

FEDERAL ORDER

Domestic Quarantine of Cattaraugus and Chautauqua Counties in New York for Emerald Ash Borer (EAB) (*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 is likewise issued pursuant to the regulations promulgated under the Plant Protection Act found at 7 CFR 301.53.

This Federal Order quarantines, effective immediately, Cattaraugus and Chautauqua Counties for EAB, *Agrilus planipennis*. This action is in response to the detection of EAB in Cattaraugus County, New York. Chautauqua County is located adjacent to Cattaraugus County where EAB was found. Thus, the Administrator of the Animal and Plant Health Inspection Service (APHIS) finds it necessary to regulate Cattaraugus and Chautauqua Counties in order to prevent the spread of EAB. Accordingly, effective immediately, all interstate movement of EAB regulated articles from Cattaraugus and Chautauqua Counties must be done in accordance with the regulations promulgated pursuant to the Plant Protection Act found at 7 CFR 301.53 et seq. and any applicable provisions of this Federal Order.

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. The areas quarantined due to the continuing spread of EAB are designated in the federal regulations located at 7 CFR 301.53-3 and the Federal Orders located at the following APHIS website:

http://www.aphis.usda.gov/plant_health/plant_pest_info/emerald_ash_b/quarantine.shtml

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 Emerald Ash Borer. 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 New York has confirmed the establishment of intra-state quarantines for Cattaraugus and Chautauqua Counties that mirror the Federal Regulatory requirements as specified in 7CFR301.53.

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 previous Federal Orders have been necessary due to the continuing spread of EAB. This September 28, 2009, 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 quarantined areas in New York, please contact the APHIS State Plant Health Director, Yvonne DeMarino, at (518) 218-7510.

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