

# **Joint Committee for Review of Administrative Rules**

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- **NR 47.913(2)(a)**

## **Report to the Legislature**

### **Administrative Rule NR 47.913(2)(a)**

#### **The Joint Committee for Review of Administrative Rules**

Produced pursuant to s. 227.26(2)(g), Stats.

Section NR 47.913(2)(a), promulgated by the Department of Natural Resources, (DNR), creates eligibility criteria for federal cost sharing in the gypsy moth suppression program.

#### **Description of the Problem**

At the request of Representative Lorraine Seratti, the Joint Committee for Review of Administrative Rules (JCRAR) reviewed the gypsy moth suppression program eligibility criteria created in s. NR 47.913(2)(a). Constituents of Representative Seratti's district have experienced severe defoliation from gypsy moths. Because of this, many landowners would like to participate in the federal cost sharing included in the gypsy moth suppression program. In order to be eligible for this program, the landowners must group together to form 40 contiguous acres that are of a compact and regular size. Unfortunately, in many cases, not all the landowners are willing to participate. If the landowners are unable to form 40 contiguous acres, they are ineligible to participate in the federal cost-sharing program.

#### **Arguments in Favor of Suspension**

- *The gypsy moth suppression program fails if landowners are deemed ineligible to participate. It is extremely difficult to reach the 40-acre minimum because of the large number of small parcels in the infested area.*

- *Landowners' entire parcels are being defoliated and their children are unable to go outside to play. Their quality of life has been greatly affected.*
- *The gypsy moth infestation has crippled the local economy because of its dependence on tourism and forestry.*
- *The number of program participants could increase because there is federal cost-sharing funding available.*

#### **Arguments Against Suspension**

- *Because the suppression program includes spraying an application from an airplane, the amount of land mass needs to be of considerable size. It would be very difficult to make the application on a parcel-by-parcel basis.*
- *Small treated areas will be quickly reinfested, thus producing no benefit for the costs of application.*
- *The USDA Forest Service requires the rule to have a provision for objectors, those who choose not to participate in the program. If there would be an objector, the area that could be treated would be decreased making the application more difficult.*
- *Lessening the minimum contiguous acre requirement will result in an increase in participants drawing more money from the program.*

#### **Action by Joint Committee for Review of Administrative Rules**

On November 7, 2002 the Joint Committee for Review of Administrative Rules held a public hearing and an executive session on s. NR 47.913(2)(a). The committee

unanimously passed a motion, pursuant to s. 227.26(2)(d), Stats., and for the reasons set forth in s. 227.19(4)(d)6., Stats., to suspend the following two portions of s. NR 47.913 (2)(a): “40 contiguous acres in a compact and regular shape or be of at least” and “of publicly owned land surrounded by ineligible land”. (The action of the joint committee provides that NR 47.913 (2) (a) will read: “Be of at least 20 acres.”) This action suspends the requirement that the land be 40 contiguous acres of compact and regular shape.

On November 7, 2002, JCRAR voted unanimously to introduce LRB 0669/2 and LRB 0670/2, which would specify that an area is not eligible for insecticide treatment unless the area is at least 20 acres in size. The bill also specifies that if the DNR establishes such a gypsy moth suppression program, the current law provisions that apply to the designation of infestation control zones do not apply to that gypsy moth suppression program.