

Report From Agency

REPORT TO LEGISLATURE

NR 5.001 and 5.18 , Wis. Adm. Code
Mandatory boating education program, temporary certifications, and course fees

Board Order No. LE-06-07
Clearinghouse Rule No. 06-132

Basis and Purpose of the Proposed Rule

2005 Wisconsin Act 356 was passed into law in May 2006. Provisions of this act require all persons born after January 1, 1989 and who are at least 16 years of age, to possess a Wisconsin DNR approved boater's education course certificate before they may operate any motorboat. Wisconsin has a large number of people who boat recreationally in the state, both resident and non-resident. Some of the people who will operate motorboats in the state will do so by renting them from rental businesses and/or marinas. Many of the people who rent these boats may not hold a boating education course certificate.

There was an exception created by statute for a person who is renting/leasing a motorboat if the person providing the boat gives the renter/lesser instruction on how to operate a motorboat in the manner established by the department by rule. A provision of Act 356 prohibits the department from enforcing the new mandatory boating education certification requirement until the department first promulgates rules that establish the minimum standards and procedures for the instruction to be given to persons who rent or lease a motorboat.

This rule order has been developed to establish the minimum standards and procedures for the instruction to be given under and comply with ss. 30.625(1)(a) and 30.74(1)(am), Stats. The process developed under this rule will allow boat rental businesses to provide the minimum basic training required for a person who will be renting or leasing and operating a motorboat, which they have rented or leased. This rule clarifies the minimum age to be eligible for temporary boating education training and certificate will be 16 years of age and that the certification only applies to the operation of boats that are rented or leased by the holder of the certificate. In addition, this rule establishes the process for administering an exam and issuance of a temporary certificate. Motorboat rental businesses will be required to collect a \$10 fee for the temporary boating education course of instruction and issuance of the certificate. Similar to fees collected for regular boating education certification courses, the person or business providing the training and administering the exam will be allowed to retain up to 50% of the fee to defray expenses incurred locally to provide the training and issue the temporary certificate. All remaining funds shall be turned in to the department to defray expenses incurred to operate the boating safety program.

Internet based courses provide a very viable option for people who wish to become certified in boating safety education in the convenience of their own homes. Current rules are unclear regarding fees to be charged and remitted when the department issues a DNR boating education certificate for a course taken over the internet, when such course has been recognized by the department as meeting the minimum requirements to become certified to operate a boat in Wisconsin under a Memorandum of Understanding between the internet course provider and the department. This rule will clarify that the fee structure for internet based courses will be the same as the structure used for courses provided by the United States power squadron, United States coast guard auxiliary and other entities which are covered by a memorandum of understanding with the department. This clarification will allow for better quality courses and providing more availability of courses to the public.

Summary of Public Comments

The only comment which was voiced in opposition to any of the proposed rule was the requirement that rental agents send in the monthly reports instead of just once a year.

Modifications Made

The rule was changed from a monthly reporting requirement to an annual reporting and remittance requirement, along with a requirement that the rental agent maintain certain records and makes them available for inspection upon request.

Appearances at the Public Hearing

January 24, 2007 – Waukesha and Fitchburg

In support – none
In opposition – none

As interest may appear:

Kathy Martin, N10575 Chief Kuno Tr., Fox Lake, WI 53933
Paul Martin, N10575 Chief Kuno Tr., Fox Lake, WI 53933

January 25, 2007 – Wausau and Eau Claire

In support – none
In opposition – none

As interest may appear:

Vickie Aderholdt, Powers Service Center, 17833 State Road 32, Townsend, WI 54175
Beverly Powers, Powers Service Center, 17851 Highway 32, Townsend, WI 54175
Thomas C. Powers, Powers Service Center, 17851 State Road 32, Townsend, WI 54175

Changes to Rule Analysis and Fiscal Estimate

No modifications were required.

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

A. 1. Describe the compliance and/or reporting requirements imposed on small business.

Small businesses, who operate as boat rental agents and want to participate in issuing temporary boating safety certificates will be required to do the following;

- 1) Administer the training necessary for the public to take the boating safety exam. If the person passes the exam, the boat rental agent will then issue the temporary boating safety certificate to that individual who took the exam.
- 2) The boat rental agent will collect the fees as prescribed for the boating safety test and temporary certificate. If a business chooses to participate in this program, they shall by December 31 annually send a roster of the individual's information to the department and remit 50% of the monies collected to the department at the same time.
- 3) Maintain a record of individuals they certify and make those records available to inspection by the department if requested during normal business hours.

A.2. Can these compliance and/or reporting requirements be made less stringent for small businesses?

No. The requirements have already been amended to impact small businesses as little as possible. The requirements are minimal and streamlined. It is still the choice of the small business to participate in the program. So, should the small business not feel it is to their benefit to participate they may choose not to.

B.1. Describe the schedules or deadlines for compliance or reporting imposed on small businesses.

The temporary boating safety certificate issued by the boat rental agent will be filled out by the agent indicating the date of issuance, which is then valid through the current calendar year. The rosters of the names of individuals tested and those issued the temporary boating safety certificate will be sent into the department annually, by December 31 along with the remittance for the tests administered to the individuals.

B.2. Can these schedules or deadlines be made less stringent for small businesses?

No. These schedules have already been relaxed as part of the rule development process and are less stringent than what is required of instructors teaching regular boating education courses.

C. Can the compliance or reporting requirements for small businesses be consolidated or simplified?

We have established compliance and reporting requirements which we have simplified during the process as much as we can. We are requiring the boat rental agent to send in rosters and remittance only once a year and not after each class as required for other entities teaching boat safety courses. In order to maintain some accountability in the course, fees collected and number of individuals taking advantage of the temporary certificate the boat rental agents must comply with these minimum requirements.

D. Can performance standards be established for small businesses in lieu of design or operational standards?

No. The compliance and reporting requirements do not have any established performance standards which would replace the current compliance and reporting requirements.

E. Can small businesses be exempted from any or all requirements of the rule?

No. The purpose of this rule is to ensure consistent and uniform implementation for the training and issuance of the temporary boating safety certificates. So, by not having small businesses follow these minimal procedures we would have no accountability of the program.