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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 05-088

#### 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.]**

#### 1. Statutory Authority

The applicable statute regarding hunter education fees is s. 29.591 (3), Stats. The statute requires the department to “promulgate a rule establishing a fee for the course of instruction under the hunter education program and the bow hunter education program.” The statute allows the instructor to retain up to \$5 for each person who receives instruction from that instructor. If the department offers advanced hunter education and bow hunter education, the department is authorized to charge an additional fee for those courses. The following are several questions regarding whether the proposed rule is consistent with the statute:

a. The statute allows the instructor to retain up to \$5 for each person that receives instruction “for allowable costs of instruction, as determined by the department.” The rule allows instructors to retain a portion of the fee for “authorized expenses...based on the actual cost incurred to the instructor.” Is there a reason for using two different terms to refer to the same thing: “allowable costs” and “authorized expenses”? The statute allows the instructor to retain allowable costs of instruction “as determined by the department.” However, the rule does not include any provisions identifying what are allowable costs.

b. For advanced courses, the statute allows the department to charge “an additional fee” for those courses. The statute appears to state that this fee is in addition to the basic hunter education fee established by rule, which would allow the department to receive \$5 from the instructor for advanced courses, as well as for the basic course. The proposed rule does not appear to allow the department to receive a portion of the advanced course fee.

c. The proposed rule is drafted by adding hunter education and bow hunter education to the current all-terrain vehicle and snowmobile education statute. The rule refers to advanced or continuing education courses. Does this include advanced courses for all-terrain vehicles and snowmobiles?

d. The statute refers to an advanced hunter education course or an advanced bow hunter education course. The statute does not refer to continuing education. Is there authority for the department to charge a fee for a continuing education course?

e. The proposed rule authorizes a fee that is in the “amount necessary” for the advanced course, not to exceed \$50. Is the “amount necessary” also determined by the allowable costs of instruction, as determined by the department pursuant to the statute?

## **2. Form, Style and Placement in Administrative Code**

In the last sentence, “may” should replace “can.”

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

The rule states that \$50 is the maximum fee for advanced or continuing education courses. Is this per student or for the entire class? This should be clarified. The department might also consider adding “per student” after the reference to \$10.