

## Oregon Parks and Recreation Commission

September 20, 2023

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Agenda Item: 8e

Action

Public Comment Allowed: Yes

Topic: Request to open rulemaking –Class I - IV ATV definitions (OAR 736-004-0015)

Presented by: Katie Gauthier

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**Background:** In 2019, a provision included in HB 2592 enacted by the legislature, changed the definition of Class IV All-Terrain Vehicles (ATV). The definition of ATVs, located in ORS.801.191-194, was changed again in 2023 by SB 889. The statutory definitions, including language describing each class is used as a reference in OAR 736-004-0015. Under the proposed rule amendment, language describing each class of ATV would be removed and the rule would refer simply to statute. In making this change, rulemaking would not be necessary each time definitions were changed in statute. A copy of the proposed rules is included in Attachment A.

**Prior Action by Commission:** Adopted changes to Class IV ATV definition in November 2019.

**Action Requested:** Staff requests approval to open rulemaking to amend OAR 736-004-0015 to update the definition of Class I - IV ATVs.

**Attachments:** Attachment A – proposed rule amendments- marked copy

**Prepared by:** Robert Ellison

## Agenda 8E Attachment A: Marked Copy

### Chapter 736

#### Division 4

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

##### 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, 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) Has a dry weight of 1,200 pounds or less;~~

~~(C) Travels on three or more 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 a seat designed to be straddled for the operator; and~~

~~(F) 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;~~

~~(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) 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(1): ~~a motorcycle that travels on two tires and that is actually being operated off highway. Also known as dual sport bikes, enduro, dirt bikes.~~

(d) Class IV ATV, as defined in ORS 801.194(2) ~~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 2,500 pounds or less; and~~

~~(F) Is 80 inches wide or less at its widest point.~~

~~(G) Class IV may also be known as side-by-sides, recreational off-highway vehicle (ROHV), utility vehicle (UTV).~~

(e) May also be referred to as an OHV or Off-Highway Vehicle.

(4) "ATV-AC" means the seventeen-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 OPRD containing state and federal policies, procedures, guidelines, and instructions to assist current and potential project sponsors.

(7) "ATV Grant Subcommittee" means the seven-member subcommittee established by ORS 390.565(5)(a).

(8) "ATV Operating Permit" means a permit (decal) issued through 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 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, 390.575, and 390.577.

(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" means a Class I, 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 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, 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 OPRD to provide either Class I or Class III operators, who are at least 16 years of age and have five or more years operating a Class I or a Class III 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 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 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 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 a Class I, 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) "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.

(46) "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.

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

**Statutory/Other Authority:** ORS 390.180 & 390.585

**Statutes/Other Implemented:** ORS 390.180

**History:**

[PRD 6-2019, amend filed 11/25/2019, effective 11/25/2019](#)

[PRD 6-2018, amend filed 04/20/2018, effective 04/20/2018](#)

PRD 1-2012, f. & cert. ef. 2-15-12

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

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

PRD 6-2007, f. & cert. ef. 7-31-07

PRD 4-2007, f. & cert. ef. 4-13-07

PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00