



Exempt Action Final Regulation Agency Background Document

Agency name	Department of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-335
Regulation title	Rules and Regulations for Enforcement of the Virginia Pest Law – Virginia Emerald Ash Borer Quarantine
Action title	Regulations Governing Emerald Ash Borer
Final agency action date	August 19, 2008
Document preparation date	September 8, 2008

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Pursuant to Section 3.1-188.23 of the Code of Virginia, the Board of Agriculture and Consumer Services hereby establishes regulated areas under the Virginia Emerald Ash Borer Quarantine due to the detection of larvae or other life stages of the emerald ash borer in Fairfax County. The quarantine restricts the movement of regulated articles from regulated localities to non-regulated localities. The regulated articles, which include ash trees, green (non-heat treated) ash lumber and ash wood products, as well as hardwood firewood, pose a significant risk of transporting emerald ash borer. These regulated articles may move freely within the regulated areas. The VDACS state quarantine mirrors a federal quarantine implemented by the United States Department of Agriculture to prevent the spread of this pest from Virginia to non-infested states.

The purpose of the promulgation of this regulation is to delay the long distance (artificial) spread of the emerald ash borer from infested areas to non-infested areas. This will reduce the impact of the emerald ash borer to landowners and forest users in Virginia thereby protecting the public's health and welfare.

The implementation of this regulation will restrict movement of regulated articles, as defined in § 40, from the regulated area in the quarantine. A certificate or permit must be issued before movement of regulated articles from these regulated areas into non-regulated areas of Virginia and other states can occur. Conditions under which the certificate or permit will be issued are described in § 70. This certificate or permit must be attached to the regulated article to be moved.

The implementation of this emerald ash borer quarantine will provide the following advantages and disadvantages:

Advantages

1. Prevents the spread of emerald ash borer from infested areas of Virginia into areas which are currently non-infested in Virginia.
2. Prevents the spread of emerald ash borer from areas infested in Virginia into areas which are currently non-infested in the United States.
3. Reduces the impact of emerald ash borer damage to Virginia's forest land.
4. Allows available federal and state funds to be used for emerald ash borer management in the newly regulated localities.
5. Prevents implementation of a federal quarantine impacting the entire state if Virginia's partial state quarantine fails to mirror the federal partial quarantine of Virginia.

Disadvantages

1. Nurseries, tree removal services, timber operations and firewood dealers would be required to have regulated articles inspected and certified before these articles could be moved from regulated to non-regulated areas.
2. These regulations will add to the workload of VDACS inspectors responsible for conducting inspections of regulated articles and issuing certificates.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On August 19, 2008, the Board of Agriculture and Consumer Services adopted as a final regulation, 2 VAC 5-335, Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Emerald Ash Borer Quarantine.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This regulatory action will have no impact on the institution of the family and family stability.