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DATE: February 26, 2021

ACTION: Notice of Intent to Consider the Repeal of Chapter 224-3

TO ALL INTERESTED PERSONS AND PARTIES:

Pursuant to the Official Code of Georgia Annotated, O.C.G.A. § 50-13-4 and O.C.G.A. § 2-7-23, notice is hereby given that the Georgia Forestry Commission will be accepting written comments regarding the repeal of Chapter 224-3 entitled “Emerald Ash Borer Quarantine”. The Department will be accepting written comments from March 1, 2021, to close of business (4:30 p.m. ET) on March 30, 2021.

SYNOPSIS, MAIN FEATURES AND DIFFERENCES:

The Commission is proposing to repeal Chapter 224-3 entitled “Emerald Ash Borer Quarantine” in its entirety.

COMMENT PERIOD AND ADDITIONAL INFORMATION:

The Commission will be accepting written comments from March 1, 2021, to close of business (4:30 p.m. ET) on March 30, 2021. Comments will be considered on March 31, 2021. Please submit written comments to:

Lynne Womack
Forest Health Coordinator
Georgia Forestry Commission
5645 Riggins Mill Road
Dry Branch, Georgia 31020
Telephone Number: 912-515-5180
Facsimile: 478-314-6656
E-mail: lwomack@gfc.state.ga.us

Interested persons may call or submit a written request to obtain a copy of the proposed rule repeal. A copy of the synopsis and the proposed rule repeal may be downloaded from the Georgia Forestry Commission website at <https://gatrees.org/>.

This notice is given in compliance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-4.

RULES
OF
GEORGIA FORESTRY COMMISSION

CHAPTER 224-3
EMERALD ASH BORER QUARANTINE REPEALED

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224-3-.01 Establishment and Purpose of Quarantine Repealed

- ~~1. The Emerald Ash Borer (*Agrilus planipennis*), an exotic invasive plant pest that is established in several other states, has been found in Georgia. This insect can be highly destructive to Georgia's ash trees (*Fraxinus* species) and ash nursery stock. Therefore, it is in the best interest of Georgia's citizens, agriculture, and silviculture that this quarantine be established to limit its human-assisted spread within the state.~~
- ~~2. The purpose of this quarantine is to prevent the human-assisted spread of the Emerald Ash Borer to non-infested areas of the state by regulating the movement of those articles that are likely to transport this insect.~~
- ~~3. This Quarantine closely parallels both the U.S. Department of Agriculture Animal and Plant Health Inspection Service (USDA APHIS) quarantine regulation in the Code of Federal Regulations, 7 CFR § 301.53-1 through § 301.53-9 and the Georgia Department of Agriculture quarantine regulation at Ga. Comp. R. & Regs, r. 40-4-25.01 through .14.~~

Authority O.C.G.A. §12-6-16

224-3-.02 Definitions Repealed

- ~~1. "Director" means the Director of the Georgia Forestry Commission or other person authorized to act on his behalf.~~
- ~~2. "Certificate" means a document issued by the Director or by an authorized person operating under a compliance agreement to allow the movement of regulated articles to a destination.~~
- ~~3. "Compliance agreement" means a written agreement between a person and, the Georgia Forestry Commission, in accordance with the provisions of this quarantine regulation, the Georgia Department of Agriculture, in accordance with the provisions of its quarantine regulation at Ga. Comp. R. & Regs, r. 40-4-25.01 through .14, or the U.S. Department of Agriculture in accordance with its quarantine regulation at 7 CFR § 301.53-1 through .53-9, or all three agencies, in which the person agrees to comply with the requirements and conditions of the agreement and the quarantine regulation(s) governing the agreement.~~
- ~~4. "Emerald Ash Borer" means the insect known as Emerald Ash Borer (*Agrilus planipennis* [Coleoptera: Buprestidae]) in any stage of development (egg, larva, pupa, adult).~~

5. ~~“Infestation” means the presence of the Emerald Ash Borer or the existence of circumstances that make it reasonable to believe that the Emerald Ash Borer is present.~~
6. ~~“Intrastate” means within the State of Georgia.~~
7. ~~“Inspector” means any employee of the Georgia Forestry Commission, or other individual authorized by the Director to enforce the provisions of this quarantine.~~
8. ~~“Limited permit” means a document issued by the Director in which a person operating under a compliance agreement affirms that the regulated article is not eligible for a certificate and will be moved only to a specified destination and in accordance with conditions specified on the permit.~~
9. ~~“Moved (movement, move)” means shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.~~
10. ~~“Person” means any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.~~
11. ~~“Quarantined area” means any area that has been placed under quarantine by the Georgia Forestry Commission.~~
12. ~~“Regulated Area” means the area where all Emerald Ash Borer Quarantine regulations are in effect as defined in Ga. Comp. R. & Regs., r. 224-3-.04.~~
13. ~~“Regulated article” means any article listed in 224-3-.03 or otherwise determined by the Director as capable of harboring or carrying any life stage of the Emerald Ash Borer.~~
14. ~~These rules shall apply to any ash trees originating within a forest setting or regulated articles which are derived from forest trees.~~

Authority O.C.G.A. §12-6-16

224-3-.03 Regulated articles, Repealed

1. ~~The following are regulated articles:
 - (a) ~~The Emerald Ash Borer in any life stage,~~
 - (b) ~~Firewood of all hardwood (non-coniferous) species,~~
 - (c) ~~Ash nursery stock,~~
 - (d) ~~Green (non-heat treated) ash lumber,~~
 - (e) ~~Other living, dead, cut, or fallen, material of the genus *Fraxinus*, including logs, stumps, roots, branches, and composted and uncomposted chips that have not been ground to a small enough size to destroy EAB in any life stage, as required by USDA APHIS.~~~~
2. ~~Any other article, product, or means of conveyance not listed in paragraph 1 above may be designated as a regulated article if an inspector determines 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 restrictions of the regulations.~~

Authority O.C.G.A. §12-6-16

224-3-.04 Quarantined and Regulated Areas Repealed

1. ~~In accordance with O.C.G.A. §12-6-16(b), the Director hereby declares and defines the entire state of Georgia as an area of quarantine for the Emerald Ash Borer. However, the procedural requirements for the quarantine detailed in these regulations will only be in effect for the regulated area as defined in paragraphs 2 and 3 herein. Specifically, the restrictions in Ga. Comp. R. & Regs., r. 224-3-.06 regarding the movement of regulated articles from quarantined areas, the requirements in Ga. Comp. R. & Regs., r. 224-3-.09 regarding assembly and inspection of regulated articles, and the requirements in Ga. Comp. R. & Regs., r. 224-3-.12 regarding inspection and disposal of regulated articles and pests will be in effect and enforced only in the regulated area.~~
2. ~~The regulated area, where all procedural requirements for the quarantine detailed in these regulations are effective and enforceable, currently includes:
 - (a) ~~DeKalb County and~~
 - (a) ~~Fulton County.~~~~

~~3. The regulated area may be expanded if the Director determines that the Emerald Ash Borer is either present in other Counties or there is an increased risk for the presence of the Emerald Ash Borer in other Counties. The Director's determination regarding the presence or increased risk for the presence of the Emerald Ash Borer will be made after specimens collected in United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) survey traps are confirmed by USDA APHIS to be Emerald Ash Borer. Counties that constitute the regulated area will be identified on the Georgia Forestry Commission's website where they will be conspicuously posted at: <http://www.gatrees.org/forest-management/forest-health/eab/index.cfm>.~~

~~4.3. These rules shall apply to any ash trees originating within a forest setting or regulated articles which are derived from forest trees.~~

Authority O.C.G.A. §12-6-16

~~224-3-.05 Conditions Governing The Intrastate Movement Of Regulated Articles Repealed~~

~~1. Movement of a regulated article solely within the regulated area is allowed without restriction.~~

~~2. At no time are the regulated articles permitted to be transported from an infested area to a non-infested area without a limited permit.~~

Authority O.C.G.A. §12-6-16

~~224-3-.06 Conditions Governing The Movement Of Regulated Articles From Quarantined Areas. Repealed~~

~~1. Regulated articles may be moved from a quarantined area only if moved:~~

~~(a) With a certificate or limited permit issued and attached in accordance with 224-3-.07 and 224-3-.08 from an area of Georgia identified by USDA APHIS as having a "non-flight" period for EAB, and only during the period of November 1 through March 1. Counties outside of this "non-flight" zone do not have a period when regulated articles can be moved from a quarantined area to a non-quarantined area. See map in appendix for this zone.~~

~~2. Without a certificate or limited permit if:~~

~~(a) The regulated article is moved by the United States Department of Agriculture for experimental or scientific purposes; or~~

~~(b) The regulated article originates outside the quarantined area and is moved through the quarantined area under the following conditions:~~

~~(1) The points of origin and destination are indicated on a waybill accompanying the regulated article; and~~

~~(2) The regulated article is moved in an enclosed vehicle or is completely covered to prevent access by the Emerald Ash Borer; or~~

~~(3) The regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions), or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by the Emerald Ash Borer; and~~

~~(4)(1) The article has not been combined or commingled with other articles so as to lose its individual identity.~~

Authority O.C.G.A. §12-6-16

~~224-3-.07 Issuance And Cancellation Of Certificates And Limited Permits. Repealed~~

~~1. The Director or person operating under a compliance agreement may issue a certificate for the movement of a regulated article if he or she determines that the regulated article:~~

~~(a) Is apparently free of the Emerald Ash Borer, based on inspection; or~~

- ~~(b) Has been grown, produced, manufactured, stored, or handled in a manner that, in the judgment of the inspector, prevents the regulated article from presenting a risk of spreading the Emerald Ash Borer; and~~
- ~~(c) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated articles.~~
- ~~2. The Director or a person operating under a compliance agreement may issue a limited permit for the movement of a regulated article not eligible for a certificate if he or she determines that the regulated article:~~
- ~~(a) Is to be moved to a specified destination for specific processing, handling, or utilization (the destination and other conditions to be listed on the limited permit), and this movement will not result in the spread of the Emerald Ash Borer because the pest will be destroyed by the specific processing, handling, or utilization; and~~
- ~~(b) Is to be moved in compliance with any additional emergency conditions that the Director may impose to prevent the spread of the Emerald Ash Borer; and~~
- ~~(c) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.~~
- ~~3. The Director may issue blank certificates and limited permits to a person operating under a compliance agreement in accordance with rule 224-3-.07 or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the movement of regulated articles that have met all of the requirements of paragraph 1 or 2 of this section.~~
- ~~4. Any certificate or limited permit may be canceled orally or in writing by the Director whenever he determines that the holder of the certificate or limited permit has not complied with this chapter. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose certificate or limited permit has been canceled may appeal the decision in writing to the Director within 10 days after receiving written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Director to consider in deciding the appeal. As soon as practicable, the Director will grant or deny the appeal in writing, stating the reasons for the decision.~~

Authority O.C.G.A. §12-6-16

~~224-3-08 Compliance Agreements And Cancellation. Repealed~~

- ~~1. Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when the Director determines that the person understands this quarantine. The agreement shall stipulate that safeguards will be maintained against the establishment and spread of infestation, and will comply with the conditions governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers.~~
- ~~2. Any compliance agreement may be canceled orally or in writing by the Director whenever he determines that the person who has entered the compliance agreement has failed to comply with this quarantine. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Director within 10 days after receiving written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Director to consider in deciding the appeal. As soon as practicable, the Director will grant or deny the appeal in writing, stating the reasons for the decision.~~

Authority O.C.G.A. §12-6-16

~~224-3-.09 Assembly And Inspection Of Regulated Articles. Repealed~~

- ~~1. Persons requiring certification or other services shall request the services from the Director at least 5 business days before the regulated article is to be moved.~~
- ~~2. The regulated articles must be assembled at the place and in the manner that the Director designates as necessary to comply with this chapter.~~

Authority O.C.G.A. §12-6-16

~~224-3-10 Attachment And Disposition Of Certificates And Limited Permits. Repealed~~

- ~~1. A regulated article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have the certificate or limited permit issued for the movement of a regulated article accompany at all times during movement to:
 - ~~(a) The regulated article (all round ash logs shall be painted on the butts);~~
 - ~~(b) The container (or transport vehicle) carrying the regulated article; or~~
 - ~~(c) The consignee's copy of the accompanying waybill: *Provided*, that the description of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and~~~~
- ~~2. The carrier must furnish the certificate or limited permit authorizing movement of a regulated article to the consignee at the destination of the shipment.~~

Authority O.C.G.A. §12-6-16

~~224-3-11 Costs And Charges Repealed~~

~~The Director may assess fees for inspections, and/or for issuance of limited permits, certificates, or compliance agreements.~~

Authority O.C.G.A. §12-6-16

~~224-3-12 Inspection And Disposal Of Regulated Articles And Pests. Repealed~~

- ~~1. The Director is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and Emerald Ash Borers.~~
- ~~2. All costs for treatment, destruction, or disposal of regulated articles shall be borne by the person in possession of the regulated article.~~

Authority O.C.G.A. §12-6-16

~~224-3-13 Unlawful Acts Repealed~~

- ~~1. The following are violations of this chapter:
 - ~~(a) The movement of any regulated article outside of a quarantined area without proper permit,~~
 - ~~(b) Providing false information in an attempt to obtain a limited permit or compliance agreement,~~
 - ~~(c) Using a limited permit or certificate issued to another person or allowing another person to use a limited permit not issued to that person,~~
 - ~~(d) Failure to follow all the conditions contained in a limited permit or compliance agreement,~~
 - ~~(e) The obstruction of the Director in the performance of his duties.~~~~

Authority O.C.G.A. §12-6-16

~~224-3-14 Violation is a Misdemeanor Repealed~~

~~Any person violating any provision of this chapter shall be guilty of a misdemeanor.~~

Authority O.C.G.A. §12-6-16

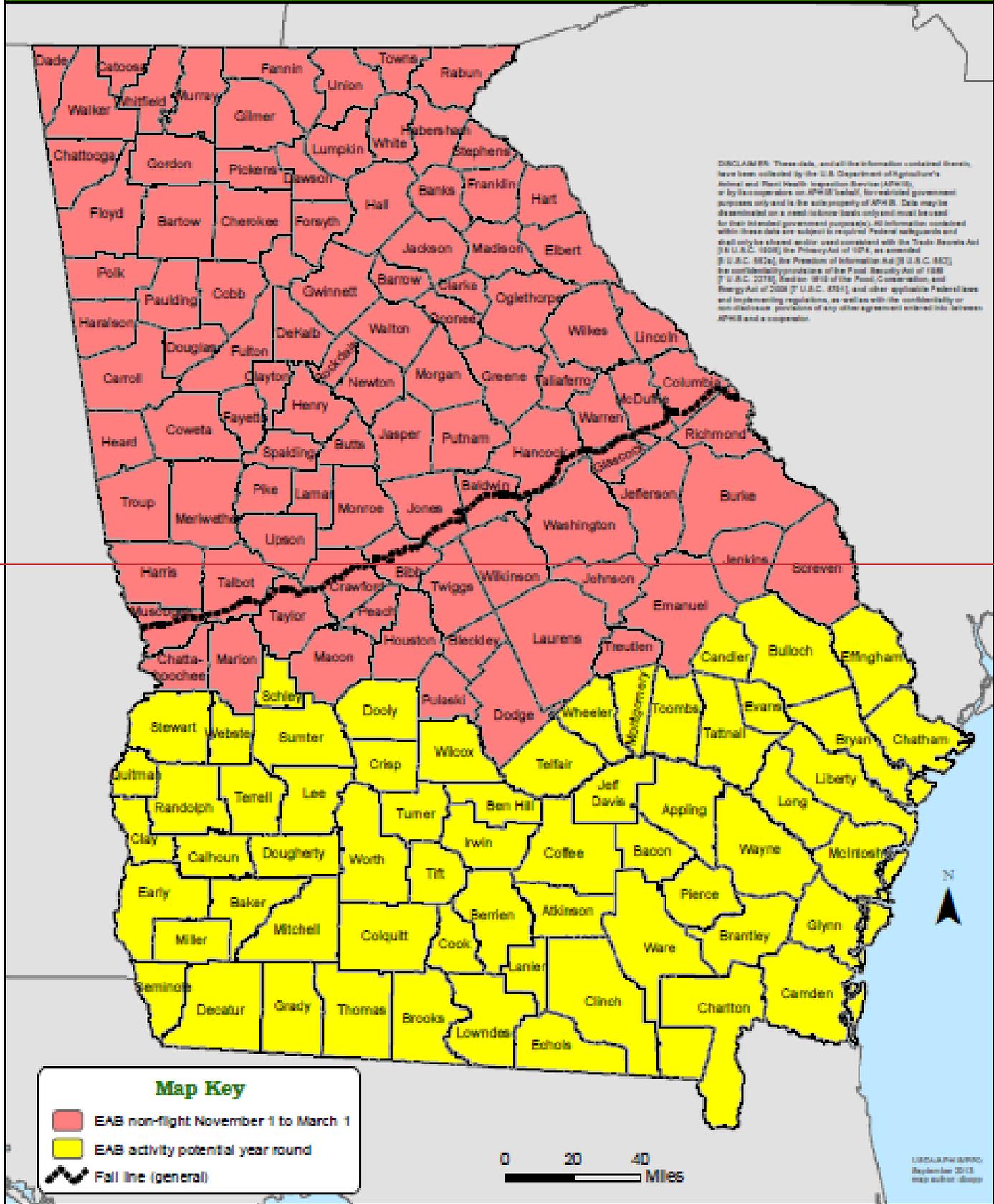
Appendix



Cooperative Emerald Ash Borer Project

EAB Regulatory Flight Zones in Georgia (proposed)

DISCLAIMER: These data, and all the information contained therein, have been collected by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), or by its cooperators on APHIS' behalf, for national government purposes only and is the sole property of APHIS. Data may be disseminated on a need-to-know basis only and must be used for their intended government purposes. All information contained within these data are subject to required Federal safeguards and shall only be shared and/or used consistent with the Trade Secrets Act (5 U.S.C. 1050), the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Freedom of Information Act (5 U.S.C. 552), the confidentiality provisions of the Food Security Act of 1985 (7 U.S.C. 2219), Section 9805 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8904), and other applicable Federal laws and implementing regulations, as well as with the confidentiality or non-disclosure provisions of any other agreement entered into between APHIS and a cooperator.



Map Key

- EAB non-flight November 1 to March 1
- EAB activity potential year round
- Fall line (general)

0 20 40 Miles

USDA/APHIS/PPC
September 2013
map author: dslap

RULES
OF
GEORGIA FORESTRY COMMISSION

CHAPTER 224-3
REPEALED

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224-3-.01 Repealed

Authority O.C.G.A. §12-6-16

224-3-.02 Repealed

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