

# Wisconsin Department of Agriculture, Trade and Consumer Protection

## Initial Regulatory Flexibility Analysis

<i>Rule Subject:</i>	<b>Plant Pest Import Controls and Quarantines</b>
<i>Adm. Code Reference:</i>	<b>ATCP 21</b>
<i>Clearinghouse #:</i>	<b>Not Applicable</b>
<i>DATCP Docket #:</i>	<b>15-R-04</b>

### *Rule Description*

This emergency rule creates a quarantine for Taylor County for the gypsy moth, *Lymantria dispar* (“GM”). Under this rule, the Department of Agriculture, Trade and Consumer Protection (“DATCP”) quarantines Taylor County to restrict the movement of GM from generally infested areas to other areas of Wisconsin and to other states.

DATCP is adopting this temporary emergency rule pending the adoption of a parallel federal regulation to quarantine Taylor County. The federal quarantine will be enacted approximately six to eight weeks after a formal submission by the state plant regulatory official. The emergency rule will take effect immediately upon publication in the official state newspaper, and will remain in effect for 150 days. The Legislature’s Joint Committee for Review of Administrative Rules may extend the emergency rule for up to 120 additional days.

DATCP conducts annual trapping surveys for GM. The 2014 survey in Taylor County showed that current and projected GM populations there have reached the threshold level to trigger implementation of further regulatory measures. Over the last three years, multiple trap sites in Taylor County have caught over 100 individual moths, with an average trap count of 19 in 2014. These counts represent a six-fold increase from 2011. The survey data indicate that reproducing populations of GM now exist at significant levels in Taylor County. Eradication is no longer feasible; targeted area treatments were last applied in 2013, and no further treatments are planned for Taylor County. These findings support the need for a quarantine to limit GM movement and to prevent the artificial spread of this infestation.

### *Key Rule Provisions*

This rule includes the following key provisions:

- Create a quarantine for GM for Taylor County that prohibits the movement of all trees, woody shrubs, cut Christmas trees, logs, pulpwood, slabwood, firewood or wood chips out of Taylor County or any contiguous GM quarantined counties.

- Prohibit any common carrier from transporting any used outdoor household item out of Taylor County or any contiguous GM quarantined counties.
- Provide an exemption for articles that have been inspected and certified by a pest control official or trained inspector and are accompanied by a written certificate issued by that official or inspector.
- Provide an exemption for businesses that enter into a state or federal compliance agreement. The compliance agreement describes in detail what a company can and cannot do with regulated articles.

### *Small Business Affected*

This emergency rule may have an impact on persons or companies that deal in any nursery stock, hardwood firewood or timber materials in Taylor County. The affected businesses are all small businesses. This emergency rule restricts the sale or distribution of nursery trees, Christmas trees, timber and raw wood products plus any hardwood firewood from Taylor County to locations outside of the county or any contiguously quarantined counties, and to neighboring states.

The business impact of this emergency rule depends on the number of:

- 1) nurseries that sell/distribute nursery stock outside this county,
- 2) firewood producers/dealers that sell/distribute outside this county,
- 3) loggers and sawmills that move untreated timber or raw wood products outside this county, and
- 4) untreated wood waste (e.g. brush, chips or mulch) that is moved outside this county.

Taylor County has a total of 11 licensed nursery growers and dealers that could possibly transport nursery stock. Taylor County also has 19 licensed Christmas tree growers. Those growers will not be able to move or sell nursery stock and cut Christmas trees outside of the quarantine area without a compliance agreement with DATCP or the U.S. Department of Agriculture's Animal and Plant Health Inspection Service ("APHIS") that authorizes movement of nursery stock and cut trees outside of the quarantine only when there is assurance that the movement will not spread GM to non-quarantined locations.

There are an estimated 13 firewood dealers in Taylor County. Firewood dealers would need to be certified under s. ATCP 21.20 to sell or move firewood outside of the contiguous quarantine area. To obtain certification, a firewood dealer pays a \$50 annual certification fee to DATCP and treats the firewood in a manner that ensures it is free of regulated insect pests.

There are an estimated 13 lumber mills in Taylor County and an estimated 11 other tree service/wood processing facilities that may also deal with woody material. These businesses also will have to enter into a compliance agreement to transport logs, timber or raw wood products outside of the quarantine area.

### ***Reporting, Bookkeeping and other Procedures***

Nursery growers will not have any additional reporting or record-keeping requirements. Wood products industries (e.g. loggers, firewood producers or sawmills) and Christmas tree growers who enter into a compliance agreement shall keep records of all regulated product movement that leaves the contiguous quarantine area.

### ***Professional Skills Required***

No additional professional skills are required.

### ***Accommodation for Small Business***

DATCP recognizes that every small business is different. DATCP will work with individual businesses to meet the requirements of the quarantine while accommodating the unique character of the individual business. Therefore compliance agreements will be designed to satisfy the regulations with minimal negative effects to the business.

### ***Conclusion***

This rule will help affected businesses in Taylor County to move nursery stock and timber material without moving GM to areas free from GM. This will in turn help to protect the resources on which these businesses depend. This rule may impose additional costs on some businesses, including small businesses, depending on the nature of their reliance on nursery trees or timber products. The department works closely with each affected business to minimize any costs and these costs are outweighed by the protection of Wisconsin's woodland and forest resource.