
The Agency responds as follows to the Permittee's requested changes:

1. Changes to Permit Conditions

a. Conditions 12 & 13 impose restrictions on chipping that will significantly limit Colton's operations. Colton argues that new limits on chipping – both the limited hours per day inside the shed and the loss of currently authorized outdoor chipping – would leave Colton with no ability to chip for six to seven months of the year, including the period during Emerald Ash Borer flight season. (Motion, page 3). These limitations on the facility's operations could have negative consequences for efforts to control the spread of EAB. Colton Enterprises has requested fewer days (but the same total hours per week) of chipping than were permitted. The revised request narrows the number of days per week that chipping would be an available treatment for ash wood. It's important to note that chips produced onsite are used to fuel the kilns, so limitations on chipping also may affect Colton's ability to kiln treat for EAB. FPR supports a reconsideration of the permit conditions as follows:

- Allow additional days of chipping to be permitted per week to allow for treatment, all authorized days should allow chipping between 8am and 4pm.
- Continue to allow up to 24 hours a year of outdoor chipping.

Both these considerations ensure that adequate EAB treatment methods are available (chipping and kiln drying) in a timely manner and that fuel for the kilns is available on-site.

FPR encourages the District Commission to consider including simple permit conditions that will allow consistent and predictable treatment of ash wood that is received from an

EAB infested area, without placing an undue and adverse burden on daily operations of the forest enterprises. Such facilities must contend with equipment reliability, staff availability, weather, deliveries from numerous suppliers, and other related and unpredictable factors.

b. Conditions 14 -17: Colton has requested additional time to implement the measures prescribed by the permit conditions. The Agency supports the extension of time to the extent that this is a reasonable request, and that the extension of time will allow the facility to operate during summer months and the crucial EAB flight season.

c. Condition 18 requires the facility to shut down for two weeks in August. Colton argues that a complete shutdown is not feasible, and that this condition is not supported by the Commission's findings. (Motion, page 5). The Agency's shares the Permittee's concerns regarding the shutdown. FPR supports the proposed alternative conditions, provided that Colton can clearly communicate notice in advance to any suppliers, and inform suppliers that ash wood from an infested area would not be able to be delivered during those times that the operation is offline, and treatment of ash wood is unavailable.

Additionally, FPR shares concerns regarding a need for shutdown, and whether this new restriction is supported by the record. This type of permit condition, applied without evidence or testimony providing a basis for such a measure, potentially negatively impacts the viability of the network of enterprises that maintain a working landscape and

add value to forest products. These enterprises are greatly needed in Vermont as they serve an integral role in keeping forests as forests and sustaining the health, benefits, and values forests provide

2. Corrections to the Findings:

Finding of Fact #57 states: “Vermont is part of the federal EAB quarantine, and the Maine/New Hampshire border is the federal quarantine boundary, making it impossible to move any ash pulpwood beyond Vermont’s borders.”

This finding should be changed to read: “Vermont is part of the federal EAB quarantine, and the Maine/New Hampshire border is the federal quarantine boundary, making it impossible to move any ash pulpwood ~~beyond Vermont’s borders~~ **from Vermont to Maine’s pulp mills during the flight season.**”

Finding #57 incorrectly state there is a general prohibition on moving pulpwood beyond Vermont borders, which is not accurate. Instead, EAB quarantines prohibit moving ash pulpwood or untreated hardwood firewood from Vermont or New Hampshire **into** uninfested counties of Maine without a compliance agreement. State quarantines regulate movement of all types of firewood (not just ash) into Maine, New Hampshire or New York, making it impossible to move firewood from Vermont into these states unless it is heat-treated.

3. As a minor housekeeping matter, there should be a correction regarding the application number. The header pages of the Findings of Fact, Conclusions of Law, and Order incorrectly reference application #3W0495-6. The correct reference is #3W0405-6.

Dated January 21, 2020 at Montpelier, Vermont.

Respectfully submitted,

State of Vermont
Agency of Natural Resources

By: *Elizabeth Lord*
Elizabeth Lord, Esq.