

## CHAPTER 23

### GYPSY MOTH

#### Authority

N.J.S.A. 4:7-36 through 4:7-40.

#### Source and Effective Date

R.1993 d.305, effective May 28, 1993.  
See: 25 N.J.R. 1627(a), 25 N.J.R. 2686(a).

#### Executive Order No. 66(1978) Expiration Date

Chapter 23, Gypsy Moth, expires on May 28, 1998.

#### Chapter Historical Note

Chapter 23, Gypsy Moth, was adopted as R.1983 d.267, effective July 5, 1983. See: 15 N.J.R. 370(a), 15 N.J.R. 1093(b). Pursuant to Executive Order No. 66(1978), Chapter 23 expired on June 6, 1988, and subsequently was adopted as new rules by R.1988 d.323, effective July 18, 1988. See: 20 N.J.R. 845(a), 20 N.J.R. 1688(a). Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1993 d.305. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

#### CHAPTER TABLE OF CONTENTS

#### SUBCHAPTER 1. VOLUNTARY SUPPRESSION PROGRAM

- 2:23-1.1 Applicability
- 2:23-1.2 Spray priorities
- 2:23-1.3 Local government participation
- 2:23-1.4 The Department of Agriculture participation
- 2:23-1.5 Notification requirements
- 2:23-1.6 (Reserved)

#### SUBCHAPTER 1. VOLUNTARY SUPPRESSION PROGRAM

##### 2:23-1.1 Applicability

(a) The conditions in this subchapter are applicable to voluntary participants in the gypsy moth suppression program.

##### 2:23-1.2 Spray priorities

(a) If it becomes necessary to protect trees in residential and recreational areas, the following set of priorities have been established by the Department of Agriculture:

1. Forested communities with at least 10 homes per 50 acres, defoliated once, and expecting heavy defoliation the following spring.
2. Municipal and county recreational areas defoliated once, and expecting heavy defoliation the following spring.

3. Forested communities with five homes per 50 acres defoliated once, and expecting heavy defoliation the following spring.

4. Forested communities with at least 10 homes per 50 acres, or recreational areas not defoliated yet but expecting heavy defoliation next spring.

5. Watershed areas defoliated once and expecting heavy defoliation the following spring.

6. Uninhabited, high-value timber forests defoliated once and expecting heavy defoliation next spring.

Amended by R.1993 d.305, effective June 21, 1993.  
See: 25 N.J.R. 1627(a), 25 N.J.R. 2686(a).

#### 2:23-1.3 Local government participation

(a) Spraying will only be done on a voluntary basis with local governments that agree to fully accept the following conditions for participation in their aerial spray program:

1. Request in writing an egg mass survey to determine status of the gypsy moth infestations in residential and recreational forests.

2. Arrange for financing the total cost of treatments and make contractual agreement with the spray vendor, either provided by the State or obtained by local bidding.

3. Assist in the administration and coordination of the spray programs, providing a town coordinator and all necessary labor to mark spray block boundaries.

4. Adopt a resolution declaring the gypsy moth a "Public Nuisance." The public must be notified in advance, pursuant to the Open Public Meetings Act For Proposed Municipal Action (N.J.S.A. 10:4-9), of the date, time and place that the gypsy moth resolution will be discussed. A copy of this notice must be sent to the Department of Agriculture.

5. Notify the occupants by a properly served notification of the intent of the spray program. Spraying will only be done between the hours of 5:30 A.M. to 12:00 Noon, and 5:00 P.M. to 8:00 P.M. Notwithstanding any provisions of this subchapter, no community or area-wide pesticide application for gypsy moth control may take place during normal student commuting times. Each school district, within a participating municipality, shall designate a normal student commuting time, not to exceed one hour, during which no spraying will be performed within two miles of a school housing grades kindergarten through eighth grades or within 2½ miles of schools housing grades nine through 12. In the event that the proposed spray area(s) encompass more than one school district in the municipality, the municipal governing body shall designate the one hour spray shut-down, with the approval of affected school districts. Failure of the affected school districts to approve the designated shut-down time shall result in the ineligibility of the municipality to participate in the aerial spray program.

6. A "contact" person(s) shall be selected by the municipality so that residents may call to obtain the latest information on the aerial spray application, especially if spraying is postponed. The telephone number of the "contact" person shall be made known to the town residents.

7. In addition to the resolution, a responsible municipal official shall certify to the Department of Agriculture that these notices have been served. No work will begin until certification is filed with the Department of Agriculture.

8. To give, on behalf of the Department of Agriculture, the notices required by N.J.A.C. 2:23-1.5.

Amended by R.1988 d.323, effective July 18, 1988.

See: 20 N.J.R. 845(a), 20 N.J.R. 1688(a).

Deleted "between 7:30 A.M. and 8:30 P.M." and substituted "during normal student . . . local school district".

Amended by R.1993 d.305, effective June 21, 1993.

See: 25 N.J.R. 1627(a), 25 N.J.R. 2686(a).

#### 2:23-1.4 The Department of Agriculture participation

(a) If any of the conditions contained in N.J.A.C. 2:23-1.3 are not adhered to by the local government, the Department of Agriculture will not participate in the program.

(b) If the conditions in N.J.A.C. 2:23-1.3 are met, the Department agrees to:

1. Conduct surveys to determine the size and location of areas requiring treatment. Biological evaluation of all proposed treatment areas will be performed before insecticide application is initiated.

2. Develop spray contracts and contact reputable applicators for competitive bidding.

3. Select the most efficacious non-chemical insecticide (*Bacillus thuringiensis*), specify types of application aircraft, and specify proper timing of aerial application depending on foliage size (about 30 percent of full leaf expansion of the majority of oak species found in the proposed spray block), larval size (about ½ inch), air temperatures greater than 54 and less than 81 degrees Fahrenheit, no precipitation forecast for four hours of adequate drying time immediately following spray application, and winds under 10 miles per hour.

4. Request financial assistance for local governments to reduce treatment costs.

5. Assist in the administration and coordination of the program.

6. If personnel are available, monitor the aerial application of the specified insecticide, inspect mixing equipment and spray aircraft to ensure that the specified dosage rate is applied.

Amended by R.1993 d.305, effective June 21, 1993.

See: 25 N.J.R. 1627(a), 25 N.J.R. 2686(a).

#### 2:23-1.5 Notification requirements

(a) Pursuant to N.J.S.A. 4:7-39, proper notification of all occupants who reside on the lands selected for treatment is required by doing the following:

1. Two separate insertions in a newspaper qualified to accept legal notices published in the county of the proposed treatment or other action and circulating in the affected areas. The two insertions shall appear at least seven days apart, the first of which shall be not earlier than 21 days prior to the proposed date of treatment or other action, and the second of which shall, be not later than seven days prior to the proposed date thereof; and

2. Mailing a notice by regular first class mail to the occupant of each affected parcel of property not later than 10 days prior to the proposed date of treatment or other action.

#### 2:23-1.6 (Reserved)

Repealed by R.1993 d.305, effective June 21, 1993.

See: 25 N.J.R. 1627(a), 25 N.J.R. 2686(a).

Section was "Beekeepers".