Sturgess
Chair, Conservation Committee
New Canaan Garden Club

Connecticut Tree Protective Association, Inc.

58 Old Post Road, PO Box 356, Northford, Connecticut 06472-0356
Telephone (203) 484-2512 or (888) 919-2872 (in-state) • www.CTPA.org
We Advance the Care of Connecticut's Trees



Organized August 16, 1922

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Monroe, CT 06468

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P.O. Box 1106
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JANE HARRIS
161 Ridgewood Road
Middletown, CT 06457

ALLAN FENNER
53 Prospect Street
Hartford, CT 06057

October 28, 2009

Dr. Lou Magnarelli
The Connecticut Agricultural Experiment Station
123 Huntington Street
P.O.Box 1106
New Haven, CT 06511

Dear Dr. Magnarelli,

We see that regulations are proposed which cover issues related to ALB and EAB. We wanted to let you know that the CTPA supports the Agricultural Station's proposed regulations. We are greatly concerned over the prospects for these damaging insects in our state and your proactive approach is good to see.

Sincerely,

Don T. Parrott
President
CTPA



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

79 ELM STREET HARTFORD, CT 06106-5127



October 27, 2009

Louis A. Magnarelli, PhD
Director
State of Connecticut
The Connecticut Agricultural Experiment Station
P.O. Box 1106
New Haven, Connecticut 06504

RE: Notice of Intent to Adopt Regulations to suppress, control, or eradicate Asian longhorned beetle and Emerald ash borer

Dear Dr. Magnarelli,

The Division of Forestry is charged by the Commissioner of the Department of Environmental Protection in Connecticut General Statute (CGS) 23-19 to assume a leadership role in the conservation, management, and protection of state forest resources. Recognizing that both Asian longhorned beetle and Emerald ash borer although yet to be detected in Connecticut pose significant risk to Connecticut's forest health we respectfully submit this letter of support for passage of regulations that will enable the Connecticut Agricultural Experiment Station (CAES) proper authorities to suppress, control, or eradicate these harmful forest pests.

The Division of Forestry has and will continue to partner with CAES promoting public awareness through education and outreach and if adopted assist CAES as deemed appropriate with proposed revisions to Regulations of Connecticut State Agencies Section 22-84. The ability to inspect and restrict movement of potentially infested woody material is essential to limiting the spread of both Asian longhorned beetle and Emerald ash borer.

Yours truly,

A handwritten signature in cursive script that reads "Christopher R. Martin".

Christopher R. Martin
Director/State Forester

October 26, 2009

Dr. Louis A. Magnarelli, Director,
The Connecticut Agricultural Experiment Station,
P. O. Box 1106
New Haven, CT 06504

Dear Dr. Magnarelli,

On behalf of The Nature Conservancy, I would like to express our support, with suggested changes, for the proposed regulations regarding control measures to address outbreaks of the Asian longhorned beetle and Emerald ash borer. These two non-native insects have been extremely destructive in other states and could devastate Connecticut forests. Dramatic measures will be necessary and critical if we are to stop and control their spread to and in Connecticut.

The federal Animal and Plant Health Inspection Service (APHIS) already has very strong authority to enact measures to control the spread of these insects. For the most part, with the changes we are recommending, these proposed regulations would simply grant similar authority to the Connecticut Agriculture Experiment Station (CAES). While we expect the CAES would consult with APHIS on most outbreaks, we feel that the CAES would be better equipped to implement the most strategic control strategies in this state.

We recommend that the two insects be addressed differently in these regulations. Because the Asian Longhorned beetle (ALB) is relatively large, easy to identify, does not spread quickly on its own, and is not as widely established as the Emerald ash borer (EAB), it would appear that we still have a chance to eradicate it from areas where it does spread. In contrast, the EAB is firmly established in a much bigger range across the upper Midwest, and can disperse itself greater distances than the ALB; therefore, we will likely not be able to completely eradicate it, but will have to focus on controlling its spread.

Large-scale removal of trees is a highly traumatic occurrence for communities. In the case of ALB, where there is a realistic chance to eradicate the insect, we maintain that this extreme measure might be warranted and worth the resulting trauma in certain situations, and that the Experiment Station should have the authority to use this strategy as promptly as possible. We recommend, however, that more notice and assessment be required before trees infested or potentially infested with EAB can be destroyed.

We are not certain if this is the intention, but the proposed regulations seem to allow the Experiment Station to hold individual property owners liable for any costs entailed with removing trees. We maintain that this is unrealistic and will severely undermine control efforts. As stated, tree removal is very upsetting to neighborhoods even if someone else is paying for it. Costs can be very significant, amounting to hundreds of dollars for each

tree. It is not implausible to imagine property owners, if asked to pay for removal, simply refusing and even risking imprisonment to "save" their trees. Other homeowners simply would not have the funds to do the work. Enforcement would become an immense problem. We recommend that the language be clarified to state that landowners can not be forced to pay for tree removal costs.

We greatly appreciate the attention you are paying to this very serious threat to our forests, and look forward to continuing to work with you to increase federal funding for these control efforts.

Sincerely,

A handwritten signature in cursive script that reads "David Sutherland". The signature is fluid and matches the printed name below it.

David Sutherland
Director of Government Relations

Magnarelli, Louis

From: Magnarelli, Louis
Sent: Friday, October 30, 2009 11:17 AM
To: 'David Sutherland'
Subject: Responses to written comments

Good Morning Mr. Sutherland:

I want to thank you for your letter of support and comments regarding the new proposed state regulations on the Asian longhorned beetle (ALB) and Emerald ash borer (EAB). A Hearing Report is being prepared and will be posted along with other documents on the Experiment Station's website soon. Nonetheless, as a follow-up to our phone conversation yesterday and comments I made at the hearing, I want to briefly address three recommendations you mentioned in your letter of October 26, 2009.

1. You suggested that the regulations should address each insect species separately. It is clear that the ALB and EAB are very different in dispersal potential and other biological habits. They are classified into different insect families. However, it is important to have sufficient flexibility in the regulations to address infestations of either species so that regulators can make the needed adjustments in defining a quarantine zone and for executing eradication programs. At this time, it is difficult to predict how extensive the infestations will be or what will be required to suppress the populations. The current language in the proposed regulations is concise, covers both species very well, and provides us with the needed flexibility to approach either problem if needed. You were also concerned about our chances of eradicating the EAB. As I emphasized at the hearing, a small infestation in a nursery can be eradicated if detected early. I agree with you that a widespread infestation will be very difficult to correct. With federal quarantines in place for both insect species, we need to have coverage for both in our state regulations as well.

2. You requested that more notice and assessment be given. The Governor's legal counsel expanded the language on public notice given in Section 22-84-5e, which is an extension of CGS 22-84. If we were to have an infestation of either insect species and decided to proceed with eradication efforts, we are mandated to have a public hearing and give proper notice to those who have infested trees on their properties. An assessment of the extent of the infestation would be required before an abatement order could be given or a public hearing could be held. A strong effort in public education would be required to convince landowners of the severity of the situation. These insects kill trees, and with federal funds in place, residents would want the infested trees removed. This is what happened in other states. Based on the approval given by the Governor's legal counsel, we feel that we have sufficient notice is included in the proposed regulations.

3. You expressed concern about property owners being liable for removing trees. We expect federal funds to be available to cover the costs for removing infested trees. The funding has been present for these problems in other states. With federal and state quarantines in place, it is best to have state residents promptly report infestations and to have regulators control where infested wood gets moved. Otherwise, the infestations would spread and more damage and economic decline would result. There would be a severe impact on the environment as well. There is no language in CGS 22-84 or in the proposed regulations which would allow the state or CAES to force a property owner to pay for removing trees. However, it is also clear that property owners are responsible for the trees on their land, and if trees die because of ice storms, fungus infections, etc., the property owner has to address the problem. We do not feel that it is appropriate to insert new language in the text stating that landowners cannot be forced to pay for tree removal. I agree with your ending statement that there is a need to increase federal funding for these control efforts. Federal funding is a key component.

I hope that these responses address your concerns. As you know, I am available to discuss this further. Thank you.

Louis A. Magnarelli

Louis A. Magnarelli, PhD
 Director

10/30/2009

State of Connecticut
The Connecticut Agricultural Experiment Station
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Statement by Litchfield CT Residents in Support of Proposed Regulations to Stop the Asian Longhorned Beetle

October 28, 2009

Thank you for the opportunity to appear today in strong support of the proposed regulations dealing with the Asian longhorned beetle.

This beetle, which made its way to the U.S. in shipping pallets from China, has the potential to devastate our forests and parks, blight our neighborhoods and threaten the livelihoods of many. It attacks and slowly destroys the hardwood trees distinctive to our region—maples, poplars and sycamores, birch, elm, horse chestnuts and others.

The city of Worcester, Massachusetts, which lies only 18 miles north of Connecticut, already has been infested with the Asian longhorned beetle and is under quarantine to eradicate it. To our south, New York City and adjacent New Jersey areas have also been quarantined. Our state of Connecticut lies in between. It is imperative that we begin quickly and aggressively to guard against these destructive insects and to eradicate any that might already be here.

The costs of inaction are tremendous. The hardwood trees attacked by the Asian longhorned beetle are important to our economy, our values, our drinking water and our effort to reduce carbon in our atmosphere. The beetles threaten the maple industry, timber, the nursery trade and the tourism industry that depends on our scenic landscape and autumn foliage. Outdoor recreation—hiking and camping, fishing, biking and hunting also depend on the health of our forested lands. Tree-lined streets and leafy canopies add to our housing values and neighborhood ambience. Our drinking water supplies come from forested lands that help filter and clean the water. Our forests absorb vast amounts of carbon dioxide from the atmosphere—how ironic it would be for the state that led the way in adopting RGGI to sacrifice its forests to a beetle.

We believe that the regulations should be as strongly worded as possible so that aggressive action can be taken against this beetle. We would oppose any weakening in the proposed regulations. We encourage you to strengthen the proposed sections (b) and (c) by replacing the word "may" with the word "shall."

Regulations, however, are not the entire answer. Our state spends less than one percent of its entire budget on environmental programs, and only a small portion goes to enforcement of the regulations already on the books. Expanding regulations to include new responsibilities to prevent and eradicate the Asian longhorned beetle will be an empty gesture unless resources are found to provide the staff required to implement those regulations. Therefore, we encourage both the Department of Environmental Protection and our state legislature to provide these needed resources.

We are active members of the Litchfield Garden Club and know the value of citizen education and volunteer efforts to deal with invasive species and protect environmental assets in our community. Indeed, our club's Treescape Project has planted more than 200 trees along our towns streets and parks over the past decade and a half.

We encourage DEP to reach out to garden clubs, land trusts, and other conservation-oriented groups dedicated to preserving forests and trees in our communities to become educated about the

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Asian longhorned beetle, how to identify it, and who to notify if we see evidence of a possible infestation. Citizens in our communities need to understand how important it is to use only local firewood. We need to be sure that trees we purchase from nurseries are free from beetles.

Keeping this beetle out of Connecticut is too big a job for just the DEP or the Connecticut Agricultural Experiment Station. We all need to be involved. We hope the agencies charged with fighting this beetle will mobilize citizen volunteers to help. As residents of Litchfield, CT we are ready to help.

Sylvia Abbott
Lynne T. Brickley
Marana (Polly) Brooks, 88 Wigwam Rd., P.O. Box 1045, Litchfield, 06759 860-567-4292
Rose Brooks
Joan Burgess
Jeannette Ching
Laura Emory Cleminshaw
Nina Devine
Frances Devlin
Sharon Doty
Catherine Doyle Fahey
Sara Gault
Tracy Griswold
Drew Harlow
Susan Harrison
Jane Hinkel
Lynn Ray Hoopes
JoAnna Koster
Barbara MacDonald
Susan Magary
Palmer Marrin
JoAnne McCormick
Margaret Miner
Catherine Oneglia
Irene Oneglia
Seton O'Reilly
Marla Patterson
Meredith Penfield
Martha Phillips
Nancy Rath
Dale Ryan
Bronwyn Schoelzel
Gail Sperry
Diane Stoner
Holly Moeckel Taylor
Margaret Terhune
Anita Torizzo
Elaine Witherspoon

over, please

Magnarelli, Louis

From: Magnarelli, Louis
Sent: Friday, October 30, 2009 11:30 AM
To: 'Marana (Polly) Brooks'
Subject: RE: Asian Longhorned Beetle Emerald Ash Borer regulatory support

Good Morning Polly:

I have studied all of the comments given by state residents concerning the proposed regulations on the Asian longhorned beetle and Emerald ash borer. You requested at the public hearing that we change "may" to "shall" in two places in the document. As I mentioned to you at the hearing, the Governor's legal counsel suggested that we use the word "may" to allow flexibility in our decision-making process regarding quarantines and eradication programs. I checked 3 CT statutes (22-84, 22-96, and 22-98) that cover our responsibilities for inspecting plants. The word "may" appears in key sentences. It is, therefore, best to remain consistent with current statutory language and to follow legal advice. Nonetheless, our CAES staff members will respond with all available resources and efforts if we have infestations of these insects. I want to thank you and other members of the Litchfield Garden Club for the support given. It will make a difference as we move forward. A Hearing Report will be posted on our website soon. Thanks.

Lou

Louis A. Magnarelli, PhD
Director
State of Connecticut
The Connecticut Agricultural Experiment Station
P.O. Box 1106
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From: Marana (Polly) Brooks [mailto:mlbrooks@optonline.net]
Sent: Wednesday, October 28, 2009 8:40 PM
To: Magnarelli, Louis
Subject: RE: Asian Longhorned Beetle Emerald Ash Borer regulatory support

Dear Lou,

Pure joy- grazie per tutti,

Polly

From: Magnarelli, Louis [mailto:Louis.Magnarelli@ct.gov]
Sent: Wednesday, October 28, 2009 4:16 PM
To: Marana (Polly) Brooks
Subject: RE: Asian Longhorned Beetle Emerald Ash Borer regulatory support

Good Afternoon Polly,

Thanks for submitting the testimony and for giving support. I'll get back to you when I have studied the written comments and have made some decisions. It was a pleasure to meet you.

Lou

Louis A. Magnarelli, PhD
Director
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From: Marana (Polly) Brooks [<mailto:mlbrooks@optonline.net>]
Sent: Wednesday, October 28, 2009 8:38 AM
To: Magnarelli, Louis
Subject: Re: Asian Longhorned Beetle Emerald Ash Borer regulatory support

Dear Lou,

This copy of the same letter has 38 signatures- I more name in support.

Please substitute this copy of the Litchfield testimony for what I submitted last night.

Sincerely,

Marana (Polly) Brooks
Co-Chair, Conservation, The Litchfield Garden Club