



Off-road Vehicle Regulation

DISCUSSION PAPER





Yukon is developing a set of regulations to assist in creating the process and tools that will enable us to manage potential environmental damage caused by Off-road vehicles (ORVs). This discussion paper identifies seven discussion areas for which we would like your input. Your feedback will help us decide on the best process to help manage ORV use in designated management areas.



ORVs - Managing environmentally sensitive areas

Energy, Mines and Resources (EMR) has been tasked with addressing Recommendation 14 from the Select Committee on the Safe Operation and Use of Off-road Vehicles (see inset following page).

Recommendation 14 deals with the need for legislative tools and a process to manage potential environmental damage caused by Off-road Vehicles (ORVs).

Territorial Lands (Yukon) Act amended.

We amended the legislation to provide appropriate tools for protecting the environment from off-road vehicles. We introduced two main tools – management areas and protection orders. **ORV Management areas** are areas that need better management and protection from damage by off-road vehicles or areas that need to recover after damage has taken place. We have also introduced **protection orders**. We can issue protection orders for a period of 90 days, which gives EMR time to assess what needs to be done to manage and protect an area. These tools will only apply in summer months. The legislation does not capture snowmobiles or snow machines.

The act amendment also provides the ability to develop regulations and to designate persons to enforce the new provisions.

Your input is important...

Now that we have these tools in place, we need to establish the details of how best to use them. This is where we would like your input.

The public consultation process will continue for 60 days. The deadline for comment submission is June 22, 2015.

If you would like to provide written comments, please submit them to Michael Draper, Manager, Program Support, Land Management Branch, Energy, Mines and Resources at:

E-mail: Michael.Draper@gov.yk.ca

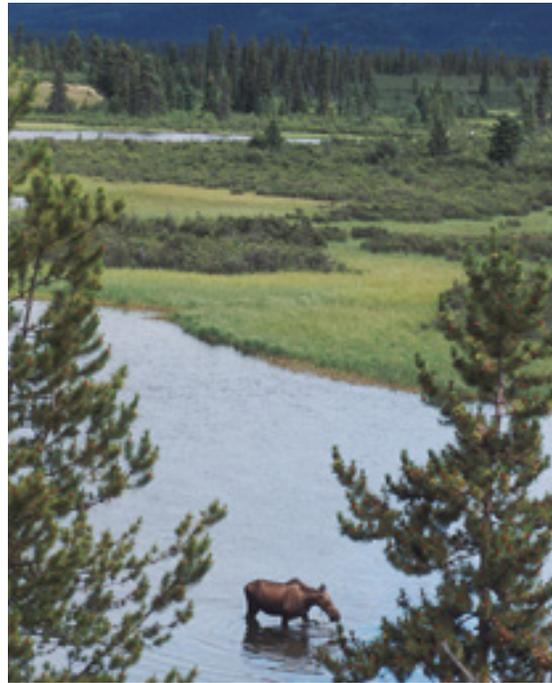
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Comments received during this review period will be compiled and posted on the EMR website after the review period has ended. All comments will be considered in the development of the ORV management areas regulation.

Your personal information will be kept confidential (i.e. your name will not be associated with your responses). Should you provide your contact information, the summary document will be sent to you.



Report of the Select Committee on the Safe Operation and Use of Off-road Vehicles –

Recommendation 14:

- THAT, off-road vehicle legislation and regulations provide for the ability to mitigate environmental damage and cumulative negative impacts to sensitive wildlife and fish habitats. Ensure that legislation and/or regulations provide for the ability to restrict the growth of trail networks in sensitive areas, to close trails or overused areas as necessary, to exclude off-road vehicles from specific types of land or habitats, and to have certain areas designated as access routes only;
- THAT, environmental and access restrictions be implemented in areas where problems exist or are developing and, when not required for wildlife or environmental protection, efforts be made not to reduce access to existing use areas;
- THAT, government review penalties for environmental damage caused by any method, motorized or non-motorized means, to ensure penalties are appropriate. The Committee further recommends that government take steps to improve public awareness of these penalties; and
- THAT, government consider separate environmental protection legislation that targets and penalizes environmental damage rather than restricting specific users.



Definitions and clarification

Off-road Vehicles: For our discussion, off-road vehicles include four wheel drive trucks, dirt bikes, and all-terrain vehicles (ATVs). This does not include snowmobiles or snow machines.

An ORV Management Area is an area of territorial land that has been identified as requiring protection or remediation from damage caused by ORVs. This does not include municipal or First Nations Settlement land.

What about other issues to do with off-road vehicles? The questions in this document only deal with the environmental damage associated with off-road vehicles. Snowmobiles and snow machines are not a part of this discussion. ORV use, safety, insurance and registration has been addressed through recent amendments to the Motor Vehicles Act. If you would like to find out more about those areas, information is available on the Yukon government website at www.hpw.gov.yk.ca (news releases).

What factors should be considered when making a proposal for ORV management in an area?

We believe that certain circumstances should be considered for the designation of an area as an ORV management area and/or a protection order.

The factors should:

- identify situations where there are actual or potential problems, and allow for adequate assessment when an area requires temporary or longer-term protection, and
- enable the review and evaluation of proposals.

We need to decide what types of factors would assist with the identification of areas that require protection; for example:

- Physical characteristics which indicate environmental damage due to ORV use:
 - > increase in trail density, braided trails, trail widening;
 - > silting in streams and lakes;
 - > altering hydrologic/drainage patterns;
 - > mud bogs, gullying; and
 - > soil erosion.

- Ecological balance concerns which indicate environmental damage due to ORV use:
 - > wildlife disruption and/or displacement;
 - > trails in sensitive/critical wildlife and fish habitats, including breeding, nesting and spawning areas;
 - > devegetation and changes in vegetation (including introduction of invasive species);
 - > trails into areas of sensitive vegetation including alpine and subalpine, riparian areas and permafrost features.
- While this management tool is not intended to address user conflicts, or other values such as heritage resources, to the extent that current use of the area affects the environment, the following may be considered:
 - > Third party interests;
 - Bona fide commercial operators such as mining, big game outfitters and trappers;
 - Existing recreational users such as hunters and back country enthusiasts;
 - > First Nations:
 - Right of access for traditional harvesting or other uses.

Please tell us if you think these factors are sufficient, or if there are other circumstances that should be considered. Are there factors listed above which should not be considered. Please write your answer here:

Who can make a proposal for a management area?

We need to decide who can make a proposal for a management area or report an area that they think needs protection. Our view is that anyone should be able to do this. We also think any group, organization or government body should be able to make suggestions.

Please tell us who you think should be able to suggest or report on which areas should become management areas.

Do you support this recommendation? Who can report or make a proposal? Do you have additional thoughts? Please write your answer here:

How would decisions be made about ORV management areas?

Areas proposed for ORV management may be proposed for:

- small, site-specific features,
- large areas,
- areas used by only a small number of individuals, or
- areas used by many people or user groups.

Though not required in all cases, areas that have multiple users - hikers, ATV riders, First Nations for traditional use, hunters, fishers, outfitters, miners, tourism operators, etc. — may benefit from an ORV management planning process involving all stakeholders in the management of the area. While a 'management area' designation is not intended to address user conflicts, management planning can help address these issues. This planning process is one of the ways that you will be able to input into the decisions for an ORV management area. A trail plan outlines certain restrictions and/or operating conditions that can apply to all or separate portions of the ORV management area. An ORV management plan may recommend that a trail plan be developed for an area. Other management plans, including Habitat Protection Area management plans, territorial park plans, local area plans or regional land use plans, also could provide recommendations with respect to the establishment of an ORV management area. We are considering the idea that a third party may conduct a review, carry out the public input required for this planning process, and provide recommendations. For example, the Yukon Fish and Wildlife Management Board (YFWMB), local Renewable Resources Councils, Regional Land Use Planning Commissions, Local Area Planning Committees and Park Management Committees could play a role.

Who do you think should review and provide recommendations on a management plan? Should this be done by government or a third party? If a third party; which board or organization? Do you have additional thoughts? Please write your answer here:

What types of ORV restrictions could be included in a management plan?

We may develop regulations in order to flesh out acceptable reasons for restricting the use of ORVs in an area as well as methods of restrictions and timeframes, for example:

- Seasonal/time sensitive or permanent restrictions or prohibitions on the use of ORVs;
- Operating conditions for trails;
- Permitting system to allow for managed continued use;
- Trail plans that could identify areas of access or restrictions/prohibitions and whether regulations would apply to all or part of a ORV management area; and
- Conditions that could apply to a class of ORVs.

Examples of these types of restrictions include:

- Restrictions during spring thaw and late fall freeze up in order to prevent significant rutting and gouging of trails;
- Restrictions during periods of calving, lambing or spawning in sensitive habitats;
- A requirement for ORV users to stay on existing trails, i.e. no new trail development;
- Establishment of trail heads where ATVs are parked and people continue on foot into the sensitive areas;
- Establishment of designated trail(s) into an area;
- Restrictions on stream/water crossings;
- Restrictions on the type of vehicle, for example heavier vehicles, or vehicles that exert higher pressure on the ground; or
- Prohibition of ORV use in an area.

What the act says about ORV management areas....

4.1 The Commissioner in Executive Council may designate an area of territorial lands as an off-road vehicle management area if the Commissioner in Executive Council is of the opinion that it is necessary for the protection of the ecological balance or physical characteristics of the area.

4.2(1) For the purpose of protecting the ecological balance or physical characteristics of an off-road vehicle management area, the Commissioner in Executive Council may make regulations applicable to the area respecting

(a) restrictions or prohibitions on the use of off-road vehicles;

(b) operating conditions applicable to off-road vehicles;

(c) the issue of permits for the use of off-road vehicles, and the terms and conditions of those permits and the fees for them; and

(d) the development, approval and implementation of trail plans applicable to the use of off-road vehicles.

(2) A regulation made under subsection (1) may

(a) apply to all or a class of off-road vehicles;

(b) apply to all or part of an off-road vehicle management area, including any particular trail.



Do you support these types of restrictions? Do you know of examples of ORV restrictions in other jurisdictions that may be applicable? Do you have additional thoughts? Please write your answer here:

What would an ORV management area look like?

An ORV management area could vary in size depending on the damage or potential damage due to use of ORV in the area. An area proposed for ORV management could be a discrete wetland, a river valley, or an alpine area. For this reason we recommend that a combination of methods be used, such as:

- Some type of readily recognized mapping system be used to describe the area such as the Wildlife Act Game Management Units;
- Land use plan 'landscape management units';
- Zones described in habitat protection area plans, territorial park plans or local area plans; and
- Site specific maps or metes and bounds descriptions.

Do you support these types of restrictions? Do you know of examples of ORV restrictions in other jurisdictions that may be applicable? Do you have additional thoughts? Please write your answer here:

How will I know if an area has been designated as an ORV management area or when a protection order is in place?

Notification is required for both a protection order (90 days) and an ORV management area. We are considering how this notice should be provided to you, and we are suggesting the following:

- Signage posted on trail(s) as required;
- Ads in local newspapers;
- Information posted on some government websites such as EMR and Department of Environment;
- Information available at government offices such as EMR Land Management Branch and local Compliance Monitoring and Inspections offices, Highways and Public Works Motor Vehicles offices, Department of Environment, Conservation Officer Services Branches;
- Information available at Renewable Resources Council offices; and
- Information in government publications commonly used by ORV users.

Do you support the use of these methods of notification? Do you have any other ideas for how we can get the information to you? Please write your answer here:

How will ORV management areas be enforced?

Yukon government can designate individuals or groups of individuals to enforce the provisions of the act pertaining to ORV use. This includes Conservation Officers and Park Officers (Department of Environment) and Natural Resource Officers (Department of EMR).

You can help officials with enforcement, as public reporting has proven successful in supporting enforcement initiatives such as the anti-poaching efforts under the Wildlife Act.

Public education and publication of the location of areas will be required. The public review process undertaken before designating an area will help spread the message about the ORV management objectives in an area and about assisting with enforcement.

Offences under the *Territorial Lands (Yukon) Act* will be added to the Summary Conviction Regulation so that tickets may be issued for offences under the new provisions.

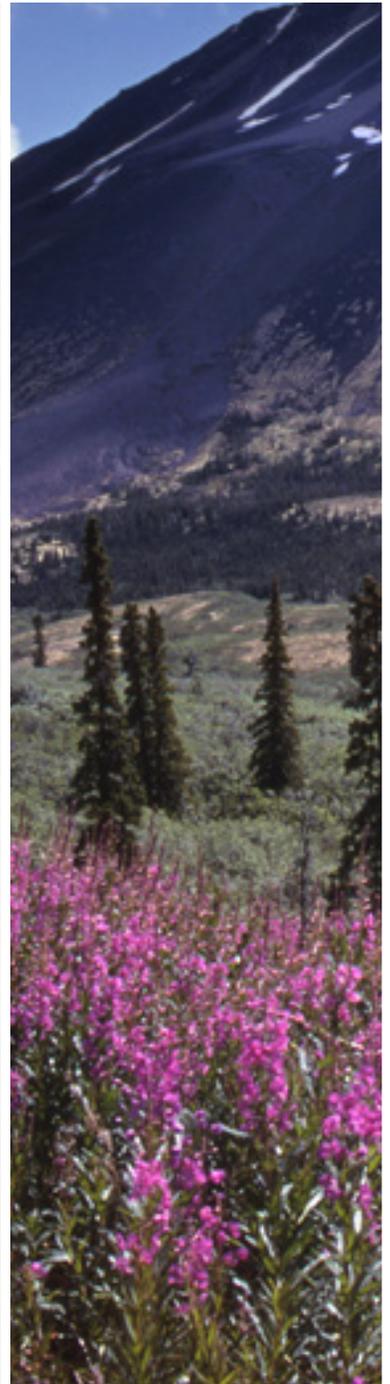
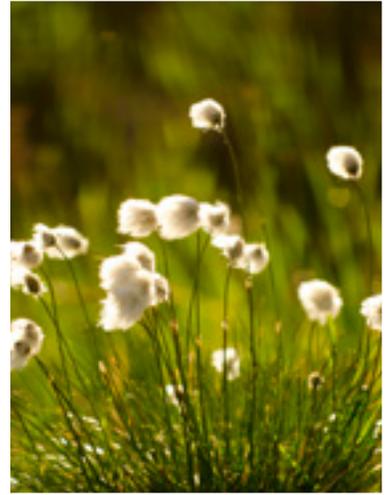
What the act says about enforcement:

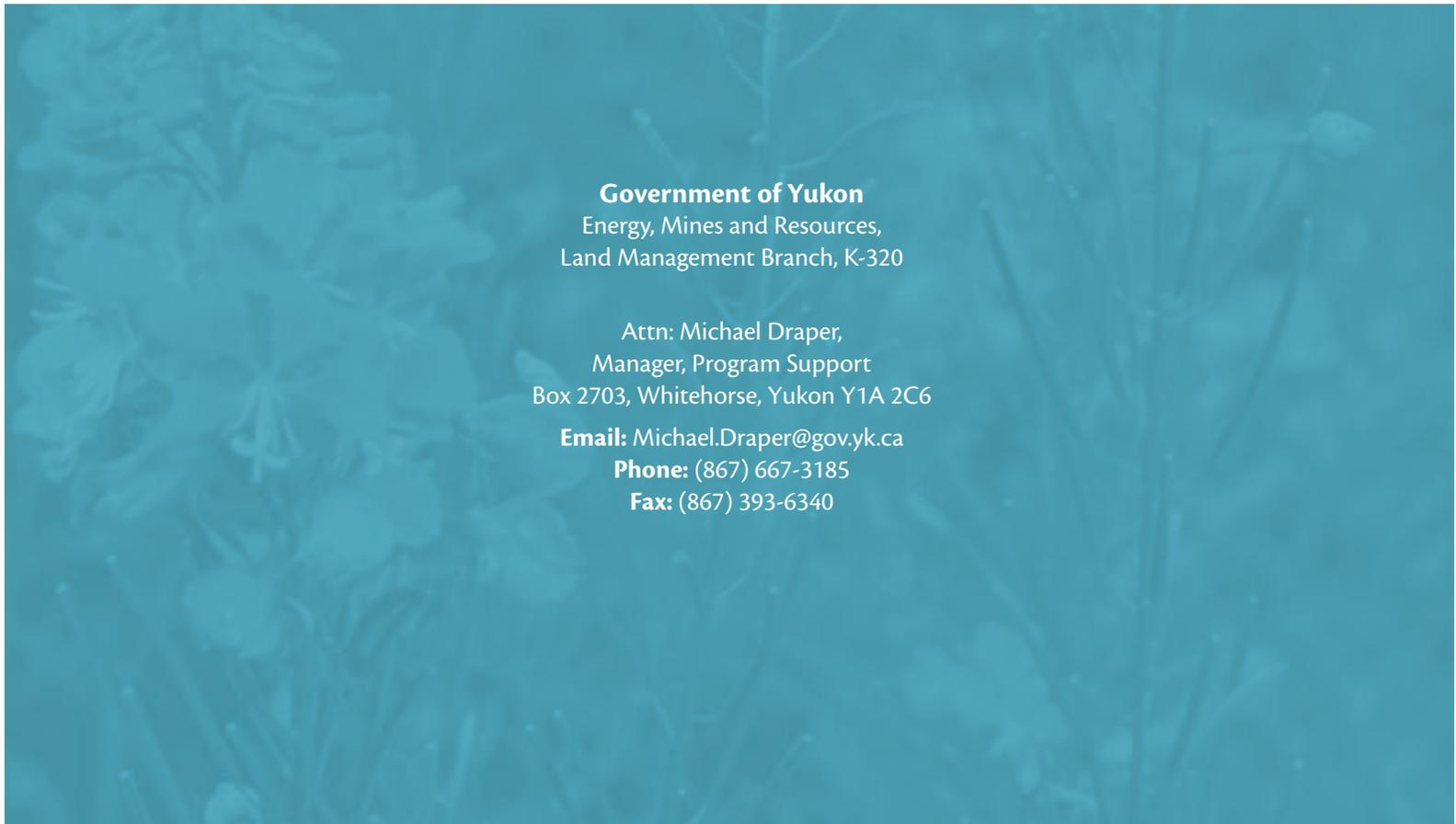
5(1) Every person who:

- (a) contravenes any regulation made pursuant to section 4 or 4.2 or an order made by the Minister pursuant to section 4.3; or
- (b) fails to comply with any term or condition of a permit issued pursuant to such regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000.

What fine amount do you think would be appropriate for using an ORV in contravention of a provision in the regulation?

- \$25.00 \$100.00 \$125.00
- Other _____





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