

Rule Summary and Fiscal Analysis (Part A)**Department of Agriculture**

Agency Name

Plant Industry

Division

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901:5-52-03

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Regulated articles.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **927.52**
5. Statute(s) the rule, as filed, amplifies or implements: **927.71**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:
The rule is being proposed for five year rule review.
7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rules contained in this chapter establish a quarantine against the highly

destructive insect *Lymantria dispar*, more commonly known as the gypsy moth. The Ohio Department of Agriculture (Department) established this quarantine to prevent the gypsy moth's artificial spread in the state of Ohio in order to protect Ohio's forest, timber and wildlife resources from this destructive pest.

The gypsy moth is a non-native, invasive species that has been advancing into Ohio from Pennsylvania and Michigan over the past decade. In its caterpillar stage, it feeds on the leaves of over 300 different tree and shrub species and is especially fond of oak. A healthy tree can usually withstand only two years of defoliation before it is permanently damaged or die

The rules contained in this package focus on science-based practices which support responsible agriculture practices while allowing Ohio to continue to grow its vital silviculture industry.

OAC § 901:5-52-03 sets forth the regulated articles for the quarantine. Unless specified elsewhere, a regulated article cannot move from a regulated area into a non-regulated area. The rule was amended to remove two articles from the list. However, even with the removal of those articles, the articles may be subject to quarantine if it is determined by an inspector that the article is carrying the plant pest.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

Pursuant to sections 121.76 and or 121.75 of the Revised Code, the code sections incorporated into this rule are exempt from compliance with sections 121.71 to 121.74 of the Revised Code.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **4/14/2016**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Individuals are prohibited from moving any regulated article listed in OAC § 901:5-52-03 from a regulated area into a non-regulated area unless they are accompanied with a certificate approved by the director. The cost of a certificate is

\$25 for nursery stock; for all other commodities the cost of a certificate is \$100.
The cost of a compliance agreement is \$40.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

Violating the quarantine may subject someone to criminal and civil penalties.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**