

# 07hr\_SC-ENR\_CRule\_06-134\_pt01



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on ... Environment and Natural Resources (SC-ENR)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (June/2014)

**Senate**

**Record of Committee Proceedings**

**Committee on Environment and Natural Resources**

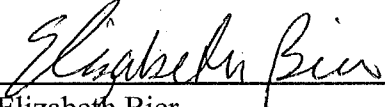
**Clearinghouse Rule 06-134**

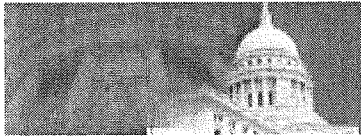
Relating to establishing specialized fees for Internet based ATV and snowmobile safety certification programs.

Submitted by Department of Natural Resources.

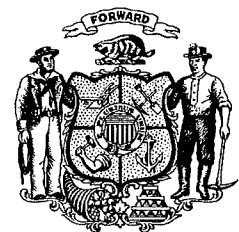
April 09, 2007          Referred to Committee on Environment and Natural Resources.

May 10, 2007          No action taken.

  
\_\_\_\_\_  
Elizabeth Bier  
Committee Clerk



# WISCONSIN STATE LEGISLATURE



**NATURAL RESOURCES BOARD AGENDA ITEM**

**SUBJECT:** Request adoption of board order LE-04-07, modifications to NR 19.50, related to fees for Internet ATV and Snowmobile safety education programs.

**FOR:** MARCH 2007 BOARD MEETING

**TO BE PRESENTED BY:**

Gary Eddy, ATV and Snowmobile Program Administrator

**SUMMARY:**

This rule establishes specialized fees for Internet based ATV and snowmobile safety certification programs. An Internet based course currently exists for Boating Education and is successfully utilized. The Department often receives complaints about the availability, location and times that these courses are offered by volunteer instructors. Internet based courses will provide additional opportunities and convenience for completion, especially for out-of-state residents and adults.

On January 24th and 25th, 2007 the Department held a total of four public hearings regarding the proposed rule. One member of the public attended the hearings and was in support of the rule.

**RECOMMENDATION:** Adoption of board order LE-04-07, modifications to NR 19.50, related to fees for internet ATV and snowmobile safety education programs

**LIST OF ATTACHED MATERIALS:**

- |    |                                     |   |     |                                     |          |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/>            | Fiscal Estimate Required                              | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/>            | Attached |
| No | <input type="checkbox"/>            | Background Memo                                       | Yes | <input checked="" type="checkbox"/> | Attached |

**APPROVED:**

Randy Stark  
Bureau Director,

2-27-07  
Date

A. Smith  
Administrator,

2/27/07  
Date

Scott Hassett  
Secretary, Scott Hassett

2/27/07  
Date

- cc: Laurie J. Ross - AD/5
- Amy Smith - AD/5
- Carol Turner - LS/5
- Mike Lutz - LS/5

- Randy Stark - LE/5
- Bill Engfer - LE/5
- Regional LE Supervisors - LE/5

- Tom VanHaren - LE/5
- Gary Eddy - LE/5
- Kristin Turner - LE/5

STAFF REVIEW - DNR BOARD AGENDA ITEM

REMINDER

Have the following questions been answered under the summary section of this form?

- Why is the rule needed?
- What are the significant changes?
- What are the key issues/controversies?
- What was the last action of the Board?

LIST OF ATTACHED REFERENCE MATERIAL REQUIRED FOR RULE PROPOSALS:

Hearing authorization:

Final adoption:

Background Memo (if needed)\*  
 Fiscal Estimate  
 Environmental Assessment (if needed)  
 Rule

Background Memo (if needed)\*  
 Response Summary  
 Fiscal Estimate  
 Environmental Assessment (if needed)  
 Rule

\* If all the questions listed in the REMINDER section above can be adequately summarized on the Green Sheet (and a second sheet if needed), the Background Memo may be omitted.

| Unit   | Reviewer | Date               | Comments               |
|--|----------|--------------------|------------------------|
| Environmental Analysis and Review                    |          |                    |                        |
| Management and Budget                                | W        | 02/21/07           |                        |
| Legal Services<br>-Program Attorney<br>-Carol Turner | MZ<br>CT | 2-19-07<br>2-20-07 | W/ modifications noted |
| Other (if applicable)                                |          |                    |                        |

DATE: November 1, 2006

TO: Natural Resources Board Members

FROM: Scott Hassett

SUBJECT: Specialized fees for Internet based ATV and Snowmobile safety certification programs

I am requesting Natural Resources Board adoption of Board Order LE-04-07, a rule to authorize specialized fees for Internet based ATV and Snowmobile safety certification programs.

#### Background

Currently, ATV and Snowmobile safety programs are primarily taught by volunteer safety instructors. Each year the department receives numerous complaints about the frequency, location and dates that our safety courses are offered. These courses are typically offered seasonally; ATV in the summer and fall and Snowmobile in the fall and winter. The Snowmobile safety course is also available in a CD version which is mailed out to students to complete on their home personal computer. Once they complete the course, they mail a temporary certificate to the department. The department enters their information into the database and mails the student back a permanent certificate.

Recent law changes have also required mandatory Snowmobile safety education certification for operators at least age 12 and born on or after January 1, 1985. Mandatory ATV safety education certification is required for operators who are at least 12 years of age and born on or after January 1, 1988. This year snowmobile operators up to age 21 and ATV operators up to age 18 will be required to complete a safety certification program. Out of state residents wanting to comply with Wisconsin's certification requirement are often burdened with either the requirement of traveling to Wisconsin to enroll in an ATV safety class or waiting for the Snowmobile Safety CD course to be mailed to them and then mailing the completed materials back. For many, the time between their request for a safety course and the time they will be visiting Wisconsin is too short to become certified in time.

Internet based courses will provide a convenient option for Wisconsin residents and out of state residents to comply with Wisconsin's safety certification requirement, a convenient option for adult students to complete the requirement and year round course availability.

The 50% limitation on fees to be retained by the instructor is not applicable to the internet provider as the provider is not the instructor, but only a medium for the provision of the course. The department remains the instructor of these courses.

#### **Rule Summary**

NR 19.50 currently establishes a \$10.00 student fee for programs taught in a classroom setting. The department may authorize the instructors to retain up to 50% of the fee to defray incurred expenses. The remaining funds shall be turned in to the department to defray operation expenses.

The proposed rule under NR 19.50 will provide a specialized fee for Internet based ATV and Snowmobile courses. When the course is managed by an outside entity pursuant to a memorandum of understanding (MOU) with the department, the fee will be established in the MOU. The established fee shall be adequate to defray operational expenses the outside entity incurs as well as operational expenses incurred by the department.

### **Effects on Existing Policy**

This rule will improve efficiency and reduce workload for the department's Recreation Enforcement and Safety Section. There will be a reduction in the amount of classroom materials that will need to be mailed to volunteer safety instructors, less paperwork will need to be processed and entered into computer databases and websites. There will also be a workload reduction for Conservation Wardens who are required to attend each safety certification class conducted in their administrative area.

### **Public Comment Summary**

On January 24, 2007 and January 25, 2007 the Department held a total of four public hearing regarding the proposed rule. The hearings were held at the Waukesha, Fitchburg, Wausau and Eau Claire DNR Service Centers. One member of the public made an appearance stating that he was a current DNR Snowmobile Safety Instructor and past president of the Association of Wisconsin Snowmobile Clubs and that he was in favor of an internet snowmobile safety class and special fees for it.

### **Impact of Proposed Rule**

Besides the impacts to the department as described above, students and volunteer instructors will be impacted. Volunteer instructors may see a decrease in class size and age structure. Some students may choose to complete an Internet based safety course while other may choose to complete the safety course in a classroom setting. Some safety courses are as large as 50 students, a smaller class size will allow for more one on one instruction and more interaction with the instructor(s).

### **Environmental Analysis**

The department has determined that this rule revision is a Type III action under s.NR 150.03, Wis. Adm. Code and an environmental assessment is not required.

### **Small Business and Final Regulatory Flexibility Analysis**

This rule is applicable to individuals and imposes no compliance or reporting requirements for small businesses; therefore under s.227.19(3m), Stats., a final regulatory flexibility analysis is not required.

### **Legislative Clearinghouse Report**

All of the Legislative Council Rule Clearinghouse comments have been incorporated in this rule.

**Fiscal Estimate — 2007 Session**

- Original       Updated  
 Corrected       Supplemental

|             |  |
|-------------|--|
| LRB Number  | Amendment Number if Applicable         |
| Bill Number | Administrative Rule Number<br>LE-04-07 |

**Subject**

Proposed rule establishes specialized fees for internet-based ATV and snowmobile safety certification courses.

**Fiscal Effect**

- State:  No State Fiscal Effect  
 Indeterminate

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

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.

- Yes       No

Decrease Costs

- Local:  No Local Government Costs  
 Indeterminate

1.  Increase Costs  
 Permissive       Mandatory  
2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory  
4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:

- Towns       Villages       Cities  
 Counties       Others  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR       FED       PRO       PRS       SEG       SEG-S

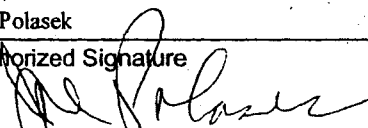
**Affected Chapter 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

**Rule Summary:** The proposed rule will establish specialized fees for internet-based ATV and snowmobile safety certification courses.

**Fiscal Estimate:** It is not possible to determine the exact impact of the internet-based safety certification courses for ATV and snowmobile. It is assumed the decrease in revenue will be offset by the decreased costs of administering the safety courses, such as mailing student safety materials to volunteer safety instructors, updating the DNR website to reflect current class listings, and filing and computer entry of safety class and student information.

**Long-Range Fiscal Implications**

|   |                           |   |
|---|---------------------------|---|
| Prepared By:<br>Joe Polasek   | Telephone No.<br>266-2794 | Agency<br>Department of Natural Resources |
| Authorized Signature<br> | Telephone No.<br>266-2794 | Date (mm/dd/ccyy)<br>11-06-06             |



**Fiscal Estimate Worksheet — 2007 Session**  
 Detailed Estimate of Annual Fiscal Effect

- Original       Updated  
 Corrected       Supplemental

|             |  |
|-------------|--|
| LRB Number  | Amendment Number if Applicable         |
| Bill Number | Administrative Rule Number<br>LE-04-07 |

**Subject**

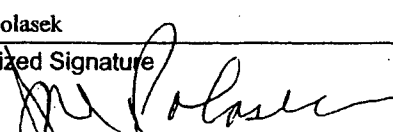
Proposed rule establishes specialized fees for internet-based ATV and snowmobile safety certification courses.

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

| Annualized Costs:                        |   | Annualized Fiscal Impact on State Funds from: |                   |
|--|---|---|-------------------|
|  |   | Increased Costs                               | Decreased Costs   |
| <b>A. State Costs by Category</b>        |   |   |                   |
| State Operations — Salaries and Fringes  |   | \$  | \$ -              |
| (FTE Position Changes)                   |   | ( FTE )                                       | ( FTE )           |
| State Operations — Other Costs           |   |   | -                 |
| Local Assistance                         |   |   | -                 |
| Aids to Individuals or Organizations     |   |   | -                 |
| <b>Total State Costs by Category</b>     |   | \$  | \$ -              |
| <b>B. State Costs by Source of Funds</b> |   |   |                   |
| GPR                                      |   | \$  | \$ -              |
| FED                                      |   |   | -                 |
| PRO/PRS                                  |   |   | -                 |
| SEG/SEG-S                                |   |   | -                 |
| State Revenues                           | Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.) | Increased Revenue                             | Decreased Revenue |
| GPR Taxes                                |   | \$  | \$ -              |
| GPR Earned                               |   |   | -                 |
| FED                                      |   |   | -                 |
| PRO/PRS                                  |   |   | -                 |
| SEG/SEG-S                                |   |   | -                 |
| <b>Total State Revenues</b>              |   | \$  | \$ -              |

**Net Annualized Fiscal Impact**

|                        | <u>State</u> | <u>Local</u> |
|------------------------|--------------|--------------|
| Net Change in Costs    | \$ _____     | \$ _____     |
| Net Change in Revenues | \$ _____     | \$ _____     |

|   |                           |   |
|---|---------------------------|---|
| Prepared By:<br>Joe Polasek   | Telephone No.<br>266-2794 | Agency<br>Department of Natural Resources |
| Authorized Signature<br> | Telephone No.<br>266-2794 | Date (mm/dd/ccyy)<br>11-06-06             |



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Ronald Sklansky  
*Clearinghouse Director*

Richard Sweet  
*Clearinghouse Assistant Director*

Terry C. Anderson  
*Legislative Council Director*

Laura D. Rose  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 06-134

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section NR 19.50 refers to “specialized fees” for Internet based education certification programs. The department should clarify whether these specialized fees are in addition to or in lieu of the \$10 per student fee identified in the first sentence in existing s. NR 19.50.

b. Section NR 19.50 refers to a memorandum of understanding “with the managing entity.” The department should consider either defining or clarifying who the managing entity is, as it is not clear from the text of the rule. Furthermore, the use of the article “the” before “managing entity” implies that there will only be one managing entity, even if the department offers Internet based education certification programs in multiple program areas, i.e, all-terrain vehicle and bowhunter, snowmobile, and hunter education certification programs. Does the department intend to use only one managing entity?

c. Section NR 19.50, states that the specialized fees shall be sufficient to defray “authorized operational costs” of the managing entity and the department. Presumably, these costs of the managing entity will be identified in the memorandum of understanding between the department and the managing entity referred to in the previous sentence in s. NR 19.50. It is not clear where the authorized operational costs of the department are specified.

d. The analysis accompanying the rule indicates that the proposed rule would establish specialized fees for Internet based all-terrain vehicle and snowmobile safety certification programs. As drafted, the rule could also apply to specialized fees for Internet based bowhunter

and hunter education certification programs. The department should reconcile this potential conflict by amending either the analysis or the text of the rule, as appropriate.

e. When the rule is published in the Administrative Code, it will not be clear that the fee mentioned in the last sentence is the fee in the preceding sentence. This should be clarified.

f. In SECTION 2, "in" should follow "publication."

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
AMENDING RULES

The Natural Resources Board proposes an order to amend s. NR 19.50 relating to establishing specialized fees for Internet based ATV and snowmobile safety certification programs.

LE-04-07

**Analysis Prepared by Department of Natural Resources**

**1. Statutes interpreted.**

Sections 23.33 (5)(d) and 350.055, Stats.

**2. Statutory authority.**

Sections 23.33 (5)(d), 227.11(2)(a) and 350.055, Stats.

**3. Explanation of agency authority to promulgate the proposed rules under the statutory authority.**

The proposed rule would establish specialized fees for Internet based ATV and Snowmobile safety certification programs. The ATV safety certification program is established under s.23.33(5)(d), Stats., which grants the Department rule making authority to establish an instruction fee for the program. The Snowmobile safety certification program is established under s.350.055, Stats., which grants the Department rule making authority to establish an instruction fee for the program.

**4. Related statute or rule.**

N/A

**5. Plain language analysis of the proposed rule.**

The proposed rule would allow the Department to establish specialized fees for Internet based ATV and Snowmobile safety certification programs. When the course is managed by an outside entity pursuant to a memorandum of understanding (MOU) with the Department, the fee will be established in the MOU. The fee shall be adequate to defray operational expenses that the outside entity incurs as well as operational expenses incurred by the department.

**6. Summary of and preliminary comparison with existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.**

None.

**7. Comparison of similar rules in adjacent states (Minnesota, Iowa, Illinois, and Michigan)**

Of the four states, none provide an Internet based safety education certification program.

**8. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule.**

Currently, ATV and Snowmobile safety programs are primarily taught by volunteer safety instructors. Each year the Department receives numerous complaints about the frequency, location and dates that our safety courses are offered. These courses are typically offered seasonally; ATV in the summer and fall and Snowmobile in the fall and winter. The Snowmobile safety course is also available in a CD version which is mailed out to students to complete on their home personal computer. Once they complete the course, they mail a temporary certificate to the Department. The Department enters their information into the database and mails the student back a permanent certificate.

Recent law changes have also required mandatory Snowmobile safety education certification for operators at least age 12 and born on or after January 1, 1985. Mandatory ATV safety education certification is required for operators who are at least 12 years of age and born on or after January 1, 1988. This year snowmobile operators up to age 21 and ATV operators up to age 18 will be required to complete a safety certification program. Out of state residents wanting to comply with Wisconsin's certification requirement are often burdened with either the requirement of traveling to Wisconsin to enroll in an ATV safety class or waiting for the Snowmobile Safety CD course to be mailed to them and then mailing the completed materials back. For many, the time between their request for a safety course and the time they will be visiting Wisconsin is too short to become certified in time.

Internet based courses will provide a convenient option for Wisconsin residents and out of state residents to comply with Wisconsin's safety certification requirement, a convenient option for adult students to complete the requirement and year round course availability.

The 50% limitation on fees to be retained by the instructor is not applicable to the internet provider as the provider is not the instructor, but only a medium for the provision of the course. The department remains the instructor of the course.

**9. Analysis and supporting documentation that the agency used in support of the agency's determination of the rules effect on small businesses under s. 227.114, Stats., or that was used when the agency prepared an economic impact report.**

This rule and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to this rule.

**10. Effects on small business, including how the rule will be enforced.**

The rule is applicable to individuals and imposes no compliance or reporting requirements for small businesses.

**11. Agency contact person (including e-mail and telephone number).**

Gary Eddy, 101 S. Webster St. P.O. Box 7921, Madison, WI 53707-7921. (608) 267-7455.

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**SECTION 1. NR 19.50 is amended to read:**

**NR 19.50 All-terrain vehicle and bowhunter, snowmobile and hunter education program fee.** The fee for the all-terrain vehicle and bowhunter, snowmobile and hunter education certification programs shall be \$10.00 per student. The Department may authorize the instructors to retain up to 50% of the fee to defray authorized expenses incurred locally to operate the program based on the actual cost incurred to the instructor. The remaining funds shall be turned in to the Department to defray expenses incurred to operate these programs during the year. The fee for advanced hunter education courses shall only be the amount necessary, but not to exceed \$50 per student. Only instructors certified by the Department to teach advanced education courses under this section may charge a fee for the advanced education courses. The Department may authorize specialized fees for Internet based all-terrain vehicle and snowmobile education certification programs pursuant to a memorandum of understanding with entities managing these programs for the department. The specialized fee shall be in lieu of the \$10.00 per student fee and shall be sufficient to defray authorized operational costs of entities managing these programs for the Department as well as operational costs of the Department.

**SECTION 2. EFFECTIVE DATE.** The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.277.22(2)(intro.), Stats.

**SECTION 3. BOARD ADOPTION.** The rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Scott Hassett, Secretary

(SEAL)