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GPO

Emerald ash borer. The insect known as emerald ash borer (Agrilus planipennis [Coleoptera: Buprestidae]) in any stage of development.

Infestation. The presence of the emerald ash borer or the existence of circumstances that make it reasonable to believe that the ash borer is present.

Inspector. Any employee of the Animal and Plant Health Inspection Service, or other individual authorized by the Administrator to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector or a person operating under a compliance agreement affirms that the regulated 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.

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

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

Quarantined area. Any State, or any portion of a State, listed in § 301.53–3(c) or otherwise designated as a quarantined area in accordance with § 301.53–3(b).

Regulated article. Any article listed in § 301.53–2(a) or otherwise designated as a regulated article in accordance with § 301.53–2(b).

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.53–2 Regulated articles.

The following are regulated articles:

(a) The emerald ash borer; firewood of all hardwood (non-coniferous) species; nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus*.

(b) Any other article, product, or means of conveyance not listed in paragraph (a) of this section may be designated as a regulated article if an inspector 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 the restrictions of the regulations.

[68 FR 59088, Oct. 8, 2003, as amended at 70 FR 252, Jan. 4, 2005]

§ 301.53–3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State or each portion of a State in which the emerald ash borer has been found by an inspector, in which the Administrator has reason to believe that the emerald ash borer is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where emerald ash borer has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than an entire State as a quarantined area will be adequate to prevent the artificial interstate spread of the emerald ash borer.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraph (a) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated quarantined areas in paragraph (c) of this section, or the Administrator will terminate

the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

(c) The following areas are designated as quarantined areas:

Illinois

The entire State.

Indiana

The entire State.

Kentucky

Boone County. The entire county.
Bourbon County. The entire county.
Campbell County. The entire county.
Carroll County. The entire county.
Fayette County. The entire county.
Franklin County. The entire county.
Gallatin County. The entire county.
Grant County. The entire county.
Greenup County. The entire county.
Harrison County. The entire county.
Henry County. The entire county.
Jefferson County. The entire county.
Jessamine County. The entire county.
Kenton County. The entire county.
Oldham County. The entire county.
Owen County. The entire county.
Pendleton County. The entire county.
Scott County. The entire county.
Shelby County. The entire county.
Trimble County. The entire county.
Woodford County. The entire county.

Maryland

Charles County. The entire county.
Prince George's County. The entire county.

Michigan

Upper Peninsula:
Alger County. The entire county.
Chippewa County. The entire county. [Note: This quarantined area includes tribal land of the Bay Mills Indian Community. Movement of regulated articles on those lands is subject to tribal jurisdiction.]
Delta County. The entire county.
Houghton County. The entire county.
Keweenaw County. The entire county.
Luce County. The entire county.
Mackinac County. The entire county.
Schoolcraft County. The entire county.

Lower Peninsula: All counties, in their entirety (*i.e.*, Alcona, Allegan, Alpena, Antrim, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Cheboygan, Clare, Clinton, Crawford, Eaton, Emmet, Genesee, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kalkaska, Kent, Lake, Lapeer, Leelanau, Lenawee, Livingston, Macomb, Manistee, Mason, Mecosta, Midland, Missaukee, Monroe, Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Roscommon, Saginaw Sanilac, St. Clair, St. Joseph, Shiawassee, Tuscola, Van Buren, Washtenaw, Wayne, and Wexford Counties).

Minnesota

Hennepin County. The entire county.
Houston County. The entire county.
Ramsey County. The entire county.

Missouri

Wayne County. The entire county.

New York

Cattaraugus County. The entire county.
Chautauqua County. The entire county.

Ohio

The entire State.

PENNSYLVANIA

Allegheny County. The entire county.
Armstrong County. The entire county.
Beaver County. The entire county.
Butler County. The entire county.
Indiana County. The entire county.
Juniata County. The entire county.
Lawrence County. The entire county.
Mercer County. The entire county.
Mifflin County. The entire county.
Washington County. The entire county.
Westmoreland County. The entire county.

VIRGINIA

City of Alexandria. The entire city.
City of Fairfax. The entire city.
City of Falls Church. The entire city.
City of Manassas. The entire city.
City of Manassas Park. The entire city.
Arlington County. The entire county.
Fairfax County. The entire county.
Fauquier County. The entire county.
Loudon County. The entire county.
Prince William County. The entire county.

West Virginia

The entire State.

Wisconsin

Brown County. The entire county.
Crawford County. The entire county.
Fond du Lac County. The entire county.
Kenosha County. The entire county.
Milwaukee County. The entire county.
Ozaukee County. The entire county.
Racine County. The entire county.
Sheboygan County. The entire county.
Vernon County. The entire county.
Washington County. The entire county.
Waukesha County. The entire county.

[68 FR 59088, Oct. 8, 2003, as amended at 70 FR 252, Jan. 4, 2005; 70 FR 10316, Mar. 3, 2005; 70 FR 62231, Oct. 31, 2005; 71 FR 29764, May 24, 2006; 71 FR 57873, Oct. 2, 2006; 72 FR 15598, Apr. 2, 2007; 72 FR 30460, June 1, 2007; 74 FR 48000, Sept. 21, 2009; 75 FR 29190, May 25, 2010]

§ 301.53–4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Regulated articles may be moved interstate from a quarantined area only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.53–5 and 301.53–8;

(b) Without a certificate or limited permit if:

(1) The regulated article is moved by the United States Department of Agriculture for experimental or scientific purposes; or

(2) The regulated article originates outside the quarantined area and is moved interstate through the quarantined area under the following conditions:

(i) The points of origin and destination are indicated on a waybill accompanying the regulated article; and

(ii) The regulated article, 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 EAB; and

(iii) 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 an inspector as not posing a risk of infestation by emerald ash borer; and

(iv) The article has not been combined or commingled with other articles so as to lose its individual identity.

§ 301.53–5 Issuance and cancellation of certificates and limited permits.

(a) An inspector[1] or person operating under a compliance agreement will issue a certificate for the interstate movement of a regulated article if he or she determines that the regulated article:

(1)(i) Is apparently free of EAB, based on inspection; or the article or

(ii) Has been grown, produced, manufactured, stored, or handled in a manner that, in the judgment of the inspector, prevents the regulated article from presenting a risk of spreading EAB; and

(2) Is to be moved in compliance with any additional emergency conditions that the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714)[2] in order to prevent the artificial spread of emerald ash borer; and

(3) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated articles.

(b) An inspector or a person operating under a compliance agreement will issue a limited permit for the interstate movement of a regulated article not eligible for a certificate if he or she determines that the regulated article:

(1) Is to be moved interstate to a specified destination for specific processing, handling, or utilization (the destination and other conditions to be

[1] Inspectors are assigned to local offices of APHIS, which are listed in the local telephone directories. Information concerning such local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236.

[2] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 423 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).