

**NOTICE OF INTENT**  
**Department of Agriculture and Forestry**  
**Office of Agricultural and Environmental Sciences**

**Horticulture and Quarantine Programs**  
**Emerald Ash Borer Quarantine (LAC 7:XV.167)**

In accordance with the Administrative Procedure Act, R.S. 49:950, *et seq.*, and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (“Department”) intends to adopt the rule set forth below, establishing a quarantine for the following pest: emerald ash borer (“EAB”), *Agilus planipennis* Fairmaire. The state entomologist has determined that EAB has been found in this state and may be prevented, controlled, or eradicated by quarantine. This quarantine was first established by emergency rule published at LR 41:5, p. 885.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was \$62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana’s forests and forestry/wood products industries generated an output industry production value of \$10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state’s economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana’s commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state’s commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state’s economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana’s citizens and forests, the state’s commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry, Office of Forestry and Office of Agricultural and Environmental Sciences, hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in the regulations proposed herein.

**Title 7**  
**AGRICULTURE AND ANIMALS**

**Part XV. Plant Protection and Quarantine**

**Chapter 1. Crop Pests and Diseases**

**Subchapter F. Emerald Ash Borer Quarantine**

**§167. Emerald Ash Borer Quarantine**

A. The department issues the following quarantine because the state entomologist has determined that the insect Emerald Ash Borer (“EAB”), *Agilus planipennis*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantined areas in this state include:

1. The entire parishes of Bossier, Claiborne and Webster.

2. A declaration of quarantine for EAB covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the Louisiana Register.

C. No regulated articles as defined in this Subsection shall be moved out of any area of this state that is listed in this subsection as a quarantined area for EAB, except as provided in this subsection.

D. The following articles are hosts of EAB and are deemed to be regulated articles for purposes of this subsection:

1. The emerald ash borer in all of its life stages; firewood of all hardwood (non-coniferous) species; nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus*.

2. Any other article, product, or means of conveyance not listed in paragraph 4(a) of this section may be designated as a regulated article if an inspector determines that it presents a risk of spreading emerald ash borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

E. Regulated articles may be moved from quarantined areas to non-quarantined areas within or outside of Louisiana only if moved under the following conditions:

1. The regulated articles being moved are accompanied by a certificate or limited permit issued by LDAF and attached in accordance with the EAB federal requirements.

2. The regulated articles being moved are not accompanied by a certificate or limited permit but are being moved by the United States Department of Agriculture for experimental or scientific purposes;

3. The regulated articles being moved are not accompanied by a certificate or limited permit but originated outside of any EAB quarantined area and are moved interstate through the quarantined area under the following conditions:

a. The points of origin and destination are indicated on a waybill accompanying the regulated article; and

b. The regulated article, if moved through the quarantined area, is moved in an enclosed vehicle or is completely covered to prevent access by the EAB; and

c. The regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by emerald ash borer; and

d. The article has not been combined or commingled with other articles so as to lose its individual identity.

F. Persons or businesses engaged in growing, handling, or moving regulated articles intrastate may enter into a compliance agreement with LDAF if such persons or businesses review with an LDAF inspector each provision of the compliance agreement. Any person or business who enters into a compliance agreement with LDAF must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

1. Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the person who has entered into the compliance agreement has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to LDAF within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants LDAF to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by LDAF. As soon as practicable, LDAF will grant or deny the appeal, in writing, stating the reasons for the decision.

G. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 41:

#### **Family Impact Statement**

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

- (1) the stability of the family;
- (2) the authority and rights of persons regarding the education and supervision of their children;
- (3) the functioning of the family;
- (4) family earnings and family budget;
- (5) the behavior and personal responsibility of children;
- (6) the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

- (1) the effect on household income, assets, and financial security;
- (2) the effect on early childhood development and preschool through postsecondary education development;
- (3) the effect on employment and workforce development;
- (4) the effect on taxes and tax credits;
- (5) the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

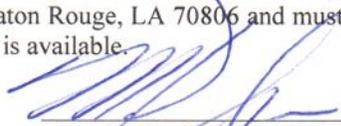
**Provider Impact Statement**

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- (1) the effect on the staffing level requirements or qualifications required to provide the same level of service;
- (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- (3) the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Tad Hardy, Director of the Horticulture Commission, Department of Agriculture & Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on the 4th day of November 2015. No preamble is available.



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Mike Strain, DVM  
Commissioner of Agriculture and Forestry