

Emergency Rules

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 11—Missouri Plant Law Quarantines

EMERGENCY RULE

2 CSR 70-11.060 Thousand Cankers Disease of Walnut Exterior Quarantine

*PURPOSE: This rule prevents the introduction into Missouri of a newly described destructive pest complex known as Thousand Cankers Disease of Walnut, consisting of an insect pest, the Walnut Twig Beetle, *Pityophthorus juglandis*, and a fungal pathogen, *Geosmithia morbida* sp. nov.*

*EMERGENCY STATEMENT: The Department of Agriculture, Plant Industries Division, finds that this emergency rule is necessary to preserve a compelling governmental interest in preventing the introduction into Missouri of a destructive pest complex, Thousand Cankers Disease of Walnut, that is lethal to black walnut trees. Thousand Cankers Disease of Walnut (TCD) has recently been discovered to be causing mortality in Walnut (*Juglans* spp.) in at least eight (8) western states. It is particularly lethal to Black Walnut (*Juglans nigra*), which is of tremendous economic importance in Missouri. The Missouri Department of Conservation has estimated that TCD could cause over \$36 million in statewide wood products losses annually, over \$35 million in statewide nut production losses, and over \$65 million in statewide urban street tree losses. Furthermore, this economic impact assessment estimated that over a twenty (20)-year span after introduction, TCD could cause over \$851 million in economic losses to the state of Missouri. Missouri is the nation's leader in black walnut nut production and is home to the world's largest black walnut nut meat producer. Furthermore, Missouri is one (1) of the largest producers of black walnut wood products. Currently, TCD has not been found in the native range of black walnut, but if it spreads to this region, it will cause impactful, long-lasting economic, ecological, and sociological effects. Walnut is currently moving from known infested states to Missouri by multiple means, including forest products trade, nursery stock trade, wood crafter hobbyist exchange, research, and firewood movement due to an abundance of dead and dying walnut wood in western states. Furthermore, walnut mortality in western states, due to this pest complex, is on the rise. It is imperative for the protection of black walnut in its native range, and its related industries, to immediately suspend movement of walnut from infested areas. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Agriculture, Plants Industries Division, believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed April 2, 2010, becomes effective April 12, 2010, and expires January 19, 2011.*

(1) It has been determined that Thousand Cankers Disease of Walnut, a lethal insect-fungal pathogen pest complex of walnut (*Juglans* spp.) has been detected in at least eight (8) western states (Arizona, California, Colorado, Idaho, New Mexico, Oregon, Utah, and Washington). The Walnut Twig Beetle is known from several western states and Mexico; however, the fungus is a newly described fungus with a proposed name of *Geosmithia morbida* sp. nov. Thousand Cankers Disease has not yet been found in Missouri or other states in the general native range of Black Walnut, but its introduction could cause an estimated \$851 million in losses over a twenty (20)-year period to the state economy, as well as inestimable, long-term ecological and sociological impacts. As such, the state entomologist, under the authority of section 263.140, RSMo, of the Missouri Plant Law does now establish a quarantine to prevent the introduction of this pest complex into Missouri and now sets forth the name of this

pest complex against which the quarantine is established, the quarantined area, the articles regulated, and the penalty.

(2) The following definitions shall apply to this quarantine:

(A) Bark means the natural bark of a tree, including the ingrown bark around the knots and bark pockets between rings of annual growth and an additional one-half (½)-inch of wood, including the vascular cambium;

(B) Compliance agreement is a written agreement between the state entomologist and a person or entity moving regulated articles from or through a quarantined area into Missouri;

(C) Firewood for the purposes of this quarantine shall be defined as wood, either split or unsplit, in sections less than four feet (4') in length;

(D) State entomologist refers to the Missouri Department of Agriculture Plant Pest Control Bureau Administrator; and

(E) State plant regulatory official refers to the National Plant Board member of the state of origin.

(3) The following is a list of articles, the movement of which is regulated:

(A) The Walnut Twig Beetle, *Pityophthorus juglandis*, in any living stage of development;

(B) The fungal pathogen *Geosmithia morbida* sp. nov.;

(C) Firewood of any non-coniferous (hardwood) species;

(D) All plants and plant parts of the genus *Juglans* including but not limited to nursery stock, budwood, scionwood, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips. Specific exceptions are nuts, nut meats, hulls, processed lumber (one hundred percent (100%) bark-free, kiln-dried with squared edges), and finished wood products without bark, including walnut furniture, instruments, and gun stocks; and

(E) Any article, product, or means of conveyance when it is determined by the state entomologist to present the risk of spread of the Walnut Twig Beetle, *Pityophthorus juglandis*, or the fungal pathogen, *Geosmithia morbida* sp. nov.

(4) Regulated articles from the areas listed below are prohibited entry into Missouri under any circumstances.

(A) Arizona.

(B) California.

(C) Colorado.

(D) Idaho.

(E) Nevada.

(F) New Mexico.

(G) Oregon.

(H) Washington.

(I) Utah.

(J) Any other areas of the United States as determined by the state entomologist to have Thousand Cankers Disease of Walnut.

(5) The following are conditions of movement of regulated articles:

(A) All regulated articles are prohibited movement into or transiting through the state of Missouri;

(B) Articles listed in section (3) originating in an area not known to have Thousand Cankers Disease but transiting through an area known to have Thousand Cankers Disease will be considered to be regulated articles; and

(C) Regulated articles to be used for research purposes, at the discretion of the state entomologist, may move under a compliance agreement between the state entomologist and the Missouri recipient. At minimum, the compliance agreement shall require inspection of the regulated articles at the point of origin, a state phytosanitary certificate issued by the state plant regulatory official in the state of origin, and at least twenty-four (24) hours pre-shipment notification.

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(6) Regulated articles transported in violation of this quarantine may be destroyed, or returned to the point of origin, at the discretion of the state entomologist. Common carriers or other carriers, persons, firms, or corporations who transport or move regulated articles in violation of this quarantine and these rules will be subject to the penalties named in section 263.180, RSMo, of the Missouri Plant Law.

(7) These rules are distinct from, and in addition to, any federal statute, regulation, or quarantine order addressing the interstate movement of articles from the known infested areas.

*AUTHORITY: sections 263.040, 263.050, and 263.180, RSMo 2000. Emergency rule filed April 2, 2010, effective April 12, 2010, expires Jan. 19, 2011. An emergency rule covering this same material will be published in the May 17, 2010, issue of the **Missouri Register**.*