

Draft Michigan Off-Road Vehicle (ORV) Plan 2005

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Purpose

The Michigan ORV program is managed as an important part of the mission of the Michigan Department of Natural Resources (DNR) to conserve, protect and provide for public use and enjoyment Michigan's natural resources for present and future generations of citizens and visitors. The specific mandate for this plan is contained in MCL 324.81123. It states that the DNR "shall develop a comprehensive plan for the management of ORV use of areas, routes and trails maintained by or under the jurisdiction of the DNR or local unit of government...The plan shall, as a minimum, set forth the following methods and timetable:

- (a) The inventorying, by appropriate means, of all areas, forest roads and forest trails used by or suitable for use by ORVs
- (b) The identification and evaluation of the suitability of areas, forest roads and forest trails to sustain ORV use
- (c) The designation of areas, forest roads, and forest trails for ORV use, including use by persons with disabilities
- (d) The development of resource management plans to maintain areas, forest roads, or forest trails and to restore or reconstruct damaged areas, forest roads, or forest trails. The plans shall include consideration of the social, economic, and environmental impact of ORV use."

Besides meeting these minimum mandates, this plan also:

- (a) Provides a legislative and planning history of the Michigan ORV program and links it the DNR's core mission
- (b) Provides an overview of the current ORV program
- (c) Reviews ORV use and user trends
- (d) Summarizes public input from workshops, public information meetings and written comments about ORV issues and management
- (e) Recommends specific actions to promote environmental integrity related to ORV use, better meet demand for ORV riding opportunity, improve ORV rider safety, enhance community and statewide economic development, increase effectiveness of ORV enforcement and minimize social conflict

Legislative and Planning History of Michigan's ORV Program

Legal Definition of an ORV and Types of ORVs

MCL 324.81101 (m) defines an ORV as "a motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an all-terrain vehicle (ATV), a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind." This does not include registered snowmobiles, farm vehicles used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, vehicles owned by energy producers or utilities and used to maintain their facilities or on their easements, logging vehicles used in logging or registered aircraft.

There is a wide array of ORV types/technology to meet many rider needs. There are two principal types of off-road motorcycles. Both evolved from street motorcycles after World War II. The first is the moto cross or dirt bike. This cycle is designed to be used solely off paved roads and generally lacks the appropriate equipment to be licensed by the Michigan Secretary of State as “street legal”. The second type of motorcycle is the dual sport or enduro bike. These cycles have the appropriate equipment to be licensed by the Michigan Secretary of State as “street legal”.

ATVs emerged in the early 1970s and have steadily grown to be the most common ORV in Michigan. They have balloon style tires and initially had a tread width of slightly less than 50”. At first, most ATVs were three wheeled vehicles, but due to safety concerns, they have been supplanted by 4-wheeled vehicles. ATVs have high ground clearance, the capability to carry significant loads and many have 4-wheel drive. They come in “workhorse” varieties and those more suited to trail-riding (lightweight, more nimble) including youth sized models. The workhorse varieties have numerous after-market attachments that can facilitate snow plowing, planting, spraying and mowing vegetation, can accommodate an incredible variety of containers that can carry everything from tools to firearms and provide the opportunity to tow a trailer or other device behind. They are used in many non-trail applications including hunting, ice fishing, etc.

More recently, larger vehicles that have cross-over applications in agriculture, land management and construction with a 56” tread width are becoming more prevalent. Some have 6 or more tires and are touted to be at home on land, ice or water. These are not characterized by the law as ATVs as they do not fit the definition of “low pressure tires, has a seat designed to be straddled by the rider” (MCL 324.81101). Currently, these vehicles are not able to be licensed by the Michigan Secretary of State as “street legal”.

Full-size, 4-wheel drive trucks and sport utility vehicles along with large specialty vehicles round out the ORV picture. Initially enthusiasts converted military jeeps and other large vehicles to ride over sand dunes and lightly maintained backwoods roads. Today, 4-wheel drive full size vehicles are a major part of the US automobile/truck market. Typically, with the exception of some specialty vehicles, these vehicles do have the appropriate equipment to be “street legal” and many are used only occasionally in off-road applications and primarily for day-to-day road transportation. They have high ground clearance, power in all four wheels and can carry multiple passengers and equipment.

Prior to 1975

Prior to 1968, ORVs were unregulated in the State of Michigan. In 1968, the Natural Resource Commission (NRC) enacted state land use rules that prohibited ORV operation in State Game and Wildlife Areas. This is also the year that the Michigan Cycle Conservation Club was formed and members began to identify and develop the Michigan Cross Country Cycle Trail. Most riders of the trail as it was being formed rode dual sport motorcycles, street legal yet functional off-road.

Public Act 319 of 1975

The first statutory regulation of ORVs in Michigan was through Public Act 319 of 1975. It mandated Michigan's first ORV plan, with a principal outcome to be development of a comprehensive system of ORV trails, routes and areas. It also provided for the registration of ORVs with the State of Michigan, with registration money going to the general fund with the understanding some portion would be appropriated to ORV related programs. The law also mandated a study to assess the amount of state gasoline sales tax generated by ORV use with the suggestion that these tax dollars would be an appropriate source of ORV program funding. There was no restricted fund established for ORV programs.

1979 ORV Plan

In developing this plan, the following management objectives identified:

- (a) Protect natural resources and ecosystems
- (b) Separate conflicting uses
- (c) Promote user safety
- (d) Within the above constraints, provide optimum opportunity for recreation on state-owned lands by ORV users
- (e) Encourage and assist to the extent possible development of ORV facilities by local government and the private sector
- (f) Continue reevaluation of ORV needs, programs and planning on a systematic basis

The first four objectives (a-d) above, constitute a clear enunciation of the DNR's core mission to conserve, protect and provide for public use and enjoyment Michigan's natural resources for present and future generations. Objective (e) acknowledges the need of the DNR for partners in managing ORVs and (f) anticipates the dynamic nature of ORV management.

In substance, the 1979 plan focuses ORV use on state forest lands and thus away from state parks and state wildlife areas. It also acknowledges the importance of ORV opportunities provided by other agencies, in particular the US Forest Service in the northern 2/3 of Michigan and local units of government in the southern Lower Peninsula. For state forests, it recommends the closure of all state forest lands to ORV use except for forest roads and designated trails, routes and areas to minimize social conflict and protect environmental integrity. It notes that there is significant demand for ORV use in southern Lower Michigan, where there are no state forest lands and relatively little public land. To meet some of this demand it encourages DNR assistance (financial and technical) for local units of government, non-profit organizations and the private sector to develop ORV areas in the southern third of Michigan.

In addition the plan provided:

- (a) An inventory of all areas, forest roads, and forest trails suitable for ORV use and criteria to evaluate that suitability
- (b) The trail proposal procedure to designate ORV facilities

- (c) DNR Forest Management Division policies for ORV facilities located on state forest land

The 1979 plan executive summary concludes: “This plan does not, and cannot, meet the full desires of either motorized or non-motorized forest users. It is recognized that user demand for trail, routes and areas of unrestricted use will not be completely met by this plan. Neither will the plan fully meet the desires of others for areas of quiet and tranquility in the forests. But better separation of conflicting uses provided by this plan is a step toward greater achievement of goals of both of these user groups, and the DNR stands ready to assist such groups. In the specific area of ORV facilities, citizen cooperation in carrying out surveys, in submitting areas for consideration and in working with local units of government in developing facilities is encouraged and requested.” (DNR 1979:ii).

Creation of the Designated ORV System

The Michigan Natural Resource Commission (NRC) approved the plan in 1978, closing all state forest lands to ORV use except for forest roads and designated trails, routes and areas. However, administrative rules were promulgated in 1980 that mandated that 1,500 miles or more of designated ORV trails and routes be in place on state forests prior to the recommended ORV use restrictions going into effect. Completion of this designated system took slightly more than a decade. In 1991, the NRC approved a system of 2,721 miles of ORV trails and routes and over 1,800 acres of designated ORV area in the northern Lower Peninsula.

Public Act 17 of 1991

In 1991 the Michigan legislature passed and the governor signed Public Act 17 of 1991, which further restricted ORV use in Lower Peninsula state forests to designated trails, routes and areas, closing undesignated forest roads to ORV use. A key rationale for this approach was to limit further creation of user created trails and associated resource damage. One example was from a new class of four-wheel vehicle, the ATV. There was concern that ways through the forest were created through initial illegal cross-country use. Then, prior to Public Act 17, the definition of a forest road from PA 319 of 1975 had been “a hard surfaced road, gravel or dirt road, fire lane, abandoned railroad right of way, logging road, or *way capable of travel by a four-wheel vehicle*, except an interstate, state or county highway”. So while the first few ATVs traveling cross-country were illegal, subsequent ATV users were indeed on a “way capable of travel by a four-wheel vehicle”. PA 17 also redefined a forest road as “a hard surface road, gravel or dirt road or other route *capable of travel by a 2-wheel drive, 4-wheel conventional vehicle designed for highway use*, except and interstate state or county highway”. Other factors involved included the difficulty for riders in determining who had jurisdiction of roads in forested areas, increasing population densities in the northern Lower Peninsula and associated safety concerns of mixing ORV and highway traffic and the non-contiguous checkboard nature of state forest ownership and concerns associated with trespass on private lands adjacent to public forests.

Public Act 17 also shifted vehicle registration requirements from registration with the Secretary of State to annual licensing by the DNR, with the Secretary of State only

handling titling of vehicles. Licensing provided a more significant revenue stream for ORV management and was required for ORVs operated on public lands or frozen waters in Michigan, whether by a resident or visitor to Michigan who had their ORV registered in another state.

Additional impacts of Public Act 17 are:

- (a) Created the restricted ORV Trail Improvement Fund [funded solely by ORV license fees and for use to construct and maintain the designated ORV system, enforce ORV laws and regulations, restore ORV damage on public lands and the DNR to administer the fund]
- (b) Created the restricted ORV Safety Education Fund [funded solely by ORV license fees to develop and deliver ORV safety education to certify those 10-16 and educate those older and for the Michigan Department of Education to administer]
- (c) Shifted ORV program funding to a grant system administered by the DNR
- (d) Exempted the Upper Peninsula from the state forest “closed unless open policy” pending the report of an Upper Peninsula ORV task force
- (e) Established new exhaust noise emission standards
- (f) Increased penalties for violation of the ORV law
- (g) Created an ORV advisory committee (subsequently repealed and now operated administratively by the DNR as the Michigan ORV Advisory Board)

Actions (a-d) had a sunset date of January 1, 1995. Of the actions, the establishment of a grant system to manage the designated ORV trail system and provide ORV safety education is highly significant. This is one of the two major partnership situations (snowmobiling is the other) where the legislature has turned over significant day-to-day maintenance responsibilities for a major set of state owned natural resource recreation facilities to grantees, most of whom are non-profit organizations representing users. This type and level of privatization is unprecedented in the management of Michigan state parks, state wildlife areas and state water access sites. The only similar program is the management of the state system of designated snowmobile trails, which are also located on state forest lands (as well as on national forests and the private lands of cooperating landowners).

1991-1996 State Comprehensive Outdoor Recreation Plan (SCORP)

The 1991 SCORP (approved by the NRC in 1992) placed a high priority on the full range of Michigan trail opportunities in the Michigan Statewide Trails Initiative, Appendix C of the plan. In particular regarding ORV opportunity, the Trails Initiative cited the Southeast Michigan Off-Road Vehicle Report (DNR 1991) which recommended additional ORV riding opportunities be developed in southeastern Michigan by local units of government and the private sector through grants, land leasing and modifying existing public lands for ORV use. On a statewide basis, the Trails Initiative regarding ORV opportunity stressed the need for additional partnerships with other public land managers and the private sector to enhance trail development, management and ORV safety education. It also noted the on-going need for accurate ORV use and user information.

1993 UP Task Force Report and Subsequent NRC Action

The UP Task Force recommended that UP state forest lands remain open to ORV use on forest roads and the designated trail, route and area system in the UP. In 1994, the NRC stated the following general policy:

- (a) The NRC strongly supports the existing ORV regulations in the Lower Peninsula and reaffirms state forest policy that ORVs be used only on designated forest roads (routes), trails and use areas.
- (b) The NRC also finds that implementation of this ORV policy for state forests in the UP be deferred for three years from the sunset day (1/1/95) in PA 17 of 1991 to January 1998
- (c) The NRC authorizes the director of the DNR to establish a committee to assess any future ORV damage in the UP during this deferred period. The committee will recommend to the Director whether or not ORV damage poses a significant threat to the region's resources, thus whether the Lower Peninsula policy should be implemented in the UP or whether further deferral is appropriate. This should be coordinated with US Forest Service and forest products industry representatives to work toward a consistent ORV policy across the UP.
- (d) If the NRC determines there is a significant threat to the region's resources, the Lower Peninsula policy can be immediately implemented and specific areas where damage has occurred closed to ORV use.

Public Act 58 of 1995

This legislation removed the sunset clause for the ORV Trail Improvement Fund, closed unless posted open provisions in the Lower Peninsula and the ORV Safety Education Fund. It also raised the price of an annual ORV license from \$10 to \$16.25 per vehicle. In addition, it reformulated how the ORV Trail Improvement Fund should be distributed through grants to governmental agencies (including the DNR) and non-profits. The new formula was:

- (a) Not less than 50% revenues for trail, area, route construction, maintenance, acquisition
- (b) Not less than 31.25% for trail, route and area enforcement
- (c) Not less than 12.5% for ORV damage restoration on public lands
- (d) Not more than 3.125% for administration
- (e) Remainder (3.125%) for trails, enforcement or restoration as needed

Governor's Executive Order 1995-9

Through this executive order, Governor Engler abolished the Off-Road Vehicle Trails Advisory Committee (and a number of other advisory committees) and transferred all statutory authorities to the Natural Resources Commission on July 17, 1995. In October 1995, the NRC re-established an ORV Advisory Board of seven members and in December clarified the new board's roles, responsibilities and terms. This remains the authority for the current State ORV Advisory Board.

Forest Recreation 2000 Strategic Plan and PA 418 of 1998

The State Forest Recreation Advisory Committee (FRAC), created by statute in the DNR's FY1990-91 appropriation legislation, through a multi-year effort crafted a strategic plan for forest recreation entitled "Forest Recreation 2000". The plan received public input at 9 public information meetings across the state attended by more than 500 people. The FRAC included representatives of the full range of forest recreation activities including motorized trail users, non-motorized trail users, the environmental community, hunters and anglers, the forest products industry, recreation educators and local and federal public land managers. The NRC then approved the plan in November 1995. It envisioned:

- (a) State forest recreation is recognized as an essential part of the quality of life and the economic well-being of Michigan
- (b) State forests are professionally managed to provide sustained opportunities for recreation, wood, environmental quality and a diverse plant and animal community
- (c) Forest recreation is professionally managed in an integrated system that complements other recreation opportunities and provides harmony between recreationists, the forest products industry, other forest users and owners, and the environment
- (d) The forest recreation system focuses on supporting recreation activities and experiences where a large land base, rustic facilities and the forest and the values in holds are critical to the activity
- (e) Opportunities are available for individuals, commercial and non-profit organizations to work cooperatively with the DNR Forest Management Division (now Forest, Mineral and Fire Management) in enhancing and maintaining recreation facilities
- (f) Forest recreationists pay their fair share and the state of Michigan provides an additional stable funding source in recognition of the importance of forest recreation to Michigan citizens and Michigan's economy

The concept of an integrated forest recreation system was translated into law in Public Act 418 of 1998 (MCL 324.831) as it mandates in 83102:

"The DNR shall develop, operate, maintain, and promote an integrated recreation system that provides opportunities for hunting, fishing, camping, hiking, snowmobiling, *off-road vehicle trail riding* (emphasis added) boating, trail related activities, and other forms of recreation *within each state forest* (emphasis added). In developing, operating, maintaining, and promoting this recreation system, the department shall focus on maintaining the integrity of the forest while supporting recreation activities and experiences for which a large land base, rustic nature, and the forest and forest values are critical to the activity."

1997 UP ORV Task Force Report and Subsequent NRC Action

Formed in 1996 based on the 1994 NRC request to reevaluate the situation in the UP, the UP Task Force reported in 1997:

- (a) The policy of allowing ORV use on non-designated forest roads and trails, as well as the designated ORV system should continue in the UP
- (b) A system of monitoring future impacts of this policy, particularly as it may impact the areas natural resources, must be developed
- (c) Enforcement of current ORV regulations must continue as a high priority across the UP
- (d) The DNR Director should work with the Forest Service, forest products industry and state forest managers to develop a consistent ORV policy across the UP
- (e) Continued review and study of this deferral of the Lower Peninsula rules is not needed unless sparked by negative impacts seen in system monitoring as recommended above

The NRC unanimously supported these recommendations.

Public Act 111 of 2003

This act amended the ORV law to transfer the ORV Safety Education program back to the DNR from the Michigan Department of Education.

2003-2007 State Comprehensive Outdoor Recreation Plan

The current SCORP has seven priorities, each of which directly relates to this plan. The highest priority of the SCORP and of the DNR is resource conservation. This includes the restoration of environmental damage to public lands and waters and the implementation of best management practices on the public lands such as proper location and maintenance of recreation facilities such as ORV trails to safeguard the environment.

Other key priorities include providing motorized trail opportunities. The SCORP (DNR 2003:20) notes “User safety and social conflict reduction are key motorized trail challenges that can be met in part through additional, appropriate trails providing safer passage for trail users to goods and services. Securing long-term trail corridors is a priority of this plan”. Another priority is to provide universal access to outdoor recreation opportunity including ORV trails to enable the full range of Michigianians and visitors to enjoy outdoor recreation.

Additional priorities include improving the state forest recreation infrastructure (e.g. ORV trail system and attendant forest campgrounds), improving the state park infrastructure (e.g. Silver Lake ORV area), improve the range, quality and quantity of community outdoor recreation opportunities (e.g. additional local public ORV opportunities with willing local entities) and improved communications and coordination among recreation providers (e.g. improved, more regular assessment of the statewide ORV trail network and integrating state, federal and local ORV opportunities).

Overview of Michigan’s ORV Program

This section provides information on the major aspects of the current ORV program. These include administration, trail maintenance and development, law enforcement, environmental damage restoration and safety education.