



ANDREW M. CUOMO
Governor

RICHARD A. BALL
Commissioner

May 20, 2016

RE: Changes to Regulations Regarding Emerald Ash Borer

The New York State Department of Agriculture and Markets (Department) and the New York State Department of Environmental Conservation (DEC) are moving forward with the expansion of regulated areas under Title 1, Part 141 of the New York Codes, Rules and Regulations, Control of the Emerald Ash Borer through an emergency rulemaking process. We anticipate that this rule will be in place within the next several weeks.

In recognition of the value of the ash resource and the challenges that prohibiting flight season harvest poses to the forest products industry and forest landowners, the Department will issue individual limited permits for the harvest, transport and processing of regulated articles during flight season under the following conditions:

1. The regulated article(s) shall be selected from apparently pest-free sources. The material shall be transported for purposes of treatment directly to an approved mill set forth in the limited permit.
2. Any regulated article(s) showing evidence of infestation shall be immediately reported to the Department and is/are not eligible for transportation under the limited permit.
3. The regulated article(s) authorized for movement under the limited permit shall only be harvested from properties identified in the permit:
4. All shipments of regulated article(s) shall be accompanied by a copy of the limited permit and a bill of lading, invoice, or other shipping documents that indicate the source of the regulated article(s), the quantity of the regulated article(s), and the destination of the regulated article(s) as defined in the limited permit.
5. When regulated article(s) are off-loaded at the approved mill, the regulated article(s) shall be safeguarded sufficiently to maintain their identity separate and apart from all other material on the site.
6. All regulated article(s) shall be treated within seventy-two (72) hours of receipt. Approved treatment methods include removal of the bark and an additional ½ inch of wood; kiln sterilization treatment (T404-b-4); heat treatment (T314-b-4); fumigation according to treatment schedule T404-b-1-1 (Methyl bromide fumigation at NAP-tarpaulin or chamber); chipping; or burning/incineration. All by-products of the milling process (slabs, chips, bark, etc.) shall meet the appropriate treatment standards for deregulation.
7. The mills, trucks, buildings, and properties where the work is performed on the regulated article(s) are subject to inspection by an inspector of the Department.
8. Regulated article(s) shall only be transported for treatment by the mill(s) specified in the limited permit.

9. Upon request, the limited permit holder is responsible to provide appropriate documentation to the Department for the regulated article(s) transported under the limited permit.
10. The permit holder shall keep the limited permit valid for the duration under which the regulated article(s) is/are being transported and treated. If the permit holder leaves the organization identified on the limited permit, a new individual who assumes responsibility for continued compliance shall submit a request and obtain a new limited permit prior to the previous permit holder's departure. If any information changes (e.g. telephone number or address), the permit holder shall notify the Department immediately when the change(s) are made.

Limited permits can be requested by emailing agr.sm.EABPermit@agriculture.ny.gov

The email should include: contact name, organization, address, mailing address, phone, email, location of harvest (GPS and physical address), where the material will be processed and the duration that the permit will be needed. The applicant should also include a brief justification outlining the need for a flight season harvest. Acceptable justifications include economic hardship, access issues such as road weight restrictions or hunting restrictions on land, worker safety or terrain limitations that complicate or prevent non-flight season harvests. The permit request should be **SUBMITTED A MINIMUM OF 14 DAYS AHEAD OF THE PLANNED HARVEST.**

The Department's Plant Industry staff will address and issue permits in the order that they are received. If everything is in order with the application, a permit will be issued by return email. The permit email will also be sent to the appropriate Department inspector and regional supervisor and will be forwarded to the DEC Lands and Forests division for distribution to regional foresters and Environmental Conservation Officers.

Questions regarding Emerald Ash Borer regulations should be directed to Chris Logue, Division of Plant Industry Director, at 518-457-2087 or Christopher.logue@agriculture.ny.gov .

We appreciate the continued cooperation of New York's woodland owners and managers, and the wood-using industry, in managing and preventing forest pests.

Christopher Logue, Director
NYS Dept. of Agriculture & Markets
Division of Plant Industry

Robert Davies, Director
NYS Dept. of Environmental Conservation
Division of Land & Forests