

July 18, 2006

Dear INA Member:

Yesterday, we attended two public hearings in Kane County hosted by the Illinois Department of Agriculture regarding the Emerald Ash Borer. The first was a hearing to debate whether the EAB should be classified as a "nuisance" which ultimately gives the IDOA the regulatory flexibility they need to combat this pest. The second was a hearing to discuss the Department's recommended control plan - at least its initial phase - including a proposed quarantine area.

Attached are the two documents provided by the IDOA, handed out yesterday, which served as the basis for the hearings and the respective discussions. Please keep in mind that both documents are only proposals at this time, as they have not yet been signed by the IDOA.

INA Board Member Cathy Schroeder did an admirable job testifying on behalf of the Illinois Nurserymen's Association. A copy of her prepared remarks also is part of the attached packet. In addition, the INA was well represented with a half-dozen members, several staff and former IDOA tree inspector Stan Smith, who we have retained to support our members on the EAB issue, in attendance for the hearings.

We will continue to monitor the situation closely, and we will provide updates immediately upon their availability. In the meantime, if you have any questions or concerns, please do not hesitate to call us here at the office, where we will try to answer your questions or put you in touch with the folks who can.

Thanks!

Sincerely,

Dave Bender
Executive Director



State of Illinois

Department of Agriculture
Bureau of Environmental Programs

DECLARATION OF NUISANCE

NOTICE IS HEREBY GIVEN by the Illinois Department of Agriculture, Bureau of Environmental Programs, pursuant to the Insect Pest and Plant Disease Act (505 ILCS 90/14) that the Illinois Department of Agriculture is declaring all plants and plant products thereof infested with the Emerald Ash Borer (*Agrilus planipennis* Fairmaire), specifically but not limited to Green ash (*Fraxinus pennsylvanica*), White ash (*Fraxinus Americana*), Black ash (*Fraxinus nigra*), as well as several horticultural varieties of ash, to be a nuisance in the State of Illinois and should be eradicated. The beetle is currently confined to portions of Kane and Cook Counties. There is currently no known treatment to control Emerald Ash Borer. Therefore, in accordance with 505 ILCS 90/15, eradication of infested trees according to Department guidelines will be required by the owner, or other persons in possession or control of the infested trees. The responsible party must remove all infested trees by the deadline and method specified by the Department. Failure of the property owner, or person in possession or control of the property to remove the infested trees will result in the tree removal by the State of Illinois and the expenses incurred by the State of Illinois shall be collected in a civil action against the person liable.

This declaration shall be effective this _____ day of July 2006.

Charles Hartke, Director



State of Illinois

Department of Agriculture
Bureau of Environmental Programs

EMERALD ASH BORER INTERIOR QUARANTINE

Pursuant to Chapter 505, Paragraph 90/1 *et seq.*, Illinois Compiled Statutes, “The Insect Pest and Plant Disease Act”, approved June 2, 1927, as amended, the Director of Agriculture has determined that it is necessary to quarantine portions of the State in order to prevent the spread of a dangerous plant pest known as the EMERALD ASH BORER (*Agrilus planipennis* Fairmaire). This plant pest, a highly destructive pest of trees, has been introduced into the State of Illinois and incipient infestations have been identified in the state.

Section I. Quarantine: No person shall move any regulated article from any regulated area except in accordance with the conditions prescribed in Section V of this Quarantine.

Section II. Definitions: Terms used in the singular form shall be deemed to import the plural and vice versa, as the case may demand. The following terms shall be construed respectively to mean:

1. “Certificate” - A document issued or authorized to be issued by the Director to allow movement of regulated articles to any destination.
2. “Compliance Agreement” - A written agreement between a person engaged in growing, handling, or moving regulated articles and the Director, wherein the former agrees to specified conditions and/or requirements so as to remain compliant with the terms of the Quarantine.
3. “Director” - The Director of the Illinois Department of Agriculture or his/her authorized representative.
4. “Infestation” - The presence of the Emerald Ash Borer (*Agrilus planipennis* Fairmaire) or the existence of circumstances that make it reasonable to believe that the Emerald Ash Borer (*Agrilus planipennis* Fairmaire) is present.

5. “Inspector” - Any employee of the Illinois Department of Agriculture or any other person authorized by the Director of Agriculture to enforce the provisions of this Quarantine.
6. “Limited Permit” - A document issued or authorized to be issued by the Director to allow the movement of non-certifiable regulated articles to a specified destination for limited handling, utilization, processing, or treatment.
7. “Moved (Movement, Move)” – Shipped, offered for shipment to a common carrier, received for transportation or transported, moved or allowed to be moved, by any person by any means. Movement and move shall be construed accordingly.
8. “Person” - Any individual, corporation, company, society or association, or other organized group of any of the foregoing.
9. “Emerald Ash Borer” - The insect known as the Emerald Ash Borer (*Agrilus planipennis* Fairmaire) in any stage of development.
10. “Regulated Area” - The quarantined area to which this quarantine applies and for which it has been designated that the movement of articles is regulated.
11. “Regulated Article” - Any article listed in Section VI, (1), (2), and (3).
12. “Scientific Permit” - A document issued by the Director to allow the movement of regulated articles to a specific destination for scientific purposes.

Section III. Regulated Areas:

1. The area in the County of Kane described as follows:
 - A. bounded on the north by McDonald Road from one mile west of the western boundary of Plato Township to the eastern boundary of Plato Township;
 - B. bounded on the east by the Plato Township eastern boundary from McDonald Road, continuing south along the Campton Township eastern boundary and the Blackberry Township eastern boundary to Keslinger Road;
 - C. bounded on the south by Keslinger Road from the Blackberry Township eastern boundary to a point one mile west of the Blackberry Township western boundary;
 - D. bounded on the west by a straight line running from a point one mile west of the intersection of the Blackberry Township western boundary and Keslinger Road, extending straight north until it intersects McDonald Road; and

2. any other area within the State of Illinois where the presence of the Emerald Ash Borer (*Agilus planipennis* Fairmaire) is confirmed in the future.

Section IV. Regulated Articles:

1. The Emerald Ash Borer (*Agilus planipennis* Fairmaire) in any living stage of development.
2. Firewood and all host material living, dead, cut or fallen, inclusive of nursery stock, logs, green lumber, stumps, roots, branches and debris of one inch or more in diameter of the following genera: Green Ash (*Fraxinus pennsylvanica*); White Ash (*Fraxinus americana*); and Black Ash (*Fraxinus nigra*) as well as any other horticultural varieties of ash.
3. Any other article, product, or means of conveyance when it is determined by the Director that it presents the risk of spread of the Emerald Ash Borer (*Agilus planipennis* Fairmaire) in any stage of development.

Section V. Conditions of Movement of Regulated Articles:

1. The movement of all regulated articles from any regulated area to any destination outside the regulated area is prohibited, except under the following conditions:
 - A. A thorough examination of all regulated articles must take place, conducted by an Illinois Department of Agriculture inspector. A certificate of inspection may then be issued based upon the inspector's determination that no life stages of the Emerald Ash Borer (*Agilus planipennis* Fairmaire) are present; and
 - B. The certificate shall be attached to the regulated articles and remain on the regulated articles until such articles reach their final destinations except when the certificate is attached to shipping documents and the regulated article is adequately described on the shipping document or on the certificate.
2. All regulated articles originating outside the regulated area may move through the regulated area without certificate of inspection under the following conditions:
 - A. The vehicle used to convey the articles must be an enclosed vehicle or a vehicle completely enclosed by a covering, such as canvas, plastic or other tightly woven cloth, adequate to prevent the passage of the Emerald Ash Borer (*Agilus planipennis* Fairmaire) to the environment. Regardless of the type of vehicle used as a conveyance, the passage through the regulated area must be made without stopping except for refueling and traffic conditions; and
 - B. The point of origin of the regulated article is indicated on the waybill or shipping documents.

3. Regulated articles originating outside any regulated area which are moved into the regulated area and exposed to potential infestation by the Emerald Ash Borer (*Agrilus planipennis* Fairmaire) shall be considered to have originated from a regulated area. These regulated articles may be moved from the regulated area under the conditions noted in Section V. 1. above.
4. The waybill of shipping document accompanying any shipment of regulated articles within or through Illinois shall indicate the county and state of origin of the regulated articles.

Section VI. Movement of Regulated Articles Within Regulated Areas: There are no restrictions imposed on the movement of regulated articles within regulated areas unless the article(s) originated on infested properties and an inspector has determined that a hazard of spread exists and the property owner or tenant has been notified. A property owner so notified may move only under conditions approved by an inspector.

Section VII. Issuance and Cancellation of Certificates and Permits:

1. Certificates may be issued for any regulated article(s) by an inspector if he/she determines that they are eligible for certification for movement to any destination under all State and Federal plant quarantines applicable to all such articles and said article(s).
 - A. Has been visually inspected and found free from the Emerald Ash Borer (*Agrilus planipennis* Fairmaire); or
 - B. Has been treated in a manner to destroy the life stages of the Emerald Ash Borer (*Agrilus planipennis* Fairmaire) life stages present.
2. Limited permits may be issued by an inspector to allow movement of regulated articles not eligible for certification under these regulations to a specified destination for limited handling, utilization, processing, or for treatment, when, upon evaluation of the circumstances of each case, he/she determines that such movement will not result in the spread of the Emerald Ash Borer (*Agrilus planipennis* Fairmaire) and the requirements of other applicable State and Federal plant quarantines have been met.
3. Certificates and limited permits may be issued by the Director as appropriate by circumstances set forth in Paragraphs 1 and 2 above, to any person for use by the latter for subsequent shipments of regulated articles if such person is operating under a compliance agreement; and any such person may be authorized to reproduce such permits on shipping containers or otherwise.
4. Any certificate or permit, which has been issued or authorized, may be withdrawn

by the inspector or the Director if he/she determines that the holder thereof has not complied with any condition of use for such document or has not complied with the other provisions of this Quarantine.

Section VIII. Compliance Agreement and Cancellation Thereof:

1. Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the handling and movement of regulated articles. Compliance agreements may be obtained from the Director.
2. Any compliance agreement may be canceled by the Director whenever he/she finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such party has failed to comply with the conditions of the agreement.

Section IX. Assembly and Inspection of Regulated Articles: Persons other than those authorized by compliance agreements, certificates, limited permits, or reproductions thereof who desire to move regulated articles which must be accompanied by a certificate or permit, shall, as far in advance as possible, request the Director to examine the articles prior to movement. Such articles shall be assembled at such points and in such a manner as the Director specifies to facilitate inspection.

Section X. Attachment and Disposition of Certificates and Permits:

1. If a certificate or permit is requirement for the movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except where the certificate or permit needs to be attached to the waybill of other shipping documents, then the attachment of the certificate or permit to each container of the articles is not required.
2. In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

Section XI. Inspection and Disposal of Regulated Articles and Pests: Any properly identified designated representative of the Director is authorized to stop and inspect; and seize, destroy, or otherwise dispose of, or require disposal of, uncertified or non-permitted regulated articles in accordance with provisions of the Illinois Insect Pest and Plant Disease Act, Chapter 505, Paragraph 90/1 et seq., Illinois Compiled Statutes.

Section XII. Violations and Penalties:

1. Any regulated articles imported into or moved within Illinois in violation of this Quarantine shall be removed from the non-infested area immediately or destroyed at the option and expense of the owner or owners under the direction of the Director.
2. Any violation of this Quarantine is subject to the authority of the Insect Pest and Plant Disease Act, Chapter 505, Paragraph 90/1 et seq., Illinois Compiled Statutes.

This Quarantine shall be effective on and after this day of .

Chuck Hartke, Director
Illinois Department of Agriculture



**ILLINOIS
NURSERYMEN'S
ASSOCIATION**

Serving the Illinois Green Industry since 1925.

**Testimony Presented on Behalf of the
Illinois Nurserymen's Association
Illinois Department of Agriculture Public Hearing
"Emerald Ash Borer"
Monday, July 17, 2006**

The Illinois Green Industry is thriving, contributing \$5.2 billion to the state's economy each year. And The Illinois Nurserymen's Association is proud to be a leader in that industry.

No industry in Illinois appreciates this situation more than we do, as our very livelihood depends on the sustained health and availability of our nursery stock and on our continued ability to provide customers with the products and services they request. So let me assure you, as members of the I.N.A., we support the efforts of the Illinois Department of Agriculture and its inspectors, and we pledge to cooperate with the response plan.

In fact, we have so much respect for the Department of Agriculture's program that we have retained a retired inspector from the Department – Stan Smith – to support our members on the E.A.B. issue. As we have with every threat in the past, our Association has taken a proactive approach to this potential problem, and we stand ready and willing to assist in any way we can.

The I.N.A. has found the Department to be very reasonable in the past when dealing with invasive pests. We trust we can count on the Department to take the same realistic approach to this threat. At this time, the I.N.A. would like to formally request that the Illinois Department of Agriculture model the E.A.B. control plan after the similar program implemented to fight the Japanese Beetle.

Our nurseries believe it is our duty to open our nurseries to inspection and that we have the ability to obtain certification papers that classify our nurseries free from Emerald Ash Borer before we are allowed to move Ash trees from one area to another. By submitting ourselves to this stricter inspection and certification process, we believe it's only fair that we be allowed to sell and transport the stock we have.

Since it's been proven that no nursery stock is infected and that nursery stock was NOT the vehicle which brought the E.A.B. to Illinois, we are confident the Department will grant our reasonable request so that our members can continue to be valuable contributors to Illinois economy.

Again, let me reiterate our support for the Illinois Department of Agriculture and its inspectors. We thank you for providing this opportunity to share our comments with you and others, and also for your efforts and commitment to be fair and reasonable in your approach to this and other pests which threaten our industry and our ultimately livelihood in the State of Illinois.

Thank you.

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Submitted by:

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