BEFORE THE SECRETARY OF AGRICULTURE, TOPEKA, KANSAS

PERMANENT EMERALD ASH BORER QUARANTINE

The Secretary of the Kansas Department of Agriculture, pursuant to authority authorized by K.S.A. 2-2117, hereby determines that quarantine action is necessary to prevent the spread of Emerald Ash Borer within the state of Kansas.

The Secretary does hereby make the following findings relevant to Emerald Ash Borer:

WHEREAS, the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Plant protection and Quarantine (PPQ) has implemented a federal quarantine (7 CFR Part 301.53-1 through 301.53-9) issued on October 8, 2003, regulating this pest.

WHEREAS, the Kansas Department of Agriculture has determined that an exotic pest known as Emerald Ash Borer (*Agrilus planipennis* [Coleoptera: Buprestidae]) has been detected in this State and has a limited distribution at this time and is a plant pest as defined by K.S.A. 2-2113.

WHEREAS, Emerald Ash Borer is an aggressive pest whose presence threatens ash trees, an important species for landscape and the natural environment in Kansas.

THE SECRETARY DOES THEREFORE ORDER THAT:

(I) In order to prevent the further spread of Emerald Ash Borer in Kansas those relevant provisions of the *Domestic Quarantine Notice* established in Title 7 Part 301, Sub Part ***Emerald Ash Borer*** and any subsequent amendments are hereby incorporated by reference, so that no person shall remove regulated articles as specified in 7 CFR 301.53-2 unless the regulated articles have been approved for such movement as provided in 7 CFR Part 301.53-4.

(II) DEFINITIONS

This quarantine shall apply to any "person" as defined by K.S.A. 2-2113 to include corporation, company, society, association, partnership, governmental agency and any individual or combination of individuals. All other terms used within this quarantine shall have the meanings as defined or established pursuant to K.S.A. 2-2113 *et seq.* as amended and supplemented and in 7 CFR 301.53-1 through 301.53-9.

(A) **Certificate of Inspection** means a document issued by a person authorized by a governmental agency to issue the document, verifying that a regulated article has been inspected and complies with the requirements for movement from, into, through, or within a regulated or quarantined area.

(B) **Compliance Agreement** means a written accord between the Kansas Department of Agriculture and a person subject to a quarantine, containing the requirements the person must comply with in order to move regulated articles from, into, through, or within a regulated or quarantined area.

(C) **Emerald Ash Borer** means the insect known as Emerald Ash Borer (Agrilus planipennis [Coleoptera: Buprestidae]) in any stage of development.

(D) **Infested** means the presence of Emerald Ash Borer or circumstantial evidence of its presence.

(E) **Regulated Article** means any item, combination of items, or means of conveyance determined by the Secretary of Agriculture to be capable of or have the potential to harbor, spread, or assist in the spreading of Emerald Ash Borer, including those items listed below.

(III) REGULATED ARTICLES

(A) The Emerald Ash Borer, (Agrilus planipennis [Coleoptera: Buprestidae]), in any living stage of development;

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

(C) nursery stock of the genus *Fraxinus* (Ash);

(D) green lumber of the genus *Fraxinus* (Ash);

(E) other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus* (Ash);

(F) any other article, product, or means of conveyance that an inspector determines 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 restrictions of the regulations.

(IV) QUARANTINED AREA

The quarantined area shall include **Douglas County, Jefferson County, Johnson County, Leavenworth County and Wyandotte County, Kansas**.

(V) MOVEMENT OF REGULATED ARTICLES

(A) Except under the following conditions or as directed by the Secretary, a person may not move regulated articles from the Quarantined Area to any destination outside of the Quarantined Area, and a person may not move a regulated article from an Infested Area to any destination outside the Infested Area:

1. The regulated articles have been thoroughly examined and have been issued a certificate of inspection based on conditions and treatments administered in accordance with methods that the Secretary has approved (a certificate of inspection may be issued based upon the determination by an inspector or a

grower or shipper authorized to conduct such inspection under a Compliance Agreement, that no life stages of emerald ash borer are present); and

2. The Certificate of Inspection is attached to the regulated articles, and remains on the regulated articles until such articles reach their final destination (alternatively, the certificate of inspection may be attached to the shipping document provided, however, the regulated article is adequately described in the shipping document or the certificate of inspection).

(B) Except under the following conditions or as directed by the Secretary, a person may not move regulated articles originating outside the Quarantined Area through the Quarantined Area, and a person may not move regulated articles originating outside the Infested Area through the Infested Area without a certificate of inspection for this pest:

1. For the period between April 1 and October 1, or when the ambient air temperature is 40 degrees F. or higher, the articles are shipped in an enclosed vehicle, or are completely covered to prevent access by the emerald ash borer; and for the period between September 1 and March 31, or when the ambient air temperature is below 40 degrees F., the regulated articles are moved without stopping, except to refuel or for traffic conditions; and

2. The point of origin of the regulated articles is indicated on the bill of lading or shipping documents.

(C) Regulated articles originating outside a Quarantined Area which are moved into the Quarantined Area shall be considered to have originated from the Quarantined Area. These regulated articles may be moved from the Quarantined Area only under the conditions set forth in (V)(A) above.

(D) The bill of lading or shipping documents accompanying a shipment of regulated articles with or through Kansas shall indicate the county and State of origin of the regulated articles.

(VI) REPORTING REQUIREMENT

Any person who discovers Emerald Ash Borer in Kansas in an area not currently under quarantine shall report the discovery to the Kansas Department of Agriculture within 72 hours. The discovery shall be reported by email at ppwc@kda.ks.gov, or by telephone at 785-564-6698.

(VII) EFFECTIVE DATE OF QUARANTINE

This Order of Quarantine shall become **effective on the date of signature** and shall remain in effect until rescinded or modified by order of the Secretary. This order **rescinds** the following prior Orders:
Permanent Emerald Ash Borer Quarantine issued on October 1, 2014.
Temporary Emerald Ash Borer Quarantine issued on November 2, 2015.

(VIII) Any person knowingly moves a regulated article in violation of this quarantine may be subject to criminal prosecution or civil penalty pursuant to K.S.A. 2-2124 and 2-2125.

IT IS SO ORDERED THIS 22nd **DAY OF** January **, 2016 IN TOPEKA, SHAWNEE COUNTY, KANSAS.**

Jackie McClaskey
Secretary