

ARTICLE 12:51
PLANT QUARANTINE

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CHAPTER 12:51:09

INSPECTION AND CERTIFICATION

Section

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12:51:09:05. Costs. The user is responsible for all costs arising from inspection, certification, and permitting of regulated articles. Procedures shall be conducted and costs shall be calculated in accordance with SDCL 38-24A-~~28~~ 21.

General Authority: SDCL 38-24A-9.

Law Implemented: SDCL 38-24A-9.

ARTICLE 12:51:10

EMERALD ASH BORER

Section

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12:51:10:01. Definitions. Words and phrases defined in SDCL chapter 38-24A have the same meaning when used in this chapter. Terms used in this chapter mean:

(1) “Firewood,” tree parts in any measure or volume, whether for commercial or private purposes, that is intended to be burned for heating or recreational use.

(2) “Log,” parts of trees cut to certain lengths to be milled, processed, or otherwise used in buildings or construction.

(3) “Quarantine area,” an area established by the Secretary of Agriculture from which the emerald ash borer is likely to spread.

(4) “Secretary,” the Secretary of the South Dakota Department of Agriculture.

(5) “USDA-APHIS-PPQ,” the United States Department of Agriculture, Animal and Plant Inspection Service, Plant Protection and Quarantine.

General Authority: SDCL 38-24A-9

Law Implemented: SDCL 38-24A-1, 38-24A-9

12:51:10:02. Regulated insects. Emerald ash borer (*Agrilus planipennis* (Fairmaire)) is a regulated insect under SDCL 38-24A-6.

General Authority: SDCL 38-24A-9

Law Implemented: SDCL 38-24A-6, 38-24A-9

12:51:10:03. Regulated articles. Any of the following articles that originate within the quarantine area are considered regulated articles:

(1) The emerald ash borer, *Agrilus planipennis* (Fairmaire), in any living stage of development.

(2) Entire ash trees (*Fraxinus spp.*), including, but not limited to, nursery stock.

(3) Ash logs or untreated ash lumber with any bark or the outer one half inch of wood attached.

(4) Non-coniferous, or hardwood, wood chips and non-coniferous, or hardwood, bark chips larger than one inch diameter in two dimensions.

(5) Other ash material (*Fraxinus spp.*), living or dead, cut or fallen, including logs, limbs, branches, stumps, or roots.

(6) Firewood of any non-coniferous, or hardwood, species.

(7) Any other article, product, or means of conveyance, when it is determined by the Secretary to present a risk of spreading the emerald ash borer. Other items identified as regulated articles in this manner will be communicated as such through publication of a notice in public newspapers.

General Authority: SDCL 38-24A-9

Law Implemented: SDCL 38-24A-6, 38-24A-7

12:51:10:04. Movement of regulated articles out of the quarantine area. Regulated articles described in 12:51:10:03 may be moved out of the quarantine area if each of the following conditions are met:

- (1) A thorough examination of the regulated articles and treatment is conducted by an inspector authorized by the Secretary, and
- (2) A permit is granted for movement of regulated articles, and
- (3) The permit is attached to the regulated articles, or with the shipping documents, for that specific lot of regulated articles until the final destination. The permit shall be provided to an inspector, if requested, or to the consignee at the final destination.

12:51:10:05. Movement of regulated articles through the quarantine area. The movement of regulated articles, listed in 12:51:10:03, originating from outside a quarantine area, through a quarantine area, then out to a non-quarantine area again, is prohibited, except if passage is made without stopping except for refueling or traffic conditions and if the articles are completely enclosed by a covering adequate to prevent the escape or entry of emerald ash borer.

General Authority: SDCL 38-24A-9

Law Implemented: SDCL 38-24A-6, 38-24A-10

12:51:10:06. Treatment of regulated articles. Regulated articles listed in 12:51:10:03 may receive a permit from the Secretary or a designated agent to authorize movement outside of the quarantine area. A permit will include specific treatment activities that must be performed in order to prevent the spread of emerald ash borer out of the quarantine area.

General Authority: SDCL 38-24A-9

Law Implemented: SDCL 38-24A-12, 38-24A-12.1

12:51:10:07. Prohibited acts. No person may transport, buy, sell, or offer for sale, in a manner contrary to articles 12:51:10:04 or 12:51:10:05, any regulated article, as described in 12:51:10:03. No person may move any such regulated article from, into, or through the quarantine area, except as provided in 12:51:10:04 and 12:51:10:05.

General Authority: SDCL 38-24A-9

Law Implemented: SDCL 38-24A-6, 38-24A-10

12:51:10:08. USDA-APHIS-PPQ as a designated agent. The USDA-APHIS-PPQ is considered a designated agent as defined in SDCL 38-24A-1(2) working with the Secretary to prevent the spread of emerald ash borer. As a designated agency, USDA-APHIS-PPQ may allow, through permits and certificates, the movement of regulated materials out of and through the quarantine area.