

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

FIFTH AMENDED ORDER
TO Suppress and Control Nuisance Conditions and Regulated Articles

The Department of Conservation and Recreation (DCR) issues this Amended 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 Asian longhorned beetle

The Asian longhorned beetle (ALB) (*Anoplophora glabripennis*), an insect native to China, Japan, Korea, and the Isle of Hainan, is a destructive pest of hardwood trees. It attacks many healthy hardwood trees, including maple, horse chestnut, birch, poplar, willow, and elm. In addition, nursery stock, logs, green lumber, firewood, stumps, roots, branches, and wood debris of a half an inch or more in diameter are subject to infestation. The beetle bores into the heartwood of a host tree, eventually killing the tree. Immature beetles bore into tree trunks and branches, causing heavy sap flow from wounds and sawdust accumulation at tree bases. They feed on, and over-winter in, the interiors of trees. Adult beetles emerge in the spring and summer months from round holes approximately three-eighths of an inch in diameter (about the size of a dime) that they bore through branches and trunks of trees. After emerging, adult beetles feed for 2 to 3 days and then mate. Adult females then lay eggs in oviposition sites that they make on the branches of trees. A new generation of ALB is produced each year. If this pest moves into the hardwood forests of the United States, the nursery, maple syrup, and forest product industries would experience severe economic losses. In addition, urban and forest ALB infestations will result in environmental damage, aesthetic deterioration, and a reduction in public enjoyment of recreational spaces.

Purpose of this Order

An infestation of ALB has been identified in areas of Worcester, Holden, West Boylston, Boylston and Shrewsbury, Worcester County, Massachusetts. An infestation of this invasive species can spread quickly, cause great economic and environmental damage, and requires measures to address its eradication. On August 8, 2008, DCR issued an Order to prevent the spread of ALB, suppress, control and eradicate ALB in any area of Worcester County and Massachusetts. On August 20, 2008, DCR issued an Amended Order, amending the August 8, 2008 Order, for 2 reasons: (1) to cover new areas, in addition to the areas covered in the Order of August 8, as specified therein; and, (2) to make clear the specific types of trees, including firewood of any type of hardwood, that are covered by the Amended Order, rather than all types of trees, as specified in the August 8, 2008 Order. Other than covering additional land areas and specifically stating and limiting the types of tree species that are regulated in the affected area, the Amended Order did not change or diminish any of the terms, conditions and restrictions of the August 8, 2008 Order. On September 28, 2008, DCR issued a Second Amended Order, amending the August 20, 2008 Amended Order, solely to cover new areas in addition to the areas covered in the Amended Order. Likewise, on November 24, 2008, DCR issued a Third Amended Order, amending the Second Amended Order, once again, solely to cover new areas in addition to the areas covered in the Second Amended Order. On December 23, 2008, DCR issued a Fourth Amended Order, amending the Third Amended Order for the same sole reason to cover new areas in addition to the areas covered in the Third Amended Order. This Fifth Amended Order, amending the Fourth Amended Order, is issued for the same sole reason to cover new areas in addition to the areas covered in the Fourth Amended Order, as specified herein. Other than covering additional land areas, this Fifth Amended Order does not change or diminish any of the terms, conditions and restrictions of the Fourth Amended Order or the Commissioner's Directive, except that paragraph 9 concerning violations of this Order has been updated

to reflect an amendment to section 12 of Chapter 132A of the General Laws, as inserted by section 2 of Chapter 493 of the Acts of 2008..

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 shown on the attached plan.
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); green 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: *Acer* (maple), *Aesculus* (horse chestnut), *Albizia* (mimosa), *Betula* (birch), *Celtis* (hackberry), *Fraxinus* (ash), *Plantanus* (sycamore), *Populus* (poplar), *Salix* (willow), *Sorbus* (mountain ash), and *Ulmus* (elm); and also the Asian longhorned beetle, its larvae 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 Asian Longhorned Beetle 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 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 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 within or 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, controlling and eradicating ALB, including affixing signs to and 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 ALB.
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 state and Federal officials, specifically the United States Department of Agriculture and its Animal and Plant Health Inspection Service (APHIS), and the City of Worcester 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 APHIS, to enter upon the Affected Area and undertake activities necessary for suppressing, controlling and eradicating ALB, 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 ALB. While DCR seeks to implement this Order to ensure eradication of ALB, 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 in accordance with Massachusetts law.

Dated: August 3, 2009

Ordered: _____



Richard K. Sullivan, Jr., Commissioner

Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston, MA 02114