

**OFF-HIGHWAY VEHICLES IN NOVA SCOTIA
PROVINCIAL DIRECTION AND ACTION PLAN**

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The *Final Report and Recommendations of the Voluntary Planning Task Force on Off-highway Vehicles* (OHV) was provided to government in November, 2004. The province established an interdepartmental committee to review the task force's recommendations and propose a provincial response. The interdepartmental committee, coordinated by the Department of Natural Resources, includes representatives of Justice, Environment and Labour, Agriculture and Fisheries, Nova Scotia Health Promotion, Tourism, Culture and Heritage, Transportation and Public Works, Service Nova Scotia and Municipal Relations, Treasury and Policy Board and Natural Resources.

The government's response to the task force's report is provided in the form of an Action Plan. The Action Plan addresses OHV enforcement needs, infrastructure for OHV use, safety, land use and protection of land/habitat/wildlife, and vehicle standards.

Implementation of the various action items will vary depending on the type and complexity of the work to be done. As a result, the Action Plan has been divided into two parts: work to be completed in the next six months, and work that will require up to 24 months to complete.

OFF-HIGHWAY VEHICLES IN NOVA SCOTIA
Provincial Direction and Action Plan

PART 1 OF 2

Actions Currently Underway or Complete
(Complete within Six Months)

Enforcement

#1 Establish and fund a permanent Off-highway Vehicle (OHV) Unit within the Department of Natural Resources (DNR) exclusively dedicated to OHV policing activities.

Status: 12 new OHV enforcement officers are being hired. The first six will be in place by October 15, 2005; six additional officers will be hired by February 15, 2006.

#2 Mandate the DNR OHV Enforcement Unit to conduct enforcement blitzes at problem areas, systematically broadcast the results of enforcement operations (arrests, fines, seizures, etc.), conduct educational outreach and community relations programs, and establish and monitor a public toll-free incident reporting system.

Status: Officers are exclusively dedicated to the enforcement of OHV activities, including those specified. The public toll-free incident-reporting line can and is used for incidents involving OHVs.

#3 Mandate the DNR OHV Enforcement Unit to oversee the development of special programs in partnership with communities and other groups to support OHV user self-policing in all regions of the province.

Status: Additional funds for this work are to be made available through registration fees placed in an Infrastructure Fund (see Action #s 6.2, 21 and 22).

#4 Mandate DNR to be the lead agency for the OHV Enforcement Unit.

Status: DNR is the official lead department for OHV Enforcement and will coordinate the implementation of the Action Plan. DNR will work closely with an inter-departmental committee (Nova Scotia Health Promotion, Transportation and Public Works, Environment and Labour, Tourism, Culture and Heritage, Service Nova Scotia and Municipal Relations, Justice, Treasury and Policy Board, Agriculture and Fisheries) as well as community volunteers, and other enforcement agencies.

#6.1 Enforce mandatory registration for all OHVs with the exception of various OHVs that are operated on the vehicle owners' property exclusively. Set the registration fee at the minimum level required to support the action plan items to be paid for by the registration fees.

Status: The current *OHV Act* can be enforced. See Action #11 re amnesty period for unregistered OHVs. Registration fees will be reviewed to ensure consistency with other fee structures in the province.

**Actions Currently Underway or Complete
(Complete within Six Months)**

#6.2 Have the province retain only the portion of the registration fee required to cover the administration costs of the Registry of Motor Vehicles and allocate the remainder of registration fee to undertake the work proposed in Action #23.

Status: The registration fee and the portion to be allocated to administration will be based on an assessment of administration costs and annual OHV project requirements.

#7 Enact the provisions of the amendment to the OHV Act passed in 2002, which require a licenced dealer to report the sale of an OHV in the manner and time limits required by the Registrar of Motor Vehicles.

Status: The provisions included in 2002 amendments will serve this purpose.

#11 Implement an amnesty program for a period of 12 months for the owners of currently unregistered machines who cannot produce satisfactory documentation, with Ministerial discretion to extend.

Status: Amnesty program will be effective upon release of Government's Action Plan, October 12, 2005.

Infrastructure

#14 Develop a network of designated trails and areas (on public and private lands, with permission) for the recreational use of OHV users. Limit OHV activity on Crown land to this network unless otherwise authorized by DNR-issued permits.

Status: Government departments will work with various stakeholders (including ATVANS, SANS, NS Trail Federation) to begin development of a designated trail network. This process will be more clearly defined once the OHV Committee (community volunteers and government representatives) is established. OHV Committee to be established as soon as possible.

#15 Designate Nova Scotia Health Promotion (NSHP) and DNR as co-leads for the province - charged with overseeing, coordinating within and outside government and supporting the development of the designated network of OHV trails and areas.

Status: Designated departments will proceed with action plan as indicated. The trail development process will be ongoing.

**Actions Currently Underway or Complete
(Complete within Six Months)**

#16 Mandate NSHP and DNR to jointly oversee the development of provincial construction standards (including maintenance) for trails that accommodate OHVs, and provincial rules of operation for OHVs on designated trails and areas (e.g., speed, size of OHV-permitted, hours of operation, and time-of-year restrictions).

Status: NSHP and DNR will work with the OHV committee to establish the standards and rules of operation.

#17 Subject to the respective conditions and restrictions set by TPW and DNR respectively, include selected culverted gravel roads on public land and culverted gravel K-class roads on public land as potential components of a designated network of OHV trails and areas with conditions that may be required. Trail development on these classes of roads will be considered as part of the development of the designated provincial trail system, with approval for use limited to those sections designated as part of a trail system.

Status: OHV committee will oversee the trail system, working with government (TPW, NSHP, DNR) and communities to review impacts on resource management activities (wildlife management, natural resource use, ecological considerations) and to amend legislation and develop the necessary permits.

#18 Include abandoned railway corridors as a potential component of a designated network of OHV trails and areas under the following conditions:

In rural areas, permit OHV access as a general rule and subject to conditions of community trail management organizations. Access in rural areas will be subject to a process and criteria to address conditions creating conflicts in residential and agricultural areas with OHV use in these areas;

- Have community trail organizations retain the responsibility for trail access, subject to community review and input
- Give enforcement responsibility to the designated OHV Enforcement Unit who will collaborate with local enforcement agencies and give priority to reviewing sections of abandoned railway corridor where conflicts with OHV use are currently identified
- Establish a process which provides an opportunity for communities to review and comment on trail agreements - once during the period of the agreement and in advance of agreement renewals and
- Make every effort to develop alternative trails around the prohibited area when access to abandoned railway corridors cannot be accommodated.

Status: NSHP and DNR will begin work with the OHV Committee to develop the necessary criteria and process for community input, review and conflict resolution.

**Actions Currently Underway or Complete
(Complete within Six Months)**

#19 Subject to TPW approval and permit terms and conditions, allow trails to be located in 100-series highway rights-of-way for up to 300 metres and to provide for trail inter-connectivity. However, OHV use and trails in highway ditches will be phased out and prohibited five years after approval of the provincial action plan.

Status: Initially, education and awareness programs will be implemented. This action item will also require longer term analysis and legislative changes.

#20 Reinforce the prohibition of OHVs on public roads (except when incorporated as part of a designated trail/area) and crossing of secondary public roads only at planned and well-signed locations, subject to the terms and conditions acceptable to TPW. OHVs are not permitted to operate on the shoulder of a provincial highway.

Status: The OHV Enforcement Unit, other government staff and the OHV committee, will help promote awareness of these conditions.

#21 Establish an OHV Infrastructure Fund that will be funded through a portion of registration fees. Establish an OHV committee - community volunteers (OHV representatives, medical and safety professionals, landowners) and government officials - to advise government (through DNR and NSHP) on the allocation and use of funds.

Status: Special Purpose Fund to be established by December 31, 2005. OHV Committee to be established as soon as possible.

#22 Use the annual registration fee (less the administration costs) as a fund to be assigned to trail development and maintenance and core funding of OHV user organizations, and to projects related to operator health and safety, education and training, self-policing on trails by users and environmental demonstration projects.

Status: Terms and conditions of the Infrastructure Fund will be developed in consultation with the OHV committee.

#23 Give the OHV Committee a general mandate to: monitor and advise on the implementation of the government's response to the Task Force report, recommend funding allocations, facilitate cooperation among OHV stakeholders and support initiatives to address conflict resolution and report to the Ministers, through DNR, on the progress made in managing OHV issues. Specific responsibilities will include establishing a trail development sub committee.

Status: Terms of reference to be developed.

**Actions Currently Underway or Complete
(Complete within Six Months)**

Safety

#29 Require all OHV operators to complete an accredited OHV training course, subject to grandfathering/Ministerial discretion re exemptions. Define an appropriate phase-in period with an emphasis on younger operators completing the training first.

Status: Work will begin to review training content material from other training courses. While the implementation may take up to 12 months, other programs may be endorsed (e.g., Canada Safety Council) in the interim.

#30 Include the following in accredited training course content: a) safe and responsible operation of the OHV types, b) general OHV regulations, c) laws protecting landowners (public and private) and the rules for access, d) code of conduct on trails, e) a list of environmental regulations and descriptions of ecologically sensitive areas; f) illustrations of damaging OHV impacts on land outside designated trails, and, g) the compendium of possible infractions.

Status: The recommended content will be included as part of the review and development process for the training program. The training program will be the responsibility of the OHV committee and will be self-supporting.

Protection

#31 OHV drivers (individually or through a recognized club or association) must acquire permission from landowners to operate an OHV on private property other than their own.

Status: Current legislation will be enforced.

#33 Amend legislation (enforce current legislation in the interim) to ensure operators of OHVs do not acquire prescriptive rights of access against a landowner solely through the use of an OHV, whether or not permission for use has been granted.

Status: Current legislation will be enforced, and legislation will be reviewed to identify changes and/or clarifications that may be made in the longer term.

**Actions Currently Underway or Complete
(Complete within Six Months)**

#34 Amend the *Wilderness Areas Protection Act* (enforce the current law in the interim) to prohibit public OHV use in wilderness areas except under the following circumstances:

a) OHV use in wilderness areas may be considered when a vehicle access licence or an agreement is issued by the Minister for:

- accessing a private land in-holding
- accessing a pre-existing legal interest, including maintaining campsite lease structures
- management or research purposes
- on existing designated snowmobile trails, with the long-term goal to relocate the trail to an alternate location outside the wilderness area, or near the wilderness boundary where adverse environmental effects will be minimal;

b) OHV use in new wilderness areas (established after 1998) may also be considered on designated regional connector trails when:

- the trail existed prior to wilderness designation, and is an essential link in a regional trail network
- continued use will have a minimal impact on the wilderness area
- a group enters into a stewardship-based agreement to manage use and maintain the trail and
- the long-term goal is to relocate the trail to an alternate location outside the wilderness area, or towards the wilderness area boundary where adverse environmental effects will be minimal.

Status: While amendments will take 12-24 months to complete, the current legislation will be enforced to restrict access to wilderness areas.

**Actions Currently Underway or Complete
(Complete within Six Months)**

#39 Send a letter from Premier Hamm to other First Ministers advocating a national discussion to establish national OHV standards for the following:

- better vehicle identification (accommodation for licence plates and/or stickers)
- responsible advertising
- power, speed, weight, size, and tire design
- exhaust systems and noise
- engine design, fuel efficiency and pollution
- common location for vehicle identification numbers and
- additional safety and design features.

Status: Government's response and direction re OHVs will be communicated to First Ministers and we will work to improve standards within Nova Scotia on an ongoing basis.

REMAINING ACTIONS

**Further Detailed Review, Analysis and/or Legislative Changes
(12 - 24 Months for Completion)**

PART 2 of 2

Enforcement

#5 Amend legislation to:

- extend the time during which an OHV can be impounded to the court appearance date
- increase the range of offences, including: operating under the influence of alcohol/drugs, using an OHV to assist in committing a criminal offence, operating in a park or other protected area
- allow the application of driver's licence demerit points for serious OHV moving infractions and
- significantly increase fine levels currently in place, subject to the results of a provincial review of all offences and fine levels.

Task Force Recommendations #8 and 9 will be reviewed in two years.

#10 Fine the operator of an unregistered OHV (at a level determined by the provincial review for offences and fine levels) and provide enforcement agencies with the power to impound the vehicle up to the court appearance date for serious offences, and at cost to the owner.

#12 Implement a mandatory certification program for OHV operators. Include ability to provide grand-fathering and phase-in period. Link grand-fathering to driver licencing. The OHV committee will be responsible for the approval and implementation of the program.

#13 Publish a generic OHV Operator's Handbook that covers: safe and responsible operation of the OHV, general OHV regulations, laws protecting landowners (public and private) and the rules for access, code of conduct on trails, a list of environmental regulations and descriptions of ecologically sensitive areas, illustrations of damaging OHV impacts on land outside designated trails, certification program and, compendium of possible infractions. Additional topics may be added.

REMAINING ACTIONS

**Further Detailed Review, Analysis and/or Legislative Changes
(12 - 24 Months for Completion)**

PART 2 of 2

Infrastructure

#24 Amend legislation to make the SANS trail permit system mandatory on trails established and maintained by the organization with the following provisions:

- require all snowmobiles to display a trail permit when using SANS-managed snowmobile trails
- subject to the terms and conditions of any agreements with SANS trail managers, make unauthorized OHV use of SANS trails an offence (to avoid damage to trails and damage to relationships with landowners)
- require liability insurance and
- impose a fine based on the results of a provincial review of all offences and subsequent setting of fine levels, and provide for an increase in fine levels for second and subsequent convictions.

#25 Amend *Off-highway Vehicle (OHV) Act* to establish a mandatory permit requirement for all rallies of 50 or more OHVs. The permit approval process should ensure: the necessary permission has been received from affected landowners, event organizers have taken all the necessary precautions to protect the environment and appropriate enforcement authorities have been notified. One option for the organization responsible for issuing rally permits is DNR through its regional offices. Standards for rallies will be developed in conjunction with stakeholders including, but not limited to, landowners, SANS, ATVANS, and the Nova Scotia Trail Federation.

Safety

#26 Allow youth 14 years of age and older to operate OHVs on public and private lands once they and their parent/guardian have successfully completed an accredited OHV training course.

REMAINING ACTIONS

**Further Detailed Review, Analysis and/or Legislative Changes
(12 - 24 Months for Completion)**

PART 2 of 2

#27 Allow children under the age of 14 to operate OHVs under the following conditions:

- on private lands, subject to: a) successful completion of an accredited OHV training course by both the youth and the parent or guardian, b) on a vehicle with an engine size of less than 100cc, or the size of engine recommended by the manufacturer for the age and weight of the child (whichever is lesser) and c) with mandatory direct supervision by (in the company and within sight of) the parent or guardian at all times while operating the OHV;
- on closed courses (children participating in off-road motorized activities) and under the auspices of an accredited organization (sanctioned by the OHV Committee), subject to the following conditions:
 - specially designed and maintained closed courses
 - mandatory high-quality protective equipment and clothing
 - mandatory progressive training
 - comprehensive rules of order strictly enforced
 - drivers divided into different classes based on age, size and ability
 - mandatory parental supervision
 - trained officials present and
 - trained medical personnel and an ambulance on site.

Accredited organizations will require:

- established standards and system of inspection for track design and conditions
- established standards and a system of inspection for machines to ensure they are safe and appropriate for the type of activity and skill level of the rider
- established classification system and system of inspection for riders according to their skill levels
- a process for and requirement to amend and improve standards based on experience in the field
- established standards to ensure that track layout and machine operation does not result in undesirable environmental degradation and
- appropriate event insurance.

Accredited organizations will be sanctioned by the OHV Committee based on criteria it establishes.

#28 Fine the registered owner of the OHV when a person less than 14 years of age operates the OHV unless done so in the manner prescribed in Action #s 26 and 27. The fine amount is to be subject to the outcome of the provincial review of all offences and subsequent setting of fine levels.

REMAINING ACTIONS

**Further Detailed Review, Analysis and/or Legislative Changes
(12 - 24 Months for Completion)**

PART 2 of 2

Protection

#32 Amend legislation to ensure OHV drivers and passengers (whether permission to access property is granted or not) assume all risks and liabilities, except those that arise through the deliberate intent of the owner/occupier of a property.

#35 Amend *OHV Act* to: clearly define sensitive ecosystems including but not limited to: designations under the Provincial *Parks Act*, *Beaches Act*, and *Special Places Protection Act*, known areas of archeological and/or palaeontological significance, and known areas of wildlife significance (flora, fauna, other) for which OHV use is detrimental. Refer to existing definitions in other provincial legislation where applicable, and prohibit OHVs from these ecosystems, unless otherwise specifically allowed:

- by permit for use associated with commercial activities
- on an approved and designated OHV trail or access route
- where adverse effects on the environment are minimized by seasonal or other conditions.

#36 a) Apply Section 106(6) of the *Environment Act* to create regulations to limit or restrict OHV use within designated Protected Water Areas whenever necessary to protect water quality;

b) Amend the *OHV Act* to provide the authority to limit or restrict OHV use on private lands with landowner permission, within non-designated municipal drinking water supply areas. Seek clarification and make amendments, if required, to improve the ability of municipal and provincial governments to restrict OHV use for drinking water protection on lands under their respective control.

#37 Introduce the requirement for OHV drivers to carry third-party liability insurance except for those who use their vehicle exclusively on their own property and subject to a review of availability and cost.

Standards

#38 Amend legislation so it is an offence to operate an OHV with a defective or adversely modified exhaust system.