

State of Wisconsin
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. FR-51-98

Legislative Council Rules Clearinghouse Number 98-176

Subject of Rules Forestry grant programs

Date of Transmittal to Presiding Officers February 9, 1999

Send a copy of any correspondence or notices pertaining to this rule to:

**Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LC/5, 101 South Webster**

266-1959

REPORT TO LEGISLATURE

NR 47, Wis. Adm. Code
Forestry grant programs

Board Order No. FR-51-98
Clearinghouse Rule No. 98-176

Statement of Need

The revisions to ch. NR 47 are being proposed to clarify language and improve consistency and customer service. The revision will affect five forestry grant programs: The Forest Stewardship Grant program, the Forest Stewardship Incentive program, the Urban Forestry Grant program, the County Forest Administrator Grant program and the Forest Fire Protection Grant program.

The Forest Stewardship Grant rules are being revised to clarify eligibility, open competition, correct errors and reestablish preferences. The Forest Stewardship Incentive program revisions are to comply with federal level changes in the program. The Urban Forestry Grant program changes are primarily editorial for clarity and compliance with state and federal requirements. One policy issue with this grant includes allowing partial advances for small nonprofit organizations to alleviate cash flow problems. The County Forest Administrator Grant program is being revised to comply with recent statutory changes increasing the amount of money available to each eligible county and to clarify grant requirements. General provisions on grant accountability, variances and termination unintentionally did not apply to the Forest Fire Protection Grant program.

Modifications as a Result of Public Hearings

The applicability section (NR 47.006) was expanded to apply to all grant programs within the chapter in response to a comment by the Fire Department Advisory Council that a provision for variances was needed to allow for adjustment should unforeseen circumstances arise. The accountability and termination general provisions were also made applicable to the Forest Fire Protection Grant program.

Appearances at the Public Hearing and Their Position

December 11, 1998 – Madison

In support:

Colette Matthews, Wis. County Forests Association, W7300 Ridge Road, Tomahawk, WI 54487
William E. Wengeler, County Forest Administrators, 707 E. 7th St., Merrill, WI 54452

In opposition – none

As interest may appear – none

December 15, 1998 – Green Bay

In support:

Arlen Wooden, Marinette County Forest Administrator, 1926 Hall Avenue, Marinette, WI 54143

In opposition – none

As interest may appear – none

December 16, 1998 – Eau Claire

In support:

Jack Nedland, Barron County Forest Administrator, 1418 E. LaSalle Avenue, Barron, WI 54812

In opposition – none

As interest may appear:

Brooke Ludwig, P.O. Box 4001, Eau Claire, WI 54702

Response to Legislative Council Rules Clearinghouse Report

The comments were accepted, except for:

2.a., suggesting the repeal of s. NR 47.12(10) is moot because of a printing error in the rule found after submittal to the Clearinghouse. The official wording of s. NR 47.12(10) is correct and so does not need to be repealed nor does s. NR 47.12(11) to (13) need to be renumbered.

5.d., recommending adding “any of the following” before the colon in s. NR 47.55(2) to clarify the language. This was not adopted because it would change the meaning of the rule. The language, as is, provides examples of project types, but does not limit project types to a specific list. This is the desired language as the Department does not presume to know all the types of urban forestry projects that applicants have need for. By adding “any of the following” the types of projects that may be funded by the urban forestry grants is restricted only to the list of examples. This does not serve the needs of the Department’s customers.

Final Regulatory Flexibility Analysis

The proposed amendments will not have an impact on small businesses because they are all on grant programs. Therefore, a final regulatory flexibility analysis is not required.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
RENUMBERING, AMENDING AND CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to repeal NR 47.06(2)(f)note, 47.07(2) and (3) and 47.56(1)(b)note, (d)note and (2)note; renumbering NR 47.07(4), 47.52(2) to (7), 47.56(3)(a), 47.56(3)(a) 1. to 4., 47.56(3)(b), 47.70(2)(f) and (g), (4)(c) and (d); renumbering and amending NR 47.12(3) and (4); amending NR 47.004(2) and (3)(intro.), 47.005(1), 47.005(3), 47.006(1), 47.007(1), 47.03(2), 47.06(1)(intro.) and (2)(intro.), 47.07(1)(b) to (d), 47.18(2), 47.20(1) and (6), 47.53(2), (3) and (5), 47.54(1) and (3), 47.55(1)(a), (2)(intro.), 47.55(2)(g) and (3)(a), 47.56(1)(b), (d), (2), (3)(a) 2. and 3., 47.57(intro.) and (1) and 47.70(1), (3)(a), (c), (f) and (4)(a); repealing and recreating s. NR 47.58(2) and 47.70(4)(b); and creating NR 47.07(1)(e), 47.52(8), 47.55(2)(i), 47.56(3)(f), 47.70(2)(f) and 47.70(4)(c) relating to forestry grant programs

FR-51-98

Analysis Prepared by Department of Natural Resources

Authorizing statute: NR 47 subchapters I,II,III - 16 USC 2101 et seq.; NR47 subchapter V - 16 USC 2101 et seq., s.23.097 Stats; NR 47 subchapter VI - s. 227.11(2)(a), Stats.

Statute interpreted: s. 28.11(5m), Stats.

Chapter NR 47, establishes rules for the administration of forestry grant programs.

NR 47 subch. I, establishes general provisions for all grant programs. The amended rule allows greater flexibility in reporting requirements and conforms with federal requirements for records retention.

NR 47 subchs. II and III, establish provisions to implement the Forest Stewardship grant program and the Stewardship incentive program. The amended rule reflects the changing views of the Coordinating Committee by easing grant guidelines and reflects changes in the federal guidelines.

NR 47 subch. V establishes provisions to implement the urban forestry grant program. The amended rule will allow not-for-profit organizations to receive partial advances of grant funds. Other changes are proposed to conform language to federal requirements, clarify project and cost eligibility, clarify application procedures, clarify payment procedures, correct language changed by reorganization, and correct an omitted eligible applicant.

Section NR 47.70, establishes provisions to implement the County Forest Administrator Grant program. The amended rule reflects a statutory change for a payment of half the annual salary and half fringe benefit costs of the position. Other changes extend the application filing deadline by two months and establish procedures to spend any unused funds the following year or return them.

SECTION 1. NR 47.004(2) is amended to read:

NR 47.004(2) INTERIM REPORTS. Each grant recipient ~~shall~~ may be required to submit to the department at no less than 6 ~~3~~ month intervals, ~~depending on the project period by written request of the department,~~ one or more interim reports which contain details of progress, findings, problems and other information regarding the status of ~~the project~~ a grant.

SECTION 2. NR 47.004(3) (intro.) is amended to read:

NR 47.004(3) FINAL REPORTS. (intro.) Each grant recipient shall submit a final report to the department within ~~60~~ 90 days after the grant expiration date. The final report shall include the following:

SECTION 3. NR 47.005(1) is amended to read:

NR 47.005 Grantee accountability. (1) Applicability. The provisions of this section apply only to subchs. II, IV, and V and VIII.

SECTION 4. NR 47.005(3) is amended to read:

NR 47.005(3) RECORDS RETENTION AND AUDITING. The grantee shall retain all records pertaining to its project and make them available to the department on request for ~~one year~~ 3 years from the date of the final payment.

SECTION 5. NR 47.006(1) is amended to read:

NR 47.006 Grant variances. (1) The department may approve in writing variances from nonstatutory requirements of this subchapter upon request of the grantee when it is determined that variances are essential to effect necessary actions or department objectives, and where special circumstances make variances in the best interests of the state. Before granting a variance, the department shall take into account factors such as good cause, circumstances beyond the control of the grantee and financial hardship.

SECTION 6. NR 47.007(1) is amended to read:

NR.007 Grant termination. (1) The provisions of this section apply only to subchs. II, IV, and V and VIII.

SECTION 7. NR 47.03(2) is amended to read:

NR 47.03(2) Applications for grants shall be received by the department prior to no later than the close of business on November 1 unless otherwise provided for on the application.

SECTION 8. NR 47.06(1) (intro.) is amended to read:

NR 47.06(1) (intro.) A project is eligible for funding under this subchapter if the project is capable of and directed towards achieving one or more of the following. Additionally, special emphasis may be placed, on an annual basis, in one of the following areas if designated in the application:

SECTION 9. NR 47.06(2) (intro.) is amended to read:

NR 47.06(2) (intro.) In selecting projects for grant assistance, the department shall give preference to projects which are directed to accomplish one or more of the following+. Preference to any area may be weighted based upon the recommendations of the forest stewardship coordinating committee and acceptance by the state forester.

SECTION 10. The note following NR 47.06(2) (f) is repealed.

SECTION 11. NR 47.07(1) (b) is amended to read:

NR 47.07(1) (b) The cost of necessary supplies and equipment used exclusively for project-related purposes over its useful life or the cost of that portion of supplies or equipment used for the project;

SECTION 12. NR 47.07(1) (c) is amended to read:

NR 47.07(1) (c) The costs of leased equipment and facilities for the length of the ~~demonstration~~ project;

SECTION 13. NR 47.07(1)(d) is amended to read:

NR 47.07(1)(d) The reasonable value of in-kind contributions by the applicant of labor, equipment or facilities as supported by documentation reflecting specific assignment to the project.

SECTION 14. NR 47.07(1)(e) is created to read:

NR 47.07(1)(e) Contract costs of qualified vendors to perform project activities.

SECTION 15. NR 47.07(2) is repealed.

SECTION 16. NR 47.07(3) is repealed.

SECTION 17. NR 47.07(4) is renumbered NR 47.07(2).

SECTION 18. NR 47.12(3) is renumbered (4) and as renumbered, is amended to read:

NR 47.12 (4) ~~"ASCS" "FSA"~~ means the U.S. department of agriculture, ~~agricultural stabilization and conservation service~~ farm services agency.

SECTION 19. NR 47.12(4) is renumbered NR 47.12(3).

SECTION 20. NR 47.18(2) is amended to read:

NR 47.18(2) The amount of payment under the program to any one landowner may not exceed \$10,000 in any fiscal year; although this limit may be lowered at the recommendation of the forest stewardship coordinating committee with concurrence of the state forester. In the case where an individual is not a sole proprietor but is a partner, corporate shareholder or has ownership interest in another private legal entity, the amount of payment to the individual shall be equivalent to the percentage of ownership the individual holds in ~~such~~ the partnership, corporation or other private legal entity times the payment made to ~~such~~ the partnership, corporation or other legal entity.

SECTION 21. NR 47.20(1) is amended to read:

NR 47.20(1) A landowner wishing to participate in the program shall apply at the ~~ASCS~~ FSA office for the county in which the land is located, on ~~ASCS~~ FSA forms.

SECTION 22. NR 47.20(6) is amended to read:

NR 47.20(6) Upon approval of a practice, the landowner shall be notified in writing by the ~~ASCS~~ FSA. ~~Such~~ The notice shall state that the landowner can begin implementing the approved practice.

SECTION 23. NR 47.52(2) to (7) are renumbered (7) and (2) to (6), respectively, and subs. (4) and (7), as renumbered, are amended to read:

NR 47.52 (4) "Not-for-profit organization" includes approved organizations that meet the requirements of section 501(c)(3) of the United States internal revenue code of 1986 and other ~~not-for-profit organizations~~ local community tree volunteer groups.

(7) ~~"District"~~ "Region" means one of the ~~6-district~~ 5 regional field administrative ~~offices~~ units of the department.

SECTION 24. NR 47.52(8) is created to read:

NR 47.52(8) "Urban forestry" means tree management, operations and education within cities, villages and other concentrated development.

SECTION 25. NR 47.53(2) is amended to read:

NR 47.53(2) Applicants shall submit applications on the prescribed department forms to the ~~district~~ regional office ~~for the district~~ where the applicant is located or as otherwise described by the department.

SECTION 26. NR 47.53(3) is amended to read:

NR 47.53(3) Applications shall be received by the department ~~district~~ regional office no later than close of business on October 1, unless otherwise provided on the application.

SECTION 27. NR 47.53(5) is amended to read:

NR 47.53(5) Successful applicants shall be notified by the department and sent a project agreement. Work under the project agreement may not proceed until the agreement is signed by the department ~~and the applicant~~ and not before the starting date listed on the project agreement.

SECTION 28. NR 47.54(1) is amended to read:

NR 47.54(1) A grant under this subchapter shall be no more than 50% of actual eligible costs except that no grant may exceed \$25,000 or be less than \$1000.

SECTION 29. NR 47.54(3) is amended to read:

NR 47.54(3) ~~No more than 20% of the~~ The department and the USDA forest service may annually negotiate limits on federal monies available for grants under this subsection that may be used to fund tree planting projects.

SECTION 30. NR 47.55(1)(a) is amended to read:

NR 47.55(1)(a) Municipal governments, towns, counties and not-for-profit organizations are eligible to apply for a federally funded grant under this subchapter.

SECTION 31. NR 47.55(2)(intro.) is amended to read:

NR 47.55(2) ELIGIBLE PROJECTS. (intro.) Requests for grant assistance shall relate to urban forestry and may include, but are not limited to, ~~requests for:~~

SECTION 32. NR 47.55(2)(g) is amended to read:

NR 47.55(2)(g) Development and implementation of urban forest management public information or involvement programs; ~~and~~

SECTION 33. NR 47.55(2)(i) is created to read:

NR 47.55(2)(i) Urban forestry operations projects such as planting, pruning, removal and other tree maintenance.

SECTION 34. NR 47.55(3)(a) is amended to read:

NR 47.55(3)(a) Stump ~~or brush~~ removal;

SECTION 35. NR 47.56(1)(b) is amended to read:

NR 47.56(1)(b) The cost of necessary supplies and equipment. Equipment costing more than \$5,000 per unit is not eligible. To be fully eligible project costs under the grant, a capital purchase shall be used exclusively for project-related purposes over its useful life. Nonexclusive capital purchases may be charged as project costs only for that portion of depreciation equitably related to use in project activities.

SECTION 36. The note following NR 47.56(1)(b) is repealed.

SECTION 37. NR 47.56(1)(d) is amended to read:

NR 47.56(1)(d) The reasonable value of in-kind contributions by the applicant of labor, equipment or facilities. Direct costs shall be supported by time sheets, vouchers or similar documentation reflecting specific assignment to the project. Actual fringe benefits may not exceed the current department fringe rate percentage of the direct labor costs claimed. The rate is established biennially by the department of administration and is available from the department urban forestry coordinators. Equipment rental rates may not exceed the county equipment rates established annually by the department of transportation and published in chapter 5 of the state highway maintenance manual. These rates are also available from the department urban forestry coordinators.

SECTION 38. The note following NR 47.56(1)(d) is repealed.

SECTION 39. The note following NR 47.56(2) is repealed.

SECTION 40. NR 47.56(2) is amended to read:

NR 47.56(2) ELIGIBLE COSTS, NON-REIMBURSABLE. Reasonable value of donated labor, equipment, supplies, facilities or services are eligible project costs for the purposes of match, but are not eligible for reimbursement. To be fully eligible project costs under the grant, a capital donation shall be used exclusively for project-related purposes over its useful life. Nonexclusive capital donations may be charged as project costs only for that portion of depreciation equitably related to use in project activities. Value of donated labor will be calculated using rates established by the department.

SECTION 41. NR 47.56(3)(a)2. is amended to read:

NR 47.56(3)(a)2. Ordinary operating expenses of local government applicants, also known as indirect costs, such as salaries and expenses of a mayor or city council members, that are not directly related to the project;

SECTION 42. NR 47.56(3)(a)3. is amended to read:

NR 47.56(3)(a)3. Costs for which payment has been or will be received under another federal or state financial assistance program except that community development block grants may be used to match urban forestry grants only when it can be demonstrated to the department's satisfaction that there is a local commitment to, and involvement in, the project;

SECTION 43. NR 47.56(3)(a) is renumbered sub.(3)(intro) and subs. 1. to 4. are renumbered pars. (a) to (d) and paragraph (b) is renumbered par.(e).

SECTION 44. NR 47.56(3)(f) is created to read:

NR 47.56(3)(f) Capital purchases that exceed \$5,000.

SECTION 45. NR 47.57 (intro.) is amended to read:

NR 47.57 **Grant selection process.** (intro.) ~~In selecting projects~~ Projects selected for grants under this subchapter, shall relate to urban forestry. When selecting projects, the department may give priority to the following listed in no particular order:

SECTION 46. NR 47.57(1) is amended to read:

NR 47.57(1) Applicants with ~~a department~~ an administrative unit, board or commission charged with the development and administration of a comprehensive tree care program.

SECTION 47. NR 47.58(2) is repealed and recreated to read:

NR 47.58(2) PAYMENT. (a) Not-for-profit organizations may request an advance payment of no more than 50% of the grant upon the awarding of the grant.

(b) Each grantee shall submit to the department a final accounting claim for reimbursement, supported by evidence of cost, within 90 days after the grant expiration date.

(c) Final balance payments for not-for-profit organizations that received an advance, and grant payments for all other grantees, shall be made upon approval of the final report and the final accounting claim.

SECTION 48. NR 47.70(1) is amended to read:

NR 47.70(1) PURPOSE. The purpose of this section is to establish standards and procedures for implementation of a grant program to contribute funds toward payment of the salary and fringe benefits of a professional forester in the position of administrator or assistant administrator of a county forest.

SECTION 49. NR 47.70(2)(f) and (g) is renumbered to NR 47.70(2)(g) and (h).

SECTION 50. NR 47.70(2)(f) is created to read:

NR 47.70(2)(f) "Fringe benefits" means the total annualized costs of a county for an employe excluding any salary.

SECTION 51. NR 47.70(3)(a) is amended to read:

NR 47.70(3)(a) A county may apply for a grant under the county forest administrator grant program. A county shall include in an application a county board resolution authorizing the application. A county shall file the application with the department no later than ~~November 30th~~ January 31st of the grant year preceding the grant year, except for the grant year the rule becomes effective when the application shall be filed no later than May 1, 1994.

SECTION 52. NR 47.70(3)(c) is amended to read:

NR 47.70(3)(c) Except as provided in par. (d), a grant shall be limited to funding annual salary and fringe benefits for a forester employed by a county.

SECTION 53. NR 47.70(3)(f) is amended to read:

NR 47.70(3)(f) Grants shall be distributed no later than April 15 of the grant year, ~~except for the grant year the rule becomes effective when the grants shall be distributed no later than August 1, 1994.~~

SECTION 54. NR 47.70(4)(a) is amended to read:

NR 47.70(4)(a) An annual grant award to a county may not exceed the ~~lesser of 50% of the position's annual salary or the maximum grant amounts established in par. (b) and fringe benefits.~~ Fringe benefit costs may not exceed 40% of the forester's salary.

SECTION 55. NR 47.70(4)(b) is repealed and recreated to read:

NR 47.70(4)(b) All grant funds received from the department shall be deposited in the county state aid forestry account.

SECTION 56. NR 47.70(4)(c) and (d) are renumbered to NR 47.70(4)(d) and (e) and (4)(e)1. and 3., as renumbered, are amended to read:

NR 47.70(4)(e)1. An annual plan of work is jointly developed by the ~~department's district forestry supervisor, the county forest administrator,~~

~~department's liaison forester and the county forestry committee~~ department and the county.

3. The annual plan of work is approved by the county and the department prior to the beginning of the grant year.

SECTION 57. NR 47.70(4)(c) is created to read:

NR 47.70(4)(c) Any grant funds not spent on salary or fringe benefit costs in the grant year shall be identified and deducted from the next year's request. If a county does not participate or is not eligible for the grant the next year, the funds shall be returned to the department.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on January 27, 1999.

The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)

OCT 31 2000

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to amend NR 47.005(1), 47.007(1) and 47.008(1); and to create subch. IX of ch. NR 47 relating to the federal cost sharing program to suppress gypsy moths

FR-41-00(E)

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 227.11(2) and 227.24, Stats.

Statutes interpreted: ss. 26.30, 28.01 and 28.07, Stats.

The purpose of this rule is to establish the administration and procedures for participation by landowners through counties in a voluntary, cooperative state suppression program for outbreaks in Wisconsin of a foreign pest, the gypsy moth. The suppression program will include an aerial insecticide treatment program (administered in partnership with the department of agriculture, trade and consumer protection) and administration of federal cost sharing for participants in that treatment program.

Gypsy moth is not native to Wisconsin but has become established in eastern counties of the state. Where this pest is established, it goes through periodic outbreaks in which the population of gypsy moth explodes and forests can be stripped of leaves in late June. The stress of heavy defoliation can cause the death of some trees and leaves surviving trees weak allowing attack by other pests and diseases. When outbreaks occur, the public typically becomes concerned and looks for ways to reduce the population of gypsy moth to tolerable levels. Treatments to kill large numbers of the pest can be expensive, at times damaging to our native insects and other animals, or even dangerous to the landowner when pesticides are not used according to directions. The department organized suppression program will provide the public with a safe, effective and affordable means to prevent damage to their trees.

The suppression program will be offered to landowners through counties and municipalities if the county in which they are located declines to participate. Participating counties or municipalities will provide a coordinator who will serve as the contact for the public and the department. The rule defines the tasks that will be performed by the participating counties and municipalities, how to apply for the program, criteria of eligible areas for treatment and cost sharing under the program and eligible costs that can be shared in the federal cost sharing program.

SECTION 1. NR 47.005(1) is amended to read:

NR 47.005(1) APPLICABILITY. The provisions of this section apply only to subchs. II, IV, V, and VIII and IX.

SECTION 2. NR 47.007(1) is amended to read:

NR 47.007(1) The provisions of this section apply only to subchs. II, IV, V, and VIII and IX.

SECTION 3. NR 47.008(1) is amended to read:

NR 47.008(1) The provisions of this section apply only to subchs. II, IV, V and IX.

SECTION 4. Subchapter IX of ch. NR 47 is created to read:

Subchapter IX
Rules for Federal Cost Sharing Program to Suppress Gypsy Moth

NR 47.910 Purpose. The purpose of this subchapter is to establish procedures for participation in the state cooperative gypsy moth suppression program consistent with ss. 26.30(2) and (5) and 28.07, Stats., as an alternative to a control program under s. 26.30 (7) to (10) Stats. The suppression program will include awarding and administering federal cost sharing to counties and municipalities if the county in which they are located declines to participate, for the purpose of aerial insecticide treatment of gypsy moth outbreaks.

NR 47.911 Applicability. The provisions of this subchapter are applicable to all county and municipal governments applying for cost sharing under this subchapter.

NR 47.912 Definitions. In this subchapter:

(1) "Administrative cost" means eligible expenses associated with preparation of applications, notification of residents, collection of funds, maintenance of records and other activities dealing with the administration of the cost shared suppression program for gypsy moths.

(2) "Applicant" means a Wisconsin county or municipality that submits an application for inclusion in the state gypsy moth suppression program and cost sharing for the treatment of and associated administrative costs for suppression of gypsy moth outbreaks.

(3) An "application" is a department form, materials and maps for all areas being proposed for treatment and cost sharing in the state gypsy moth suppression program by an applicant.

(4) "Buffer zone" is 250 feet surrounding a treatment block or exclusion area within a treatment block.

(5) "Department" means the Wisconsin department of natural resources.

(6) "Forest service" means the U.S. department of agriculture, forest service.

(7) "Gypsy moth" refers to the foreign pest, *Lymantria dispar*.

(8) "Local coordinator" means the person designated to represent and act on behalf of a county or municipality for the purpose of applying for cost sharing under this subchapter.

(9) "Local cost share" refers to the portion of the cost of the project other than federal funds administered by the department.

(10) "Municipality" includes cities, villages and towns.

(11) "One fortieth (1/40) acre, fixed radius survey" refers to an egg mass survey used to predict population size in the following spring.

(12) "Preferred hosts" includes tree species listed as Class I and II in the federal Environmental Impact Statement, Appendix G, Table 2-2.

(13) "Project period" means the period of time specified in a grant agreement during which all work shall be accomplished in order to eligible for reimbursement.

(14) "Residential land" means land with an average of one or more residences per 5 acres.

(15) "Rural land" means land with an average of less than one residence per 5 acres.

(16) "Treatment" refers to aerial application of insecticide.

(17) "Treatment block" means an eligible area identified under this subchapter for aerial treatment with insecticide.

NR 47.913 Eligibility. (1) ELIGIBLE APPLICANTS. (a) Counties may apply for participation in the state cost shared suppression program. Where a county declines to participate, municipalities within that county may apply for participation in the state cost shared suppression program during the period of November 2000 to July 2001.

(b) An applicant shall designate a local coordinator who will administer requests for treatment from and for residents. Training shall be provided by the department. Local coordinators shall:

1. Respond to requests for assistance from residents.
2. Determine if areas within a county or municipality are eligible for treatment.
3. Identify and map treatment blocks.
4. Complete and file applications with the department under this subchapter.
5. Collect local cost share moneys for treatments.
6. Conduct public awareness meetings in September, October or November each year and local notification meetings once blocks are determined to be eligible by the department.

7. Notify treatment residents within eligible treatment blocks and surrounding buffer zone by mail, publication of a class one legal notice in a local newspaper and a public meeting.

8. Accommodate spray objectors by revising or dropping treatment blocks.

9. Assist with observation of treatment.

10. Develop and submit requests for reimbursement for eligible administrative costs.

11. Maintain records and prepare an annual report to be filed with the department.

(2) ELIGIBLE TREATMENT BLOCKS. To be eligible for cost sharing under this subchapter, a proposed treatment block shall comply with the following criteria:

(a) Be of at least 40 contiguous acres in a compact and regular shape;

(b) Have a canopy coverage of either:

1. 25% or more on residential land;

2. 50% or more on rural land;

3. 50% or more of the canopy must be preferred hosts;

(d) Have the following minimum average number of egg masses per acre as determined by surveys consistent with subd. 3:

1. 500 egg masses per acre on residential land

2. 1000 egg masses per acre on rural land

3. Egg mass surveys shall be conducted using the 1/40th acre fixed radius survey method described in subd. 4. The number of survey plots taken to determine the average number of egg masses per acre shall be:

a. 40 -50 acres 3 survey plots

b. 51-100 acres 4 survey plots

c. 101-200 acres 6 survey plots

d. over 200 acres 6 survey plots plus an additional plot for each additional 100 acres

4. The procedure for a survey is as follows:

a. Select a location with forest cover representative of the area,

b. Describe a circle with a radius of 18.5 feet with a rope and stake,

c. Count all current year egg masses within the circle making sure to search all items within the circle thoroughly and searching the upper reaches of the trees using binoculars,

d. Multiply the number of current year egg masses found by 40 to determine the number of egg masses per acre as estimated from this plot.

NR 47.914 Application procedures. (1) An eligible applicant, described in s. NR 47.913 (1), may apply for participation in the statewide treatment program and cost sharing for aerial insecticide treatment and associated administrative costs for eligible blocks as described in s. NR 47.913 (2).

(2) Applicants shall submit locations of proposed treatment sites and an estimate of acreage to be treated at each site to the department staff designated in the application by November 30.

(3) Applicants shall submit applications for cost sharing on prescribed department forms to department staff, designated by the department and identified on the application, for the area of the state involved no later than January 3, along with a map of each proposed treatment block on a 7.5 minute quadrangle map to be eligible for participation in the treatment program for that year.

(4) Applicants shall submit a record of administrative costs incurred prior to and in preparation to submittal of the application to the department.

(5) The department shall review applications and recommend treatment for blocks determined to be eligible to the department of agriculture, trade and consumer protection for inclusion in the state treatment plan. If the department finds that a block is ineligible, the map and basis for the decision of ineligibility shall be identified by the department and returned to the applicant for revision. Revised proposed treatment blocks shall be reconsidered by the department if filed for reconsideration within 2 weeks of the date of service of the decision of ineligibility on the applicant.

(6) The applicant shall enter into an agreement with the department regarding cost sharing and continued eligibility under this subchapter to continue its eligibility.

(7) The department shall notify applicants of eligibility of proposed blocks.

(a) The applicant shall then notify landowners and tenants within the eligible proposed treatment blocks and buffer zones and provide information on insecticide to be used, approximate timing of treatment and how to register an objection to treatment. Notification requirements of applicants to landowners and tenants shall be detailed in the agreement and include:

1. A written notification of planned treatment mailed to persons owning or renting land in the treatment blocks or buffer zones. The mailing list shall be retained in the records of the applicant for 3 years subsequent to the treatment and submitted to the department upon its request.

2. Publication of a class 1 legal notice in a local newspaper at least 7 days prior to a deadline designated in the notice for registering an objection by a landowner or tenant to treatment on the land under the landowner's or tenant's control. -

3. A public meeting conducted by the applicant and held at least 7 days prior to the objection deadline.

(b) Records of calls and notification mailings, meetings and publications shall be kept by the applicant and submitted to the department in accordance with the grant agreement. Failure to maintain and submit these records required herein and in the grant agreement shall result in cancellation of treatment blocks from that applicant.

(8) Applicants shall contact objectors who register an objection before the deadline, determine the cause for objection and attempt to resolve it. If objections cannot be resolved, local coordinators shall work with the department's designated staff to remove the property and a 250 foot surrounding buffer zone from treatment. If a block is removed, the local coordinator shall notify residents and return money that has been collected from the landowners or tenants. Any objections on the basis of payment shall be resolved by the applicant and the applicant is responsible for the entire local share of costs of treatment for blocks under his or her jurisdiction. Properties will be removed from treatment due to nonpayment of the cost share by the applicant.

(9)(a) The department shall provide an estimate of per acre cost for treatment and administration to local coordinators no later than February 15th of each year. The applicant shall enter into an agreement with the department to pay the local cost share as determined under s. NR 47.915. The applicant shall collect the estimated local cost share and pay its share to the department by April 1 unless otherwise provided on the application. Once the local cost share for treatment blocks has been received, the boundaries of these treatment blocks shall be considered fixed. Alteration or cancellation of a treatment block may only then occur in the event of an irreconcilable conflict with a federally listed threatened or endangered species or where the contractor for pesticide application determines treatment of the block to be hazardous to the contractor. If a block is removed, the local coordinator shall notify residents and return money that has been collected from the landowners or tenants.

(b) The department shall under cooperative agreement work with the department of agriculture, trade and consumer protection to coordinate treatments.

(10) Applicants shall submit no later than April 1 of each year a list of telephone contacts associated with each treatment block to the designated department staff specified in the application. Required contacts for each block include; all schools and licensed daycare providers within a treatment block, local government officials, health, police, sheriff and fire departments within whose jurisdiction a treatment block occurs, hospital emergency rooms in the area of treatment blocks, persons requesting 24-hour notification and other concerned parties as needed. These lists will be used by department staff to provide daily notification during the aerial treatments.

(11) Applicants shall submit a bill for eligible expenditures to the department no later than June 30th of each year for eligible expenditures incurred for the project period.

NR 47.915 Grant calculation. (1) A grant under this subchapter shall be no more of the eligible costs of treatment and administration than the maximum for the appropriate category described in pars. (a) to (d) and be based on the amount of cost share funding received from the forest service.

(a) Privately owned lands under 500 acres per owner may be cost shared up to 50%.

(b) Private lands of over 500 acres per owner may be cost shared at up to 33%.

(c) Publicly owned lands may be cost shared at up to 25%.

(2) If full funding to cover the maximum share of treatment and administrative expenditures of the applicants is not available, the federal funding received shall first be applied to the cost of the treatment. If funds are not adequate to cover the maximum share for the cost of treatment, federal funds will be applied to treatment costs on a pro-rata basis based on acreage per applicant. Federal funding remaining after payment of the maximum share of the cost of treatment shall be paid on a pro-rata basis to the applicants to be applied to administration costs. Applicants are responsible for all treatment and administration costs that exceed the amount reimbursed.

NR 47.916 Grant awards. (1) GRANT AWARDS. Grants shall be awarded subject to execution of the department's grant agreement by both the department and the grant applicant.

(2) **PAYMENT.** Grant payments may be made only upon approval of a claim supported by evidence of cost that the reimbursable work has been completed and scheduled match has been met.

(3) **FINAL AUDIT.** All payments are contingent upon final audit. Financial records including all documentation to support entries in the accounting records shall be kept for review by the department auditors for a period of 4 years after final payment.

NR 47.917 Eligible and ineligible costs. (1) ELIGIBLE COSTS. Applicant expenditures eligible for reimbursement under this subchapter shall be documented and provided to the department with any request for cost-share reimbursement. Eligible costs from July 1 to June 30 of each year are subject to cost share reimbursement under this subchapter. The following items are eligible for cost share reimbursement under this program only if aerial treatments are conducted and the costs are eligible under this subchapter and as identified in the grant agreement. Eligible costs of treatment and administration of a block shall be no more than the maximum for the appropriate category for the block as described in s. NR 47.915 (1) (a) to (c).

(a) Topographic maps, aerial photos, weather monitoring equipment and personal safety equipment.

(b) Contracts for specialized equipment, including the rental of 2-way radios identified in the agreement between the department and the applicant.

(c) Communication supplies, including the rental of communication equipment used to coordinate the aerial treatment. Costs incurred for cellular phone service is limited to the period of April 20th through June 10th if the expenses are directly related to aerial treatments.

(d) Landowner notification supplies, including supplies and postage for notification letters, costs of publication of legal notices, costs associated with the public meeting to discuss specific proposed spray blocks, phone bills and documented proportion of office rental.

(e) Educational materials, including the costs of producing or reprinting publications, literature and maps necessary to inform the public about the suppression program.

(f) Newspaper advertisements, including the announcement of the fall scoping meeting and the winter public meetings.

(g) Personnel costs, including salary/wage and benefits for time administering the cost sharing program for treated blocks for personnel including the county coordinator, secretarial support, temporary employees and tax office support.

(h) Travel, including mileage accrued in vehicles used in preparation of sprayed blocks and during suppression activities is reimbursable but must be no more than the DOT standard rates.

(i) Post-suppression evaluation costs.

(2) INELIGIBLE COSTS. Costs associated with treatment blocks which are not sprayed are ineligible for cost sharing. The cost of capital equipment that is not directly necessary or dedicated to the completion of the suppression project and identified in the agreement with the department is ineligible for cost sharing.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on October 25, 2000

The rules shall take effect on November 1, 2000.

Dated at Madison, Wisconsin October 26, 2000

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(SEAL)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
 DOA-2048 N(R10/94)

Subject
 Wisconsin cooperative cost-sharing program for suppression of gypsy moth outbreaks

Fiscal Effect
 State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation		

Local: No local government costs

<input checked="" type="checkbox"/> Increase Costs <input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Government Units Affected: <input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Villages <input checked="" type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> WTCS Districts <input type="checkbox"/> School Districts <input type="checkbox"/> Others _____
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Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
 20.370 (1) (mu)

Assumptions Used in Arriving at Fiscal Estimate

SUMMARY OF BILL/RULE -

The purpose of this rule is to establish the administration and procedures for participation by landowners through counties or municipalities in a voluntary aerial suppression program for outbreaks in Wisconsin of a foreign pest, the gypsy moth. The department's suppression program will include an aerial insecticide treatment program (administered in partnership with the department of agriculture, trade and consumer protection) and administration of federal cost sharing for participants in that treatment program.

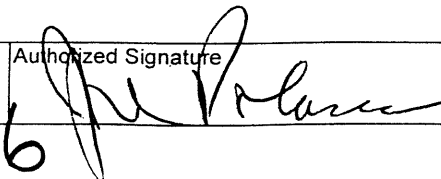
The department's suppression program will be offered to landowners through counties or municipalities where a county declines to participate. Participating counties or municipalities will provide a coordinator who will serve as the contact for the public and the department. The rule defines the tasks that will be performed by the participating counties or municipalities, how to apply for the program, criteria of eligible areas for treatment and cost sharing under the program and eligible costs that can be shared in the federal cost-sharing program.

SCAL IMPACT-

Gypsy moths populations continue to grow and spread in Wisconsin. Once established, populations go through cyclical periods of dramatic increase eventually reaching such high numbers that they strip whole forests of leaves in late June. When this happens, the public becomes very concerned and looks for ways to reduce the population of the pest to tolerable levels. Treatments to kill large numbers of the pest can be expensive, at times damaging to our native insects and other animals, or even dangerous to the landowner when pesticides are not used according to directions. A department organized suppression program will provide the public with a safe, effective and affordable means to prevent damage to their trees.

The Wisconsin gypsy moth suppression program is a voluntary program that offers cost savings to Wisconsin landowners beyond independently arranged treatment programs. This program consists of two components; 1) participation in a state run aerial insecticide treatment to suppress outbreaking populations of gypsy moth and 2) a federal cost sharing program to help pay for the aerial treatment. Cost sharing is only available for participants in the state aerial treatment project. The suppression program will require expenditures from local government that can be recovered from landowners served by the program. The first cost savings comes from participating in a large, state negotiated contract, the cost for which has been significantly lower than that for private, small area programs. The second cost savings is from participation in the department facilitated federal cost sharing program for suppression of gypsy moth outbreaks. The USDA Forest Service offers cost sharing up to 50% for treatments and associated administration for eligible suppression efforts.
 (continued on attached page)

Long-Range Fiscal Implications
 Outbreaks of gypsy moth and the need to manage the damage they cause will continue to be a problem for the next several years. Given the experience in Michigan, we can expect outbreaks to involve larger areas and also move westward as the gypsy moth becomes permanently established in central Wisconsin.
 (continued on attached page)

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
NR	Joe Polasek	(608) 266-2794		(608) 266-2794	09/16/2000

Assumptions Used in Arriving at Fiscal Estimate

To be eligible for participation in the state spray program and federal cost sharing, counties or municipalities must designate a coordinator who will administer local duties of the program. These local responsibilities include, but are not limited to; responding to requests from residents, determining eligibility of land and mapping proposed treatment blocks, collecting the local share of costs, notifying residents of proposed spray blocks, accommodating landowners who object to treatment of their property, preparing applications, reports and itemized bills and maintaining annual records. The coordinator position will, in most cases, be part time and counties have the option of assigning the work to a current employee, hiring someone part-time, sharing a coordinator with neighboring counties or contracting out the work.

A participating county or municipality will incur costs associated with administration of the program. Up to 50% of these administrative costs will be reimbursable from the Federal government depending on land category and availability of funds. The department requires that the local share of treatment and administrative costs be guaranteed prior to final approval for participation. The department has no requirements of how that local share is raised, whether from county, township or other local public moneys or billing of residents served by the program. In the event that the Forest Service budget for gypsy moth suppression is inadequate to provide full cost sharing for all requested acreage, cost sharing for administrative activities, personnel and travel will be reduced on a pro-rata basis to maintain full cost sharing for treatments. Where federal funds available are insufficient to cover the maximum share for the cost of treatment, federal funds will be applied to treatment costs on a pro-rata basis based on acreage per county or municipality. The county or municipality is responsible for all treatment and administration costs that exceed the amount reimbursed by the federal program.

Long-Range Fiscal Implications

While this pest is cyclical and an outbreak in any particular township or county may last one to three years, departmental regions are large enough that it is probable that there will be suppression treatments somewhere within each eastern region for the foreseeable future. Gypsy moth is also becoming established in central and southcentral Wisconsin, and an effort similar to that taken by the department in the eastern counties will need to be undertaken there.

Current funding in the department allows for 3.75 FTE with \$30,000 to fund an educational program and \$25,000 for research needs. The statewide coordinator, located in Madison, works directly with the USDA Forest Service and partnering agencies. A total of 2.75 FTE positions were added in July 2000 via an approved 13.10 emergency action by the Joint Committee on Finance. Two of these FTE positions are regional suppression coordinators located in Green Bay and Milwaukee to serve needs of surrounding counties where gypsy moth populations are building and reaching defoliating levels. These regional coordinating positions will provide approximately half of their time coordinating the state cost shared suppression program with affected counties and municipalities in each region. The other half of their time will be used providing technical, entomological and educational assistance not directly associated with the state cost shared suppression program. The remaining FTE positions are a 0.5 FTE financial assistant and a 0.25 FTE grant accountant will handle fiscal and grant issues associated with the cost-sharing program. To support gypsy moth suppression activities in the central counties comparable to that in the eastern counties, the department will need to provide an additional 2.0 positions in the Madison and Wausau areas. Since the department has existing personnel in place in eastern Wisconsin to facilitate the cost shared suppression program there, the only immediate increased cost of this rule will be for comparable efforts in central Wisconsin. The department expects that technical assistance and suppression needs will increase in 2001-2003 in the Madison and Wausau areas and we expect the division of labor within the positions will be similar to that previously described for the positions in Milwaukee and Green Bay.

ESTIMATE WORKSHEET

1999 Session

Estimated Estimate of Annual Fiscal Effect
A-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. NR 47	Amendment No.
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Subject
Wisconsin cooperative cost-sharing program for suppression of gypsy moth outbreaks

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

\$9,000 for startup expenses

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$79,000	
(FTE Position Changes)	2.00	
State Operations - Other Costs	\$14,200	
Local Assistance	\$0	
Aids to Individuals or Organizations	\$0	
TOTAL State Costs by Category	\$93,200	
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR		
FED		
PRO/PRS		
SEG/SEG-S	\$93,200	
II. State Revenues:	Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes		
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues		

NET ANNUALIZED IMPACT

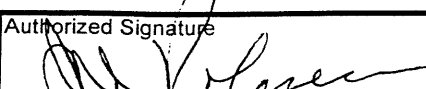
STATE

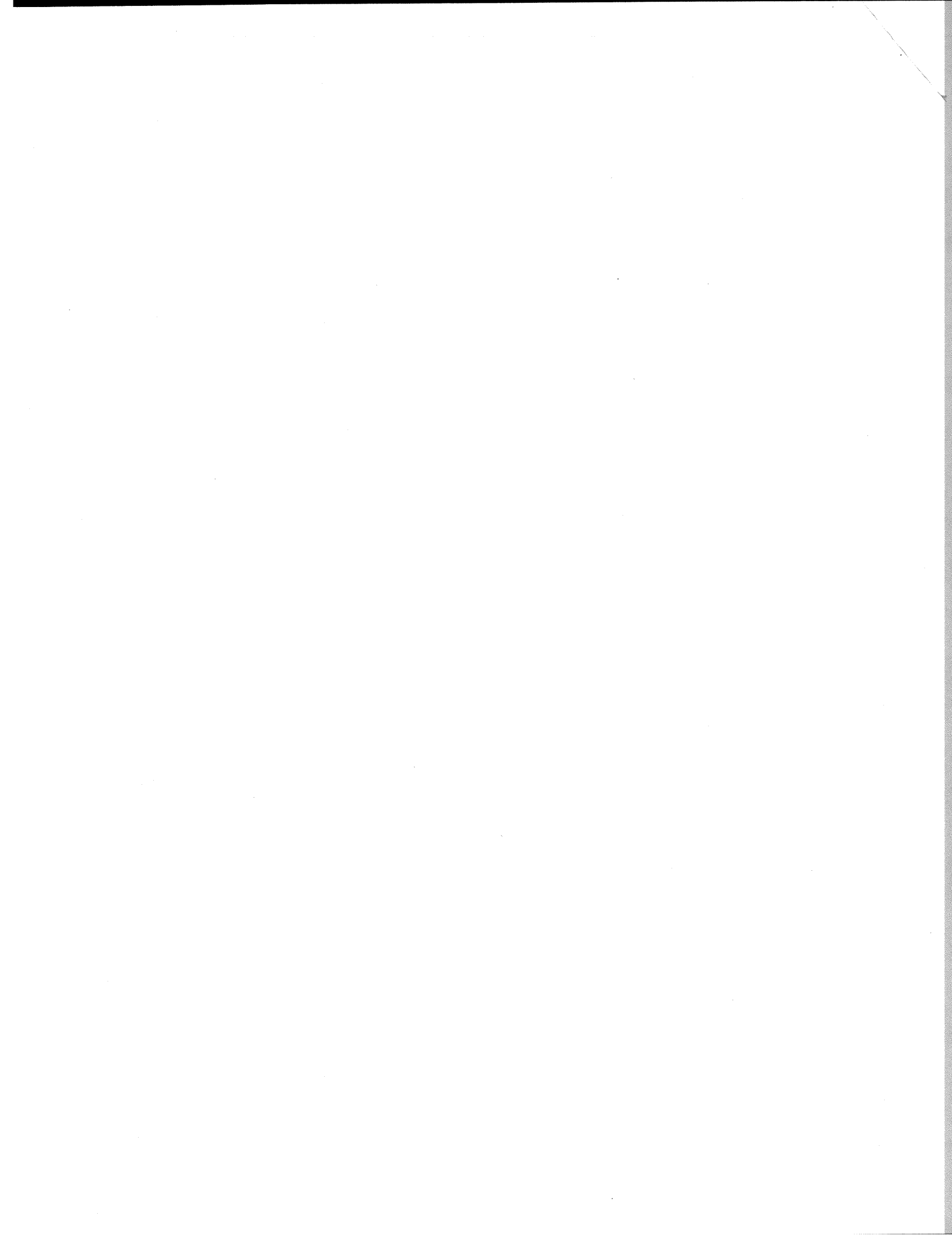
LOCAL

NET CHANGE IN COSTS

\$93,200

NET CHANGE IN REVENUES

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
NR	Joe Polasek	(608) 266-2794		(608) 266-2794	09/16/2000



ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to amend NR 47.005(1), 47.007(1) and 47.008(1); and to create subch. IX of ch. NR 47 relating to the federal cost sharing program to suppress gypsy moths

FR-41-00(E)

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 227.11(2) and 227.24, Stats.

Statutes interpreted: ss. 26.30, 28.01 and 28.07, Stats.

The purpose of this rule is to establish the administration and procedures for participation by landowners through counties in a voluntary, cooperative state suppression program for outbreaks in Wisconsin of a foreign pest, the gypsy moth. The suppression program will include an aerial insecticide treatment program (administered in partnership with the department of agriculture, trade and consumer protection) and administration of federal cost sharing for participants in that treatment program.

Gypsy moth is not native to Wisconsin but has become established in eastern counties of the state. Where this pest is established, it goes through periodic outbreaks in which the population of gypsy moth explodes and forests can be stripped of leaves in late June. The stress of heavy defoliation can cause the death of some trees and leaves surviving trees weak allowing attack by other pests and diseases. When outbreaks occur, the public typically becomes concerned and looks for ways to reduce the population of gypsy moth to tolerable levels. Treatments to kill large numbers of the pest can be expensive, at times damaging to our native insects and other animals, or even dangerous to the landowner when pesticides are not used according to directions. The department organized suppression program will provide the public with a safe, effective and affordable means to prevent damage to their trees.

The suppression program will be offered to landowners through counties and municipalities if the county in which they are located declines to participate. Participating counties or municipalities will provide a coordinator who will serve as the contact for the public and the department. The rule defines the tasks that will be performed by the participating counties and municipalities, how to apply for the program, criteria of eligible areas for treatment and cost sharing under the program and eligible costs that can be shared in the federal cost sharing program.

SECTION 1. NR 47.005(1) is amended to read:

NR 47.005(1) APPLICABILITY. The provisions of this section apply only to subchs. II, IV, V, and VIII and IX.

SECTION 2. NR 47.007(1) is amended to read:

NR 47.007(1) The provisions of this section apply only to subchs. II, IV, V, and VIII and IX.

SECTION 3. NR 47.008(1) is amended to read:

NR 47.008(1) The provisions of this section apply only to subchs. II, IV, and V and IX.

SECTION 4. Subchapter IX of ch. NR 47 is created to read:

Subchapter IX
Rules for Federal Cost Sharing Program to Suppress Gypsy Moth

NR 47.910 Purpose. The purpose of this subchapter is to establish procedures for participation in the state cooperative gypsy moth suppression program consistent with ss. 26.30(2) and (5) and 28.07, Stats., as an alternative to a control program under s. 26.30 (7) to (10) Stats. The suppression program will include awarding and administering federal cost sharing to counties and municipalities if the county in which they are located declines to participate, for the purpose of aerial insecticide treatment of gypsy moth outbreaks.

NR 47.911 Applicability. The provisions of this subchapter are applicable to all county and municipal governments applying for cost sharing under this subchapter.

NR 47.912 Definitions. In this subchapter:

(1) "Administrative cost" means eligible expenses associated with preparation of applications, notification of residents, collection of funds, maintenance of records and other activities dealing with the administration of the cost shared suppression program for gypsy moths.

(2) "Applicant" means a Wisconsin county or municipality that submits an application for inclusion in the state gypsy moth suppression program and cost sharing for the treatment of and associated administrative costs for suppression of gypsy moth outbreaks.

(3) An "application" is a department form, materials and maps for all areas being proposed for treatment and cost sharing in the state gypsy moth suppression program by an applicant.

(4) "Buffer zone" is 250 feet surrounding a treatment block or exclusion area within a treatment block.

(5) "Department" means the Wisconsin department of natural resources.

(6) "Forest service" means the U.S. department of agriculture, forest service.

(7) "Gypsy moth" refers to the foreign pest, *Lymantria dispar*.

(8) "Local coordinator" means the person designated to represent and act on behalf of a county or municipality for the purpose of applying for cost sharing under this subchapter.

(9) "Local cost share" refers to the portion of the cost of the project other than federal funds administered by the department.

(10) "Municipality" includes cities, villages and towns.

(11) "One fortieth (1/40) acre, fixed radius survey" refers to an egg mass survey used to predict population size in the following spring.

(12) "Preferred hosts" includes tree species listed as Class I and II in the federal Environmental Impact Statement, Appendix G, Table 2-2.

(13) "Project period" means the period of time specified in a grant agreement during which all work shall be accomplished in order to eligible for reimbursement.

(14) "Residential land" means land with an average of one or more residences per 5 acres.

(15) "Rural land" means land with an average of less than one residence per 5 acres.

(16) "Treatment" refers to aerial application of insecticide.

(17) "Treatment block" means an eligible area identified under this subchapter for aerial treatment with insecticide.

NR 47.913 Eligibility. (1) ELIGIBLE APPLICANTS. (a) Counties may apply for participation in the state cost shared suppression program. Where a county declines to participate, municipalities within that county may apply for participation in the state cost shared suppression program during the period of November 2000 to July 2001.

(b) An applicant shall designate a local coordinator who will administer requests for treatment from and for residents. Training shall be provided by the department. Local coordinators shall:

1. Respond to requests for assistance from residents.
2. Determine if areas within a county or municipality are eligible for treatment.
3. Identify and map treatment blocks.
4. Complete and file applications with the department under this subchapter.
5. Collect local cost share moneys for treatments.
6. Conduct public awareness meetings in September, October or November each year and local notification meetings once blocks are determined to be eligible by the department.

7. Notify treatment residents within eligible treatment blocks and surrounding buffer zone by mail, publication of a class one legal notice in a local newspaper and a public meeting.

8. Accommodate spray objectors by revising or dropping treatment blocks.

9. Assist with observation of treatment.

10. Develop and submit requests for reimbursement for eligible administrative costs.

11. Maintain records and prepare an annual report to be filed with the department.

(2) ELIGIBLE TREATMENT BLOCKS. To be eligible for cost sharing under this subchapter, a proposed treatment block shall comply with the following criteria:

(a) Be of at least 40 contiguous acres in a compact and regular shape;

(b) Have a canopy coverage of either:

1. 25% or more on residential land;

2. 50% or more on rural land;

3. 50% or more of the canopy must be preferred hosts;

(d) Have the following minimum average number of egg masses per acre as determined by surveys consistent with subd. 3:

1. 500 egg masses per acre on residential land

2. 1000 egg masses per acre on rural land

3. Egg mass surveys shall be conducted using the 1/40th acre fixed radius survey method described in subd. 4. The number of survey plots taken to determine the average number of egg masses per acre shall be:

a. 40 -50 acres 3 survey plots

b. 51-100 acres 4 survey plots

c. 101-200 acres 6 survey plots

d. over 200 acres 6 survey plots plus an additional plot for each additional 100 acres

4. The procedure for a survey is as follows:

a. Select a location with forest cover representative of the area,

b. Describe a circle with a radius of 18.5 feet with a rope and stake,

c. Count all current year egg masses within the circle making sure to search all items within the circle thoroughly and searching the upper reaches of the trees using binoculars,

d. Multiply the number of current year egg masses found by 40 to determine the number of egg masses per acre as estimated from this plot.

NR 47.914 Application procedures. (1) An eligible applicant, described in s. NR 47.913 (1), may apply for participation in the statewide treatment program and cost sharing for aerial insecticide treatment and associated administrative costs for eligible blocks as described in s. NR 47.913 (2).

(2) Applicants shall submit locations of proposed treatment sites and an estimate of acreage to be treated at each site to the department staff designated in the application by November 30.

(3) Applicants shall submit applications for cost sharing on prescribed department forms to department staff, designated by the department and identified on the application, for the area of the state involved no later than January 3, along with a map of each proposed treatment block on a 7.5 minute quadrangle map to be eligible for participation in the treatment program for that year.

(4) Applicants shall submit a record of administrative costs incurred prior to and in preparation to submittal of the application to the department.

(5) The department shall review applications and recommend treatment for blocks determined to be eligible to the department of agriculture, trade and consumer protection for inclusion in the state treatment plan. If the department finds that a block is ineligible, the map and basis for the decision of ineligibility shall be identified by the department and returned to the applicant for revision. Revised proposed treatment blocks shall be reconsidered by the department if filed for reconsideration within 2 weeks of the date of service of the decision of ineligibility on the applicant.

(6) The applicant shall enter into an agreement with the department regarding cost sharing and continued eligibility under this subchapter to continue its eligibility.

(7) The department shall notify applicants of eligibility of proposed blocks.

(a) The applicant shall then notify landowners and tenants within the eligible proposed treatment blocks and buffer zones and provide information on insecticide to be used, approximate timing of treatment and how to register an objection to treatment. Notification requirements of applicants to landowners and tenants shall be detailed in the agreement and include:

1. A written notification of planned treatment mailed to persons owning or renting land in the treatment blocks or buffer zones. The mailing list shall be retained in the records of the applicant for 3 years subsequent to the treatment and submitted to the department upon its request.

2. Publication of a class 1 legal notice in a local newspaper at least 7 days prior to a deadline designated in the notice for registering an objection by a landowner or tenant to treatment on the land under the landowner's or tenant's control.

3. A public meeting conducted by the applicant and held at least 7 days prior to the objection deadline.

(b) Records of calls and notification mailings, meetings and publications shall be kept by the applicant and submitted to the department in accordance with the grant agreement. Failure to maintain and submit these records required herein and in the grant agreement shall result in cancellation of treatment blocks from that applicant.

(8) Applicants shall contact objectors who register an objection before the deadline, determine the cause for objection and attempt to resolve it. If objections cannot be resolved, local coordinators shall work with the department's designated staff to remove the property and a 250 foot surrounding buffer zone from treatment. If a block is removed, the local coordinator shall notify residents and return money that has been collected from the landowners or tenants. Any objections on the basis of payment shall be resolved by the applicant and the applicant is responsible for the entire local share of costs of treatment for blocks under his or her jurisdiction. Properties will be removed from treatment due to nonpayment of the cost share by the applicant.

(9)(a) The department shall provide an estimate of per acre cost for treatment and administration to local coordinators no later than February 15th of each year. The applicant shall enter into an agreement with the department to pay the local cost share as determined under s. NR 47.915. The applicant shall collect the estimated local cost share and pay its share to the department by April 1 unless otherwise provided on the application. Once the local cost share for treatment blocks has been received, the boundaries of these treatment blocks shall be considered fixed. Alteration or cancellation of a treatment block may only then occur in the event of an irreconcilable conflict with a federally listed threatened or endangered species or where the contractor for pesticide application determines treatment of the block to be hazardous to the contractor. If a block is removed, the local coordinator shall notify residents and return money that has been collected from the landowners or tenants.

(b) The department shall under cooperative agreement work with the department of agriculture, trade and consumer protection to coordinate treatments.

(10) Applicants shall submit no later than April 1 of each year a list of telephone contacts associated with each treatment block to the designated department staff specified in the application. Required contacts for each block include; all schools and licensed daycare providers within a treatment block, local government officials, health, police, sheriff and fire departments within whose jurisdiction a treatment block occurs, hospital emergency rooms in the area of treatment blocks, persons requesting 24-hour notification and other concerned parties as needed. These lists will be used by department staff to provide daily notification during the aerial treatments.

(11) Applicants shall submit a bill for eligible expenditures to the department no later than June 30th of each year for eligible expenditures incurred for the project period.

NR 47.915 Grant calculation. (1) A grant under this subchapter shall be no more of the eligible costs of treatment and administration than the maximum for the appropriate category described in pars. (a) to (d) and be based on the amount of cost share funding received from the forest service.

(a) Privately owned lands under 500 acres per owner may be cost shared up to 50%.

(b) Private lands of over 500 acres per owner may be cost shared at up to 33%.

(c) Publicly owned lands may be cost shared at up to 25%.

(2) If full funding to cover the maximum share of treatment and administrative expenditures of the applicants is not available, the federal funding received shall first be applied to the cost of the treatment. If funds are not adequate to cover the maximum share for the cost of treatment, federal funds will be applied to treatment costs on a pro-rata basis based on acreage per applicant. Federal funding remaining after payment of the maximum share of the cost of treatment shall be paid on a pro-rata basis to the applicants to be applied to administration costs. Applicants are responsible for all treatment and administration costs that exceed the amount reimbursed.

NR 47.916 Grant awards. (1) GRANT AWARDS. Grants shall be awarded subject to execution of the department's grant agreement by both the department and the grant applicant.

(2) **PAYMENT.** Grant payments may be made only upon approval of a claim supported by evidence of cost that the reimbursable work has been completed and scheduled match has been met.

(3) **FINAL AUDIT.** All payments are contingent upon final audit. Financial records including all documentation to support entries in the accounting records shall be kept for review by the department auditors for a period of 4 years after final payment.

NR 47.917 Eligible and ineligible costs. (1) ELIGIBLE COSTS. Applicant expenditures eligible for reimbursement under this subchapter shall be documented and provided to the department with any request for cost-share reimbursement. Eligible costs from July 1 to June 30 of each year are subject to cost share reimbursement under this subchapter. The following items are eligible for cost share reimbursement under this program only if aerial treatments are conducted and the costs are eligible under this subchapter and as identified in the grant agreement. Eligible costs of treatment and administration of a block shall be no more than the maximum for the appropriate category for the block as described in s. NR 47.915 (1) (a) to (c).

(a) Topographic maps, aerial photos, weather monitoring equipment and personal safety equipment.

(b) Contracts for specialized equipment, including the rental of 2-way radios identified in the agreement between the department and the applicant.

(c) Communication supplies, including the rental of communication equipment used to coordinate the aerial treatment. Costs incurred for cellular phone service is limited to the period of April 20th through June 10th if the expenses are directly related to aerial treatments.

(d) Landowner notification supplies, including supplies and postage for notification letters, costs of publication of legal notices, costs associated with the public meeting to discuss specific proposed spray blocks, phone bills and documented proportion of office rental.

(e) Educational materials, including the costs of producing or reprinting publications, literature and maps necessary to inform the public about the suppression program.

(f) Newspaper advertisements, including the announcement of the fall scoping meeting and the winter public meetings.

(g) Personnel costs, including salary/wage and benefits for time administering the cost sharing program for treated blocks for personnel including the county coordinator, secretarial support, temporary employees and tax office support.

(h) Travel, including mileage accrued in vehicles used in preparation of sprayed blocks and during suppression activities is reimbursable but must be no more than the DOT standard rates.

(i) Post-suppression evaluation costs.

(2) INELIGIBLE COSTS. Costs associated with treatment blocks which are not sprayed are ineligible for cost sharing. The cost of capital equipment that is not directly necessary or dedicated to the completion of the suppression project and identified in the agreement with the department is ineligible for cost sharing.

An emergency rule is necessary in order to make the cost shared gypsy moth suppression program available for aerial treatments in May 2001. Given the survival of caterpillars this summer, the department expects that populations of gypsy moth will be high enough in some localities in 2001 to necessitate suppression to protect tree health. In order to offer participation in the aerial treatment project and cost sharing from the U.S. Forest Service, it is necessary that preparatory work be done this fall and winter to define treatment blocks. When gypsy moth outbreaks occur, the public typically becomes concerned and looks for ways to reduce the population of gypsy moth to tolerable levels. Treatments to kill large numbers of the pest can be expensive, at times damaging to our native insects and other animals, or even dangerous to the landowner and others when pesticides are not used according to directions. The Department organized suppression program will provide the public with a safe, effective and affordable means to prevent damage to their trees.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on October 25, 2000

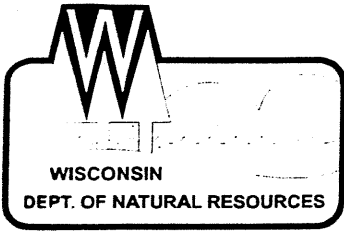
The rules shall take effect on November 10, 2000.

Dated at Madison, Wisconsin November 2, 2000

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY 608-267-6897

November 1, 2000

Mr. Gary Poulson
Assistant Revisor of Statutes
131 W. Wilson Street - Suite 800
Madison, WI

Dear Mr. Poulson:

Enclosed is State of Wisconsin Natural Resources Board Order No. FR-41-00(E) for filing as required by s. 227.20, Stats.

These are emergency rules adopted pursuant to s. 227.24, Stats., and will be effective on November 10, 2000 after publication in the official state newspaper.

Natural Resources Board Order No. FR-41-00(E) was previously filed with your office. Unfortunately, the wrong version of the order was signed. Because the rule is also being proposed as a permanent rule, the emergency statement was inadvertently omitted on the version sent to the Secretary for signature.

Sincerely,

George E. Meyer
Secretary

Enc.

LRB or Bill No./Adm. Rule No.
NR 47
Amendment No. if Applicable

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R10/94)

Subject
Wisconsin cooperative cost-sharing program for suppression of gypsy moth outbreaks

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local: No local government costs

<input checked="" type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenues	5. Types of Local Government Units Affected:
<input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
<input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenues	<input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Villages <input checked="" type="checkbox"/> Cities
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input checked="" type="checkbox"/> Counties <input type="checkbox"/> WTCS Districts
		<input type="checkbox"/> School Districts <input type="checkbox"/> Others _____

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
20.370 (1) (mu)

Assumptions Used in Arriving at Fiscal Estimate

SUMMARY OF BILL/RULE -

The purpose of this rule is to establish the administration and procedures for participation by landowners through counties or municipalities in a voluntary aerial suppression program for outbreaks in Wisconsin of a foreign pest, the gypsy moth. The department's suppression program will include an aerial insecticide treatment program (administered in partnership with the department of agriculture, trade and consumer protection) and administration of federal cost sharing for participants in that treatment program.

The department's suppression program will be offered to landowners through counties or municipalities where a county declines to participate. Participating counties or municipalities will provide a coordinator who will serve as the contact for the public and the department. The rule defines the tasks that will be performed by the participating counties or municipalities, how to apply for the program, criteria of eligible areas for treatment and cost sharing under the program and eligible costs that can be shared in the federal cost-sharing program.

FISCAL IMPACT-

Gypsy moths populations continue to grow and spread in Wisconsin. Once established, populations go through cyclical periods of dramatic increase eventually reaching such high numbers that they strip whole forests of leaves in late June. When this happens, the public becomes very concerned and looks for ways to reduce the population of the pest to tolerable levels. Treatments to kill large numbers of the pest can be expensive, at times damaging to our native insects and other animals, or even dangerous to the landowner when pesticides are not used according to directions. A department organized suppression program will provide the public with a safe, effective and affordable means to prevent damage to their trees.

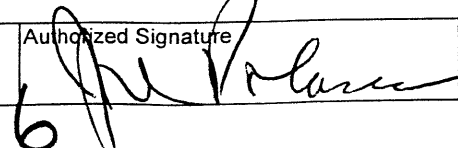
The Wisconsin gypsy moth suppression program is a voluntary program that offers cost savings to Wisconsin landowners beyond independently arranged treatment programs. This program consists of two components; 1) participation in a state run aerial insecticide treatment to suppress outbreaking populations of gypsy moth and 2) a federal cost sharing program to help pay for the aerial treatment. Cost sharing is only available for participants in the state aerial treatment project. The suppression program will require expenditures from local government that can be recovered from landowners served by the program. The first cost savings comes from participating in a large, state negotiated contract, the cost for which has been significantly lower than that for private, small spray programs. The second cost savings is from participation in the department facilitated federal cost sharing program for suppression of gypsy moth outbreaks. The USDA Forest Service offers cost sharing up to 50% for treatments and associated administration for eligible suppression efforts.

(continued on attached page)

Long-Range Fiscal Implications

Outbreaks of gypsy moth and the need to manage the damage they cause will continue to be a problem for the next several years. Given the experience in Michigan, we can expect outbreaks to involve larger areas and also move westward as the gypsy moth becomes permanently established in central Wisconsin.

(continued on attached page)

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
JR	Joe Polasek	(608) 266-2794		(608) 266-2794	09/16/2000

Assumptions Used in Arriving at Fiscal Estimate

To be eligible for participation in the state spray program and federal cost sharing, counties or municipalities must designate a coordinator who will administer local duties of the program. These local responsibilities include, but are not limited to; responding to requests from residents, determining eligibility of land and mapping proposed treatment blocks, collecting the local share of costs, notifying residents of proposed spray blocks, accommodating landowners who object to treatment of their property, preparing applications, reports and itemized bills and maintaining annual records. The coordinator position will, in most cases, be part time and counties have the option of assigning the work to a current employee, hiring someone part-time, sharing a coordinator with neighboring counties or contracting out the work.

A participating county or municipality will incur costs associated with administration of the program. Up to 50% of these administrative costs will be reimbursable from the Federal government depending on land category and availability of funds. The department requires that the local share of treatment and administrative costs be guaranteed prior to final approval for participation. The department has no requirements of how that local share is raised, whether from county, township or other local public moneys or billing of residents served by the program. In the event that the Forest Service budget for gypsy moth suppression is inadequate to provide full cost sharing for all requested acreage, cost sharing for administrative activities, personnel and travel will be reduced on a pro-rata basis to maintain full cost sharing for treatments. Where federal funds available are insufficient to cover the maximum share for the cost of treatment, federal funds will be applied to treatment costs on a pro-rata basis based on acreage per county or municipality. The county or municipality is responsible for all treatment and administration costs that exceed the amount reimbursed by the federal program.

Long-Range Fiscal Implications

While this pest is cyclical and an outbreak in any particular township or county may last one to three years, departmental regions are large enough that it is probable that there will be suppression treatments somewhere within each eastern region for the foreseeable future. Gypsy moth is also becoming established in central and southcentral Wisconsin, and an effort similar to that taken by the department in the eastern counties will need to be undertaken there.

Current funding in the department allows for 3.75 FTE with \$30,000 to fund an educational program and \$25,000 for research needs. The statewide coordinator, located in Madison, works directly with the USDA Forest Service and partnering agencies. A total of 2.75 FTE positions were added in July 2000 via an approved 13.10 emergency action by the Joint Committee on Finance. Two of these FTE positions are regional suppression coordinators located in Green Bay and Milwaukee to serve needs of surrounding counties where gypsy moth populations are building and reaching defoliating levels. These regional coordinating positions will provide approximately half of their time coordinating the state cost shared suppression program with affected counties and municipalities in each region. The other half of their time will be used providing technical, entomological and educational assistance not directly associated with the state cost shared suppression program. The remaining FTE positions are a 0.5 FTE financial assistant and a 0.25 FTE grant accountant who will handle fiscal and grant issues associated with the cost-sharing program. To support gypsy moth suppression activities in the central counties comparable to that in the eastern counties, the department will need to provide an additional 2.0 positions in the Madison and Wausau areas. Since the department has existing personnel in place in eastern Wisconsin to facilitate the cost shared suppression program there, the only immediate increased cost of this rule will be for comparable efforts in central Wisconsin. The department expects that technical assistance and suppression needs will increase in 2001-2003 in the Madison and Wausau areas and we expect the division of labor within the positions will be similar to that previously described for the positions in Milwaukee and Green Bay.

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
NR 47

Amendment No.

Subject

Wisconsin cooperative cost-sharing program for suppression of gypsy moth outbreaks

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

\$9,000 for startup expenses

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
A. State Costs by Category		Increased Costs	Decreased Costs
State Operations - Salaries and Fringes		\$79,000	
(FTE Position Changes)		2.00	
State Operations - Other Costs		\$14,200	
Local Assistance		\$0	
Aids to Individuals or Organizations		\$0	
TOTAL State Costs by Category		\$93,200	
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR			
FED			
PRO/PRS			
SEG/SEG-S		\$93,200	
III. State Revenues:		Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>			
GPR Taxes			
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues			

NET ANNUALIZED IMPACT

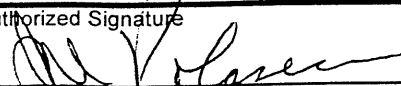
STATE

LOCAL

IET CHANGE IN COSTS

\$93,200

IET CHANGE IN REVENUES

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
NR	Joe Polasek	(608) 266-2794		(608) 266-2794	09/16/2000