

Notice of Public Hearing

LSA Document #22-183

Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is hereby given that on September 28, 2022, at 2:00 p.m. ET, the Natural Resources Commission (Commission) will hold a virtual public hearing using Webex on proposed amendments to [312 IAC 18-3-14](#) to add Lake County and Whitley County to the listing of counties declared to be generally infested areas and subject to the gypsy moth quarantine. In addition, the definition of the program manual has been updated to reflect the newest edition.

Individuals may join the public hearing in two ways:

To join by phone using only audio, please dial 1-240-454-0887, when prompted, enter access code 23195884815##.

To join using video, please use the website address, meeting number, and password provided below. Please Note: If you have never used Webex, we suggest that you begin the process at least 10 minutes early because you will be prompted to download Webex before joining the meeting.

<https://indiana.webex.com/indiana/j.php?MTID=m6d07b4f4cece9d6e2c00cf82c2df1a75>

Meeting number (access code): 2319 588 4815

Meeting password: agMtdHa73n4

If you need technical assistance, please contact Scott Allen at (317) 232-4699 or sallen@nrc.in.gov.

[IC 4-22-2-24\(d\)\(3\)](#) Justification Statement (with Impact): All requirements or costs by the rule amendments on regulated entities under [IC 4-22-2-24\(d\)\(3\)](#) are reasonably necessary for the implementation of [IC 14-24-4](#) through [312 IAC 18-3-14](#), and by the following Federal Regulation 7 CFR 301.45.

The gypsy moth is a serious pest of North American forests. This insect feeds on over five hundred (500) different species of plants. Large populations of caterpillars are capable of defoliating entire forests. Several years of defoliation in addition to other stresses on the trees can lead to a high percent of tree mortality in the forest. There are 4.5 million acres of forests in Indiana. All of these acres are at risk from gypsy moths. The estimated contribution of forest to the Indiana economy is eight (8) billion dollars annually. Currently there are nine (9) counties quarantined for gypsy moths. Education and regulatory work consistent with the rule being proposed are excellent and necessary tools to prevent long-range artificial spread of this pest.

The primary benefit of the proposed rule is a reduction in artificial spread of the gypsy moth and in the need to incur the eradication costs for isolated infestations. The reduction of spread of this pest directly correlates to a reduced mortality of trees in urban and rural settings outside the quarantined area. Fewer trees infested with gypsy moths equates to less removal of dead trees for private homeowners, less value loss to the timber industry, and increased value to existing habitat in Indiana's natural resources and forests. Secondary benefits to the proposed rule include increased awareness of the damage that invasive pests like the gypsy moth have on the natural resources, the industry and the public, advances in forest management techniques, and improvement in conducting forestry business operations. From improvement in business operations, another benefit is the maintenance of trade of materials between counties, states, and international entities.

Small businesses subject to this rule include: Nurseries, Primary Sawmills, Campgrounds, Firewood Producers and Dealers, Moving Companies, the Mobile Home Industry, RV Industry, Boat Retailers, Certified Pesticide Applicators, and any individual moving regulated materials. The estimated number of entities that will be affected by this rule is approximately one hundred eighty-five (185) businesses in the counties that are proposed for addition to the quarantine. The total potential economic impact to all businesses in the proposed quarantined area is \$317,610. It is impossible to account for every individual in these counties that may move regulated materials; however, through outreach and education efforts, the DNR will attempt to notify members of the public of the rule and its impact on movement. The estimated fiscal impact to state government for the quarantined counties is \$16,531.20 if all businesses need and implement a compliance agreement. Impact to the state will primarily be in the creation and administration of compliance agreements with each business. This analysis is based on the assumption that every business in the quarantined area would require a compliance agreement and utilize regulated materials. It is the opinion of the DNR that in reality, only one-half (1/2) to three-quarters (3/4) of the businesses analyzed in the proposed quarantine area would require a compliance agreement which would significantly reduce the potential economic impact to the businesses and the state in the quarantined area.

Addition of these two counties to the rule will also impact businesses or regulated entities traveling through the quarantined areas. The fiscal impact of adding those two counties is unable to be determined. However, both counties are adjacent to quarantined counties. The addition of these two counties will not cause a large fiscal impact to small business. If the entire state was quarantined as a consequence of refusing to incorporate these two counties into the quarantine, the fiscal impact to small business would be substantial.

Federal regulations restrict interstate movement of specific articles (such as outdoor household articles, firewood, etc.) from a "generally infested area" without a permit. 7 CFR 301.45. However, states may avoid a general quarantine of the entire state if the state regulates the intrastate movement of the listed articles in specific areas of the state that are generally infested in a manner that mirrors the federal regulations. Indiana currently has nine counties listed in [312 IAC 18-3-14](#)(e) as generally infested areas. Through testing, it has been determined that it is necessary to add Lake County and Whitley County as generally infested areas to stay in compliance with federal regulations and to avoid a statewide quarantine of the interstate movement of regulated items. In other words, if the two additional counties are not added to the rule, the state risks federally-imposed quarantine on the entire state. This would severely restrict the ability of those engaged in business that are impacted by the rule even if they are not in a generally infested area.

In addition to adding two additional counties to the quarantine list, amendment to [312 IAC 18-3-14](#)(b)(18) is sought to change the reference to the "program manual" to indicate the latest edition of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Gypsy Moth Program Manual, Second Edition, 2019. This request imposes no additional cost to regulated entities as the modifications to the manual refer to changes in the use of the Internet and geographical information systems that are utilized as tools for survey activities and do not impact regulated parties.

Individuals requiring reasonable accommodations for participation in this event should contact the Natural Resources Commission at:

*Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204-2273
Attn: ADA Compliance*

or call (317) 232-4699. Speech and hearing-impaired callers may contact the Commission via the Indiana Relay Service (711) or (800) 743-3333. Please provide a minimum of 72 hours notification.

The proposed rule amendments may be inspected and copied at the Natural Resources Commission, Division of Hearings, Indiana Government Center North, 100 North Senate Avenue, Room N103, Indianapolis, Indiana or may be obtained upon request by calling (317) 232-4699. Written comments may be submitted to the same mailing address or electronically through <https://www.in.gov/nrc/rules/rulemaking-docket/>.

*Bryan W. Poynter
Chairman
Natural Resources Commission*

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An [html](#) version of this document.*