901:5-52-01 Notice of quarantine.

(A) Pursuant to Chapter 927. of the Ohio Revised Code, the highly destructive insect Lymantria dispar, more commonly known as the gypsy moth, is classified as a plant pest due to its invasive and devastating impact on the environment.

(B) Except as provided in rule 901:5-52-05, no person shall transport any regulated articles as defined in rule 901:5-52-03 of the Administrative Code, from a regulated area as defined in rule 901:5-52-04 of the Administrative Code into or through a non-regulated area in the state of Ohio.

901:5-52-02 Definitions.

As used in this chapter:

(A) "Associated equipment" means any article incidental to the use of a mobile home and recreational vehicle, including by way of example, but not limited to: awnings, tents, outdoor furniture, trailer blocks and trailer skirts.

(B) “Block” means a contiguous area of land, whether owned by one, or more than one, person.

(C) “Block coordinator” means the primary contact person for correspondence and other activities regarding the treatment of a block for suppression of the gypsy moth.

(D) "Certificate" means a document issued by an inspector which allows the movement of regulated articles.

(E) "Compliance agreement" means a written agreement between a person engaged in growing, selling, processing, or moving regulated articles, and the Ohio department of agriculture setting forth specified measures to be implemented by the person to prevent the spread of the gypsy moth.

(F) "Department" means the Ohio department of agriculture.

(F) (G) "Federal quarantine areas" means states or portions of states quarantined for gypsy moth by the United States department of agriculture USDA under 7 CFR 301.45 (2001).

(G)-(H) "Gypsy moth" means the live insect, Lymantria dispar, in any life stage (egg, larva, pupa, adult).

(H)-(I) "Infestation" means either the presence of the gypsy moth in any living stage, or evidence that the gypsy moth is present in any living stage (egg, larva, pupa, adult).

(J)-(J) "Inspector" means an employee of or any other person authorized by the state of Ohio, another state, or the United States department of agriculture USDA to enforce the provisions of a quarantine for gypsy moth.

(J) (J) "Mobile home" means any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

(K) "Person" means any individual, partnership, corporation, company, society, association, unit of government, or other organized group.

(L)-(L) "Recreational vehicle" means any highway vehicle, including pickup truck campers, one-piece motor homes, and travel trailers, designed to serve as a temporary place of dwelling.

(N)-(L) "USDA" means the United States department of agriculture.
901:5-52-03 Regulated articles.

The articles listed in paragraphs (A) to (F) of this rule are regulated articles subject to the quarantine established in rule 901:5-52-01 of the Administrative Code. "Regulated articles" are those products or commodities that have been demonstrated to harbor and transmit various life stages of the gypsy moth, when such articles are situated within or in proximity to an infestation. Specifically:

(A) The gypsy moth, Lymantria dispar, in any living stage of development (i.e., egg, larva, pupa, or adult).

(B) Trees and woody shrubs, including cut Christmas trees.

(C) Logs, pulpwood, slabwood, firewood, and wood chips.

null Recreational vehicles, boats, trailers, tents, mobile homes, and associated equipment.

(E)(E) Outdoor household articles, including but not limited to, tables, benches, chairs, doghouses, birdhouses and feeders, planters, utility sheds, grills, garden equipment and machinery, firewood, and children's playthings, such as playhouses and sandboxes.

(F)(F) Any other products, articles, or means of conveyance, of any character whatsoever, when it is determined by an inspector that a life stage of the gypsy moth is in proximity to such articles, thereby presenting a risk of spreading the gypsy moth, and the person in possession of those articles has been so notified.

901:5-52-04 Regulated area.

The areas listed in this rule are declared to be regulated areas where a gypsy moth infestation is known to exist at a level which poses a risk of spreading the pest to non-infested areas of Ohio and other states.

(A) Areas designated as "gypsy moth regulated areas are those counties, or portions of counties, where one or more gypsy moth infestations are known to exist at levels which pose a risk of spread to non-infested areas of Ohio and other states.

(A) The states or portions of states quarantined for the gypsy moth by the USDA under 7 CFR 301.45 (July 2001).

(B) Gypsy moth regulated areas in the state of Ohio are The following counties in Ohio:

(1) Ashtabula county—the entire county;

(2) Lake county—the entire county;

(3) Geauga county—the entire county;

(4) Trumbull county—the entire county;

(5) Mahoning county—the entire county;

(6) Columbiana county—the entire county.
(7) Lucas county—the entire county;
(8) Cuyahoga county—the entire county;
(9) Summit county—the entire county;
(10) Portage county—the entire county;
(11) Stark county—the entire county;
(12) Carroll county—the entire county;
(13) Jefferson county—the entire county;
(14) Belmont county—the entire county;
(15) Coshocton county—the entire county;
(16) Guernsey county—the entire county;
(17) Harrison county—the entire county;
(18) Holmes county—the entire county;
(19) Lorain county—the entire county;
(20) Medina county—the entire county;
(21) Monroe county—the entire county;
(22) Ottawa county—the entire county;
(23) Tuscarawas county—the entire county;
(24) Wayne county—the entire county;
(25) Ashland county—the entire county;
(26) Defiance county—the entire county;
(27) Erie county—the entire county;
(28) Fulton county—the entire county;
(29) Henry county—the entire county;
(30) Licking county—the entire county;
(31) Muskingum county—the entire county;
As stated in rule 901:52-01, no common carrier or other person shall move from any regulated area (as defined by rule 901:5-52-04 of the Administrative Code) or from any federal quarantine area any regulated article (as defined by rule 901:5-52-03 of the Administrative Code) except in accordance with the conditions specified herein.

(A) A certificate must accompany the movement of regulated articles from any regulated area or from any federal quarantine area into or through any non-regulated point area in Ohio. A copy of the certificate must be forwarded to the Ohio department of agriculture within seven calendar days of movement. Certificates may
be issued by an inspector if the regulated articles:

(1) Have originated in non-infested premises and have not been exposed to infestation while within the regulated area or federal quarantine area; or

(2) Upon examination, have been found free of infestation; or

(3) Have been treated to destroy any infestation in accordance with approved procedures; or

(4) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby; or

(5) Will be handled, utilized, processed, or treated at the destination in such a manner that their movement will not hazard a spread of the gypsy moth.

(B) There are no restrictions imposed on the movement of regulated articles within regulated areas or within federal quarantine areas, provided they do not transit any non-regulated points in Ohio.

(C) As a condition of issuance of certificates for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement, stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector. Any compliance agreement may be canceled for failure to comply with the provisions of this quarantine or any conditions imposed pursuant thereto.

901:5-52-06 Inspection and disposal.

Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving within the state of Ohio upon probable cause to believe that such person or means of conveyance is carrying infested articles; and, such inspector is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of this chapter. Items will be destroyed only if it is determined by any ODA inspector that destruction is the only feasible method to avoid transportation of the life stages of gypsy moth.

(A) Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving within the state of Ohio upon so long as there is probable cause to believe that such person or means of conveyance is carrying infested articles; and, such inspector is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of this chapter. Items will be destroyed only if it is determined by any ODA inspector that destruction is the only feasible method to avoid transportation of the life stages of gypsy moth.

(B) Any properly identified inspector is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of this chapter. Items will be destroyed only if it is determined by any ODA inspector that destruction is the only feasible method to avoid transportation of the life stages of gypsy moth.
901:5-52-07 Treatment of infestations.

When feasible, areas found to be infested, or which are so situated as to be subject to infestation, such as campgrounds and roadside rests, shall be treated to eradicate or otherwise suppress the infestation to whatever extent possible.

901:5-52-08 Gypsy moth suppression program.

(A) A landowner may request that the department of agriculture include the landowner's property in the gypsy moth suppression program if:

1. The block in which the landowner's property is located is eligible for inclusion in the program pursuant to paragraph (B) of this rule; and
2. The landowners designate a block coordinator who submits a completed application pursuant to paragraph (C) of this rule; and
3. Each landowner within the block:
   a. Signs and submits an agreement to participate in the program pursuant to paragraph (E) of this rule; and
   b. Submits payment of the total cost to be assessed to that landowner pursuant to paragraph (E) of this rule; and
4. Sufficient funds are available to allow the department to administer the gypsy moth suppression program for the year for which the request is made;

The department will have the block in which the landowner's property is located treated for suppression of gypsy moth pursuant to its contract with the aerial applicator.

(B) A block may be eligible for inclusion in the gypsy moth suppression program if all of the following requirements are met:

1. The block is located within the regulated area of the gypsy moth quarantine, as set out in rule 901:5-52-04 of the Administrative Code; and
2. The block is comprised of no less than fifty contiguous acres of treatable area; and
3. The tree canopy covers no less than fifty per cent of the block; and
4. No less than thirty-five per cent of the tree species within the block boundary is comprised of tree species which are designated as susceptible or resistant to gypsy moth on the list of species in volume II, appendix D of the final environmental impact statement, issued by the United States department of agriculture dated November 1995. This list is set out as appendix C of this rule; and
5. The density of gypsy moth egg masses within the block is no less than either:
(a) Two hundred fifty egg masses per acre in a residential forested area; or

(b) One thousand egg masses per acre in an uninhabited forested area; and.

(6) The block has received a favorable assessment review by the Ohio department of natural resources and the United States fish and wildlife service.

(C) A block may be eligible for participation in the gypsy moth suppression program if the director has received the following on or before the first day of September of the calendar year immediately preceding the year for which treatment for the block is sought:

(1) A completed application which can be found on the department's website www.agri.ohio.gov. The application must contain the following information in order to, the form of which is attached to this rule as appendix A. An application shall be deemed complete when it contains each of the following on a form prescribed by the director:

(a) The full name, mailing address and daytime telephone number of the block coordinator; and

(b) The full name and address of each participating landowner owning property within the block; and

(c) The township or municipal corporation in which the block to be treated is located; and

(d) The county where the block to be treated is located; and

(e) The preferred product for control of gypsy moth in the block to be treated; and

(f) The original signature of each participating landowner owning property within the block; and

(g) The original signature of the block coordinator; and

(h) A map detailing the boundaries of the block as described in paragraph (C)(2) of this rule.

(2) A map detailing the boundaries of the block to be included in the suppression program. This map shall:

(a) Clearly outline all boundaries for each property forming the block to be treated; and

(b) Identify by full name the owners of each property contained within the block; and

(c) Show the scale used when drawing the map. This scale shall be one of the following:

(i) For blocks less than two hundred acres in size, the scale shall be one inch equals two hundred feet; or

(ii) For blocks greater than or equal to two hundred acres, the scale shall be one inch equals four hundred feet.

(D) When calculating the total cost to be assessed to a landowner, the department shall:

(1) Determine the total treatable acres contained within the qualified block.

(2) Determine the total number of acres owned by each particular landowner.
(3) Determine the percent owned by each particular landowner by dividing the total number of acres owned by each landowner by the total treatable acres contained the qualified block.

(2) (4) Determine the total cost per acre by determining the cost per acre of applying the insecticide as selected by the qualified block. This will be done per the current contract between the department and the aerial spray contractor.

(5) Multiply the percent owned by each landowner by the total cost of applying the insecticide to the entire qualified block. This will result in the total cost to be assessed to a landowner.

(1) (1) First determine the total cost per acre to the department for gypsy moth suppression activities for the year that the landowner's block is proposed for treatment, given the preferred pesticide product to be used within the landowner's block. The total cost per acre shall be calculated by determining the total expense of aerial spraying for gypsy moths to be incurred by the department in that year for the preferred pesticide product to be used in the block, divided by the number of acres proposed to be treated in that year using that same pesticide. The total expense of aerial spraying for the suppression of gypsy moth shall be calculated per the current contract between the department and the aerial spray contractor.

(2) (6) Multiply the total cost per acre calculated pursuant to paragraph (D)(1) of this rule by the number of acres that the landowner has requested be treated. In no case shall the total cost to be assessed to a landowner exceed fifty per cent of the department's cost to treat the block in which the landowner's property is located.

(E) A landowner whose block has been approved for inclusion in the gypsy moth suppression program shall sign an agreement provided by the department, the form for which is attached to this rule as appendix B, and submit the signed agreement with payment equal to the total cost assessed to the landowner as calculated under paragraph (D) of this rule to the department on or before the first day of March of the calendar year in which the treatment is sought. If the agreement and payment equal to the total cost assessed to the landowner are not received on or before the first day of March, the treatment may not be scheduled.
901:5-35-02 Definitions of inspections, agreements and certificates.

As used in the rules adopted under Chapter 927. of the Revised Code:

(A) "Agricultural products and their conveyances inspection" means any requested inspection of plants or plant-based products, or their conveyances, conducted by the director or an agent thereof for the purpose of determining what, if any, pests are infesting or infecting the plants, plant-based products or their conveyances. The inspection includes, but is not limited to, growing season inspections of agronomic field, vegetable, greenhouse, and nursery crops upon which later certifications may be based, and to fruit and vegetable commodity inspections. This category does not include inspections that immediately result in issuance of phytosanitary certificates, or the annual nursery inspections as described in sections 927.59 and 927.61 of the Revised Code.

(B) "Compliance agreement" means a written agreement between a person and the Ohio department of agriculture for the purpose of achieving the person's compliance with any set of requirements specified by the department of agriculture upon which certifications may be based and issued by the director. The term of a compliance agreement shall not exceed one year.

(C) "Phytosanitary certificate" means a document issued by the director or an agent thereof declaring a plant product free of harmful pests, and includes Ohio and United States phytosanitary certificates, processed product certificates, re-export phytosanitary certificates, and any re-issuance of such certificates necessitated by requestor error.