

## FEDERAL ORDER

### **Domestic Quarantine of Fayette County in West Virginia for Emerald Ash Borer (*Agrilus planipennis*)**

This Federal Order is issued pursuant to the regulatory authority provided by the Plant Protection Act of June 20, 2000, as amended, Section 412(a), 7 U.S.C. 7712(a), which authorizes the Secretary of Agriculture to prohibit or restrict the movement in interstate commerce of any plant, plant part, or article, if the Secretary determines the prohibition or restriction is necessary to prevent the dissemination of a plant pest within the United States and also pursuant to the regulations promulgated pursuant to the Plant Protection Act found at 7 CFR 301.53.

This Federal Order quarantines, effective immediately, Fayette County in West Virginia for Emerald Ash Borer (EAB), *Agrilus planipennis*. This action is in response to a confirmed detection of EAB in Fayette County, West Virginia. The Administrator of the Animal and Plant Health Inspection Service (APHIS) finds it necessary to regulate Fayette County in order to prevent the spread of EAB. Accordingly, effective immediately, all interstate movement of EAB regulated articles from Fayette County must be done in accordance with the regulations promulgated pursuant to the Plant Protection Act found at 7 CFR 301.53 et seq.

APHIS has confirmed EAB infestations in various areas of the United States for which the Administrator has determined that it is necessary to quarantine these areas in order to prevent the spread of EAB. Currently, the entire States of Ohio, Indiana, and Illinois are quarantined areas for EAB, together with portions of Michigan's Upper Peninsula, the entirety of Michigan's Lower Peninsula, and Prince George's County in Maryland. Since that time, APHIS has confirmed EAB infestations in other areas of the United States for which the Administrator has considered it necessary to issue Federal Orders to also quarantine those areas to prevent the further infestation of EAB.

On August 8, 2007, APHIS issued a Federal Order (DA#2007-29, 8/8/07) to add four counties in western Pennsylvania, Allegheny, Beaver, Butler and Lawrence Counties to the EAB quarantined areas. On July 11, 2008, APHIS issued a second Federal Order (DA#2008-19, 7/11/08) to add Fairfax County in Virginia to the list of quarantined areas. APHIS issued a subsequent Federal Order (DA#2008-39, 8/6/08) for Virginia dated August 6, 2008 to expand the quarantined area to include the following adjacent areas: Arlington, Fauquier, Loudon and Prince William Counties and the independent Cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park. On August 6, 2008, APHIS issued a fourth Federal Order (DA#2008-41, 8/6/08) to add Mercer County in Pennsylvania. On August 8, 2008, APHIS issued a fifth Federal Order (DA#2008-44, 8/08/08) to add Wayne County in Missouri. On August 12, 2008, APHIS issued a sixth Federal Order (DA#2008-48, 8/12/08) to add Ozaukee, Washington, Fond du Lac and Sheboygan Counties in Wisconsin.

The 7 CFR 301.53-3(a) allows the designation of less than an entire State as an EAB quarantined area only when the Administrator of APHIS has determined, as in this case, that the designation of less than an entire State as a quarantined EAB area is adequate to prevent the interstate spread of infestations of EAB. In addition, 7 CFR 301.53-3(a)

requires that the State enforces an intrastate EAB quarantine that is equivalent to the Federal EAB regulations. The State Plant Regulatory Official for West Virginia has confirmed the establishment of an intra-state quarantine for Fayette County that mirrors the Federal Regulatory requirements as specified in 7CFR301.53.

The 7 CFR 301.53-3 (b) provides for the temporary designation of new quarantined areas pending publication of a rule to add counties to the list shown in 7 CFR 301.53-3(c). The 7 CFR 301.53-3 (b) further requires written notification be given to the owner or person in possession of a newly quarantined area. This is the responsibility of the Federal and/or State regulatory personnel responsible for the EAB program in the affected State.

The six previous Federal Orders have been necessary due to the continuing spread of EAB. This seventh September 10, 2008, Federal Order updates and replaces all previous versions of Federal Orders pertaining to the expansion of quarantined areas in the EAB domestic regulations.

If you wish more details on the Federal EAB regulatory program, you may contact the EAB National Program Coordinator Paul Chaloux at (301) 734-0917. For information on regulatory requirements for movement of articles out of West Virginia, please contact the APHIS State Plant Health Director Jason Watkins.

We continue to appreciate the cooperative relationship with the State of West Virginia in our effort to prevent the spread of EAB.