

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 15 OFF-HIGHWAY MOTOR VEHICLE SAFETY
PART 3 OFF-HIGHWAY MOTOR VEHICLE SAFETY STANDARDS

18.15.3.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[18.15.3.1 NMAC – Rp, 18.15.3.1 NMAC, 5-28-10]

18.15.3.2 SCOPE: This rule prescribes safety standards, registration, and safety permit requirements for all persons seeking to operate an off-highway motor vehicle and applies to all persons seeking to operate an off-highway motor vehicle safety training organization, or serve as an off-highway motor vehicle instructor or guide in New Mexico.
[18.15.3.2 NMAC – Rp, 18.15.3.2 NMAC, 5-28-10]

18.15.3.3 STATUTORY AUTHORITY: NMSA 1978, Sections 66-3-1001 through 66-3-1020.
[18.15.3.3 NMAC – Rp, 18-15-3-3 NMAC, 5-28-10]

18.15.3.4 DURATION: Permanent.
[18.15.3.4 NMAC - Rp, 18-15-3-4 NMAC, 5-28-10]

18.15.3.5 EFFECTIVE DATE: May 28, 2010, unless a later date is cited at the end of a section.
[18.15.3.5 NMAC - Rp, 18-15-3-5 NMAC, 5-28-10]

18.15.3.6 OBJECTIVE: The purpose of this rule is to provide minimum and uniform standards for the registration, permitting and safe operation of off-highway motor vehicles and for the certification of off-highway motor vehicle safety training organizations, instructors and guides, and matters incident thereto.
[18.15.3.6 NMAC - Rp, 18-15-3-6 NMAC, 5-28-10]

18.15.3.7 DEFINITIONS:

- A.** **“ASP”** means the ATV safety institute, a division of the specialty vehicle institute of America.
- B.** **“Board”** means the off-highway motor vehicle advisory board.
- C.** **“Certificate”** means one of the following documents issued by the department on a non-exclusive basis authorizing a person to:
 - (1) **“safety training “permit”**: operate an off-highway motor vehicle if under 18 years of age or;
 - (2) **“instructor certificate”**: serve as an off-highway motor vehicle safety training organization, a lead instructor, guide or junior instructor.
- D.** **“CPSC”** means the consumer product safety commission.
- E.** **“Department”** means the New Mexico department of game and fish.
- F.** **“Designee”** means a person authorized to perform certain specified duties on behalf of the department.
- G.** **“Director”** means the director of the New Mexico department of game and fish.
- H.** **“Division”** means the motor vehicle division of the New Mexico taxation and revenue department.
- I.** **“Enrolled”** means that a student has attended the first day of a scheduled safety training course and will continue until the course is completed.
- J.** **“Extension site”** means a location other than the main off-highway motor vehicle safety training organization’s training site where a certified organization offers OHV safety training courses.
- K.** **“Guide”** means a person who is certified as a lead instructor by the department and who guides or directs an off-highway vehicle organized tour.
- L.** **“Implied Consent Act”** means Sections 66-8-105 through 66-8-112, NMSA 1978.
- M.** **“Junior instructor”** means a person over the age of eighteen (18) but less than twenty-one (21) years of age certified by the department pursuant to the instructor qualifications and standards criteria of these rules as meeting the minimum qualifications to teach and evaluate a student in a department certified off-highway motor vehicle safety training course under the direct supervision of a lead instructor.
- N.** **“Lead instructor”** means a person at least twenty-one (21) years of age certified by the department pursuant to the instructor qualifications and standards criteria of these rules as meeting the minimum

qualifications to teach and evaluate a student in a department certified off-highway motor vehicle safety training course.

- O.** “**Moral turpitude**” means behavior that gravely violates the accepted moral standards of the community.
- P.** “**MSF**” means the motorcycle safety foundation.
- Q.** “**Off-highway motor vehicle**” means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road as defined in statute or as designated by the director.
- R.** “**Off-highway motor vehicle safety training organization**” (also referred to in these rules as “OHV safety training organization” or “organization”) means a business, certified by the department as qualified to provide safety training.
- S.** “**Person**” means an individual, firm, partnership, association, corporation, limited liability company, or other legal entity.
- T.** “**Proctored exam**” means an exam monitored by a lead instructor or a junior instructor under the direct supervision of a lead instructor.
- U.** “**Revocation or revoked**” means the involuntary permanent termination of a certificate by the board for cause.
- V.** “**Staging area**” means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation.
- W.** “**Student**” means a person who has enrolled in an OHV safety training course certified by the board.
- X.** “**Suspended or suspension**” means the involuntary permanent termination of a certificate by the board for cause.
- Y.** “**Trail etiquette**” means the correct and appropriate interaction between all types of trail users; respect for and adherence to rules and laws governing use on public and private land; respect for the environment and avoidance of causing any adverse impacts to the environment; not littering and making sure campfires are extinguished.

[18.15.3.7 NMAC – Rp, 18.15.3.7 NMAC, 5-28-10]

18.15.3.8 OPERATION REQUIREMENTS:

- A.** **License not required:** Drivers of off-highway motor vehicles are not required to be licensed.
- B.** **Prohibitions:** A person shall not operate an off-highway motor vehicle:
 - (1) in a careless, reckless or negligent manner so as to endanger the person or property of another;
 - (2) while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;
 - (3) while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;
 - (4) in pursuit of or harassment of livestock in any manner that negatively affects the livestock’s condition;
 - (5) on or within an earthen tank or other structure meant to water livestock or wildlife, unless the off-highway motor vehicle is on a route designated by the landowner or land management agency as an off-highway motor vehicle route;
 - (6) in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;
 - (7) in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the vehicle on a closed course or track;
 - (8) unless in possession of the person’s registration certificate or nonresident permit;
 - (9) unless the vehicle with an internal combustion engine is equipped with a spark arrester approved by the United States forest service; provided that a snowmobile is exempt from this provision;
 - (10) when conditions such as darkness limit visibility to five hundred feet (500) or less, unless the vehicle is equipped with:
 - (a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred-fifty feet (150); and
 - (b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet (200’) under normal atmospheric conditions;

(11) that produces noise that exceeds ninety-six (96) decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287;

(12) where off-highway motor vehicle traffic is prohibited under local, state, or federal rules or regulations.

C. Requirements for minors: A person under the age of eighteen (18) shall not operate an off-highway motor vehicle:

(1) or ride upon an off-highway motor vehicle without wearing eye protection and a safety helmet that is securely fastened in a normal manner as headgear that meets the standards established by the department in these rules;

(2) without an off-highway motor vehicle safety permit; or

(3) while carrying a passenger.

D. Visual supervision: A person under the age of eighteen (18) but at least ten (10) years of age shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent, legal guardian or a person over the age of eighteen (18) who has a valid driver's license. This rule does not apply to a person who is at least:

(1) thirteen (13) years of age and has a valid motorcycle license and off-highway motor vehicle safety permit; or

(2) fifteen (15) years of age and has a valid driver's license, instructional permit or provisional license and off-highway motor vehicle safety permit.

E. Minors under 10 years of age: A person under the age of ten (10) shall not operate an off-highway motor vehicle unless:

(1) the all-terrain vehicle is an age-appropriate size-fit vehicle established by rule of the department; and

(2) the person is visually supervised at all times by a parent, legal guardian or instructor of a safety training course certified by the department.

F. Organized tour exception: The requirements of Subsections D and E of this section do not apply to a person who is part of an organized tour under the guidance or direction of a guide certified by the department under these rules.

G. Noise standard: An off-highway motor vehicle may not be sold or offered for sale if the vehicle produces noise that exceeds ninety-six (96) decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287. This subsection shall not apply to an off-highway motor vehicle that is sold or offered for sale only for organized competition.

H. Prohibited areas of operation. A person shall not operate an off-highway motor vehicle on any:

(1) limited access highway or freeway at any time; or

(2) any paved street or highway except as provided in Subsection B of Section 66-3-1011 NMSA 1978.

I. Public lands restrictions. A person shall not operate an off-highway motor vehicle on state game commission owned, controlled, or administered land or on land owned, controlled, or administered by the state parks division of the energy, minerals and natural resources department except in compliance with Subsections C and D of Section 66-3-1011 NMSA 1978.

J. Public highway restrictions: Off-highway motor vehicles may only be driven adjacent to a highway for the purpose of gaining access to or returning from areas designed for the operation of off-highway vehicles by the shortest possible route and when no other route is available or when the area adjacent to a highway is being used as a staging area. Such use must occur between the highway and fencing that separates the highway from private or public lands, and the operator of the off-highway motor vehicle shall yield to all vehicles entering or exiting the highway, in a manner that does not interfere with highway traffic. When snow conditions permit, an off-highway motor vehicle may be operated on the right-hand side of a highway, parallel, but not closer than ten feet (10) to the inside of the plow bank.

K. Accidents and accident reports: The driver of an off-highway motor vehicle involved in an accident resulting in injuries to or the death of a person or resulting in damage to public or private property to the extent of five hundred dollars (\$500) or more shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. If the driver is under the age of eighteen, the driver's parent or legal guardian shall immediately notify a law enforcement agency of the accident and the facts relating to the accident.

[18.15.3.8 NMAC – Rp, 18.15.3.8 NMAC, 5-28-10]

18.15.3.9 EQUIPMENT REQUIREMENTS:

A. Safety helmets: All off-highway motor vehicle operators and passengers under the age of eighteen (18) shall wear safety helmets that comply with the safety standards of Title 49 Transportation, Chapter V - National Highway Traffic Safety Administration, Department of Transportation, Part 571-Federal Motor Vehicle Safety Standards, Subpart B-Federal Motor Vehicle Safety Standards, Standard No. 218, Motorcycle helmets of the Code of Federal Regulations (49CFR571.218). A helmet exhibiting the symbol DOT in conformance with 49CFR571.218 shall constitute prima facie evidence of compliance with this standard.

B. Eye protection: Unless the off-highway motor vehicle has a protective windscreen, all off-highway motor vehicle operators and passengers under the age of eighteen (18) must wear eye protection that meets or exceeds the Vehicle Equipment Safety Standards Regulations VESC-8 (Minimum Requirements for Motorcycles, Eye Protection Section 11-1306(e) or the American National Standards Institute (ANSI) Standard Z87.1 and more generally known as safety glasses or safety goggles. Additionally, the protective eyewear must be free of scratches, give a clear view to both sides and be fastened securely.

C. Age appropriate size-fit: Standards governing the relationship between the engine displacement level (in cubic centimeters, or cc.) of an all-terrain vehicle (ATV) and the minimum age an operator must attain before he may operate an ATV with higher than minimum engine displacement levels, combined with objective measurements of how a rider physically fits on an ATV and can operate basic equipment features, are called "age appropriate size-fit" standards.

(1) No person under six (6) years of age shall operate an all-terrain vehicle on public land.

(2) Operators under the age of ten (10) shall not operate an ATV with an engine size greater than 100cc and shall comply with the physical fit standards set forth below in Subsection D of this section.

(3) Operators from ages ten (10) through fifteen (15) shall not operate an ATV with an engine size greater than 250cc and shall comply with the physical fit standards set forth below in Subsection D of this section.

(4) Notwithstanding Paragraph (3) of this subsection, operators who are fourteen (14) or fifteen (15) years of age and who possess a valid driver's license may operate an ATV with an engine size not greater than 450 cc.

(5) Operators at least sixteen (16) years of age may operate an ATV with an engine size greater than 250cc.

D. Physical fit standards: Unless the relationship between an operator and the ATV being operated complies with the following standards, there is a violation of the age appropriate size-fit standards of these rules, regardless of whether the operator is in compliance with the engine size standards of Subsection C immediately preceding.

(1) Clearance between ATV seat and inseam while standing up on foot pegs: The intent for requiring a clearance is two-fold: the first is to permit the rider to stand up and absorb shocks through the legs while traversing rough terrain; the second is to minimize the possibility of the rider being struck by the seat and catapulted over the handle bars. Three to six inches should be a minimum clearance. The maximum will be controlled by the reference point below.

(2) Upper legs: The upper portion of the leg, roughly from the top of the knee to the hip (or the lap if sitting in a chair) should be approximately horizontal. A little above or below the horizontal is not a violation of this standard, but gross departures (knees significantly below or above the hips) shall warrant further inquiry. Knees that are significantly above the hips and which contact the handlebars in both directions when they are turned constitute a violation of this standard.

(3) Foot length: With the heel of the right shoe locked against the footpeg or in the proper position on the running board, the toe should be able to depress the foot brake with a simple downward rotation of the foot. Contact with engine or exhaust protrusions should be examined. The rider should be able to operate the brakes consistently without hesitation. The same principle applies to the left side of the ATV where the gearshift is located.

(4) Grip reach: With the rider in the normal seated position (not leaning forward) and the hands on the handlebars, the elbows should have a distinct angle between the upper arm and the forearm. If the elbows are straight out, the rider has no ability to turn the handlebars. If the elbows are less than right angles, the rider is too large for the ATV and steering is difficult possibly throwing the rider off balance.

(5) Throttle reach: With the right hand in the normal operating position, the thumb must easily operate the throttle. The rider must be able to turn the handlebars to both the extreme left and extreme right position without any interference with easy operation.

(6) Brake reach: With the hands in the normal operating position and the fingers straight out, the first joint (from the tip) of the middle finger should extend beyond the brake lever. If not, the hand is too small to effectively grasp the lever in an emergency. The thumb must also reach the engine stop switch. The rider should be able to squeeze the brake lever comfortably and repeatedly.

18.15.3.10 MINIMUM CRITERIA FOR APPROVAL AND CERTIFICATION OF OFF-HIGHWAY MOTOR VEHICLE SAFETY TRAINING ORGANIZATIONS AND INSTRUCTORS/GUIDES:

A. ASI standard adopted. The department shall approve and certify all motor vehicle safety training organizations for ATV's whose applications establish that they will:

- (1) utilize ASI's instructional materials, e-course, or a materially equivalent curriculum; and
- (2) comply with the inclusion of New Mexico specific curriculum with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, laws and prohibitions against operating off-highway motor vehicles under the influence of alcohol or drugs.

B. MSF standard adopted. The department shall approve and certify all motor vehicle safety training organization for off-highway motorcycles whose applications establish that they will:

- (1) utilize the MSF "dirt bike school" instructional materials, e-course, or a materially equivalent on-line curriculum; and
- (2) comply with the inclusion of New Mexico specific curriculum with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, laws and prohibitions against operating off-highway motor vehicles under the influence of alcohol or drugs.

C. Snowmobile standard. [Reserved]

D. Out of state safety permits. A current off-highway motor vehicle safety permit issued by another state to a person under the age of eighteen (18), or an ASI, MSF or equivalent certificate as determined by the department evidencing completion of an OHV safety training course, shall satisfy the requirement for completion of an off-highway motor vehicle safety training course before operating an off-highway motor vehicle in New Mexico. New Mexico residents under the age of eighteen (18) must successfully complete an off-highway motor vehicle safety course that complies with these rules.

E. Grandfathered safety permits. Safety certificates issued prior to January 1, 2007, by ASI, MSF, 4-H or equivalent certificates as determined by the department evidencing completion of an OHV safety training course, shall satisfy the requirement for completion of an off-highway motor vehicle safety training course before operating an off-highway motor vehicle in New Mexico.

[18.15.3.10 NMAC – Rp, 18.15.3.10 NMAC, 5-28-10]

18.15.3.11 ON-LINE SAFETY TRAINING:

A. Hours requirement. An OHV safety training program shall provide at least 4 hours of curriculum on safe and responsible off-highway vehicle operation. Upon successful completion of the curriculum and final exam, a safety permit will be issue. A student must correctly answer at least seventy percent (70%) of the questions to pass the final exam and receive a permit.

B. Curriculum requirement: Only the curriculum, chapter review material and final examination questions approved by the department may be used. An on-line safety training curriculum must include lessons about:

- (1) safety awareness.
- (2) New Mexico operations requirements as required by 18.15.3.8 NMAC of these rules;
- (3) safety equipment requirements as required by 18.15.3.9 of these rules;
- (4) age-appropriate size-fit use of off-highway motor vehicles as outlined by Subsection C and D of 18.15.3.8 NMAC of these rules;
- (5) responsible use of off-highway motor vehicles with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, and restrictions against operating off-highway motor vehicles under the influence of alcohol or drugs;
- (6) respecting ATV's: safety awareness; preparation to ride; controls and equipment checks; starting procedures; posture, starting out, shifting gears, braking and parking; turning; quick stops and swerving; riding strategies; riding over obstacles; riding on hills; and safe riding practices; and
- (7) trail etiquette: how to deal with fences, land use ethic.

C. Other requirement: A safety training organization shall provide the department with a monthly (or as requested) report of students who successfully completed the on-line safety training course. The information should include the students first and last name, middle initial, date of birth, last four of social security number, and students home telephone number, date training was completed, the students final grade and total time for completion of the training course. This information shall remain confidential by the safety training organization and the department and for sole purpose of record keeping.

[18.15.3.11 NMAC – N, 5-28-10

NMAC History:

HISTORY OF 18.15.3 NMAC:

History of Repealed Material:

18.15.3 NMAC, Off-Highway Motor Vehicle Safety Standards, filed December 14, 2006 by the Off-Highway Motor Vehicle Safety Board - Repealed effective May 28, 2010 and replaced by 18.15.3 NMAC, Off-Highway Motor Vehicle Safety Standards, effective May 28, 2010, filed by Department of Game and Fish.