

R68. Agriculture and Food, Plant Industry.

R68-11. Quarantine Pertaining to the Emerald Ash Borer.

R68-11-1. Authority.

Promulgated under authority of Subsection 4-2-103(1)(k)(ii) and Section 4-35-109.

R68-11-2. Definitions.

- 1) "Area Under Quarantine" means the United States and Canada.
- 2) "Ash" means any species of the genus *Fraxinus*.
- 3) "Commissioner" means the commissioner of the Utah Department of Agriculture and Food or their designee.
- 4) "Department" means the Utah Department of Agriculture and Food.
- 5) "Emerald Ash Borer", *Agrilus planipennis*, a beetle, family Buprestidae, which in the larval stage attacks and often kills Ash trees, genus *Fraxinus*.
- 5) "Person" means any individual, firm, association, partnership, corporation, government entity, or other legal entity.
- 6) "Regulated Article" means any article on which the Emerald Ash Borer, *Agrilus planipennis*, in any stage of development, may be present, including:
 - a) any ash trees, genus *Fraxinus*;
 - b) any green waste of ash trees;
 - c) ash firewood; or
 - d) any other plant, plant part, article, or means of conveyance when it is determined by the Commissioner to present a hazard of spreading Emerald Ash Borer due to infestation or exposure to infestation by Emerald Ash Borer.
- 7) "Business days" means days the Utah Department of Agriculture and Food is open to the public.

R68-11-3. Restrictions.

- 1) Under this rule, a person may not transport, offer, expose, or hold for sale a regulated article in Utah from an area under quarantine unless each requirement under Section R68-11-7, Importation and Treatment has been met.
- 2) Any person that transports or supplies a regulated article in Utah from an area under quarantine shall maintain records, certificates, receipts, and any other related documents for two years from the date of issuance.

R68-11-4. Importation and Treatment.

Under this rule, each regulated article from an area under quarantine is prohibited entry into Utah unless:

- 1) an exemption has been granted by the department that satisfies the requirements of Section R68-11-6; and
- 2) the required certification is provided to the department.
 - a) Certification shall be issued by an authorized state agricultural official of the state of origin.
 - b) The certificate shall include the:
 - i) the name and address of the exporter;
 - ii) the name and address of the importer;
 - iii) the inspection and certificate date; and
 - iv) the signature of the authorized state agricultural officer.
 - c) Each certificate issued by the authorized state agricultural official of the state of origin shall certify that the regulated article has exclusively been grown, produced, stored, held, or handled in a state or county that has been granted an exemption under Section R68-11-9.
 - d) The certifying official shall mail or e-mail a copy of the certificate to Plant Industry Division, Utah Department of Agriculture and Food, email: UDAF-Nursery@utah.gov.
 - e) The exporter shall give ten business days advance notice of regulated article shipment to the department by email sent to UDAF-Nursery@utah.gov.
 - f) The importer shall notify the department upon arrival of the regulated article imported under the provisions of this rule and shall hold the regulated article for inspection for two business days.
 - g) The department may inspect and reject or release the regulated article within two business days of delivery. If the department does not inspect the shipment within two business days the regulated articles no longer need to be held by the importer.

R68-11-5. Records.

- 1) Each record, certificate, or other document related to a regulated article that a person who transports or supplies the regulated article provides to the department shall include information regarding the source of the regulated article and the disposition of the regulated article.
- 2) Each record, certificate, or other document of a person that sells a regulated article provides to the department shall include information regarding the source and supplier of the regulated article.
- 3) The department may inspect each record, certificate, document, inventory, and facility of a person that transports, supplies, or sells a regulated article from an area under quarantine at any time during reasonable business hours and may take samples of the regulated article for the purpose of enforcing this rule.

R68-11-6. Exemptions.

- 1) The Emerald Ash Borer, *Agilus planipennis*, in any stage of development is not exempt from this rule under any circumstances.
- 2) The Commissioner may declare particular regulated articles from individual states, counties, or provinces exempt from this rule if they request an exemption.
- 3) Requests for exemption shall be made to the department in writing and shall:
 - a) certify that Emerald Ash Borer is not known to be present in their jurisdiction;
 - b) provide documents outlining their Emerald Ash Borer monitoring program;
 - c) agree to provide their Emerald Ash Borer trapping data to the department, including:
 - i) how the trapping survey was carried out;
 - ii) the number and location of traps;
 - iii) results of the trapping survey; and
 - iv) history of the Emerald Ash Borer trapping survey;
 - c) certify that they will notify the department of any Emerald Ash Borer detections within their jurisdiction within 48 hours; and
 - d) provide written justification explaining why regulated articles from their state, county, or province present a low risk for Emerald Ash Borer introduction into Utah.
- 4) The department shall maintain a current and publicly available list of exempt states, counties, and provinces.
- 5) The department shall respond in writing within ten business days of the request for exemption.
- 6) Exemptions are valid for a 12-month period.
- 7) The department may at any time revoke an exemption due to a change in the risk assessment.
- 8) The department shall notify the jurisdiction, in writing, identifying the reason for the revocation.

R68-11-7. Enforcing Powers.

- 1) Authorized agents of the department shall refuse admittance into Utah any regulated article from an area under quarantine that does not meet the provisions of this rule.
- 2) Any shipment found within Utah in violation of this rule shall be destroyed or be returned to the exporter at once.

R68-11-8. Violations and Penalties.

- 1) Any fraudulent use of incorrect information to circumvent the enforcement of this rule is a violation.
- 2) Failure to comply with any provision of this rule is a violation.
- 3) Violators of this rule shall be subject to Section 4-2-304.
- 4) The department shall be subject to the notice requirements of Section 4-2-302 with respect to any penalty assessed.
- 4) Each ash tree or bulk sale shall be a separate violation of this rule.

KEY: plant diseases

Date of Enactment or Last Substantive Amendment: April 23, 2021

Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(k)(ii); 4-35-109