

11. EMERALD ASH BORER (*AGRILUS PLANIPENNIS*) QUARANTINE

The destructive pest known as Emerald Ash Borer (*Agrilus planipennis*) is established in other states and has been found in Arkansas. This pest can be extremely injurious to ash trees (genus *Fraxinus*) and ash nursery stock. Therefore, it would be in the best interest of Arkansas' citizens and agriculture that a quarantine be established against it.

QUARANTINE IMPLEMENTATION:

A quarantine is hereby established to regulate the movement of those articles that pose a significant threat of spreading Emerald Ash Borer.

DEFINITIONS:

Arkansas State Plant Board – means any authorized employee of the Arkansas State Plant Board, or any other person authorized by the Arkansas State Plant Board to enforce the provisions of these rules.

Certificate - means a document that is issued for a regulated article by the Director or by a person operating under a compliance agreement and that represents that such article is eligible for movement.

Compliance agreement - means a written agreement between the Arkansas State Plant Board, the United States Department of Agriculture - Animal and Plant Health Inspection Service and a person engaged in growing, handling, or moving regulated articles, in which the person agrees to comply with the provisions specified in the agreement.

Emerald Ash Borer - means the insect known as Emerald Ash Borer (*Agrilus planipennis* [Coleoptera: Buprestidae]) in any stage of development.

Infestation - means the presence of Emerald Ash Borer or the existence of circumstances that make it reasonable to believe that Emerald Ash Borer is present.

Inspector - Any authorized employee of the Arkansas State Plant Board, or any other person authorized by the Arkansas State Plant Board to enforce the provisions of these rules.

Limited permit - means a document issued or authorized by the Arkansas State Plant Board or a designated regulatory official to provide for the movement of regulated articles to restricted destination for limited handling, utilization or processing or for treatment.

Moved (movement, move) - means shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Person - means any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Quarantined area - means an area that has been placed under quarantine, as determined by the Arkansas State Plant Board.

Regulated article - means an article capable of harboring or carrying Emerald Ash Borer, as determined herein.

REGULATED ARTICLES:

The following are regulated articles:

- (1) Emerald Ash Borer
- (2) Firewood of all hardwood (non-coniferous) species.
- (3) Nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, mulch and composted and uncomposted chips of the genus *Fraxinus*.
- (4) Any other article, product, or means of conveyance not listed in paragraph (a) of this section may be designated as a regulated article if the Arkansas State Plant Board determines that it presents a risk of spreading Emerald Ash Borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to these regulations.

QUARANTINED AREAS:

The following counties in Arkansas are designated as quarantined areas:

- (1) Ashley, Bradley, Calhoun, Clark, Cleveland, Columbia, Dallas, Drew, Garland, Grant, Hempstead, Hot Springs, Howard, Jefferson, Lafayette, Lincoln, Little River, Miller, Montgomery, Nevada, Ouachita, Pike, Saline, Sevier and Union counties.
- (2) Other counties where the Emerald Ash Borer is found to be present by the Arkansas State Plant Board, or counties determined by the Arkansas State Plant Board to be at high risk for the Emerald Ash Borer.

CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES FROM QUARANTINED AREAS:

Regulated articles may be moved from a quarantined area only if moved:

- (1) With a certificate or limited permit issued and attached

- (2) Without a certificate or limited permit and:
- (a) The regulated article is moved by the United States Department of Agriculture for experimental or scientific purposes; or
 - (b) The regulated article originates outside the quarantined area and is moved through the quarantined area under the following conditions:
 - 1. The points of origin and destination are indicated on a document accompanying the regulated article; and
 - 2. The regulated article, if moved through the quarantined area during the period of March 1 through October 31 is moved in an enclosed vehicle or is completely covered to prevent access by Emerald Ash Borer; and
 - 3. The regulated article 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 the Arkansas State Plant Board as not posing a risk of infestation by Emerald Ash Borer; and
 - 4. The article has not been combined or commingled with other articles so as to lose its individual identity.

ISSUANCE AND CANCELLATION OF CERTIFICATES:

- (1) The Arkansas State Plant Board or a person operating under a compliance agreement may issue a certificate for the movement of a regulated article if he or she determines that the regulated article:
- (a) Is apparently free of Emerald Ash Borer, based on inspection; and
 - (b) Has been grown, produced, manufactured, stored, or handled in a manner that, in the judgment of the Arkansas State Plant Board and based on an inspection, prevents the regulated article from presenting a risk of spreading Emerald Ash Borer; and
 - (c) Is to be moved in compliance with any additional emergency conditions that the Arkansas State Plant Board may impose in order to prevent the artificial spread of Emerald Ash Borer; and
 - (d) Is eligible for unrestricted movement under all other federal domestic plant quarantines and regulations applicable to the regulated articles.
- (2) The Arkansas State Plant Board or a person operating under a compliance agreement may issue a limited permit for the movement of a regulated article not eligible for a certificate if he determines that the regulated article:
- (a) Is to be moved to a specified destination for specific processing, handling, or use (the destination and other conditions to be listed on the limited permit), and this movement will not result in the spread of Emerald Ash Borer because the pest will be destroyed by the specific processing, handling, or use; and
 - (b) Is to be moved in compliance with any additional emergency conditions that the Arkansas State Plant Board may impose in order to prevent the spread of Emerald Ash Borer; and
 - (c) Is eligible for unrestricted movement under all other federal domestic plant quarantines and regulations applicable to the regulated article.

- (3) The Arkansas State Plant Board may issue blank certificates and limited permits to a person operating under a compliance agreement or may authorize the reproduction of blank certificates and limited permits for use on shipping containers. These certificates and limited permits may then be completed and used for the movement of regulated articles as needed, provided such articles meet all of the requirements of paragraph (1) or (2) of this section.
- (4) Any certificate or limited permit may be canceled orally or in writing by the Arkansas State Plant Board whenever it is determined that the holder of the certificate or limited permit has not complied with this chapter. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit.

COMPLIANCE AGREEMENTS AND CANCELLATION:

- (1) Persons engaged in growing, handling, or moving regulated articles may enter into a compliance agreement if such persons review with the Arkansas State Plant Board each provision of the compliance agreement. Any person who enters into a compliance agreement with the Arkansas State Plant Board must agree to comply with the provisions of this chapter.
- (2) Any compliance agreement may be canceled orally or in writing by the Arkansas State Plant Board whenever it is determined that the person who has entered into the compliance agreement has not complied with this chapter or any conditions imposed under this chapter. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit.

ASSEMBLY AND INSPECTION OF REGULATED ARTICLES:

- (1) Persons requiring certification or other services shall request the services from the Arkansas State Plant Board at least 48 hours before the regulated article is to be moved.
- (2) The regulated articles must be assembled at the place and in the manner that the Arkansas State Plant Board designates as necessary to comply with this chapter.

ATTACHMENT AND DISPOSITION OF CERTIFICATES AND LIMITED PERMITS:

- (1) A regulated article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have the certificate or limited permit issued for the movement of a regulated article securely attached at all times during movement to:
 - (a) The regulated article; or
 - (b) The container carrying the regulated article; or
 - (c) The consignee's copy of the accompanying document, provided that the description of the regulated article on the certificate or limited permit, and on the document, are sufficient to identify the regulated article; and

- (2) The carrier must furnish the certificate or limited permit authorizing movement of a regulated article to the consignee at the destination of the shipment.

PENALTIES:

Any violation of these rules may be subject to civil penalties under the authority of the Arkansas Plant Act of 1917, A.C. A. Section 2-16-203.