

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 901:5-58-01

**Rule Type:** New

**Rule Title/Tagline:** Notice of quarantine.

**Agency Name:** Department of Agriculture

**Division:** Plant Industry

**Address:** 8995 E. Main St. Reynoldsburg OH 43068

**Contact:** Renee Schmauch **Phone:** 614-728-6295

**Email:** renee.schmauch@agri.ohio.gov

#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** ORC 927.52
5. **What statute(s) does the rule implement or amplify?** ORC 927.71
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

OAC 901:5-58- ODA is proposing this as a new rule. The rules contained in this chapter establish a quarantine against the highly destructive insect *Cydalima perspectalis*, more commonly known as the Box Tree Moth (BTM or "plant pest"). The Ohio Department of Agriculture (Department) is establishing this quarantine to prevent the plant pest's artificial spread in the state of Ohio to protect Ohio's horticulture industry

from this destructive pest. BTM is a federally regulated pest, as such, the establishment of this regulation is necessary to limit the effect of the federal regulation to just those areas of Ohio that are known to be infested with BTM rather than subject the entire state to the federal requirements.

**8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC 901:5-58-01 is a new rule that sets out the notice of quarantine and the general rule that no person shall transport any regulated article from a regulated area to a non-regulated area in the state. Growers that are certificated under a USDA program that is under development may qualify for shipment out of the quarantine by following best practices and establishing a pest free area of production.

**9. Does the rule incorporate material by reference? No**

**10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

**11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

**12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable

**13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Individuals are prohibited from moving any regulated article from a regulated area into a non-regulated area unless they meet the conditions of movement in OAC 901:5-58-05. Individuals may be prohibited to ship to and from certain regulated

areas which may cause lost potential profits. By establishing a quarantine and placing restrictions on movement, the Department is preventing the artificial spread plant pest and therefore, helping to maintain a vital industry in Ohio. The quarantine regulation also prevents the impact of the federal regulation to only those areas within Ohio that have a BTM infestation as determined by official insect surveys.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

### **III. Common Sense Initiative (CSI) Questions**

17. **Was this rule filed with the Common Sense Initiative Office?** Yes
18. **Does this rule have an adverse impact on business?** Yes
  - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?** Yes

Individuals are prohibited from moving any regulated article from a regulated area into a non-regulated area unless they meet the conditions of movement in OAC 901:5-58-05.
  - 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

Individuals who illegally ship their products into Ohio may be subject to civil or criminal penalties.
  - C. **Does this rule require specific expenditures or the report of information as a condition of compliance?** No
  - D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies?** No

No, however; the rule establishes a program that preserves boxwood trade within the state and sets conditions where exports of boxwood can be accomplished through implementation of USDA approved best practices which are under development. The presence of the pest itself will increase costs given that infested nursery stock cannot be sold. This program is aimed at preserving the boxwood market for the nursery industry given the introduction of the Box Tree Moth.

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

**A. How many new regulatory restrictions do you propose adding to this rule? 1**

OAC 901:5-58-01, paragraph B adds the requirement that except as provided in 901:5-58-05 in the Administrative Code, no person shall transport any regulated articles, as defined in rule 901:5-58-03 of the Administrative Code, from a regulated area, as defined in rule 901:5-58-04 of the Administrative Code, into or through a non-regulated area in the state of Ohio.

**B. How many existing regulatory restrictions do you propose removing from this rule? 0**

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

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**D. Please justify the adoption of the new regulatory restriction(s).**

The rules contained in this chapter establish a quarantine against the highly destructive insect *Cydalima perspectalis*, more commonly known as the Box Tree Moth (BTM or "plant pest"). The Ohio Department of Agriculture (Department) is establishing this quarantine to prevent the plant pest's artificial spread in the state of Ohio to protect Ohio's horticulture industry from this destructive pest.