

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to create NR 64.03 (10) related to an all-terrain vehicle registration exemption.

LE-24-05

Summary Prepared by the Department of Natural Resources

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

Statutes Interpreted: s. 23.33 (2)(b) 5, Stats.

Explanation of Agency Authority:

The department has authority under s. 23.33 (2)(b) 5, Stats., to exempt ATVs from registration when specified by department rule.

Related Statute or Rule:

Statutorily, ATVs are required to be registered under 23.33(2)(a), Stats., unless exempted. Section NR 64.04 contains language requiring placement of registration decals and an allowance to operate an ATV without registration decals when a temporary "validation" is carried by the operator.

Plain Language Analysis:

The 2003 Wisconsin ACT 251 created a nonresident all-terrain vehicle (ATV) trailpass that is to be purchased and displayed on out of state ATVs. Current state statute requires an ATV to be registered in Wisconsin unless the ATV is registered in another state and has not been in Wisconsin for a period of 15 consecutive days (or unless exempted by rule). However, some states do not have a registration program and a rule does not currently exist to exempt out of state ATVs so that they need only to display a nonresident trailpass. Until a rule is adopted to fix this legal glitch, ATVs from states without a registration program will be required to register the vehicles in Wisconsin, thus negating the intent of the nonresident trailpass.

Additionally, because of the glitch, nonresidents from those states without a registration program tend to be confused or misinformed by the nonresident trailpass requirement. They mistakenly believe that the trailpass is required in lieu of the out of state registration under any circumstance. Requiring a nonresident trailpass in lieu of registration for nonresidents was the intent of the legislation; however, ACT 251 did not address this issue.

The proposed rule provides an exemption for an out of state ATV from registration if the ATV displays a nonresident decal and if it is not in Wisconsin for a period of 15 consecutive days.

Federal Regulatory Analysis:

Federal regulations are not affected by this rule nor do federal regulations apply to this rule. Any requirement by a federal agency to obtain an ATV user pass or registration would be site specific and would not be applicable to Wisconsin.

Comparison with Adjacent States:

Minnesota – Requires ATVs to be registered in either the home state or in MN if the home state does not provide a registration. Minnesota does not have a nonresident trailpass option.

Michigan – Requires all ATVs (instate and out of state) to acquire a trailpass. Michigan does not have a registration program, thus they do not collect vehicle information.

Illinois – Does not have a registration program or a trailpass requirement except that some specific state properties do require an entry pass that is only valid at that location.

Iowa – Requires ATVs to be registered in either the home state or in Iowa if the home state does not provide a registration. Iowa does not have a nonresident trailpass option.

Summary of Factual Data:

An ATV registration in Wisconsin costs \$30 for a two-year period. A nonresident trailpass costs \$18 annually. The monies collected from ATV registration and the nonresident trailpass are distributed to the ATV account to help pay for ATV trails, projects and law enforcement effort.

Analysis and Documents Supporting Determination of Small Business Effect:

The requirement to display a registration of nonresident trailpass does not directly effect small business. Indirectly however, an ATV from a state without a registration program and whose owner has no prior knowledge of Wisconsin's ATV laws and (glitch) is likely to arrive in this state and be faced with three options; ride unlawfully, find a validation site and apply for registration and use the validation in lieu of decals or keep the ATV on the trailer. These complicated choices tend to result in a violation of law or the rider simply does not recreate. Either of these circumstances can negatively effect small business if the ATVer decides not to return to Wisconsin for additional riding opportunities or chooses not to ride. The monetary effect is unknown.

Anticipated Private Sector Costs:

No fiscal effect on the private sector is anticipated.

Effect on Small Business:

The effect on small business is anticipated to be positive since ATVer's will have a simpler and quicker method of complying with the law which in turn will allow the affected ATVer's to utilize business opportunities as they are encountered.

Agency Contact Person:

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SECTION 1. NR 64.03 (10) is created to read:

NR 64.03 (10)(a) An all-terrain vehicle that is not registered pursuant to s. 23.33(2)(a), Stats., or is not exempt from registration under s. 23.33(2)(b)1., 3. or 4., Stats., is exempt from displaying out of state registration if the all-terrain vehicle displays a current Wisconsin all-terrain vehicle nonresident trailpass and has not been in Wisconsin for more than 15 consecutive days.

(b) The nonresident trail pass shall be permanently affixed to the forward half of the all-terrain vehicle in a manner that is visible at all times.

Note: This exemption will allow nonresidents to operate their ATVs in the state for up to 15 days without obtaining Wisconsin registration even though the ATV is not registered in the nonresident's home state.

SECTION 2. 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 3. 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)