



COLORADO

Department of Agriculture

NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

“QUARANTINE IMPOSED AGAINST ALL LIFE STAGES OF THE EMERALD ASH BORER (AGRILUS PLANIPENNIS, FAIRMAIRE) AND HOSTS OR POSSIBLE CARRIERS OF EMERALD ASH BORER PURSUANT TO THE COLORADO PEST CONTROL ACT””

8 CCR 1203-24

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: October 16, 2019
TIME: 3:30 pm
LOCATION: Colorado Department of Agriculture
Big Thompson Conference Room
305 Interlocken Parkway
Broomfield, Colorado 80021

The purpose of this rulemaking is to repeal the Rules and Regulations Pertaining to the Administration and Enforcement of the Quarantine Imposed Against all Life States of the Emerald Ash Borer (*Agrilus planipennis*, Fairmaire) and Hosts or Possible Carriers of Emerald Ash Borer Pursuant to the Colorado Pest Control Act (“EAB Quarantine”).

The statutory authority for these rules is §35-4-110 and 116, C.R.S.

Any interested party may file written comment with the Commissioner’s office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at Jenifer.Gurr@state.co.us. A copy of the proposed rule is available on the Department of Agriculture’s website at www.colorado.gov/ag or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



DEPARTMENT OF AGRICULTURE

Plant Industry Division

QUARANTINE IMPOSED AGAINST ALL LIFE STAGES OF THE EMERALD ASH BORER (*AGRILUS PLANIPENNIS*, FAIRMAIRE) AND HOSTS OR POSSIBLE CARRIERS OF EMERALD ASH BORER PURSUANT TO THE COLORADO PEST CONTROL ACT

8 CCR 1203-24

Statement of Basis and Purpose

Adopted November 13, 2019 - Effective December 30, 2019

Statutory Authority

The Commissioner of the Colorado Department of Agriculture (“CDA”) proposes the repeal of these Rules pursuant to her authority under the Pest Control Act (the “Act”), §§ 35-4-110 and 116, C.R.S.

Purpose

The purpose of this rulemaking is to repeal the Rules and Regulations Pertaining to the Administration and Enforcement of the Quarantine Imposed Against all Life Stages of the Emerald Ash Borer (*Agrilus plannipennis*, Fairmaire) and Hosts or Possible Carriers of Emerald Ash Borer Pursuant to the Colorado Pest Control Act (“EAB Quarantine”).

Factual and Policy Basis

The factual and policy issues encountered when developing the repeal of the EAB Quarantine include:

1. Emerald ash borer cannot be eradicated.
2. The original goal of the EAB Quarantine was to slow the spread of all life stages of EAB in order to give cities and communities outside the Quarantine area time to prepare for its arrival.
3. Although the spread of EAB has been slowed by combining quarantine restrictions, education efforts, biological controls, pesticide applications, and reliance on Colorado’s climate, the Quarantine cannot and does not control flight of adult beetles across Quarantine boundaries.
4. On July 29, 2019, the Broomfield City Forester collected a beetle from a neighborhood within the city limits of Broomfield, outside the current Quarantine area. Colorado State University entomologists confirmed that the insect was an emerald ash borer (*Agrilus plannipennis*, Fairmaire).
5. Businesses, property owners, and cities within the Quarantine area have expended significant costs to comply with the EAB Quarantine. For example, Boulder and Longmont estimate that the cost of Quarantine compliance has been between \$120,000 and \$155,000 over the past five years, while arborists estimate that compliance has cost an average of \$125,000/company over the past five years due to increased dump fees, extra grinding of wood chips, and decreased efficiencies incurred to comply with Quarantine restrictions.
6. Compliance costs are passed on to Boulder County property owners.

7. The cost of expanding Quarantine boundaries does not produce any benefit when the quarantined pest cannot be fully contained or eradicated.
8. Elimination of Quarantine boundaries will allow for unrestricted movement of ash wood to recycling centers and other disposal sites within Colorado. Unimpeded movement of infested wood will foster more reuse and recycling options to account for an increased stream of ash wood.
9. The original EAB Quarantine has served its purpose and is no longer needed. Biological controls, pesticide use, and education regarding best management practices are more cost effective ways to manage EAB in the future.