

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF CONSERVATION AND RECREATION**

THIRD AMENDED ORDER

To Suppress and Control Nuisance Conditions and Regulated Articles

The Department of Conservation and Recreation (DCR) issues this Order in accordance with sections 8, 11 and 12 of Chapter 132 and section 1F of Chapter 132A of the Massachusetts General Laws.

Background on the Emerald ash borer

The Emerald ash borer (*Agrilus planipennis*) (EAB), a beetle native to Asia, is a destructive insect pest of all ash tree species (*Fraxinus* spp.). It attacks healthy ash trees, including the native white, green and brown ash. Additionally nursery stock, logs, green lumber, firewood, stumps, branches, and wood debris of a half an inch or more in diameter are subject to infestation. Between 450 -1000 growing degree days, adult EAB beetles emerge in the spring through “D” shaped exit holes, feed on ash tree foliage for a short period, mate, and then females will widely disperse and deposit eggs along tree trunks in cracks and bark crevices. After the eggs hatch, EAB larvae bore into the inner bark layer (cambium) of a host ash tree. Larvae go through four developmental stages (instars), and then excavate a pupal chamber in the outer sapwood where they overwinter as pre-pupae. EAB will then complete the growth cycle when they pupate to adults in the early spring and again emerge between 450 -1000 GDD. Emerald ash borer has the potential of killing infested trees in 3-5 years. A new generation of Emerald ash borer is produced each year. Spread of this invasive pest into the ash hardwood forests of the United States has already caused severe economic losses. In addition, urban and forest EAB infestations will result in environmental damage, aesthetic deterioration, and a reduction in public enjoyment of recreational spaces.

Purpose of this Order

An infestation of Emerald ash borer was identified in the town of North Andover, Essex County, Massachusetts and has now been identified in Boston, Suffolk County, Massachusetts. As documented in other states with infestations of EAB, this invasive species can cause widespread ash tree mortality, cause great economic and environmental damage, and requires measures to suppress, control and eradicate its spread in any area of Massachusetts. On March 1, 2013, DCR issued an Order to suppress and control the spread of EAB in any area of Berkshire County, Massachusetts, and on April 1, 2014, DCR issued a second amended order to suppress and control and eradicate EAB in any area of Essex County. DCR now issues this third amended order to include all of Massachusetts to the EAB Quarantine. This third amended order does not change or diminish any of the other terms, conditions or restrictions of any previous Order.

NOW THEREFORE, THIS ORDER IS ISSUED AND ESTABLISHED, SUBJECT TO THE FOLLOWING TERMS, CONDITIONS AND RESTRICTIONS:

1. **Affected Area.** This Order applies to all public and private land in **the Commonwealth of Massachusetts**.
2. **Quarantine Period.** This Order is effective immediately and will remain in effect until rescinded or modified in writing by the Commissioner of DCR.

3. **Regulated Articles** means firewood (all hardwood species under 48” in length); green ash lumber and other material living, dead, cut, or fallen, inclusive of nursery stock, logs, roots, branches, and debris of half an inch or more in diameter of the following genera: *Fraxinus* (ash) all species; and also the Emerald ash borer beetle, regardless of developmental stage including its larvae, pupae or eggs.

Any other article, product, or means of conveyance not covered by the preceding sentence shall be deemed a Regulated Article, and subject to this Order, if the Commissioner of DCR, and his duly authorized agents or designees, acting subject to the provisions of Paragraph 8, determine that it presents a risk of spreading Emerald ash borer and notifies the Person in possession of the article, product, or means of conveyance that it is subject to the terms, conditions and restrictions of this Order.

4. **Person** means, without limitation, any agency, city or town, or political subdivision of the Commonwealth of Massachusetts or the Federal government, any state, public or private corporation or authority, any interstate body, foreign nation, individual, trust, firm, joint stock company, partnership, association or other entity, and any officer, employee, or agent of such person, and any natural person or group of persons.

5. No Person shall harvest, cut, move, carry, transport or ship (or authorize or allow any other Person to do the same) Regulated Articles outside of the Affected Area during the Quarantine Period, unless specifically authorized in writing by the Commissioner of the Department of Conservation and Recreation.

6. The Commissioner of DCR, and his duly authorized agents or designees acting subject to the provisions of Paragraph 8, by the terms of this Order is authorized to make use of and require the use of all lawful means of suppressing and controlling Emerald ash borer (EAB) including removing or causing to be removed, and the destruction thereof, all Regulated Articles within the Affected Area that are, may be or have the potential to be infested or infected by EAB.


7. The Commissioner of DCR, and his duly authorized agents or designees acting subject to the provisions of Paragraph 8, by the terms of this Order is authorized to enter upon any land, including the Affected Area, to implement and conduct activities under this Order.

8. DCR is acting in cooperation with Massachusetts Department of Agricultural Resources (MDAR) and Federal officials, specifically the United States Department of Agriculture and its Forest Service (USFS) and Animal and Plant Health Inspection Service (APHIS) to achieve the purposes of this Order. DCR may authorize, under separate agreements, DCR’s duly authorized agents or designees, as identified in Paragraphs 6 and 7 above, including any municipal or Federal officials, including USFS and APHIS, to enter upon the Affected Area and undertake activities necessary for suppressing, controlling and monitoring the spread, including removing or causing to be removed, and the destruction thereof, all Regulated Articles within the Affected Area that are, may be or have the potential to be infested or infected by EAB. While DCR seeks to implement this Order to ensure eradication of EAB, DCR plans to do so in a reasonable manner, to the extent possible, to minimize impacts to private property.

9. Any Person who knowingly resists, obstructs or violates this Order may be punished, subject to a civil penalty to be assessed by DCR and/or other relief in accordance with Massachusetts law.

Dated: November 26, 2014

Ordered:



John P. Murray, Commissioner
Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston, MA 02114