

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of a) NOTICE OF ADOPTION OF
Temporary Emergency Rule) TEMPORARY EMERGENCY RULE
amendment pertaining to Plant Health) AMENDMENT
Quarantines)

TO: All Concerned Persons

1. The Department of Agriculture is adopting the following emergency rule amendment to minimize the risk of introduction of emerald ash borer into Montana. Emerald ash borer is a highly destructive insect pest that has killed millions of ash trees (*Fraxinus* sp.) across North America. This species is not known to occur anywhere within the state of Montana.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on February 5, 2021, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, 302 N. Roberts, Helena, Montana, 59601; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov.

3. The temporary emergency rule amendment is effective January 14, 2021, when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule amendment provides as follows, stricken matter interlined, new matter underlined:

4.12.1308 PLANT HEALTH QUARANTINES (1) All quarantines are listed by the name of the quarantine and references the quarantine order number. The order will specify the name of the quarantine and describe the plant pest(s), regulated articles, and regulations, e.g., notifications, inspections, sampling, certifications, required permit(s), safeguards, and any other requirements.

(2) Quarantine orders are available from the department by accessing the department's web site at www.agr.mt.gov or by requesting a copy of the order by writing, e-mailing, or faxing a request to the Department of Agriculture at P.O. Box 200201, Helena, MT 59620-0201; agr@mt.gov; or (406) 444-5409.

(a) The department may charge actual costs of printing, copying, and mailing copies of a quarantine rule or order.

(3) The following is the current list of long-term quarantines:

(a) European Pine Shoot Moth (EPSM) (*Rhyacionia bouliana*). See Order MTQ-2008-01.

(b) Late Blight Quarantine (*Phytophthora infestans*). See Order MTQ-2008-02.

(c) Japanese Beetle (*Popillia japonica* Newman). See Order MTQ-2008-03.

Intrastate Quarantine.

(d) Japanese Beetle (*Popillia japonica* Newman). See Order MTQ-2013-01. Interstate Quarantine.

(e) *Emerald Ash Borer* (*Agilus planipennis* Fairmaire). See Order MTQ-2021-001. Exterior Quarantine.

AUTH: 80-7-402, MCA

IMP: 80-7-402, 80-7-404, MCA

5. The rationale for the temporary emergency rule amendment is set forth in paragraph 1.

6. The department is also filing MAR Notice No. 4-21-272, which addresses a public hearing on this same subject to amend this rule as a permanent rule. That notice is available in Issue Number 2 of the 2021 Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to Cort Jensen at the address above. Any comments must be received no later than 5:00 p.m., February 26, 2021.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Mike Foster
Mike Foster
Director
Agriculture

Certified to the Secretary of State January 14, 2021.