

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, 10-14-2016]

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 off-highway motor vehicle tour operator or guide in New Mexico.
[18.15.3.2 NMAC - Rp, 18.15.3.2 NMAC, 10-14-2016]

18.15.3.3 STATUTORY AUTHORITY: Sections 66-3-1001 through 66-3-1020 NMSA 1978.
[18.15.3.3 NMAC - Rp, 18.15.3.3 NMAC, 10-14-2016]

18.15.3.4 DURATION: Permanent.
[18.15.3.4 NMAC - Rp, 18.15.3.4 NMAC, 10-14-2016]

18.15.3.5 EFFECTIVE DATE: October 14, 2016, unless a later date is cited at the end of a section.
[18.15.3.5 NMAC - Rp, 18.15.3.5 NMAC, 10-14-2016]

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, for the certification of off-highway motor vehicle safety training organizations and instructors, for the conduct of off-highway motor vehicle tour operators and guides, and matters incident thereto.
[18.15.3.6 NMAC - Rp, 18.15.3.6 NMAC, 10-14-2016]

18.15.3.7 DEFINITIONS:

- A.** **“ASP”** means the ATV safety institute, a division of the specialty vehicle institute of America.
- B.** **“All-terrain vehicle (ATV)”** which means a motor vehicle 50 inches or less in width, having an unladen dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control.
- C.** **“Certificate”** means one of the following documents issued by the department or an organization recognized by the department 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 lead instructor or junior instructor.
 - (3) **“Registration certificate”**: operate on public land an off-highway motor vehicle for which registration fees have been paid in accordance with Chapter 66, Article 3 NMSA 1978.
- D.** **“Department”** means the New Mexico department of game and fish.
- E.** **“Director”** means the director of the New Mexico department of game and fish.
- F.** **“Division”** means the motor vehicle division of the New Mexico taxation and revenue department.
- G.** **“Enrolled”** means the status of a student who has begun to participate in a department-certified or department-recognized safety training course and will continue until the course is completed.
- H.** **“MSF”** means the motorcycle safety foundation.
- I.** **“Off-highway motor vehicle (OHV)”** 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.
- J.** **“Off-highway motorcycle (OHM)”** means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control.
- K.** **“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 off-highway vehicle safety training.

- L.** “**Person**” means an individual, firm, partnership, association, corporation, limited liability company, or other legal entity.
- M.** “**ROHVA**” means the recreational off-highway vehicle association.
- N.** “**Recreational off-highway vehicle (ROV)**” means a motor vehicle designed for travel on four or more non-highway-legal tires, for recreational use by one or more persons, and having:
- (1) a steering wheel for steering control;
 - (2) non-straddle seating;
 - (3) maximum speed capability greater than 35 miles per hour;
 - (4) gross vehicle weight rating (GVRW) no greater than 1,750 pounds;
 - (5) less than 80 inches in overall width, exclusive of accessories;
 - (6) engine displacement of less than 1,000 cubic centimeters;
 - (7) identification by means of a 17-character vehicle identification number.
- O.** “**ROV youth model**” means an OHV intended by the manufacturer for use by operators under 16 years of age that meets all requirements of an ROV with the exception that it is capable of reaching a minimum speed of 10 miles per hour, and having an engine displacement of 200 cubic centimeters or less.
- P.** “**Revocation or revoked**” means the involuntary permanent termination of a certificate by the department for cause.
- Q.** “**Snowmobile**” means a motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low-pressure tires.
- R.** “**Specialty off-highway motor vehicle (SOHV)**” means any self-propelled vehicle which is designed to travel on wheels or track in contact with the ground, which is designed primarily for use off the public highways, and which is generally and commonly used to transport persons for recreational purposes, that does not meet the definition of an all-terrain vehicle, off-highway motorcycle, recreational off-highway vehicle, or snowmobile. Go-karts, golf carts, battery-powered toys, and motorized scooters are not included in this definition.
- S.** “**Student**” means a person who has enrolled in an OHV safety training course certified or recognized by the department.
- T.** “**Suspended or suspension**” means the involuntary permanent termination of a certificate, either indefinitely pending an administrative appeals process or for a certain, limited period of time, by the department for cause.
- U.** “**Trail etiquette**” means a set of guidelines describing 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, and respect for natural resources.
- [18.15.3.7 NMAC - Rp, 18.15.3.7 NMAC, 10-14-2016]

18.15.3.8 EQUIPMENT REQUIREMENTS:

- A. Safety helmets:** All OHV operators and passengers under the age of 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); or with the safety standards of the United Nations Economic Commission for Europe Regulation 22.05, or their superseding standards. A decal exhibiting the symbol DOT in conformance with 49CFR571.218, or the symbol ECE22.05 in conformance with ECE Regulation 22, permanently affixed to a safety helmet shall constitute prima facie evidence of compliance with this standard.
- B. Eye protection:** All OHV operators and passengers under the age of 18 shall 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, safety goggles, or a face shield. Additionally, the protective eyewear must be free of scratches and fastened securely in the manner that the eyewear’s manufacturer prescribes.
- C. Age-appropriate size-fit standards for ATVs:** Standards governing the relationship between the engine size (displacement measured in cubic centimeters, or cc.) of an ATV and the minimum age an operator must attain before operating an ATV of that engine size, combined with objective measurements of how a rider physically fits on an ATV and can operate basic controls, are called “age-appropriate size-fit standards” and include, but are not limited to:
- (1) No person less than six years of age shall operate an ATV on public land.

(2) Operators less than 10 years of age shall not operate an ATV with an engine size larger than 110 cubic centimeters and shall comply with the physical fit standards set forth below in Subsection D of this section.

(3) Operators from 10 through 15 years of age shall not operate an ATV with an engine size larger than 250 cubic centimeters 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 14 or 15 years of age and who possess a valid driver's license may operate an ATV with an engine size not larger than 450 cubic centimeters.

(5) Operators at least 16 years of age and less than 18 may operate an ATV with an engine size larger than 250 cubic centimeters and shall comply with the physical fit standards set forth below in Subsection D of this section.

D. Physically-appropriate size-fit standards for ATVs: Unless the relationship between an operator and the ATV being operated complies with the following standards, it 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 set forth above in Subsection C preceding this section.

(1) Seat clearance when standing: The minimum clearance between the ATV seat and the operator's inseam while standing on the operator's foot rests should be three inches. The intent for requiring minimum clearance is two-fold: first, to permit the rider to stand up and absorb shocks through the legs while traversing rough terrain; second, to minimize the possibility of the rider being struck by the seat and catapulted over the handle bars.

(2) Upper leg position when seated: The upper portion of the operator's leg, roughly from the top of the knee to the hip, should be approximately horizontal when seated. Minor departures a little above or below the horizontal are not violations of this standard, but gross departures (knees visibly significantly below or above the hips) shall warrant further inquiry and may constitute a violation of this standard. Knees that are significantly above the hips and which contact the handlebars in either direction when they are turned constitute a violation of this standard.

(3) Foot reach: With the boot or shoe placed in the proper position upon the foot rest or on the running board, the toe should be able to operate the foot brake (on an ATV so equipped) with a simple downward rotation of the foot. The rider should be able to operate the brakes consistently with no impairment of full range of motion. The same standard applies to the operator's boot or shoe and the foot-operated shift lever (on an ATV so equipped).

(4) Handlebar grip reach: With the rider in the normal seated position (not leaning forward) and the hands on the handlebar grips, the elbows should have a distinct angle between the upper arm and the forearm. If the operator's posture is such that the operator's arms present a straight line from wrist to shoulder, then the operator's ability to maintain directional control of the ATV is compromised, particularly in rough terrain.

(5) Throttle and engine stop switch: With the hands in the normal operating position and the handlebars turned fully either left or right, the operator must be able to operate the throttle and engine stop switch.

(6) Hand-brake lever or clutch lever reach: With the hands in the normal operating position and the handlebars turned fully either left or right the first joint (from the tip) of at least one finger should be able to extend beyond the hand-brake levers (or clutch lever on an ATV so equipped) and fully operate the hand levers. If not, the hands are too small to grasp the levers effectively.

E. Age-appropriate size-fit standards for ROVs and ROV youth models: Standards governing the relationship between the engine size (displacement measured in cubic centimeters, or cc.) of an ROV or ROV youth model and the minimum age an operator must attain before operating an ROV or ROV youth model of that engine size, combined with objective measurements of how a rider physically fits in an ROV or ROV youth model and can operate basic controls, are called "age-appropriate size-fit standards" and include, but are not limited to:

(1) No person under six years of age shall operate an ROV or ROV youth model on public land.

(2) Operators at least six and less than 10 years of age shall not operate an ROV or ROV youth model with an engine size larger than 200 cubic centimeters and shall comply with the physical fit standards set forth below in Subsection F of this section.

(3) Operators at least 10 years of age and less than 18 years of age shall comply with the physical fit standards set forth below in Subsection F of this section

F. Physical-appropriate size-fit standards for ROVs and youth-model ROVs: Unless the relationship between an operator and the ROV or ROV youth model being operated complies with the following

standards, it 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 set forth above in Subsection E of this section.

(1) The operator shall be able to reach and fully operate the pedals with the operator's back flat against the driver's seat and with the operator's seatbelt properly fastened.

(2) The operator shall be able to reach the steering wheel and turn the wheel fully in both directions with arms slightly bent while keeping the operator's back flat against the driver's seat with the operator's seatbelt properly fastened.

[18.15.3.8 NMAC - Rp, 18.15.3.8 NMAC, 10-14-2016; A, 6-27-17]

18.15.3.9 MINIMUM CRITERIA FOR APPROVAL AND CERTIFICATION OF OFF-HIGHWAY MOTOR VEHICLE SAFETY TRAINING ORGANIZATIONS, INSTRUCTORS, AND CURRICULA; OUT-OF-STATE SAFETY PERMITS; GRANDFATHERED SAFETY PERMITS:

A. ASI standard adopted: the department shall approve and certify all ATV safety training organizations whose applications establish that the organization will:

(1) use 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 OHVs under the influence of alcohol or drugs.

B. MSF standard adopted: the department shall approve and certify all OHM safety training organizations whose applications establish that the organization will:

(1) use the MSF "dirt bike school" 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, and state laws and prohibitions against operating OHVs under the influence of alcohol or drugs.

C. ROHVA standard adopted: the department shall approve and certify all ROV safety training organizations whose applications establish that the organization will:

(1) use ROHVA'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 OHVs under the influence of alcohol or drugs.

D. Snowmobile standard. [Reserved]

E. Out-of-state safety permits: a current OHV safety permit issued by another state or an ASI, MSF, ROHVA, or equivalent certificate as determined by the department to be evidencing completion of an OHV safety training course, shall satisfy the requirement for completion of an OHV safety training course before operating an OHV in New Mexico.

F. Grandfathered safety permits: a safety certificate issued prior to January 1, 2007, by ASI, MSF, 4-H, or equivalent certificates as determined by the department to be evidencing completion of an OHV safety training course, shall satisfy the requirement for completion of an OHV safety training course for the purpose of operating an OHV in New Mexico.

[18.15.3.9 NMAC - Rp, 18.15.3.10 NMAC, 10-14-2016]

18.15.3.10 CERTIFICATION OF OFF-HIGHWAY MOTOR VEHICLE SAFETY TRAINING INSTRUCTORS

A. Review by the department: when reviewing applications for OHV safety training instructors, the department shall consider whether:

(1) the information provided by the applicant is accurate and valid;

(2) the character and employment references provided by the applicant report that the applicant is fit to conduct an OHV safety training course;

(3) the applicant has a criminal history, as evidenced by a background check conducted by the department.

B. Disqualification: a criminal record of conviction of any of the following offenses shall disqualify an applicant or instructor for certification.

(1) assault in any degree;

(2) assault with intent to commit a violent felony in any degree;

any degree;

- (3) attempt to commit criminal sexual penetration (CSP) or criminal sexual contact (CSC) in any degree;
- (4) abandonment or abuse of a child, cruelty to animals in any degree, or indecent exposure;
- (5) any drug-related felony;
- (6) a crime in which an element of the crime is the use or threat of use of physical force; or
- (7) a crime in which fraud, theft, or embezzlement is considered to be an element of the conviction;

C. Denial of certificate: If the department determines that an applicant is disqualified in Subsection B of this rule, or is deemed unsuitable for other reasons as the department may determine, the department will issue a letter stating the reasons for denial of certification. An applicant may address the reasons for denial in a reapplication for a certification. Reapplications for certification must be submitted in written form to the department within 15 calendar days of the applicant receiving the letter stating the reasons for denial of certification.

D. Term of certification: Initial certification shall be valid from the date of issuance and shall be valid for a period of three years thereafter, unless suspended or revoked for cause before that date.

E. Certification renewal: A certified OHV instructor must apply for renewal of their certificate with the department 30 days prior to the expiration of their certification. The department shall renew an instructor certification if:

- (1) the instructor consents to a new background check;
- (2) the instructor has taught an average of three safety courses per year; and
- (3) the instructor has not found to be in violation of any part of this rule, to include successful completion of a background check as described in 18.14.3.11 NMAC.

F. Early termination:

- (1) A certification shall terminate if an OHV safety training instructor fails to teach a course within one full calendar year.

- (2) The department may suspend or revoke a certification for cause as provided in this rule. [18.15.3.10 NMAC - Rp, 18.15.3.10 NMAC, 10-14-2016]

18.15.3.11 ON-LINE SAFETY TRAINING:

A. Course length and testing requirement: an OHV safety training program shall provide at least four hours of curriculum on safe and responsible OHV operation. Upon successful completion of the curriculum and final exam, a safety permit shall be issued. A student must correctly answer at least seventy percent 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 Chapter 66, Article 3 NMSA 1978;
- (3) safety equipment requirements as required by 18.15.3.8 NMAC;
- (4) age-appropriate OHV size-fit as outlined by 18.15.3.8 NMAC;
- (5) responsible use of OHVs with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, OHV operating laws and prohibitions against operating OHVs under the influence of alcohol or drugs;
- (6) 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 and respect for natural resources.

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

[18.15.3.11 NMAC - Rp, 18.15.3.11 NMAC, 10-14-2016]

18.15.3.12 OFF-HIGHWAY MOTOR VEHICLE (OHV) TOUR OPERATORS AND GUIDES:

A. Off-highway motor vehicle (OHV) tour operators and guides shall complete an approved OHV safety course for each type of OHV being operated by their clients and carry proof of applicable OHV safety training while providing tour operator or guide services.

B. OHV tour operators and guides shall comply with all applicable laws, statutes, regulations, and rules for the types of OHVs being operated and for the locations in which tour operator or guide services are being provided.

C. OHV tour operators and guides shall provide to their clients photocopies of all applicable laws, statutes, regulations, and rules for the types of OHVs being operated and for the locations in which tour operator or guide services are being provided. OHV tour operators and guides shall provide a mandatory safety briefing before each guided tour that includes a walk around of the OHVs that will be used by the clients to include how to operate the OHV, proper use of safety equipment, what to do in case of an emergency, etc. During the safety briefing the OHV tour operators and guides shall request proof of a current OHV safety permit from all youth clients.
[18.15.3.12 NMAC - N, 10-14-2016]

18.15.3.13 DISPLAY OF OHV REGISTRATION PLATES OR DECALS:

A. All OHVs: shall display a registration decal or plate assigned to the vehicle and issued by the division, or a suitable decal as issued by the department, which shall contain the year and month in which it expires, except for OHVs exempted or owned by those persons exempted under Section 66-3-1005 NMSA 1978.

B. Registration plate or decal: shall at all times be securely affixed to the vehicle for which it is issued, and shall be mounted or affixed in a position clearly visible, shall be maintained in a condition so as to be clearly legible, and displayed only for the period for which it is valid. Nothing shall be used to block, dim, or cover any portion of the plate or decal. All registration plates or decals issued on or after January 1, 2012 shall be displayed as follows:

(1) OHMs shall display decal horizontally on the left fork leg of the motorcycle, and shall be visible from the left side of the motorcycle.

(2) ATVs shall display decal horizontally on the left rear quadrant on permanent body or frame and visible from the left side of the all-terrain vehicle.

(3) ROVs and youth-model ROVs shall display decal horizontally on the left front quarter panel of a recreational off-highway vehicle.

(4) Snowmobiles shall display decal horizontally on the left tunnel on the back of snowmobile.

(5) SOHV shall display decal on the left side, on the front quarter of the machine.

(6) Failure to comply with any part of this section constitutes grounds for revocation or suspension.

C. Exceptions: No off-highway vehicle shall deviate from this display requirement except:

(1) if displaying a valid license plate, temporary registration, or dealer demonstration permit visible from the rear of the vehicle; or

(2) non-residents who have a valid OHV permit displayed on their OHV that is currently in compliance with another state's OHV registration, user fee or similar law or rule demonstrated by certificate of registration, permit or similar evidence.

D. Replacement fee: The division shall charge a transition fee of seven dollars fifty cents to replace a previously issued license plate with a decal when requested by the registered owner of an OHV. The previously issued license plate will be surrendered upon issue of a decal, and the decal will be valid for the remaining term of the registration.

E. Special off-highway motor vehicle paved road use vehicle plates: In addition to an OHV registration decal, an OHV operated on a paved road in compliance with the provisions of 66-3-1011 NMSA 1978 shall display a standardized special off-highway motor vehicle paved road use vehicle plate issued by the division, in accordance with the provisions of the Motor Vehicle Code, and for which the fee has been paid.

[18.15.3.13 NMAC - Rp, 18.15.3.12 NMAC, 10-14-2016; A, 6-27-17]

18.15.3.14 OPERATION ON STREETS AND HIGHWAYS:

A. A person shall not operate an off-highway motor vehicle on any:

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

(2) paved street or highway except as provided in Subsection B of this section, or except in compliance with the provisions of 66-3-1011 NMSA 1978 (the Off-Highway Motor Vehicle Act); or

(3) pedestrian walkways and non-motorized trails.

B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular angle as possible.

C. If authorized by ordinance or resolution of a local authority or the state transportation commission, an ROV or an ATV may be operated on a paved street or highway owned and controlled by the authorizing entity if:

(1) the vehicle has one or more functioning headlights and one or more functioning taillights that comply with the Off-Highway Motor Vehicle Act;

(2) the vehicle has brakes, mufflers, and mirrors providing an unobstructed view to the rear;

(3) the operator has a valid driver's licenses or permits as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the Off-Highway Motor Vehicle Act;

(4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act;

(5) the operator of the vehicle is appropriately wearing approved eye protection in compliance with 18.15.3.8 NMAC;

(6) the operator of the vehicle is under 18 years of age and appropriately wearing an approved safety helmet in compliance with Rule 18.15.3.8 NMAC; and

(7) the operator is in compliance with all existing traffic laws, including speed limits and operating restrictions as may be established by local authority or the state transportation commission.

[18.15.3.14 NMAC - N, 10-14-2016; A, 6-27-17]

18.15.3.15 ORDINANCE NOTIFICATION PROCESS: Any county, municipal, or other local or state government authority that authorizes or changes OHV use on designated paved roads within its jurisdiction shall notify the department of the authorization and upon the authorization becoming effective shall provide the department a copy of the authorization.

[18.15.3.15 NMAC - N, 10-14-2016]

HISTORY OF 18.15.3 NMAC:

History of Repealed Material:

18.15.3 NMAC, Off-Highway Motor Vehicle Safety Standards, repealed effective May 28, 2010.

18.15.3 NMAC, Off-Highway Motor Vehicle Safety Standards, repealed effective 10-14-2016.