

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to create NR 64.07(3) and (4) related to all-terrain vehicle noise testing procedures.

LE-25-05

Summary Prepared by the Department of Natural Resources

Statutory Authority: s. 227.11(2)(a), Stats.

Statutes Interpreted: s. 23.33(6m), Stats.

Explanation of Agency Authority:

Wisconsin 2003 Act 251 created a maximum noise level for all-terrain vehicle (ATVs). In addition, Act 251 required the department to promulgate a rule that prescribes the method to determine the ATV's noise level.

Related Statute or Rule

Section 23.33(6)(e), Stats., requires every ATV to be equipped with a functioning muffler to prevent excessive or unusual noise and with a functioning spark arrester of a type approved by the U.S. forest service. Section 23.33(6m)(a), Stats., was created by Act 251 and prohibits ATVs from emitting noise above 96 decibels when tested according to rules promulgated by the department.

NR 64.085 Refusal to allow testing. No operator or owner of any all-terrain vehicle may deny inspection or may refuse to operate his or her all-terrain in a manner prescribed by the law enforcement officer who reasonably suspects a violation of all-terrain equipment requirements found in s. 23.33, Stats.

Plain Language Analysis

Current state statutes prohibits all-terrain vehicles from emitting noise that is louder than 96 decibels (dBA) when measured on the A scale. State law does not prescribe the method for determining compliance with 96 dBA, but it does require the department to promulgate a rule describing a method.

The proposed rule will provide a field-friendly stationary test procedure for testing all-terrain vehicle noise levels to check compliance with the statutory 96 decibel level. The proposed test procedure has been adopted by the Society of Automotive Engineers (SAE) as a means to measure all-terrain vehicle noise levels using a (nationally) consistent method. The SAE standard J1287 describes a test method and illustrates motorcycle testing; however, the test procedure is also used for all-terrain vehicles.

In brief, the ATV rests on a flat surface, which is typically gravel and is free from large reflective objects. The ATV is straddled by the rider and is placed in neutral; the brake is held. After a warm-up period, the sound meter is placed to the rear of the machine, twenty inches behind the exhaust at a 45-degree angle and at the same height of the exhaust outlet. The machine is rewed to 1/2 the ATV's maximum RPM speed. The officer records the noise level during a steady state of operation at that speed. The standard requires meter calibration and checks to be performed prior to and after the noise is measured.

Federal Regulatory Analysis:

Federal regulations are not as specific as some state regulations. In general, Federal regulations prohibit ATVs from creating nuisances, which includes noise. Most references to Federal regulation are property specific; however, all properties administered by Federal agencies require a spark arrester, similar to Wisconsin's requirement.

Comparison with Adjacent States

Minnesota – Overall noise emission may not exceed 99 decibels at a distance of 20 inches; however, other specifics such as meter height, surface and other conditions are not specified.

Michigan – Requires an ATV to be at or less than 94 decibels when tested in accordance with Wisconsin's proposed method.

Illinois – State law related to the Noise Pollution Control Act prohibits nuisance noise, but no law specifically addresses ATVs and noise emissions.

Iowa – An ATV shall not be operated without suitable and effective muffling devices which limit engine noise to not more than 86 decibels and measured on the "A" scale at a distance of 50 feet. The main differences between this requirement and Wisconsin's proposed method are the decibel levels and the distance at which the ATV noise is measured.

Summary of Factual Data:

Wisconsin's proposed noise measuring method is described within a scientific document (J1287) which is published by the Society of Automotive Engineers. Although the document referenced in the rule is entitled *Measurement of Exhaust Sound Levels of Stationary Motorcycles*, the measurement standard is commonly used to measure ATV noise and is republished under a separate document entitled *MIC Stationary Sound Test Manual for Off-Highway Motorcycles and ATVs*.

Analysis and Documents Supporting Determination of Small Business Effect:

Small businesses (ATV dealerships) could be affected by the loss of sales of ATV exhausts that exceed 96 decibels. Aftermarket ATV exhausts come in various models ranging from quiet 84 decibels to extremely loud, 110 decibels. However, the cost to small business due to trail closures from ATV noise in excess of 96 decibels would be much greater.

The cost of silencing a loud exhaust without changing the entire exhaust system can be accomplished for as little as \$159 with aftermarket products.

Anticipated Private Sector Costs:

The private sector that operates an ATV in excess of 96 decibels could experience costs as little as \$39 to retrofit an exhaust with a silencer/arrestor or as much as \$300 depending on the quality and make of model to replace the exhaust system.

Effect on Small Business:

This rule is not expected to negatively effect small businesses that are not ATV dealerships.

Agency Contact Person:

Karl Brooks, [karl.brooks@dnr.state.wi.us](mailto:karl.brooks@dnr.state.wi.us) 608-266-7820

---

SECTION 1. NR 64.07 (3) is created to read:

NR 64.07(3) All-terrain vehicle noise emissions and testing. No person may manufacture, sell, rent or operate an all-terrain vehicle that is constructed or altered in a manner that noise emitted from the all-terrain vehicle exceeds 96 decibels on the A scale when measured in the manner prescribed in the reaffirmed 1998-07, Society of Automotive Engineers Standard J1287, entitled *Measurement of Exhaust Sound Levels of Stationary Motorcycles*.

SECTION 2. NR 64.07(4) is created to read:

NR 64.07 (4) Copies and amendments of the Society of Automotive Engineers Technical Report 1998-07, Society of Automotive Engineers Standard J1287, entitled *Measurement of Exhaust Sound Levels of Stationary Motorcycles*, is available for inspection in the following offices:

(a) The Department of Natural Resources, 101 S. Webster St., Madison, Wisconsin 53707.

(b) The Office of the Secretary of State, 30 W. Mifflin St., Madison, Wisconsin 53707.

(c) The Revisor of Statutes Bureau, 131 W. Wilson St. Madison, Wisconsin.

(d) The Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096

SECTION 3. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 4. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on October 26, 2005.

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

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

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

(SEAL)