

Nebraska Emerald Ash Borer Quarantine
#06082016

TO ALL AFFECTED PERSONS:

You are hereby notified that the Nebraska Department of Agriculture (Department) is establishing a quarantine on the movement of all ash (*Fraxinus* spp.) and other regulated articles originating in areas infested with Emerald Ash Borer (EAB), (*Agrilus planipennis* Fairmaire), pursuant to the Plant Protection and Plant Pest Act, Neb. Rev. Stat. §§2-1072 to 2-10,117 (Act).

AUTHORITY: Section 2-1091 of the Act authorizes the Department to issue a quarantine. Section 2-10,108 provides that:

- (1) Whenever the department finds that there exists, in any other state, territory, country, or part thereof, any plant pests detrimental to the agricultural interests of the state and that the control, eradication, retarding, or prevention of such pests is necessary to protect the plant industry of the state, the department may impose and enforce a quarantine prohibiting the transportation into, within, or through Nebraska of such pests. Quarantine enforcement shall apply to any plants or any other property capable of carrying such plant pests regardless of whether the plants are distributed by a person holding a valid license or its equivalent issued by an authorizing agency within the state of origin recognized by the department. Nursery stock and all other plants shall be subject to any quarantine measures deemed necessary by the department.
- (2) When it has been determined that an area of the state is infected or infested with plant pests which may be detrimental to the agricultural interests of the state, such area may be quarantined by the department. Under such quarantine the department may restrict or prevent the movement or transportation of any plants or any other property capable of carrying such plant pests originating in or having been maintained in any area infested or infected with such plant pests.

PURPOSE: This quarantine is intended to prevent the spread of EAB, a serious insect pest, to other uninfested areas in the State of Nebraska, and establishes those articles and areas which are to be regulated.

EAB, a beetle native to Asia, was discovered in Southeast Michigan in 2002 and has since been found to be established in 27 U.S. states and parts of Canada. On June 6, 2016, it was discovered to have infested ash trees in Douglas County, Nebraska. This invasive insect pest of ash trees has killed nearly all ash trees in municipalities, parks, forests, and woodlands in the infested areas of the United States and Canada, requiring the expensive removal of these dead trees and is decimating one of the nation's most desirable landscape, shade and street trees. Nebraska has more than 44 million ash trees statewide, with approximately one million ash trees found in towns and cities across the state. The estimated impact of EAB on those approximately one million ash trees in communities in Nebraska is \$961 million (2014 dollars). Approximately 27% of trees in towns and cities in Nebraska are green ash (*Fraxinus pennsylvanica*), white ash

(*F. americana*), and/or black ash (*F. nigra*). In some communities, ash comprises over 40% of the trees. In rural forested areas, approximately 9% of trees overall are ash.

It has been determined that EAB has become established in an area of Douglas County, Nebraska. It is not yet known to be generally distributed throughout the state, and its introduction into the remainder of the state would cause further economic and ecological loss. In order to protect Nebraska's ash resource from the spread of EAB, the Department finds it necessary to impose this quarantine.

EFFECTIVE DATE: This quarantine is effective June 8, 2016.

REQUIREMENTS: The specific requirements of the quarantine are as follows:

1. **Quarantine Areas:**

Quarantine areas shall consist of the entire Nebraska counties of Cass, Dodge, Douglas, Sarpy, and Washington; all states or portions of states regulated under the Federal EAB quarantine found in the Code of Federal Regulation at 7 CFR 301.53-1 through 9; and any other state or foreign country known to be infested.

2. **Definitions:**

In addition to the definitions found in the Act, the following definitions shall apply to this quarantine:

- A. Ash shall mean all plants in the genus *Fraxinus*, including all species, cultivars, varieties and hybrids.
- B. Bark shall mean the natural bark of a tree, including the ingrown bark around the knots and bark pockets between rings of annual growth and an additional ½ inch of wood, including the vascular cambium.
- C. Certificate shall mean a document authorized to be issued by the Department or the USDA APHIS PPQ to allow the movement of regulated articles from the quarantined area to destinations within the State of Nebraska.
- D. Compliance agreement shall mean a written agreement between the Department or the USDA APHIS PPQ and a person or entity moving regulated articles out of or through a quarantined area;
- E. Emerald Ash Borer shall mean all life stages of the insect classified as *Agrilus planipennis* Fairmaire (Coleoptera: Buprestidae).
- F. Established refers to the presence of a reproducing population of EAB.

3. **Regulated Articles shall include:**

- A. EAB in all viable life stages.
- B. Ash nursery stock.
- C. Green ash lumber.
- D. Any living, dead, cut or fallen material of the ash including logs, limbs, branches, stumps and roots.

- E. Composted and uncomposted chips, bark, and mulch of all hardwood species.
- F. Firewood or fuel wood of all non-coniferous (hardwood) species
- G. Any item made from or containing ash wood that is capable of spreading EAB.
- H. Any other article, product, or means of conveyance when it is determined by the Department to present the risk of spread of EAB.

4. The following are conditions of movement of regulated articles:
- A. The sale or other distribution including movement of all ash nursery stock within or out of the quarantined area is prohibited under all conditions.
 - B. Regulated articles other than ash nursery stock may be moved from a quarantined area to a non-quarantined area within Nebraska only under the following circumstances:
 - 1. When moved by a person who holds a current compliance agreement and a Certificate indicating compliance with the quarantine accompanies each shipment; or
 - 2. With a Limited Permit for the Movement of Non-certified Articles when moved by a person who holds a current compliance agreement and a copy of the Limited Permit accompanies each shipment; or
 - 3. Without a Certificate or Limited Permit when:
 - a. The Department authorizes an employee of USDA APHIS PPQ or the Department to move a regulated article for experimental or scientific purposes; or
 - b. A regulated article originates from and is destined to a point outside of 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 March 16 through September 30, 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 the Department as not posing a risk of infestation by EAB; and
 - iv. The article has not been combined or commingled with other articles so as to lose its individual identity.

5. Penalties:

- A. Regulated articles transported in violation of this quarantine may be seized, destroyed, treated or returned to the point of origin, without compensation, at the discretion of the Department, pursuant to §2-10,108 of the Act.
- B. Section 2-10,115 of the Act provides that any person or entity shall be guilty of a Class IV misdemeanor for a first violation, and a Class II misdemeanor for a subsequent violation of the same nature if that person violates this quarantine.
- C. Any person or entity found to have violated this quarantine will be held financially responsible for all regulatory and mitigation expenses related to the violation, pursuant to §2-10,111 of the Act.
- D. Any person who fails to comply with this quarantine may be issued an administrative fine of \$1,000 for each violation, pursuant to §2-10,103.02.

6. These rules are distinct from, and in addition to, any Federal statute, regulation or quarantine order addressing the interstate movement of articles from the quarantined area or the State of Nebraska.

Any person affected by this quarantine may request a hearing before the Department. Such requests should be made in writing to the:

Nebraska Department of Agriculture
301 Centennial Mall South
P.O. Box 94756
Lincoln, Nebraska 68509

This quarantine is effective until the Department amends the quarantine or determines that the quarantine is no longer necessary.

NEBRASKA DEPARTMENT OF
AGRICULTURE

6-8-2016
Date



Greg Ibach, Director