

# **STATE OF NEW HAMPSHIRE**

DEPARTMENT OF AGRICULTURE, MARKETS & FOOD

DEPARTMENT OF NATURAL & CULTURAL RESOURCES

## **EMERALD ASH BORER QUARANTINE**

**September 21, 2017**

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**Section I: Definitions**

1. “Ash” means any woody plant material in the genus *Fraxinus*. This includes but is not limited to *Fraxinus americana* (white ash), *Fraxinus pennsylvanica* (green ash), and *Fraxinus nigra* (black ash).
2. “Ash nursery stock” means all trees of any size in the genus *Fraxinus*, their roots, cuttings, grafts, and plant parts thereof including any collected plants, for and capable of propagation.
3. “Bark” means the tough outer tissue of woody stems and roots of trees, shrubs and vines outside the vascular cambium.
4. “Cambium” means a layer of delicate meristematic tissue between the inner bark or phloem and the wood or xylem, which produces new phloem on the outside and new xylem on the inside in stems, roots, etc., originating all secondary growth in plants and forming the annual rings of wood.
5. “Chips” means the end product of a milling process that reduces wood (logs, stems, branches) to a wafer or chip-like material.
6. “Compliance agreement” means an agreement between the New Hampshire Department of Agriculture, Markets and Food (NHDAMF), and the regulated industry for movement of regulated *Fraxinus* material within New Hampshire.
7. “Emerald ash borer” means *Agrilus planipennis* (Fairemaire), a destructive beetle of regulatory significance initially introduced into the United States from Southeast Asia.
8. “Emerald ash borer host material” means any ash materials including but not limited to trees, parts of trees, wood products, and wood processing waste like bark and chips capable of harboring any life stage of emerald ash borer.
9. “Firewood” means all wood, split or unsplit, less than 4 feet in length that is not labeled as certified heat-treated by a USDA or State regulatory agency.
10. “Injurious insect or disease” means an insect or pathogen species whose introduction causes or is likely to cause economic or environmental harm or harm to human health.
11. “Nursery” means any location where nursery stock is grown, propagated, stored, or sold; or any location from which nursery stock is distributed direct to a customer. This includes landscape companies that temporarily store plant material for business related projects.
12. “Person” means any individual, governmental entity, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or

not, and every officer, agent, or employee thereof.

13. “Potentially infested ash material” means any ash trees, wood, or derivative products thereof which have the potential to be infested by emerald ash borer regardless of whether or not they display external signs of infestation.
14. “Quarantine” means a legal instrument duly imposed or enacted by a government agency as a means for mitigating pest risk.
15. “Quarantine areas” means the region(s) under regulation by the quarantine. Persons, nurseries, and the wood-products industries within the quarantine area are prohibited movement of regulated items except as allowed by this quarantine.
16. “Regulated articles” means any transported material identified by USDA APHIS as likely to move live emerald ash borer.
17. “Wood-products industry” means sawmills, facilities, or persons that process logs to be cut into lumber; ground into pulp; chip or sell bark mulch and/or wood chips with bark such as, but not limited to nurseries, garden centers, landscapers; arborists generating slash; power plants burning wood chips; or other industries as identified by APHIS, NHDAMF, or NHDNCR.

**Section II: Statement of Concerns**

**WHEREAS** RSA 433:34 empowers the Department of Agriculture, Markets & Food to establish a quarantine to prevent dissemination of plant pests within the state upon detection of an injurious insect or disease which poses a threat to natural, residential or commercial resources; and

**WHEREAS** RSA 227-K empowers the Department of Natural and Cultural Resources Division of Forests and Lands to take measures to monitor the status of changes in the health of New Hampshire's forests and reduce the incidence and severity of forest insect and disease infestations; and

**WHEREAS** Emerald ash borer is a federally-regulated pest; and

**WHEREAS** Emerald ash borer has been detected in Alton, Barnstead, Belmont, Gilford, Gilmanton, Laconia, Sanbornton and Tilton in Belknap County, in Deering, Goffstown, Manchester, Mont Vernon and Weare in Hillsborough County, in Allenstown, Boscawen, Bow, Canterbury, Chichester, Concord, Dunbarton, Epsom, Franklin, Hill, Hooksett, Hopkinton, Loudon, Northfield, Pembroke, Pittsfield and Webster in Merrimack County, in Deerfield, Salem and Windham in Rockingham County, and in New Durham and Strafford in Strafford County; and

**WHEREAS** this insect kills ash (*Fraxinus*) trees within 3-5 years of infestation; and

**WHEREAS** Emerald ash borer is spread rapidly into new areas with the trade of ash nursery stock and ash wood materials; and

**WHEREAS** Ash is an important part of New Hampshire's northern hardwood forests, with an estimated 25 million mature trees in the state; and

**WHEREAS** Ash is important to the forest economy of New Hampshire, with an estimated 500 million board feet in logs in the state; and

**WHEREAS** Ash nursery stock has been widely planted throughout the state of New Hampshire and is an important part of the state's urban forests; and

**WHEREAS** Treatment, removal, and replacement of dead and dying ash trees will be expensive costs for the state, municipalities, and landowners of New Hampshire; and

**THEREFORE**, The State of New Hampshire is hereby establishing this emerald ash borer quarantine against movement of all regulated articles outside of the quarantine area encompassing the entirety of Belknap, Hillsborough, Merrimack, Rockingham, and Strafford Counties.

**Section III: Statutory Authority**

The Statutory Authority for this quarantine order is RSA 433:34 and RSA 227-K:2 III.

**Section IV: Specific Purpose and Factual Basis**

The specific purpose of these regulations is to protect New Hampshire's natural and landscape ash forest resources by preventing the unregulated movement of emerald ash borer infested or potentially infested ash materials throughout the state from Belknap, Hillsborough, Merrimack, Rockingham and Strafford Counties.

The Department of Agriculture, Markets & Food (hereto referred to as NHDAMF) and the Department of Natural and Cultural Resources (hereto referred to as NHDNCR) have determined that this quarantine is necessary based on the following:

The emerald ash borer is an introduced insect originating from Asia and a serious pest of North American ash trees. The immature stage of this beetle feeds within the cambium layer of ash trees, disrupting nutrient flow and killing the tree within 3-5 years of infestation if left untreated. As emerald ash borer spends most of its life cycle hidden under the bark of trees, detection is problematic prior to tree death. Regulation of emerald ash borer host material following detection can slow the spread of ash mortality associated with this injurious insect and enhance potential management programs.

**Section V: Emerald Ash Borer Quarantine**

1. No person shall move, carry, transport or ship (or authorize or allow any other person to do the same) Regulated Articles and Commodities from inside the quarantine area to outside of the quarantine area, unless specifically authorized in writing via Compliance Agreement issued by NHDAMF and moving with a PPQ 540 (certificate) or PPQ 530 (limited permit).
2. Quarantined areas – all public and private lands within Belknap, Hillsborough, Merrimack, Rockingham, and Strafford Counties.
3. Quarantine period – this quarantine is in effect until modified or rescinded by the NHDAMF and NHDNCR.

4. Regulated Articles and Commodities Covered:

- A. All life stages of the emerald ash borer; and
- B. Hardwood firewood (non-coniferous); and
- C. *Fraxinus* (ash) nursery stock; and
- D. *Fraxinus* (ash) green lumber; and
- E. *Fraxinus* (ash) logs; and
- F. Any other *Fraxinus* (ash) material, living, dead, cut, or fallen, including chips, bark mulch, stumps, branches, roots and debris; and
- G. Woodchips consisting in any part of *Fraxinus* (ash) chips; and
- H. Any article, product, or means of conveyance not listed above if an authorized state inspector determines that it presents a risk of spreading emerald ash borer.

5. Conditions of Movement of Regulated Articles and Commodities

- A. All regulated articles and commodities originating outside of the quarantine area may move through the quarantine area without additional certification for this pest under the following conditions:
  - 1) Regulated articles will be safeguarded so as to prevent the potential infestation from EAB while transiting through the regulated area; and
  - 2) The point of origin of the regulated article must be indicated on the bill of lading or shipping documents.
- B. Regulated articles originating outside of the quarantined area, which are then transported into the quarantined area shall be considered to have originated from a regulated area. These regulated articles may only be moved as conditioned in Section V5C below.
- C. All regulated articles and commodities having originated or previously been held within a quarantined area within New Hampshire shall not be transported or moved into non-quarantined areas except as specifically allowed by a Compliance Agreement between the NHDAMF and the person wishing to move the regulated articles attesting that the regulated products or materials have been processed or handled in a manner to render them low-risk for transportation of emerald ash borer.

Compliance agreements are issued upon certification by an inspector authorized by NHDAMF and are valid for a period of one year, subject to renewal upon request of the compliant party. Compliance agreements may be requested by contacting NHDAMF in writing, by telephone (603-271-2561) or by email ([piera.siegert@agr.nh.gov](mailto:piera.siegert@agr.nh.gov)). Compliance agreements are not available for nursery stock.

Each regulated shipment transported under a Compliance Agreement must be accompanied by shipment- specific documentation (PPQ530, PPQ540 or other documentation approved by an inspector). Transporters and processors operating pursuant to a Compliance Agreement shall maintain documentation for the

purposes of periodic audits by the NHDAMF.

- 1) A processor entering into a Compliance Agreement shall agree and attest to compliance with the following conditions:
  - a) Removal and/or destruction of the portion of the tree in which emerald ash borer lives by:
    1. Removal of bark and additional ½ inch of wood (wane) from the log; or
    2. Chipping materials to a size of 1 inch or less in two planar dimensions as per APHIS-approved chipping procedure; or
  - b) Destruction of all life-stages of the emerald ash borer insect by:
    1. Kiln sterilization treatment of lumber (up to 3 inches in thickness) as per the T404-b-4 treatment schedule; or
    2. Heat treatment of firewood to 60° C for 60 minutes as per APHIS treatment schedule T314-a; or
    3. Heat treatment of ash lumber in wood packing material to ISPM-15 standards by an ALSC WPM approved facility that meets IPPC Guidelines as per APHIS treatment schedule T404-e-2; or
    4. Fumigation at an APHIS certified facility as per APHIS treatment schedule T404-b-1; or
    5. Composting materials as per the APHIS-approved composting procedure; and
  - c) Furthermore, if the processor is located out of the quarantine area, the processor shall additionally agree and attest to compliance with the following conditions:
    1. Physically separate and designate regulated articles from quarantined counties; and
    2. Ensure that transporters of regulated articles have delivered regulated articles with a PPQ530 form; and
    3. Only accept regulated articles from quarantined counties between October 1<sup>st</sup> and April 30<sup>th</sup>; and
    4. Process regulated articles from quarantined counties by May 1<sup>st</sup>; and
    5. Ensure that all waste materials from processing regulated articles are destroyed on-site by chipping or shredding to less than 1 inch in two planar dimensions, or by burning by May 1<sup>st</sup>.
- 2) Parties engaged in transporting regulated articles not certified under Section V5C1 above shall attest and agree to the following:
  - a) Regulated articles shall only be moved from quarantined areas to a processing facility outside of the quarantined area that has a Compliance Agreement with a state or federal regulatory agency to process regulated articles; and
  - b) Regulated articles shall only be moved from the quarantine area to a compliant processing facility outside of the quarantine area during the non-flight period (October 1 – April 30).
- 3) Distributors of bundled firewood to retail facilities shall attest and agree that bundled, labeled firewood originating from outside of the quarantine area is

safeguarded from infestation within the quarantine area by being stored and distributed from a firewood distribution center within the quarantine area. Specifically, such distributors shall attest and agree to sell only firewood that complies with the following conditions:

- a) The firewood has documented origins from a non-quarantined area; and
- b) The firewood is distributed to retail facilities only as bundled firewood; and
- c) Each bundle shall include the name of the company distributing the firewood, contact information, and origin of firewood; and
- d) The firewood has been safeguarded from infestation while in the quarantine area by being stored inside an enclosed facility that has been approved by NHDAMF; and
- e) The firewood is transported out of the quarantine area in covered vehicles; and
- f) The firewood distribution center maintains records of origination of regulated articles and delivery of regulated articles for audit purposes.

#### **Section VI: Violations**

1. Any person or employee or agent of that person, who violates any provision of this quarantine, shall be guilty of a violation. For any subsequent offense, a person shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. (RSA 433:32) (RSA 227-K:17)
2. Any regulated articles not in compliance with the quarantine are subject to destruction or risk mitigation at the cost of the nursery, wood-products industry, or person in violation of the quarantine.
3. Any person who violates any provision of this quarantine is subject to the penalty provisions of RSA 433:32 and RSA 227-K:17.
4. Nurseries or landscapers in violation of this quarantine are subject to suspension of their license (RSA 433:35). Reinstatement of a license shall be at the discretion of NHDAMF.
6. Nurseries or landscapers in violation of this quarantine shall provide NHDAMF with all Records of Sale for all ash, *Fraxinus*, sold.



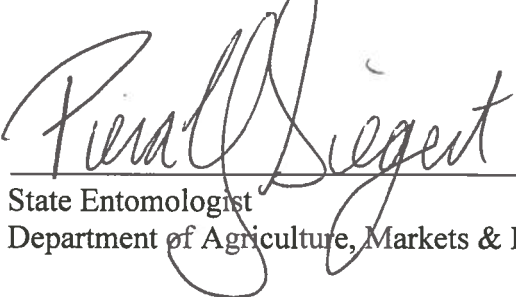
This quarantine against the emerald ash borer will become effective upon its adoption.

  
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Commissioner  
Department of Agriculture, Markets & Food

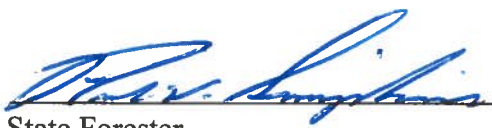
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Commissioner  
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State Entomologist  
Department of Agriculture, Markets & Food

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