



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



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August 6, 2014

Mr. Christopher J. Gamache
Supervisor-Bureau of Trails
Department of Resources and Economic Development, PO Box 1856
172 Pembroke Road
Concord, NH 03302-1856

Dear Mr. Gamache;

This correspondence is in reference to the submission of OHRV/ATV permits submitted by NH Department of Resources and Economic Development to the NH Department of Transportation for approval. According to RSA 215-A:10, no OHRV may operate on a class I, II, III, or III-A highway, with the exception of Coos county. In addition RSA 215-A:42 has a considerable number of requirements for any trail on state-owned property that must be fulfilled by your Department as well as the Department of Fish and Game and any custodians of the state property. Also required as part of this RSA are agreements between the sponsoring club(s) and your Department.

Unfortunately it appears that these guidelines are not being adhered to by the Bureau of Trails prior to submission to this Department and thus the Department of Transportation is receiving invalid permit applications, lacking the required documentation, which have been processed and forwarded through your office to the districts for our approval. Until all the required steps have been completed by the various Departments, as required by the current state laws, the Department of Transportation will not process these permits. In addition any inquiries regarding these permits that are routed to our Department from the sponsoring clubs or interested parties will be directed to the NH Department of Resources and Economic Development for response.

If there are any questions please feel free to contact myself or Caleb Dobbins, State Maintenance Engineer.

Sincerely;

William P. Janelle, PE
Director of Operations

cc: Caleb Dobbins- State Maintenance Engineer
District Engineers

TITLE XVIII FISH AND GAME

CHAPTER 215-A OFF HIGHWAY RECREATIONAL VEHICLES AND TRAILS

Section 215-A:10

215-A:10 Limitations of OHRV Operation on Class I, II, III and III-a Highways. –

I. A person shall not operate an OHRV on the traveled portions or the plowed snowbanks adjacent to class I, class II, class III, or class III-a highways.

II. Notwithstanding any provisions of the law to the contrary, a person may operate an OHRV on a class I, class II, class III, or class III-a highway that is not maintained for winter use by conventional motor vehicles; provided, however, that if a class I, class II, class III, or class III-a highway is not maintained for winter use by conventional motor vehicles and said highway is opened for an OHRV trail, said highway shall be so posted and conventional motor vehicle traffic prohibited. The commissioner of the department of transportation upon notification to the supervisor of the bureau may open at any time a class I, class II, or class III highway which has been closed for conventional motor vehicle use.

III. [Repealed.]

IV. (a) Notwithstanding any provisions of the law to the contrary, a person may operate an OHRV on a class I, class II, class III, or class III-a highway that has been designated open for use, in Coos county, by the bureau of trails, with the approval of the department of transportation and the department of safety and a public meeting in each community which would be directly affected by such designation. The bureau, or its designee, shall sign any approved sections of highway for OHRV use.

(b) OHRV use shall not be permitted on any section of interstate, toll, or divided highway.

(c) The following sections of state highway shall be designated for OHRV use: Back Lake Road in Pittsburg, from the town dump to Route 3; Route 3 in Pittsburg from the intersection of Back Lake Road to Route 145; Route 145 in Pittsburg and Clarksville from the intersection of Route 3 to Cedar Stream Road; Diamond Pond Road in Stewartstown from the town-owned section south to Charles Heath Road; Jericho Lake Road in Berlin from Route 110 to Jericho Mountain State Park; the reduced speed section of Route 3 in North Stratford village as needed to reach services.

Source. 1981, 538:3. 1986, 152:9. 1989, 179:5, 9. 1990, 133:4. 1992, 265:13. 1996, 78:2. 2005, 210:64, VI, eff. July 1, 2006. 2012, 84:3, eff. May 23, 2012.

TITLE XVIII FISH AND GAME

CHAPTER 215-A OFF HIGHWAY RECREATIONAL VEHICLES AND TRAILS

ATV and Trail Bike Operation on State Lands

Section 215-A:42

215-A:42 ATV and Trail Bike Trails. –

I. No ATV or trail bike trail shall be established after the effective date of this paragraph or subsequently maintained on state-owned property unless all of the following conditions are met:

(a) The property has been evaluated by the bureau in cooperation with the department of fish and game and the department of resources and economic development, division of forests and lands, and other state agencies that are custodians of the property using the coarse and fine filter criteria, established under RSA 215-A:43, and has passed such criteria as determined by the commissioner of the department of resources and economic development and the executive director of the department of fish and game.

(b) A memorandum of understanding (memorandum) exists between the bureau, the fish and game department, the department of resources and economic development, division of forests and lands, and all other state agencies that are custodians of the property. The memorandum shall include, but not be limited to, the responsibilities that each agency has in monitoring, maintaining, and enforcing relevant laws relative to the trail and the type of OHRV permitted on approved trails. The bureau shall enter into the memorandum only if it is certain that proper monitoring and maintenance of the trail shall occur, either through its own resources or those of others. The fish and game department shall enter into the memorandum only if it can commit sufficient resources to reasonably monitor for proper ATV or trail bike use on the property and enforce the applicable laws.

(c) A written agreement is in effect between the bureau and a locally-organized ATV or trail bike club recognized by the bureau that details the club's ongoing responsibilities, including but not limited to, monitoring the use and condition of the trail, erecting signage, educating operators, performing maintenance, and monitoring compliance with laws and regulations. Should the club fail to fulfill some or all of its responsibilities, the bureau or its agent may assume such responsibilities provided sufficient resources are available and committed.

(d) A management plan exists for the property that specifically allows ATV or trail bike use on the property, and the ATV or trail bike trail does not otherwise conflict with the management plan. Any state agency proposing to establish or change a management plan that affects ATV or trail bike use on state property shall publicize such plan and provide the public with the opportunity to comment on the plan before enactment.

II. An ATV or trail bike trail on state-owned property may be closed to ATV or trail bike use by the bureau, if the bureau finds that:

(a) ATV or trail bike use on the property is not in conformance with this chapter;

(b) Responsibilities assumed by the locally-organized ATV or trail bike club pursuant to subparagraph I(c) are not being met; or

(c) Provisions of the memorandum between the state agencies as entered into pursuant to subparagraph I(b) require such closure.

III. The bureau may not permanently close a trail under paragraph II to ATV or trail bike use except

upon a request made to the commissioner of resources and economic development to act under RSA 216-F:2, III, and not without first holding a public hearing in the local area in which the trail is located. Such hearing shall be noticed to the requesting party and the governing body of the affected municipalities and advertised at least 14 days prior to the hearing in a newspaper of statewide circulation and also in any local newspapers to the cities and towns in which the state property is located.

Source. 2002, 233:16. 2003, 295:7, eff. July 1, 2003.