



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Board of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC 5-330
<b>Regulation title</b>	Rules and Regulations for the Enforcement of the Virginia Pest Law – Virginia Gypsy Moth Quarantine
<b>Document preparation date</b>	June 16, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

Section 3.2-703 of the Code of Virginia authorizes the Board of Agriculture and Consumer Services (“Board”) to adopt a quarantine when the Board determines that such action is necessary to prevent or retard the spread of a pest into, within, or from the Commonwealth.

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

The alternative to this quarantine, which is intended to prevent or retard the spread of the gypsy moth from infested areas to non-infested areas, is to not have a quarantine. However, without the Virginia Gypsy Moth Quarantine, which is specific to infested areas of the state, the U.S. Department of Agriculture Animal and Plant Health Inspection Service (USDA APHIS) may step in and issue a federal, state-wide quarantine.

The gypsy moth quarantine restricts the movement of regulated articles that are capable of transporting the gypsy moth. The Virginia Gypsy Moth Quarantine places restrictions on the movement of regulated articles from those areas of Virginia that have been identified as being infested with the gypsy moth. If USDA APHIS implements a state-wide quarantine, restrictions will be placed on the interstate movement of regulated articles from the entire state, including areas of the state that are not infested with gypsy moth, placing an unnecessary burden on the citizens and businesses located in those non-infested areas. Additionally, a federal, state-wide quarantine would allow the unrestricted movement of regulated articles within the state, thereby increasing the potential for the gypsy moth to spread to non-infested areas of Virginia.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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No public comments were received. An informal advisory group was not formed for the purpose of assisting this periodic review.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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These regulations, which are intended to prevent or retard the spread of the gypsy moth, are necessary for the protection of public health, safety, and welfare. The regulations are clearly written and easily understandable.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The Agency recommends that the regulation stay in effect without change.

**Small business impact**

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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These regulations require that nurseries and timber operations located in infested areas obtain inspections and certifications for regulated articles before these articles may be moved from regulated to non-regulated areas. However, without these regulations, the U.S. Department of Agriculture Animal and Plant Health Inspection Service would issue a federal, state-wide quarantine, which would place restrictions on businesses in non-infested areas of Virginia. Under the Virginia Gypsy Moth Quarantine, those nurseries and timber operations that are in non-infested areas are not subject to the quarantine.

These regulations were amended to expand the Gypsy Moth regulated area on March 9, 2009. No significant changes to technology, economic conditions, or other factors have occurred that would necessitate modifications to these regulations. The agency recommends that the regulations stay in effect without change.

### Family impact

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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The regulations have no impact on the institution of the family and family stability.