ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
PLANT PROTECTION
ADMINISTRATIVE CODE

CHAPTER 80-10-20
EMERALD ASH BORER QUARANTINE

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80-10-20-.01 Determination Of Problem And Establishment Of Quarantine.

(1) It has been determined that the destructive insect pest known as the Emerald Ash Borer (*Agrilus planipennis*), an exotic invasive plant pest that is established in several other states, has been found in Alabama. This insect can be highly destructive to Alabama's ash trees (*Fraxinus* species) and ash nursery stock. Therefore, it is in the best interest of Alabama's citizens, agriculture, and silviculture that this quarantine be established to limit the pest's human-assisted spread within the state.

(2) Due to the above determination, a quarantine against the above defined pest is hereby established.

Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: **New Rule:** Filed February 17, 2017; effective April 3, 2017.

80-10-20-.02 Definitions.

For the purpose of this quarantine and regulations, the following shall be construed respectively to mean:

(1) Ash. The genus *Fraxinus*.

(2) Commissioner. The Commissioner of the Department of Agriculture and Industries of the State of Alabama, or his authorized representatives.

(3) Compliance Agreement. A written agreement between a person engaged in growing, harvesting, dealing in, or moving regulated articles and the Alabama Department of Agriculture and Industries, wherein the former agrees to comply with conditions specified in the agreement to prevent the dissemination of the Emerald Ash Borer.

(4) Exemptions. Conditions described herein which provide for modifications in conditions of movement of regulated articles from regulated areas under specified conditions.

(5) Infestations. The presence of the Emerald Ash Borer or the existence of circumstances that make it reasonable to believe that the Emerald Ash Borer is present.

(6) Permit. A document issued by the commissioner to allow the movement of noncertified regulated articles to a specified destination for particular handling, utilization, or processing, or for treatment.

(7) Person. Any individual, firm, partnership, corporation, association or other legal entity or organization.

(8) Moved, Movement, Move. Shipped, hauled, transported, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved, by any means whatsoever, by any person, directly or indirectly.

(9) Pest. The insect known as the Emerald Ash Borer (*Agrilus planipennis* [Coleoptera: Buprestidae]) in any stage of development (egg, larva, pupa, adult).

(10) Regulated Area. Any county, parish, township, city or other civil division or part thereof in any state, country, or territory listed in this quarantine as being placed under quarantine, and such other areas as may become infested or deemed to present a hazard of spread of the Emerald Ash Borer.

Author: Patrick B. Moody

Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.03 Regulated Articles.

The following pest and articles shall be regulated by this quarantine.

(1) The insect known as the Emerald Ash Borer (*Agrilus planipennis* [Coleoptera: Buprestidae]) in any stage of development (egg, larva, pupa, adult);

(2) firewood of all hardwood (non-coniferous) species;

(3) ash nursery stock;

(4) non-heat treated (green) ash lumber;

(5) other living, dead, cut, or fallen, material of the genus *Fraxinus*, including logs, stumps, roots, branches, and composted and uncomposted chips that have not been ground to a small enough size to destroy Emerald Ash Borer in any life stage, as required by USDA APHIS;

Any other products, articles, or means of conveyance of any character whatsoever, when it is determined by the commissioner that they present a risk of spreading Emerald Ash Borer and the person in possession thereof has been so notified.

Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.04 Regulated Areas.

(1) The following Counties are designated as regulated areas:

(a) Calhoun County,

(b) Cherokee County,

(c) Cleburne County

(2) Any other county where the Emerald Ash Borer is found to be present by the Commissioner, or counties determined by the Commissioner to be at high risk for the presence of Emerald Ash

Borer. Such counties will be conspicuously posted on the Department of Agriculture's website at: www.agi.alabama.gov
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.05 Movement Of Regulated Articles From Regulated Areas.

(1) Regulated articles may be moved from a regulated area **only:**

(a) if moved with a permit that is attached as required by the Commissioner; and

(b) if the regulated articles originate in an area of Alabama identified by USDA APHIS as having a "no fly" period for Emerald Ash Borer, **and only** during the "no fly" period of November 1 through March 1. Counties outside of this "no fly" zone do not have a period when regulated articles can be moved from a regulated area to a non-regulated area.

(2) Without a permit if:

(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 regulated area and is moved through the regulated area under the following conditions:

1. The points of origin and destination are indicated on a waybill accompanying the regulated article; and

2. The regulated article is moved in an enclosed vehicle or is completely covered to prevent access by Emerald Ash Borer, or

3. The regulated article is moved directly through the regulated 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 Commissioner 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.

Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.

History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.06 Attachment Of Permits.

When permits are required, they shall be securely attached to the shipping document that adequately describes the regulated articles being moved.
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2-25-1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.07 Issuance Of Permits.

Permits may be issued by the commissioner to allow the movement of regulated articles to locations outside the regulated areas for particular handling, utilization, processing, or for treatment in accordance with approved procedures, provided the commissioner has determined that such movement will not result in the spread of the Emerald Ash Borer.

Permits will remain valid as long as the permit holder maintains a compliance agreement as described in rule 80-10-20-.12.
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.08 Movement Of Regulated Articles Within Regulated Areas.

There are no restrictions imposed on the movement of regulated articles solely within regulated areas.
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.09 Disposition Of Permits.

In all cases, permits shall be furnished by the carrier to the consignee at the destination of the shipment.
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.

History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.10 Waiver By Commissioner.

The commissioner, in his discretion, may waive the requirements for movement of regulated articles for experimental or scientific purposes in accordance with specified conditions.
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.11 Compliance Agreements.

(1) As a condition of issuance of permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles shall be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the commissioner. United States Department of Agriculture compliance agreements may be utilized to meet the requirements of this rule.

(2) Any compliance agreement may be canceled orally or in writing by the Commissioner whenever he determines that the person who has entered the compliance agreement has failed to comply with this quarantine. 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. Any person whose compliance agreement has been cancelled may appeal the decision in writing to the Commissioner within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Commissioner to consider in deciding the appeal. As soon as practicable, the Commissioner will grant or deny the appeal in writing, stating the reason for the decision.
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.12 Inspection And Disposal.

The commissioner, after displaying proper identification, is authorized to stop and inspect, without a warrant, any person or means of conveyance moving into, within or from the state of Alabama upon probable cause to believe that such means of conveyance or articles are infested with the Emerald Ash Borer or contain regulated articles; and to seize, treat, destroy, or otherwise dispose of, or require the disposal of pest and regulated articles found to be moving in violation of this quarantine. All costs for treatment, destruction, or disposal of regulated articles and pest shall be borne by the person in possession of the regulated article.
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.

80-10-20-.13 Penalty For Violation.

Any person violating the provisions of this chapter shall be subject to the criminal penalties imposed under the provisions of Code of Ala. 1975, §2-25-22 and the injunctive provisions of Code of Ala. 1975, §2-25-19.1.
Author: Patrick B. Moody
Statutory Authority: Code of Ala. 1975, §§2 25 1, et seq.
History: New Rule: Filed February 17, 2017; effective April 3, 2017.