

**CHAPTER 7-04-04
EMERALD ASH BORER**

Section

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7-04-04-01. Definitions.

1. "Ash" means all species of the genus *fraxinus*.
2. "Certificate" means a document issued or authorized by the commissioner indicating a regulated article is not contaminated with a pest.
3. "Commissioner" means the agriculture commissioner or the designee or the authorized representative of the commissioner.
4. "Compliance agreement" means a written agreement between a person moving regulated articles and the commissioner.
5. "Department" means the North Dakota department of agriculture.
6. "Emerald ash borer" means the insect known as emerald ash borer, *agrilus planipennis fairmaire* (coleoptera: buprestidae), in any living stage of development.
7. "Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, or allow to be transported.
8. "Person" means any individual, corporation, limited liability company, company, limited liability partnership, society, or association, or other business entity.
9. "Regulated article" means any article of any character as described in a regulation carrying or capable of carrying the plant pest against which the regulation is directed.
10. "State" means the District of Columbia, Puerto Rico, the Northern Mariana Islands, or any state, territory, or possession of the United States.

History: Effective July 1, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

7-04-04-02. Regulated articles.

Regulated articles are as follows:

1. The emerald ash borer, *agrilus planipennis fairmaire*, in any stage of development.
2. Firewood of all nonconiferous (hardwood) species.
3. Entire ash trees.
4. Untreated (with bark and sapwood) ash limbs, branches, logs, stumps, and roots capable of harboring emerald ash borer.

5. Ash nursery stock.
6. Ash chips and ash bark chips.
7. Any article, product, or means of conveyance which the commissioner determines to present a risk of spread of emerald ash borer and the commissioner has notified the person in possession of that article, product, or means of conveyance, is subject to this regulation.

History: Effective July 1, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

7-04-04-03. Regulated areas.

The commissioner shall maintain an updated list or map of regulated areas on the department website.

History: Effective July 1, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

7-04-04-04. Restrictions on regulated articles and conditions on the movement of regulated articles.

Regulated materials may not be moved from a regulated area to a nonregulated area except under the following conditions:

1. Ash nursery stock movement is prohibited with no exceptions.
2. Other regulated articles must be treated or subjected to special handling under a compliance agreement or permit from the department or state of origin.
3. The regulated article is inspected and found to be apparently free of infestation by an inspector in the state of origin and indicated as such on a phytosanitary certificate or certificate of inspection.
4. The regulated article is treated in a manner approved by the regulatory agency in the state of origin in a way that prevents the regulated article from presenting a risk of spreading emerald ash borer, as indicated on a phytosanitary certificate or compliance agreement.
5. Hardwood firewood shall be labeled to county or parish of origin for partially regulated states.

History: Effective July 1, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

7-04-04-05. Violations and penalties.

Any person violating these regulations may be subject to penalties in accordance with North Dakota Century Code section 4.1-23-08.

History: Effective July 1, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-08

7-04-04-06. Exceptions.

Exceptions may be made at the discretion of the commissioner.

History: Effective July 1, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04