

Working Draft of Administrative Rule Changes as Required by House Bill 2329

PARKS AND RECREATION DEPARTMENT

DIVISION 4

**DISTRIBUTION OF ALL-TERRAIN VEHICLE FUNDS TO PUBLIC AND
PRIVATELY OWNED
LAND MANAGERS, ATV CLUBS AND ORGANIZATIONS**

736-004-0005

Purpose of Rule

This rule establishes the procedures and requirements used by the Oregon Parks and Recreation Department (OPRD) when allocating ATV Account monies to public and privately-owned land managers, ATV clubs and organizations; procedures for All-Terrain Vehicle (ATV) off-road operating permit; and implementation of safety and education requirements for Class I, ~~and Class III, and IV~~ off-highway vehicles.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0010

Statutory Authority

(1) ORS 390.585 authorizes the Oregon Parks and Recreation Department to adopt rules and establish procedures to be used when OPRD allocates ATV Account money to public and privately-owned land managers, ATV clubs and organizations.

(2) OAR 736-004-0045 through 736-004-0070 are adopted pursuant to ORS 390.580, 390.585, and 390.590 which direct the Oregon Parks and Recreation Department to issue Class I, ~~and Class-III, and IV~~ Operating Permits to persons who satisfy the statutory requirements to ride on public property.

(3) OAR 736-004-0080 through 736-004-~~0115-0130~~ are adopted pursuant to ORS 390.570 and 390.575 which direct the Oregon Parks and Recreation Department to issue or provide for issuance of Class I, ~~and Class-III, and IV~~ ATV operator permits to any person who has taken a Class I, ~~or Class-III or IV~~ OPRD-approved ATV safety education course and has been found qualified to operate a Class I, ~~or Class-III, or IV~~ all-terrain vehicle. These statutes require ~~the Department~~OPRD to provide safety education course instruction through public or private local and state organizations meeting qualifications established by the Department.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0015

Definitions

For purposes of this division, the following definitions shall apply:

(1) "Acquisition" means the gaining of real property rights for public use by donation or purchase including, but not limited to, fee title or easements.

- (2) "Approved Course Provider" is any individual or organization who instructs or provides an OPRD-approved Class I, ~~or Class III or IV~~ ATV safety course.
- (3) "ATV" or "All-Terrain Vehicle" means:
- (a) Class I ATV, as defined in ORS 801.190: a motorized, off-highway recreational vehicle that:
- (A) Is 50 inches or less in width;
 - (B) ~~with a~~Has a dry weight of 800-1,200 pounds or less;
 - (C) ~~that t~~Travels on three or more ~~low pressure~~pneumatic tires that are six inches or more in width and designed for use on wheels with a rim diameter of 14 inches or less;
 - (D) Uses handlebars for steering;
 - (E) ~~has~~Has a ~~saddle or~~ seat designed to be straddled for the operator; ~~;~~ and
 - (F) ~~and is~~ Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain.
 - (G) Class I ATV's can also be known as quads, three-wheelers, or four wheelers.
- (b) Class II ATV, as defined in ORS 801.193: any motor vehicle that:
- (A) Weighs more than ~~or is wider than~~ a Class I all-terrain vehicle; ~~and;~~
 - (B) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain; ~~and~~
 - (C) Is actually being operated off a highway or is being operated on a highway for agricultural purposes under ORS 821.191 ~~and;~~
 - (D) Is not a Class IV all-terrain vehicle.
 - (E) Class II ATV's ~~include, but are not limited to,~~ vehicles that can also be known as four-by-fours, pickups, jeep, ~~sand~~ rails, dune buggies, and SUV's.
- (c) Class III ATV, as defined in ORS 801.194: ~~an off highway~~ motorcycle ~~with a dry weight of 600 pounds or less~~ that travels on two tires and that is actually being operated off highway.
- (A) Class III ATV's include, but are not limited to, vehicles that can also be known as dual sport bikes, enduro, dirt bikes, and trials bikes.
- (d) Class IV ATV, as defined in ORS 801.xxx means any motorized vehicle that:
- (A) Travels on four or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less;
 - (B) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;
 - (C) Has nonstraddle seating;
 - (D) Has a steering wheel for steering controls;
 - (E) Has a dry weight of 1,800 pounds or less; and
 - (F) Is 65 inches wide or less at its widest point.
 - (G) Class IV ATV's include, but are not limited to, vehicles that can also be known as side-by-sides, recreational off-highway vehicle (ROHV), and utility vehicle (UTV).
- ~~(e)~~ May also be referred to as an OHV or Off-Highway Vehicle.
- (4) "ATV-AC" means the fifteen-member All-Terrain Vehicle Advisory Committee established by ORS 390.565 and appointed by the commission.
- (5) "ATV Account" means those moneys described in ORS 390.555 and deposited in a separate account in the State Parks and Recreation Department Fund. Moneys in the ATV Account may also be called "ATV grant funds."
- (6) "ATV Grant Instruction Manual" means a manual prepared by ~~the~~ OPRD containing state and federal policies, procedures, guidelines, and instructions to assist current and potential project sponsors.

- (7) "ATV Grant Subcommittee" means the ~~five~~seven-member subcommittee established by ORS 390.565(5)(a).
- (8) "ATV Operating Permit" means a permit (decal) issued through ~~the~~ OPRD and which is permanently affixed to the vehicle. The permit authorizes the use of ATV's on trails and within designated areas authorized by the appropriate authorities.
- (9) "ATV Operating Permit Agent" means a person, business or government agency to whom OPRD consigns ATV operating permits and decals for sale as a service to the general public.
- (10) "ATV Operator Permit" means the ATV Safety Education Card issued upon completion of an OPRD-approved ATV Safety Education course and passage of the minimum standards test of ATV Safety Education competency as established by OPRD.
- (11) "ATV Safety Checklist" is a document provided to a dealer, guide service, rental, or livery agent by ~~the~~ OPRD that consists of selected facts about Oregon ATV laws.
- (12) "ATV Safety Course" is any OPRD-approved course of instruction that is offered by an approved course provider and concludes with an examination.
- (13) "ATV Safety Education" means those grant projects that include but are not limited to training programs, media with information for the public, safe riding practices, environmental ethics, or any combination thereof.
- (14) "All-Terrain Vehicle Safety Education Card" is the ATV Operator's Permit required by ORS 390.570, ORS ~~and~~ 390.575, and XXX.XXX.
- (15) "Certificate of Completion" is a certificate generated by OPRD indicating completion of the internet ATV Safety Course.
- (16) "Commission" means the State Parks and Recreation Commission.
- (17) "Conversion" means any real property acquisition or development that is later wholly or in part converted to another use other than its intended and stated use as described in the grant application and the grant agreement.
- (18) "Correspondence Course and ~~Self-Test~~Self-Test" means ~~either~~ a Class I, ~~or a Class-III~~ or IV ATV safety course and examination provided by the OPRD that is taken at home without a proctor. This correspondence course and ~~self-test~~self-test will satisfy minimum standard of ATV safety education competency only for those individuals who have qualified for hardship status.
- (19) "Dealer" means any person or business duly certified under ORS 822.020 and 822.040 to sell Class I, ~~or Class-III,~~ or IV ATVs.
- (20) "Development" means the planning, design, construction and improvement of ATV recreational facilities, trails, and riding areas.
- (21) "Director" means the director of the Oregon Parks and Recreation Department.
- (22) "Dry Weight" means the unloaded weight, absent of all fluids, passengers, and any materials such as ice, snow or mud.
- (23) "Emergency Medical Services" means medical services performed by certified personnel and the necessary items to perform their duties.
- (24) "Endorsement Code" means an identifying color, text or mark on the ATV Safety Education Card that indicates the operator meets or exceeds OPRD's minimum standards in an approved hands-on ATV evaluation program.
- (25) "Equivalency Exam" means a comprehensive written examination created by ~~the~~ OPRD. ~~The equivalency exam is intended~~ to provide either Class I, ~~or Class III~~ or Class IV vehicle, the opportunity to meet the minimum standard of ATV safety education competency.

- (26) "Evaluation Course" means a course that measures the ATV operator's ability to demonstrate control of an ATV.
- (27) "Grant Agreement" means an agreement between ~~the~~OPRD and a project sponsor describing the terms and conditions of a project and its associated grant of funds.
- (28) "Grant Application" means the form and its format as developed by ~~the~~OPRD that the project sponsor uses to request ATV grant funds.
- (29) "Hands-on Training" means any OPRD-approved evaluation course offered by an OPRD-approved course provider.
- (30) "Hardship Status" means a situation or condition that prevents an individual from taking the ATV safety internet course. A hardship situation may allow an individual to use a correspondence course and ~~self-test~~self-test provided by OPRD. An individual must submit a written request for hardship status. The OPRD Director or designee has the authority to grant or deny hardship status.
- (31) "Instruction Permit" is a provisional permit issued by OPRD to youth under the age of 16 upon successful completion of the OPRD internet course.
- (32) "Internet Course" means an OPRD-approved course of instruction that is offered through the internet.
- (33) "Law Enforcement Services" means law enforcement services performed by certified personnel and the necessary items to perform their duties.
- (34) "Minimum Standards of ATV Safety Education Competency" means a standard of proficiency established by OPRD that determines whether an applicant for ~~either aa~~ Class I, ~~or Class-III, or IV~~ ATV Safety Education Card has met or exceeded the requirements of an ATV safety course.
- (35) "Notice to Proceed" means the notification from OPRD that the Director or designee and the project sponsor have signed the grant agreement authorizing the project.
- (36) "OHV" means Off Highway Vehicle, also called ATV.
- (37) "Operations and Maintenance" means the preservation, rehabilitation, restoration, operation and upkeep of the facilities, riding areas, and equipment, including the purchase of equipment necessary to perform these functions.
- (38) "OPRD" means the Oregon Parks and Recreation Department.
- (39) "Personal Property" means tangible property other than land: movable property including but not limited to items such as an ATV, trail repair equipment, or other movable property purchased through the ATV Grant Program.
- (40) "Planning" means the research, design, engineering, environmental, and site survey of ATV recreation areas, trails, or facilities.
- (41) "Project Sponsor" means the recipient of the grant funds and the responsible party for implementation of the project.
- (42) "Public Lands" includes publicly and privately-owned land that is open to the general public for the use of all-terrain vehicles.
- (43) "Real Property" means immovable property: land together with all the property on it that cannot be moved, together with any attached rights.
- (44) "Rider Fit" means the minimum physical size requirements that a Class I ATV operator under 16 years of age must meet in relationship to the vehicle to be operated as established by OPRD and described in OAR 736-004-0115.
- ~~(45) "Saddle" means any device attached to the vehicle which is used for seating.~~

(4645) "Successor" means a governmental entity that has agreed to accept the terms and conditions of the project sponsor's responsibilities as contained in the project sponsor's grant agreement and grant application should the project sponsor cease to exist; for example, if a club or non-profit organization should dissolve or disband. The successor shall agree to operate the project continuously for the public benefit and recreational purposes identified in the grant agreement and the grant application. If OPRD is a successor under OAR 736-004-0025(1)(c), OPRD may operate, sell, or qualify another successor to the project.

(4746) "Sustainability" means using, developing, protecting, and managing the resource in a manner that enables people to meet current and future generation needs from the multiple perspective of environmental, economic, and community objectives.

(4847) "Temporary ATV Safety Education Card" is a document issued by OPRD or an approved course provider allowing the bearer to operate a Class I, ~~or Class-III, or IV~~ ATV in Oregon for a period of time not to exceed 30 days.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

ATV Grant Program

736-004-0020

Apportionment of Monies

Monies in the All-Terrain Vehicle Account shall be used for the following purposes:

- (1) Planning, promoting and implementing a statewide all-terrain vehicle program including the acquisition, development and maintenance of all-terrain vehicle recreation areas;
- (2) Education and safety training for all-terrain vehicle operators;
- (3) Provision of first-aid and police services related to all-terrain vehicle recreation;
- (4) Paying the costs of instigating, developing, or promoting new programs for all-terrain vehicle users and of advising people of possible usage areas available for all-terrain vehicles;
- (5) Paying the costs of coordinating between all-terrain vehicle user groups and the managers of public lands;
- (6) Paying the costs of providing consultation and guidance to all-terrain vehicle user programs;
- (7) Paying the costs of administration of the all-terrain vehicle programs including staff support provided under ORS 390.565 as requested by the [All-terrain Vehicle Advisory Committee](#) ~~ATV-AC~~;
- (8) Paying the cost of law enforcement activities related to the operation of ~~Class I and Class III~~ all-terrain vehicles; and
- (9) Control and eradication of invasive species related to all-terrain vehicle recreation.

Stat. Auth.: ORS 390.180, 390.585,

Stats. Implemented: ORS 390.180, 390.560

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0025

Grant Application Eligibility and Requirements

(1) Eligibility for funding assistance:

- (a) Public agencies: Federal land managers, state agencies, and local governments that have the responsibility, or are capable of, providing a service to ATV users;

(b) Private land owners or managers: Private land owners or managers who offer public OHV recreation opportunities and will provide open public ATV recreation for a minimum prescribed period of daily or seasonal time and who will maintain the opportunity for a prescribed period of time as determined by OPRD;

(c) Clubs and non-profit organizations: ATV clubs and non-profit organizations registered with the State of Oregon for a minimum of three consecutive years;

(A) Clubs and non-profit organizations shall have in place, prior to receipt of any funding, a written agreement with a successor in which the successor agrees to operate the facility as described in the grant agreement and the grant application should the club or non-profit organization cease to exist, for example, due to disbanding or dissolution; or

(B) OPRD shall be listed on the title as successor to the property:

(i) OPRD may sell the property and shall deposit the net revenue from the sale into the ATV Account;

(ii) OPRD may operate the project; or

(iii) OPRD may qualify and assign another successor to the project.

(2) ATV projects or components not eligible for funding:

(a) Overtime is generally not eligible for funding except for an identified emergency situation;

(b) Overhead items such as office or building rent, insurance, depreciation and other fixed costs associated with the normal everyday operation of a business, agency or group;

(c) ATV projects that have no way to measure completion or specific intent are not eligible;

(d) Portions of projects completed prior to an ATV agreement or after the expiration of an ATV agreement;

(e) ATV projects that do not meet the goals of the ATV Grant Program, OAR 736-004-0020 to 736-004-0030, or are not in the best interest of ATV recreation;

(f) Vehicle or other personal property usage unrelated to the scope of the ATV project.

(3) Requirements for Match:

(a) The minimum match required for eligible ATV projects is 20 percent of the total project cost except for land acquisitions;

(b) For land acquisitions and when unusual circumstances exist, public agencies may request a partial or full waiver of the 20 percent match requirement. Consideration for the waiver will be based upon the following criteria:

(A) The public agency is able to demonstrate due diligence was exercised in obtaining other funds and that the following limitations, among others, are present:

(i) Budget authority does not exist;

(ii) Budget appropriations cannot be obtained in a reasonable time yet public support does exist; and

(iii) No saleable assets, such as conservation easements, exist from which to generate the full cash match requirement.

(B) The public agency is able to demonstrate their ability to operate and maintain the project property for ATV recreational purposes:

(i) By having budgeted funds in place; or

(ii) Having identified other resources such as volunteers or contracted services.

(C) The public agency is able to demonstrate that time is of the essence:

(i) The seller of the real property has placed time limits in which the public agency can affect a purchase, such as the expiration of an Option to Purchase or a First Right of Refusal; or

(ii) The public agency can identify the possible loss of other existing matching funds such as grants from other entities that may have an expiration date.

(D) If a waiver to the required partial or full match is approved, the public agency shall be limited in all future grant requests to receiving ATV grant funds in an amount of 50 percent or less of the total costs for any development projects located on the acquired property.

(c) Match may include, but is not limited to, cash funds, labor, either force account or volunteer, materials, and equipment;

(d) Grants from other sources may be used as match provided the sponsor can certify the funds will be available within 120 days from the beginning date of the grant agreement;

(e) Eligible volunteer labor will require a log that includes the volunteer's name, date volunteer performed work, location volunteer performed work, the hours worked, and the hourly rate of compensation used for their contribution of labor.

(4) Conversions:

(a) It is the intent of the ATV Grant Program that all real property acquisitions or easements shall be retained and used for the project's intended and stated use as described in both the grant application and the grant agreement;

(b) The director has authority to disapprove conversion requests, reject proposed substitutions, or both;

(c) The project sponsor shall submit requests for conversions to ~~the~~OPRD in writing. ~~The~~OPRD may consider the request if the following prerequisites are met:

(A) All practical alternatives to a conversion have been evaluated and rejected on a sound basis;

(B) The project sponsor has established the fair market value of the property to be converted and the property proposed for substitution is of at least equal fair market value as established by a state-approved appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of structures or facilities that will not directly enhance its ATV recreation utility;

(C) The project sponsor proposes a replacement property that is of reasonably equivalent usefulness and location as that being converted.

(d) If the project sponsor is unable to provide replacement property within 24 months of either the approved request for conversion or after the fact of conversion, the project sponsor shall pay ~~the~~OPRD a current amount equal to ~~the~~OPRD's original percentage of contribution to the project. As an example, if the OPRD provided an original grant of 80 percent for the project's acquisition costs, the project sponsor ~~will be required to~~shall reimburse ~~the~~OPRD 80 percent of the real property's value at the time of conversion or discovery of conversion, whichever is later;

(e) In the case of development, rehabilitation, and equipment purchases, the project sponsor shall operate the improvements or equipment for its established useful life. Guidelines established by the IRS will be used by the project sponsor to define useful life per each item. If the facility is closed, service is terminated and the facility or equipment has not reached its useful life, it will be made available to other agencies or organizations. If a facility is closed, service is terminated, or land is closed, or the facility or equipment has not reached its useful life, the project sponsor will return a percentage of the allocated funds ~~will be returned to~~ ~~the~~OPRD equal to the percentage of useful life remaining in the funded facility or equipment.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0030

Project Administration

(1) Applications:

- (a) A current ATV grant application is required for consideration of ATV funding;
- (b) OPRD will provide information regarding application deadlines and public meetings ~~will be provided~~ through available media sources and on the OPRD ~~—~~ATV website;
- (c) Applicants must submit applications by published deadlines;
- (d) OPRD and the ATV-Grant Subcommittee will review a Applications ~~will be reviewed by the OPRD and the ATV-Grant Subcommittee~~;
- (e) The ATV-Grant Subcommittee will recommend ATV project funding to the commission.

(2) Agreements:

- (a) To authorize an ATV Project, OPRD requires a signed ATV Grant Agreement.
- (b) A project sponsor may not begin work on an ATV project without a Notice to Proceed.
- (c) OPRD, upon written request by the project sponsor, may approve, in writing, that some match may be considered and allowed prior to commencement of the project.
- (3) If funds are not available to fully fund a project, or the ATV-Grant Subcommittee has recommended partial funding ~~has been recommended by the ATV-Grant Subcommittee~~, the project sponsor may be given the option of reducing the scope of the project.
- (4) If the project sponsor anticipates the project will not be completed by the expiration date of the ATV grant agreement, the project sponsor must make a timely written request for an extension of the ATV grant agreement prior to the expiration date of the project agreement. The time extension request shall include any reasons for delay of project completion and a new projected completion date.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0035

Establishment of the ATV Advisory Committee

- (1) The commission shall appoint the ATV-AC and the ATV-Grant Subcommittee established by ORS 390.565. In appointing the first members to the ATV-AC, the commission shall specify the end of the term of office for each member consistent with Oregon Laws 2009, chapter 812, section 4(2).
- (2) The Director shall appoint the ATV-AC Chair and Vice Chair upon consideration of the committee's recommendations.
- (3) The Director shall appoint the ATV-Grant Subcommittee Chair and Vice Chair upon consideration of the subcommittee's recommendations.

Stat. Auth.: ORS 390.180, 390.565

Stats. Implemented: ORS 390.180, 390.565

Hist.: PRD 20-2009, f. & cert. ef. 12-8-09

ATV Operating Permit Agents

736-004-0045

ATV Operating Permit Agent Application and Privileges

(1) To become an ATV Operating Permit Agent an applicant shall:

- (a) Submit an application in a form provided by OPRD to become an ATV Operating Permit Agent;

(b) ~~Submit a~~ OPRD reserves the right to ~~may~~ require the Operating Permit Agent to obtain a surety bond in an amount determined by OPRD ~~when 250 or more permits are to be ordered at a time if there is historical evidence of substandard performance by the Operating Permit Agent.~~

(c) Enter into an OPRD agreement to be designated as an ATV Operating Permit Agent.

(2) OPRD may consign ATV operating permits to an ATV Operating Permit Agent without prepayment.

(3) OPRD will establish by policy an amount the ATV Operating Permit Agent may retain for each permit issued in addition to the regular costs of the permit, to cover the agent's costs to handle the permits.

(4) ATV Operating Permit Agents shall legibly complete each ATV operating permit with the required information.

(5) OPRD may cancel an agent's authority to act as an ATV Operating Permit Agent at any time.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

ATV Operating Permits

736-004-0060

ATV Operating Permit

(1) An ATV operating permit and decal shall be ~~in the form of a decal~~ valid for a two-year period from the date of issue. The decal shall ~~to~~ be placed on the vehicle as determined in OAR 736-004-0065. All ATV ~~operating permits~~ decals shall include ~~on the decal~~:

(a) The distinctive number or characters assigned by OPRD to the vehicle;

(b) The word "Oregon"; and

(c) The expiration date.

(2) The application for an ATV operating permit shall be in a form as prescribed by OPRD and shall include:

(a) The name and address of the owner of the ATV; and

(b) The make and body style of the ATV for which application is made.

(3) To replace a permit or decal that is lost, destroyed, or mutilated, ~~or needs to be replaced for any reason~~, the owner must:

(a) Apply for a new permit in the same manner as for an original permit; and

(b) Pay the fee for a replacement ATV Operating Permit.

(4) The fee for an original or replacement ATV Operating Permit is \$10.00.

(5) OPRD at OPRD's discretion may replace an ATV operating permit free of charge if legibility, adhesiveness, or other material effectiveness is lost due to production or manufacturer's defects.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0062

Ocean Shores ATV Operating Permit (Permit to operate a Class I ATV on the Ocean Shore)

(1) A person may not operate a Class I all-terrain vehicle on the ocean shore unless the person obtains an Ocean Shores ATV Operating Permit from OPRD.

(2) The operator must have, in addition to the Ocean Shores ATV Operating Permit, a current ATV Safety Education Card issued under ORS 390.570 and the vehicle must have a current ATV operating permit (ATV decal affixed to the vehicle) issued under 390.580.

(3) The Ocean Shores ATV Operating Permit is to be used only to meet the access needs of:

(a) Persons with disabilities, as defined by ORS 174.107; or who have proof of motor vehicle disabled placard, or both;

(b) Emergency response or emergency aid workers during the course of their work; or

(c) Biologists, wildlife monitors, or other natural resources workers during the course of their work.

(4) Ocean Shores ATV Operating Permits issued under subsection (3)(a) will allow use in those areas open to motorized vehicle use. However, upon request from an individual with a disability, OPRD may issue such a permit for [sections-areas](#) closed to motorized use if the Director or his designee determines that such use:

(a) Is a reasonable accommodation of the individual's access needs; and

(b) Does not significantly impact environmentally or culturally sensitive areas or create a safety hazard to the public.

(5) Permits issued under this section shall specify length of time, area of operation and access points.

(6) Class I ATV's shall not be operated in a careless manner on the Ocean Shore Recreation Area.

(7) Unless otherwise posted, Class I ATV's shall not be operated on the Ocean Shore in excess of 25 mph in open [sections-areas](#) and 10 mph in closed [sectionsareas](#).

Stat. Auth.: ORS 390.180 & 390.585

Stats. Implemented: ORS 390.729

Hist.: PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 10-2008, f. & cert. ef. 12-15-08; PRD 10-2009, f. & cert. ef. 6-18-09; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0065

Placement of ATV Off-Road Operating Permit

(1) An ATV operating permit shall be in the form of a decal to be permanently affixed to the vehicle for which it is issued, and must be clearly visible.

(2) Placement of the permit shall be as follows:

(a) For quads, three-wheelers, or vehicles of a similar design, the permit shall be displayed on the right-hand side of the vehicle in a visible location;

(b) For jeeps, pickups, passenger cars and similar vehicles, the permit shall be displayed in a manner that makes it visible from the rear of the vehicle, such as on the bumper or in the rear window;

(c) On sandrail vehicles (dune buggies) the permit shall be displayed in the middle of the rear rollbar and be visible from the rear of the vehicle; and

(d) For vehicles that are similar in design to motorcycles and where it is not possible to display the permit as required in sections (2) or (3) of this rule, the permit shall be displayed:

(A) On the front fork tube, on the opposite side of the vehicle from the brake, or in a location that is visible while the rider is on the vehicle; and

(B) Be positioned either horizontally or vertically.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0070

Reciprocity for Out-of-State ATV Operating Permits

- (1) An ATV operating permit issued by another state shall be honored in the State of Oregon if the issuing state also honors an Oregon ATV operating permit.
- (2) The ATV must have a resident state ATV operating permit; or
- (3) If an ATV operating permit is not required in the owner's home state, the operator must purchase a State of Oregon ATV operating permit to operate the ATV on designated ATV areas in Oregon.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0085

ATV Safety Education Card (ATV Operator Permits)

(1) To operate a Class I or Class III ATV on public lands in Oregon, a person must obtain an ATV Safety Education Card (ATV operator permit).

(2) To operate a Class IV ATV on public lands in Oregon, a person under 16 years of age must obtain an ATV Safety Education Card (ATV operator permit).

~~(23)~~ The criteria for obtaining an ATV Safety Education Card are:

- (a) Attain a test score of at least 80 percent on an OPRD-approved internet safety course;
- (b) Attain a test score of at least 80 percent on a correspondence course and ~~self-test~~self-test provided by OPRD; or
- (c) Be at least 16 years of age and have five or more years of experience operating a Class I or Class III all-terrain vehicle and successfully pass an equivalency examination with a score of at least 80 percent.
- (d) Effective January 1, 2012, operators under 16 years of age must:
 - (A) Successfully demonstrate ATV proficiency, and
 - (B) Pass either an OPRD-approved:
 - (i) Hands-on training course, or
 - (ii) Evaluation course.
- (e) Effective January 1, 2012, a person under 16 years of age will receive a Certificate of Completion upon passing the ATV ~~safety~~-internet safety course. The certificate of completion will also be an Instruction Permit which shall be valid for 180 days.

~~(34)~~ To obtain an ATV Safety Education Card, the applicant must provide to the OPRD a completed application on a form provided by the OPRD with the following information: the applicant's name, address, date of birth, hair color, eye color, and gender,~~and, if applicable,~~ years of experience. The applicant must also sign a statement declaring that the information is true and correct.

~~(45)~~ ATV Safety Education Cards are not transferable.

~~(56)~~ ATV Safety Education Cards shall contain a unique number and endorsement code that corresponds to the individual named on the permit.

~~(67)~~ A person is considered in violation of the provisions of ORS 821.170, ~~and~~ 821.172, and 821.xxx and subject to penalties prescribed by law when they:

(a) Provide a false statement or information or assist another person in giving a false statement or information on any application, affidavit, document or statement used to obtain an ATV Safety Education Card or replacement ATV Safety Education Card;

(b) Exhibit to a law enforcement officer an altered Oregon ATV Safety Education Card or any ATV Safety Education Card other than the one issued to them;

(c) Alter an ATV Safety Education Card or replacement card issued by the OPRD or its authorized agent;

(d) Produce or possess an unauthorized replica of an ATV Safety Education Card or replacement card; ~~or~~

(e) Operate a Class I or Class III ATV on public lands without a valid ATV Safety Education Card in their possession; ~~or~~

(f) If under the age of 16, operate a Class IV ATV on public lands without a valid ATV Safety Education Card in their possession.

~~(78)~~ In addition to any penalties that may result from a violation of ORS 821.170, ~~and~~ 821.172, ~~and 821.xxx~~, the ATV Safety Education Card is null and void for any person who provides a false statement or information or obtains a permit to which the person is not entitled.

~~(89)~~ In accordance with ORS 821.174, when a person's driving privileges are suspended or revoked, the person may not operate a Class I, ~~or Class III, or IV~~ all-terrain vehicle.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 2-2001, f. & cert. ef. 2-23-01; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0090

Replacement ATV Safety Education Card

(1) A person may apply for a replacement ATV Safety Education Card from ~~the~~ OPRD if:

(a) They legally change their name;

(b) The card is lost, stolen or destroyed;

(c) Misinformation is printed on the card; or

(d) The card has a printing error or physical defect.

(2) To obtain a replacement card, an applicant must provide ~~the~~ OPRD with a completed application form provided by ~~the~~ OPRD which includes an affidavit signed by the applicant stating the circumstances that led to the need for replacement of the original card.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0095

Temporary ATV Safety Education Card

(1) A person who successfully passes the OPRD internet safety education course may print from their computer a temporary ATV safety education card and may operate an ATV for no more than 30 days from date of issue provided the temporary ATV safety education card is in the possession of the operator.

(2) A person residing in Oregon who is required to possess an ATV Safety Education Card and is in possession of a certificate issued by another state or nation that is equivalent to Oregon's ATV Safety Education Card may use that certificate as a temporary Safety Education Card and may operate an ATV in Oregon for no more than 30 days ~~from~~from date of residency provided the document is in the possession of the operator.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0100

ATV Safety Checklist

(1) Any person who provides a Class I, ~~or Class III,~~ or Class IV ATV for rent in Oregon or offers guided tours for a client ~~on either a Class I or Class III ATV~~ must require that:

(a) The operator(s) of the rental ATV show proof of possession of an ATV Safety Education Card before renting the person an ATV; or

(b) If the operator does not possess an ATV Safety Education Card, the rental or tour agent must provide the operator with an ATV Safety Checklist provided by ~~the~~ OPRD;

(c) The operator must review and mark the ATV Safety Checklist in the presence of the rental or tour agent before they may operate the ATV; and

(d) The operator must retain the ATV Safety Checklist in their possession while operating the ATV.

(e) This section does not apply if the operator of a Class IV ATV is 16 years of age or older.

(2) A person who legally rents an ATV and is otherwise required to possess an ATV Safety Education Card may use the required ATV Safety Checklist as a temporary ATV Safety Education Card and may operate the rental ATV in Oregon for the term of the rental agreement but not longer than 30 days.

(3) Any dealer who sells Class I, ~~or Class III,~~ or IV vehicles may offer to the buyer/operator a non-renewable ATV Safety Checklist provided by OPRD.

(a) The operator must review and mark the ATV Safety Checklist in the presence of the dealer before they operate the vehicle; and

(b) The operator must retain the ATV Safety Checklist in their possession when operating the ATV.

(c) A person who purchases an ATV and is otherwise required to possess an ATV Safety Education Card may use the ATV Safety Checklist as a temporary ATV Safety Education Card and may operate the ATV in Oregon for not longer than 30 days from the date of purchase of the ATV.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0105

Exemptions

(1) Non-residents riding in Oregon are exempt from ~~carrying~~ possessing a State of Oregon ATV Safety Education Card if they possess an ATV Safety Education Card or equivalent issued by their resident state or nation.

(a) An ATV Safety Education Card issued in another state or nation shall be honored in the State of Oregon if the issuing state or nation also honors an Oregon ATV Safety Education Card.

(b) The operator must have a State of Oregon ATV Safety Education Card if mandatory education is not required in their home state or nation to operate an ATV on public lands.

(2) A person operating a Class I, ~~or Class III,~~ or IV in a sanctioned competitive ATV event is not required to ~~carry~~ possess an ATV Safety Education Card.

Stat. Auth.: ORS 390.570 & 390.575
Stats. Implemented: ORS 390.570, 390.575 & 821.174
Hist.: PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0110

Fees

- (1) There is no fee for issuance of the original ATV Safety Education Card.
- (2) There is no fee for issuance of an ATV Safety Education Card that adds an endorsement code.
- (3) The replacement fee for an ATV Safety Education Card is \$8.00.

Stat. Auth.: ORS 390.570 & 390.575
Stats. Implemented: ORS 390.570, 390.575 & 821.174
Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0115

Rider Fit

- (1) A Class I ATV operator under 16 years of age must meet all the following minimum physical size requirements in relationship to the vehicle:
 - (a) Brake Reach: With hands placed in the normal operating position and fingers straight out, the first joint (from the tip) of the middle finger will extend beyond the brake lever and clutch;
 - (b) Leg Length: While sitting and with their feet on the pegs, the knee must be bent at least 45 degrees;
 - (c) Grip Reach: While sitting upright on the ATV with hands on the handlebars and not leaning forward, there must be a distinct angle between the upper arm and the forearm; and
 - (d) The rider must be able to turn the handlebars from lock to lock while maintaining grip on the handlebars and maintaining the throttle and brake control.

(2) A Class IV ATV operator under 16 years of age must meet all the following minimal physical size requirements in relationship to the vehicle:

- (a) Leg Length: While sitting in the normal operating position and the safety restraints securely fastened around the operator, the operator's feet must be able to fully operate all foot controls.
- (b) Arm Length: While sitting in the normal operating position and the safety restraints securely fastened around the operator, the operator's hands must be able to fully operate all hand controls.
- (23) Disabled riders are allowed to use prosthetic devices or modified or adaptive equipment to achieve rider fit.

Stat. Auth.: ORS 390.570 & 390.575
Stats. Implemented: ORS 390.570, 390.575 & 821.174
Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0120

Minimum Training Standards

- (1) Providers of a Class I, ~~or a Class III,~~ or IV ATV evaluation or training course must evaluate ATV operators in their ability to control an ATV at or above OPRD minimum training standards under section (2) of this rule.
- (2) OPRD will provide minimum ATV training or evaluation standards that will include:
 - (a) Prerequisite training requirements;
 - (b) Rider fit under OAR 736-004-0115;
 - (c) Familiarization of controls;
 - (d) Internet safety course review;
 - (e) Starting and stopping;

- (f) Turns and weaves; and
- (g) Navigating over and around obstacles.
- (3) Participants in an ATV evaluation or training course must meet the following requirements:
 - (a) Rider must provide the eleven-digit card number from either their ATV Safety Education Card or their certificate of completion issued by OPRD;
 - (b) Rider under 16 years of age must be accompanied throughout the training by an adult at least 18 years of age; and
 - (c) Rider must have a Class I, ~~or a Class III, or IV~~ ATV. Three-wheeled vehicles are not allowed.
- (4) Rider must wear the following while operating an ATV during evaluation or training:
 - (a) DOT (Department of Transportation) approved motorcycle helmet;
 - (b) Goggles (or helmet with face shield);
 - (c) Gloves;
 - (d) Sturdy over-the-ankle shoes or boots;
 - (e) Long-sleeved shirt or jacket; and
 - (f) Long pants.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575

Hist.: PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0125

ATV Training Course Approval by OPRD

- (1) An ATV course provider shall submit a course approval request on an application form provided by OPRD.
- (2) OPRD will evaluate the course application under section (3) of this rule within 90 days of receipt of a complete application.
- (3) OPRD shall evaluate the sufficiency of the course to train or evaluate to OPRD's minimum ATV training standards under OAR 736-004-0120(2) and meet the participation and equipment requirements of OAR 736-004-0120(3) and (4).
- (4) OPRD course approval is valid for three years. An ATV course provider may submit a course approval renewal request on an application form provided by OPRD. OPRD will evaluate the course application renewal within 90 days of receipt of a completed application.
- (5) OPRD may periodically audit courses or contact students for the purposes of evaluation for adherence to OPRD ATV minimum training standards under OAR 736-004-0120(2) through (4).
- (6) If OPRD determines a course provider does not meet the ATV minimum training standards under OAR 736-004-0120(2) through (4), or if OPRD determines that any element of a course poses a significant risk to any individual, OPRD may take one or more of the following actions:
 - (a) Notify the course provider in writing of course deficiencies and allow the course provider until the next scheduled course, or 30 days (whichever is later) to enact changes to comply with OAR 736-004-0120(2) through (4);
 - (b) Notify the course provider in writing that effective immediately no further courses are authorized by OPRD until required changes are made and determined to be in compliance with OAR 736-004-0120(2) through (4) by OPRD; or
 - (c) Notify the course provider in writing that effective immediately no further courses are authorized by OPRD until a new application for approval has been made under section (1) and approved under section (3) of this rule.
- (7) Course providers are solely responsible for the oversight and management of course instructors.

Stat. Auth.: ORS 390.570 & 390.575
Stats. Implemented: ORS 390.570 & 390.575
Hist.: PRD 20-2009, f. & cert. ef. 12-8-09

OAR 736-004-0130 Approved Internet Course Providers

- ~~(1) OPRD has the authority to~~ regulate, approve, and limit the number of ~~internet all-terrain vehicle safety internet courses provided for public use by the public.~~
- ~~(2) Individuals and organizations who would like to~~ apply to OPRD to provide an approved ATV safety course as an internet course ~~must apply to OPRD to become an approved internet course provider. To apply, each~~An internet course provider applicant must submit a written request to OPRD for course review and approval to OPRD.
- ~~(3) To meet OPRD will review the applicant's internet course submittal to determine whether the proposed course:~~~~internet standards, internet course providers must:~~
- ~~(a) Meets the Oregon Internet Approval Standards provided by OPRD;~~
 - ~~(b) Write and keep current state~~Maintains Oregon-specific ATV safety information. An internet hyperlink to the OPRD website alone will not satisfy this requirement~~be accepted;~~
 - ~~(c) Includes a f~~Final exam that has ~~must have~~ at least 14 Oregon-specific questions;
 - ~~(d) Includes a f~~Final exam ~~must have~~that has a total of at least 50 total questions; and
 - ~~(e) Requires a passing score as described in OAR 736-004-0085(3).~~~~percent correct answers.~~
- ~~(4) An internet course provider who offers approved to offer ATV rider~~the public the option~~portunity~~ to obtain ~~thean~~ ATV All-Terrain Vehicle Safety Education Card online must:
- ~~(a) Provide~~Submit any proposed internet course OPRD with any course changes ~~for to OPRD's fore~~consideration and approval;:
 - ~~(b) Provide OPRD compatible electronic data files as specified by OPRD, containing all OPRD required data required by OPRD of~~regarding individuals who are eligible to receive ~~their~~an All-Terrain Vehicle TV-Safety Education Card. OPRD will specify the form and method that an internet course provider ~~Files will be transmitted~~ files to OPRD~~in a form and in a method to be determined by OPRD;~~
 - ~~(c) "Provide OPRD deposits on a scheduled deposit day and to an account number specified by OPRD.";~~
 - ~~(d) Provide OPRD accounting section monthly reports indicating the cost~~total fee charged for ~~of the card for each~~ All-Terrain Vehicle Safety Education Card application and the total amount the internet course provider ~~to be~~must pay ~~paid to OPRD;~~ and
 - ~~(e) Before personal information is exchanged online, p~~Provide each ~~the~~All-Terrain Vehicle Safety Education Card applicant~~students~~ information regarding security measures the internet course provider employs ~~that are in place for financial transactions before personal information is exchanged online. All transactions must follow industry security standards.~~
- ~~(5) An internet course provider may not publish, promote or distribute to the public any materials or products that include the OPRD shield, logo, or name until OPRD has provided written approval to do so.~~
- ~~All promotion materials and products to be used by the internet course provider to promote their website which contain the Oregon State Parks shield or logo, must be approved by OPRD before publishing and distribution to the public.~~
- ~~(6) An internet course provider may establish and charge~~ its own ~~a~~All-Terrain Vehicle Safety Education Card testing fee. The fee amount is at the discretion of the internet course provider. However,~~An internet course provider must clearly communicate the testing fee must be clearly~~

~~communicated to amount to each All-Terrain Vehicle Safety Education Card applicant the student prior to accepting an application. signing up on the internet course provider's website.~~
~~(7) OPRD may, upon evidence, place any approved internet course provider on probation for a period of up to 24 months or removevoke an approved internet course from OPRD website if OPRD determines that the internet course provider for any of the following reasons:~~
~~(a) Making false statements or misrepresentations to OPRD;~~
~~(b) Made false statements or misrepresentations about, or otherwise misused, OPRD policies, OPRD procedures or OPRD;~~
~~(c) Failed to comply in any manner with federal or state law, including the rules of this division, misusing, or misrepresenting OPRD, its staff, or policies and procedures;~~
~~(bd) Misinforming riders the public in advertising, marketing, or publishing efforts; or~~
~~(ee) Generating and/or providing their own an All-Terrain Vehicle ATV Safety Education Cards for the State of Oregon.~~