

Report From Agency

REPORT TO LEGISLATURE

Chs. NR 50 and 64, Wis. Adm. Code
Administration of Outdoor Recreation Program Grants and State Aids (County Snowmobile Aids) and
All-Terrain Vehicles
Board Order No. CF-16-11
Clearinghouse Rule No. 11-050

Basis and Purpose of the Proposed Rule

Section NR 50.09, Wis. Adm. Code, establishes standards for the implementation of the snowmobile aids program for counties to develop and maintain trails. This part of ch. NR 50 was last revised and effective in October 2004. Chapter NR 64, Wis. Adm. Code, establishes standards for the implementation of the all-terrain vehicle (ATV) program to also develop and maintain trails. Ch. NR 64 was last revised and effective in January 2004.

The Department is revising these rules based on needs identified and recommendations by the Governor's Snowmobile Trail Council, the Off Road Vehicle Advisory Council, Wisconsin All-Terrain Vehicle Association, and the Wisconsin County Foresters Association over the last six years. Also, one change is made so that ch. NR 50 is consistent with s. 350.12(4)(bm)2., Stats.

Reasons for rule revisions are as follows:

- Standards for existing trail structures (*e.g.*, bridges) do not accommodate the width and weight of modern grooming equipment.
- Existing easement duration for lands under trail structures are not consistent with the value of present-day structures placed on those lands.
- Inconsistency between the snowmobile and ATV vehicle grant programs for bridge specifications.
- Existing per-mile reimbursement rate for local governments for summer ATV trail maintenance is not compatible with current costs.
- Trail signage is not season-specific.
- Existing rules have no definition for trail/route combination; these hybrids (called "troutes") have been in use in WI for several years and grant funding has been provided.

The Department proposes to revise ch. NR 50, Administration of Outdoor Recreation Program Grants and State Aids (County Snowmobile Aids), Wis. Adm. Code, as follows:

- Increase bridge design load requirements from 12,000 pounds to 14,000 pounds to better accommodate the weight of modern trail grooming equipment. This change was recommended by the Governor's Snowmobile Trail Council and the Department's Chief Engineer.

- Clarify minimum duration for easements or lease agreements between the grant recipient and owners of private land on which a bridge will be located if up to \$50,000 of snowmobile trail aids funds are used for either bridge construction or rehabilitation. This change recognizes that higher-cost structures need to be maintained where placed in order for the greatest benefit to be realized for the funds awarded. This change was recommended by the Governor's Snowmobile Trail Council.
- Identify a process by which the Governor's Snowmobile Trail Council can establish higher minimum year length for easements or lease agreements if the cost of a bridge receiving grant funding is more than \$50,000. This change was recommended by the Governor's Snowmobile Trail Council.
- Increase from \$130 per mile to \$150 per mile the minimum expenditure needed before a county is eligible to apply for a supplemental snowmobile trail maintenance grant. Making this change will make ch. NR 50 consistent with s. 350.12(4)(bm)2, Wis. Stats.

The Department proposes to revise ch. NR 64, All-Terrain Vehicles, Wis. Adm. Code, as follows:

- Include first-ever guidelines for bridge design load requirements and modify method for calculating load conditions. This change would make all-terrain vehicle (ATV) grant provisions identical to snowmobile grant conditions in this regard and would better accommodate the weight of modern trail grooming equipment as some ATV trails are also used by snowmobiles during the winter.
- Include a minimum three-year length for easements or lease agreements between the grant recipient and owners of land on which bridge construction or rehabilitation is funded with ATV trail aids funds.
- Increase per-mile ATV trail summer maintenance reimbursement rates from \$450 per mile to \$600 per mile. Existing per-mile reimbursement rate for local governments for summer ATV trail maintenance is not compatible with current costs and county funds are used to fill the funding gap. This change was recommended by the Off Road Vehicle Advisory Council.
- Identify changes for seasonal signage to make trails safer.
- Create a new trail + route (referred to as a "troute") category that is eligible for ATV grant funding. These hybrid trails have been in use in WI for several years.

The Department is also pursuing an emergency rule for the last item mentioned above or that portion of proposed revisions to ch. NR 64 governing grants for trail-route hybrids in the Natural Resources Board Order CF-26-11 (E). The emergency rule is needed to cover the gap between the grant application due date and the start of the next funding cycle to insure that ATV trails are funded in mid-July 2012.

Summary of Public Comments

The Department held one public hearing by video conference linking three locations. In total, nine people registered at the hearings and comments were all supportive of the proposed rules.

In addition to the comments received at the public hearing, three written comments were submitted electronically. All three comments received were in favor of the proposed changes

with minor suggested adjustments that were noted and accepted. The three written comments were also summarized by persons that attended and registered to speak at the public hearing.

Supporters of the rule made the following assertions orally or in written comments:

- 1) Support changes to ch. NR 50, including support of increased bridge design load on bridges and changes for seasonal signage.
- 2) Support of increase in per mile costs for ATV summer maintenance, new trail + route category, and bridge design load requirements and easements.
- 3) Retain the term "Troute" for hybrid trails.
- 4) Suggested wording changes to ensure all eligible applicants are included in the grant program, supported for the new trail + route category, requested funding for hybrid trails or troutes in the next grant cycle even if that date is before the effective date of the rule, and needed seasonal signage. Additional language suggested that trails on US Forest Service lands and County Forest Roads used as trails would be eligible for grant funding.

Modifications Made to Rule

All suggestions provided in the public hearings and written comments were incorporated into the board order approved by the Natural Resources Board on Feb 22, 2012, except that the effective date for existing trail+route combinations or troutes could not be as suggested. The effective date of the rule must be the effective date of this rule, as provided by the Revisor, since even though this type of trail was funded in the past, the category will not officially exist until the effective date of the revised ch. NR 64. To accommodate this last suggestion, the DNR is pursuing an emergency rule, CF-26-11 (E).

Appearances at the Public Hearing

A public hearing by video conference was held on January 11, 2012. The hearing addressed permanent Board Order CF-16-11. The hearing originated at 6pm in Rice Lake at the Wisconsin Indianhead Technical College (WITC) Conference Center and linked the following locations: Madison (UW- Madison, Pyle Center) and Rhinelander (Nicolet College – Northwoods Center).

As mentioned, nine people registered at the hearings and comments were all supportive of the proposed rules. Appearances were made by members of the Governors Snowmobile Trail Council, Vilas County Snowmobile Club, Wisconsin County Foresters Association, Washburn County Forest Program and the Wisconsin All-Terrain Vehicle Association.

Changes to Rule Analysis and Fiscal Estimate

No modifications were made. The fiscal estimate remains the same.

Response to Legislative Council Rules Clearinghouse Record

All recommendations made in the Legislative Council Rules Clearinghouse Report have been incorporated in the final version of the rule except 2d.

The Department has chosen to define the trail+route combination as a “hybrid trail (troute)” rather than a “multi-use trail” or “trail connector” as suggested by the Rules Clearinghouse. We did this because the terms suggested by the Rules Clearinghouse do not fit with common terminology used in either sport. By utilizing the term “hybrid trail (troute)”, we are able to distinguish a specific type of “hybrid” trail that is unique to this situation.

Final Regulatory Flexibility Analysis

The proposed rule does not impose any additional compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The Department has determined that this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state.

This rule will have a positive economic effect. Snowmobile and ATV grants assist with the cost of construction, development, and maintenance of specific trails. Those trails draw riders and their disposable income. Small businesses located in the area of snowmobile and ATV trails benefit when trail users make the following purchases: fuel and other items at gas stations and convenience stores; retail items; accommodations or lodging; sales of replacement vehicle parts; repair or maintenance of snowmobiles or ATVs; rider clothing, protective gear, and accessories; food and drink at restaurants and other establishments. There would be no implementation or compliance costs expected to be incurred by the proposed rule.

No fiscal impacts are expected for public utility rate payers or local governmental units that receive grants for both the snowmobile and ATV programs. This determination was made after conducting an economic impact analysis. The Department requested economic impact comments from 80 individuals, 48 of whom represented Wisconsin counties that contain active snowmobile and/or ATV trails. The remaining individuals contacted represented the following organizations: Governor’s Snowmobile Advisory Council, Off Road Vehicle Advisory Council, Wisconsin All-Terrain Vehicle Association and the Wisconsin County Foresters Association. The Department posted the proposed rule documents to the Department website and the Wisconsin Administrative Rules website.