

KEY:	Stricken = removed, old language.	<u>Underscored</u> = added, new language
------	--	--

PROPOSED

**MINNESOTA DEPARTMENT OF AGRICULTURE
STATE FORMAL QUARANTINE
EMERALD ASH BORER
Version 17-18**

Section I: Declaration of Formal Quarantine

Whereas, the Commissioner of the Minnesota Department of Agriculture, having found that an exotic pest, known as the emerald ash borer, *Agrilus planipennis* Fairmaire, has been detected in Minnesota and neighboring states and has a limited distribution at this time; and

Whereas, the emerald ash borer has been found infesting and killing ash trees, *Fraxinus* spp., in certain counties, cities, and townships; and

Whereas, ash trees are a valuable resource for the nursery, landscaping, and timber industries in Minnesota; and

Whereas, ash trees represent a significant component of the natural, urban and rural forest environments in Minnesota; and

Whereas, the United States Department of Agriculture, Animal and Plant Health Inspection Service (“APHIS”) has ordered an interstate commerce quarantine that parallels the emergency quarantine and will parallel this quarantine; and

Whereas, APHIS will quarantine less than an entire state of Minnesota only if Minnesota adopts and enforces restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by the APHIS interstate quarantine; and

Whereas, this quarantine is consistent with and does not exceed the APHIS quarantine insofar as it affects interstate commerce;

Now, therefore, the Commissioner of the Minnesota Department of Agriculture by the authority of Minnesota Statutes Section 18G.06 (2008) declares this quarantine to prevent the further spread of this pest and sets forth: definitions, regulated articles, quarantined areas, conditions of movement, violations and penalties, and special exemptions. This quarantine shall become effective immediately and will remain in effect until withdrawn or superseded.

Section II: Definitions

“Ash” means all species of the genus *Fraxinus*.

"Certificate" means a document authorized or prepared by the Commissioner or an APHIS employee or designee that affirms, declares, or verifies that movement or use of a regulated article complies with this quarantine, the APHIS quarantine and other legal requirements.

"Commissioner" means the Commissioner of the Minnesota Department of Agriculture or his designee.

"Compliance agreement" means a written agreement between a person and APHIS, and/or the Commissioner to achieve compliance with this quarantine and the APHIS quarantine.

"Emerald Ash Borer" ("EAB") means the insect known as emerald ash borer, *Agrilus planipennis* Fairmaire, in any stage of development.

"Firewood" means wood cut to lengths less than four feet long. This includes firewood cut for personal use.

"Inspector" means an employee of the Minnesota Department of Agriculture or other individual authorized to enforce the provisions of this quarantine.

"Limited permit" means a document in which an inspector or a person operating under a compliance agreement affirms that the regulated article does not meet treatment standards is eligible for intrastate movement only to an approved receiving facility and in accordance with specified conditions.

"Log" means tree parts cut into lengths four feet or longer.

"Minnesota" means the State of Minnesota.

"Move" ("moved," "movement") means shipped, transported, carried; held or offered for shipment, transport or carriage; received for shipment, transport or carriage; or allowed to be shipped, transported or carried.

"Person" means any individual, firm, association, partnership, corporation, governmental entity, or other legal entity.

"Quarantined Area" means any portion of Minnesota listed in Section IV of this quarantine.

"Regulated Article" means any article listed under Section III of this quarantine.

"Receiving Facility" means any mill, incinerator, mulch site, compost site, or other facility that receives a regulated article.

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

“Transit” (“transiting”) means movement through an area.

Section III: Regulated Articles

Regulated articles are as follows:

- (A) The emerald ash borer, *Agrilus planipennis* Fairmaire, in any stage of development.
- (B) All plants and plant parts of the genus *Fraxinus*, including but not limited to:
 - i. Logs and green lumber
 - ii. Nursery stock, scion wood, and bud wood
 - iii. Chips and mulch, either composted or uncomposted
 - iv. Stumps, roots, and branches
- (C) Firewood of any non-coniferous (hardwood) species
- (D) Any article, product, or means of conveyance which the Commissioner determines to present a risk of spread of EAB and the Commissioner has notified the person in possession of that article, product, or means of conveyance, is subject to this quarantine.
- (E) Exceptions are:
 - i. Ash seeds and leaves that contain no ash twigs, branches, and wood
 - ii. Processed lumber that is generally bark free, kiln dried, and with squared edges
 - iii. Finished wood products without bark, including furniture, baskets, and baseball bats

Section IV: Quarantined Areas

- (A) The following are designated as quarantined areas:

The entire county of:

Anoka
Brown
Chisago
Dakota
Dodge
Fillmore
Goodhue
Hennepin
Houston
Martin
Nobles
Olmsted
Ramsey
Rice
Scott
Stearns

Steele
Wabasha
Washington
Winona
Wright

The portion of St. Louis County in Minnesota including:

West boundary: St. Louis/Carlton County border traveling north on Minnesota Highway 33 to the intersection of U.S. Highway 53; then following U.S. Highway 53 north to the intersection of Three Lakes Road (County Highway 49)

North boundary: Three Lakes Road (County Highway 49) at the intersection of U.S. Highway 53 traveling east to the intersection of Vermilion Trail; then the northern edge of Gnesen, North Star, and Alden Townships to the St. Louis/Lake County border

East boundary: St. Louis/Lake County border

South boundary: St. Louis County border and St. Louis/Carlton County border to Minnesota Highway 33

(B) The Commissioner may designate additional quarantined areas based upon future confirmation of the presence of the emerald ash borer. Such designations or changes will become effective upon the posting of notification on the Minnesota Department of Agriculture website located at <http://www.mda.state.mn.us/eab> and in the printed listing available upon request through the Minnesota Department of Agriculture Plant Protection Division, 625 N. Robert St., St. Paul, MN 55155, 651-201-6684 or 1-888-545-6684. In addition, notification will be made according to the requirements in Minnesota Statutes Section 18G.06, subd. 3(c).

Section V: Restrictions on Regulated Articles

(A) Use of Regulated Articles in a Quarantined Area.

1. The use of ash wood material for the manufacture of pallets and wood crating is prohibited in the quarantined areas, unless the wood is treated by methods approved by the Commissioner and takes place under a Compliance Agreement.

(B) Movement From a Quarantined Area to a Non-Quarantined Area.

1. The sale and/or movement of ash nursery stock out of a quarantined area is prohibited.
2. The movement of regulated articles, except ash nursery stock, from any quarantined area to any non-quarantined area is prohibited, except under conditions a. or b. below.
 - a. The regulated article shall have been treated or subjected to special handling under a Compliance Agreement and a Certificate or Limited Permit must be issued. The point of origin shall be indicated on the bill of lading or other shipping documents. The Certificate or Limited Permit shall be attached to or associated with the regulated articles and shall remain on/with the regulated articles until such articles reach their final destination. The

Certificate or Limited Permit shall be given to the recipient at the destination of the shipment and shall be retained with the shipping documents.

- b. A regulated article may be moved outside of the quarantined area with a Limited Permit to a receiving facility pursuant to a Compliance Agreement approved by the Commissioner or a United States Department of Agriculture designee for processing, utilization, and/or disposal.

(C) Movement Transiting a Quarantined Area When Regulated Articles Originate From a Non-Quarantined Area.

1. The transit of regulated articles originating from a non-quarantined area, through a quarantined area, to a non-quarantined area is prohibited, except under the following conditions:
 - a. During the period of May 2 through September 30, if the regulated articles are shipped in an enclosed vehicle or completely enclosed by a covering adequate to prevent the infestation of regulated articles by emerald ash borer.
 - b. During the period of May 2 through September 30, uncovered regulated articles may transit without stopping except for refueling or traffic conditions.
 - c. Transit is not regulated during the period October 1 through May 1.

(D) Movement Within A Quarantined Area

1. Regulated articles may move within a quarantined area.

(E) Movement From A Non-Quarantined Area Into A Quarantined Area.

1. Regulated articles may move from a non-quarantined area into a quarantined area. Once an article has entered a quarantined area, it is subject to the same restrictions as an article that originated from the quarantined area.

(F) Removal Of Regulated Articles From Unauthorized Areas.

1. Any regulated articles moved in violation of this quarantine shall be removed to a permitted area within 24 hours of discovery or shall be subject to destruction under the direction of the Commissioner and at the expense of the owner or owners.

(G) Documentation.

1. All regulated articles originating from the quarantined area that are moved within Minnesota or that have been moved within Minnesota must be accompanied by certifications and/or shipping documents showing the movement was in accordance with this quarantine. Such documents must be shown to the Commissioner or any APHIS employee when requested.

Section VI: Penalties

- (A) Any person violating these quarantine regulations is subject to the civil penalties up to \$7,500.00 per day of violation or misdemeanor penalties set forth in Minnesota Statutes Sections 18J.10 (2011) and may be subject to criminal penalties set forth in Minnesota Statutes Sections 18J.11 (2011).

Section VII: Special Exemptions

- (A) The Commissioner may allow, with written approval, the movement of emerald ash borer, in any living stage of development, into or within Minnesota for research purposes.

This Notice and State Formal Quarantine are effective XX/XX/2020.

Thom Petersen
Commissioner
Minnesota Department of Agriculture