

State of Connecticut
REGULATION
of

NAME OF AGENCY

Connecticut Agricultural Experiment Station

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

Proposed amendments to Secs. 22-84-5d and 22-84-5e and proposed 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] one inch or more 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” shall not include kiln dried dimensional lumber, and 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 document in which a United States Department of Agriculture Inspector or a person operating under 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 document that is issued for a regulated article by a United States Department of Agriculture inspector or other person operating under a compliance agreement and that represents such article is eligible for interstate movement.

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

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 compliance agreement 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 compliance agreement from the Director or an authorized person. The Director shall issue a permit or compliance agreement to ensure proper movement and disposal of regulated articles. Regulated articles infested with Asian longhorned beetle cannot be moved from a quarantined area unless chipped to one-inch or less in two dimensions. Requests for a permit or compliance agreement 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) 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 treated in accordance with the conditions of an applicable compliance agreement in one of the following manners pursuant to current federal standards articulated in the current 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) 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 permit from the Director or a treatment certificate or label from a United States Department of Agriculture qualified treatment facility or similar documentation from an analogous state agency in accordance with the current USDA Plant Protection and Quarantine Treatment Manual and addenda, or from analogous Canadian authorities indicating that the firewood has been treated to protect against the Emerald ash borer and Asian longhorned beetle.
- (3) 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:
- (A) the points of origin and destination are indicated on a waybill accompanying the subject firewood; and
 - (B) the subject firewood, if moved through the quarantined area during the period of May 1 through August 31 or when the ambient air temperature is 40 °F or higher, is moved in an enclosed vehicle or is completely covered to prevent access by the Emerald ash borer; and
 - (C) the subject firewood is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an APHIS inspector as not posing a risk of infestation by Emerald ash borer; and
 - (D) the subject firewood has not been combined or commingled with other regulated articles so as to lose its individual identity.
- (4) 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:
- (A) the points of origin and destination are indicated on a waybill accompanying the subject firewood; and
 - (B) the subject firewood is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an APHIS inspector as not posing a risk of infestation by Asian longhorned beetle; and
 - (C) the subject firewood has not been combined or commingled with other regulated articles so as to lose its individual identity.
- (5) Notwithstanding the above, 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 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 that 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 retail sellers of firewood in Connecticut shall be able to demonstrate by bill of sale, harvest notification report, trip ticket, or other mechanism that any firewood offered for sale is either:
- (1) of a verifiable in-state origin and complies with any requirements of a state or federal quarantine imposed in the state of Connecticut; or
 - (2) if the firewood originated from out-of-state and is accompanied by a certificate, a limited permit, label, or waybill verifying its origin and handling in accordance with subsection (a) of this section.

If the retail seller is not able to produce evidence of conformity with subdivision (1) or (2) of this subsection, the firewood is subject to confiscation by the Director or authorized persons.

- (e) Any firewood, transported into or within Connecticut, that is of undisclosed or unverifiable origin or that lacks treatment certificates, appropriate labels, permits, or certificates required by these regulations 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.