Emergency Order Restricting the Movement of Certain Ash (Fraxinus spp.) Products and Any Untreated Firewood From Emerald Ash Borer Infested Towns in Maine

AUTHORITY: 12 M.R.S. § 8305  DATE: October 25, 2019

BACKGROUND

The emerald ash borer (EAB), Agrilus planipennis Fairmaire, is a highly destructive, introduced pest of forest and ornamental ash trees (Fraxinus spp.). Since its initial detection in southeastern Michigan near Detroit in the summer of 2002 it has spread rapidly. As of October 2019, it has been found in 35 states, and 5 Canadian provinces.

Ash trees infested with EAB may die within 2 to 3 years. From 2002 to 2019, EAB has killed hundreds of millions of ash trees in infested states and provinces, and has cost municipalities, property owners, nursery operators and forest products industries hundreds of millions of dollars.

In response to the significant ecological and economic threat posed by EAB, Canada and the state of Michigan established EAB quarantines in 2002. In 2003, the United States Department of Agriculture—Animal and Plant Health Inspection Service (USDA-APHIS) established a federal quarantine to restrict movement of potentially infested material. Federally regulated materials include:

- 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.

7 C.F.R. § 301.53-2. Unless infested states restrict internal movement of potentially infested ash material, the federal government will designate the entire state as a quarantined area, which designation will subject the state to federal regulations restricting interstate and international commerce of ash material.

In October 2019 a single adult EAB was recovered from a trap in Portland, ME deployed by the City of Portland in cooperation with the Maine Forest Service and USDA APHIS. This is the third area in Maine with confirmed EAB. A state and federal quarantine for EAB is in place around the two previously detected areas. The quarantine covers all of York County and the northeastern corner of Aroostook County.

Ash trees comprise four percent of Maine’s hardwood forest, are a valuable timber species, and are also an important street tree. EAB threatens all species of ash trees (except mountain-ash, Sorbus spp.) and could have significant ecological and economic impacts on the state. There are no practical means to control EAB in forested areas, though pesticide treatments can protect individual trees.

Therefore, to protect the ash resources of the state of Maine from the unrestricted spread and establishment of a dangerous tree-killing forest pest, the Director of the Maine Bureau of Forestry must take immediate action and hereby issues the following Order pursuant to authority granted by 12 M.R.S. § 8305:
EMERGENCY ORDER TO ENTITIES AND INDIVIDUALS TRANSPORTING, SELLING, OR PURCHASING ASH (*FRAXINUS* SPP.) LOGS/ROUNDWOOD, GREEN LUMBER, HARDWOOD FIREWOOD AND ASH NURSERY STOCK

1. **Regulated Articles:**
   a) Ash roundwood (logs, pulpwood, etc.);
   b) Ash green lumber;
   c) Chipped material with ash;
   d) Hardwood firewood that has not been heat treated in a process certified by the Maine Department of Agriculture, Conservation and Forestry; and,
   e) Rooted ash (*Fraxinus* spp.) for planting.

2. **Order Area:** Towns of Cape Elizabeth, Chebeague Island, Cumberland, Falmouth, Gorham, Long Island, North Yarmouth, Portland, Scarborough, South Portland, Westbrook, Windham, and Yarmouth in Cumberland County, Maine.

3. **Prohibition on the movement of Regulated Articles from the Order Area.** To limit potential inadvertent spread of infested ash material while the state of Maine conducts further delimitation surveys, and negotiates with the USDA-APHIS on a parallel state-federal EAB quarantine and possible modifications of existing national and international regulations, no Regulated Articles listed in Item 1 above originating in the Order Area (Item 2) may be exported from those towns except as specifically provided below:
   a) Regulated Articles that are going to processors or other sites in the currently regulated areas of the United States and Canada;
   b) Regulated articles that are going to processing facilities outside the regulated areas of the United States and Canada in accordance with a state, provincial, or federally issued compliance agreement that authorizes receipt and processing of Regulated Articles or
   c) Regulated Articles that have been treated by a method approved and certified by MFS/DACF such that they pose no risk of spreading EAB.

   All shipments of Regulated Articles from the Order Area through unregulated portions of the state will require a shipping permit issued by MFS/DACF

4. **Plant Products Potentially Exposed to EAB.**
   a) Hardwood firewood and ash articles originating from outside the Order Area but held within the Order Area will be considered to be potentially infested and therefore are Regulated Articles for purposes of this Order.
   b) Rooted Ash (*Fraxinus* spp., but not Mountain-ash, *Sorbus* spp.) that at any time has been held in the Order Area is considered to be potentially infested,
irrespective of origin or visual sign of infestation, and therefore constitutes a Regulated Article for purposes of this Order.

5. **Penalty.** In accordance with 12 M.R.S. § 9701, any person who violates any requirement of this Emergency Order commits a civil violation for which a forfeiture not to exceed $1,000 may be adjudged. Each day of a violation shall be considered a separate offense.

6. **Authority.** The authority for this Emergency Order is 12 M.R.S., § 8305.

7. **Effective Date.** This Emergency Order is effective upon signature by the Director of the Maine Bureau of Forestry and shall remain in force 120 days or until superseding state quarantine regulations are adopted. The Director may amend this order at any time to respond to changing conditions.

Date: October 25, 2019

Patty Cormier, Director
Bureau of Forestry