

Clearinghouse Rule 06-134

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD AMENDING RULES

The Natural Resources Board proposes an order to amend s. NR 19.50 Wis. Adm. Code 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.

12. Place where comments are to be submitted and deadline for submission.

Gary Eddy, 101 S. Webster St. P.O. Box 7921, Madison, WI 53707-7921. (608) 267-7455. The deadline for written comments is February 1, 2007. Comments may also be electronically submitted at the following Internet site:
<http://adminrules.wisconsin.gov>.

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 education certification programs pursuant to a memorandum of understanding with the managing entity. The fee shall be sufficient to defray authorized operational costs of the managing entity and the department.

SECTION 2. EFFECTIVE DATE. The rule shall take effect on the first day of the month following publication the Wisconsin Administrative Register as provided in s. 227.22(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)