

Massachusetts OHV Advisory Committee Meeting Minutes DRAFT

Meeting name			
OHV Advisory Committee Meeting (15)			
Date		Time	
4-2-14		11:00 AM – 3:00 PM	
Location		Meeting host	
Holyoke Heritage State Park, Holyoke, MA		Stephanie Cooper (EEA) Celia Riechel (EEA)	
Committee members present			
Chris Mossman (MA Forest Landowners Association)	Mike Toomey (MA Forest & Parks Friends Network)	Steve "Bubba" Gardner (NETRA)	Tad Ames (Berkshire Natural Resources Council)
Randy Toth (Snowmobile Association of MA)	Janet Morrison (North County Land Trust)	Chief Ernest Horn (Mendon Police)	Jim Sherman (MA Motorcycle Assoc; Hoot Owl Scramblers)
Guests/visitors			
Larry Tucker (Snowmobile Assoc. of MA)	Michael Wade, on behalf of Dan D'Arcy	Terry Sinclair (ATV Maine)	Jim Mitchell
Lt. Mike Grady (MEP), on behalf of Capt. Merri Walker	Justine Eagan (DPH), on behalf of Colleen McGuire	John Bartley (Beacon Hill Consulting)	Steve Salisbury (Amer. Motorcycle Assoc.)
Committee members absent			
Colleen McGuire (DPH)	Katie Kearney (Child Safety Advocate)	Capt. Merri Walker (MEP)	Dan D'Arcy (Power Sport Dealers Association)
VACANT – rep. of OHV users			

Synopsis of items discussed
<p>1. Welcome. Background on committee, format of agendas to follow, law and role of committee and mission with the OHV Fund.</p> <p>2. Ethics requirements. OHV Advisory Committee members are classified as "Special State Employees" and must familiarize themselves and comply with state employee ethics and conflict of interest rules. Committee members are asked to review the Summary of the Conflict of Interest Law for State Employees and sign an acknowledgement of receipt form. Committee members must also complete the online training course for state employees and print a certificate of completion. Due to the specific representation requirements of the committee in the OHV law, some committee members may need to declare a financial conflict of interest and seek an exemption or possibly resign their position on the committee. Members are responsible for knowing the rules and complying as necessary. Specific questions should be</p>

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directed towards the State Ethics Commission at 617-371-9500. If you are unsure, ask for an opinion in writing from the Ethics Commission—their response is binding, so getting it in writing protects you even if it turns out their opinion is wrong. All committee members must comply with the ethics requirement in order to continue to serve on the committee.

3. Outreach and education update. (Lt. Michael Grady, Mass. Environmental Police (MEP))

Discussion of the possibility of conducting outreach in movie theaters, similar to the ads run before movies in Arkansas. (See handout)

Public Service Announcements (PSAs) could be an economical and effective way to conduct outreach as well. If we got a station to partner with the committee, it's possible we could get a good deal, eg 3 for 1. Other companies and organizations may also be interested in partnering, or could otherwise support a PSA—for example a grocery store might put a message on OHVs in their monthly newsletter. Clear Channel also has a policy of supporting PSAs. We could also look at digital billboards, which are easier than regular billboards because there's no installation. Could *Chronicle* (TV show) be persuaded to do a segment on OHVs?

The committee will pursue doing some sort of movie theater advertising in a subcommittee. Steve Gardner, Mike Toomey, Janet Morrison, and Celia Riechel volunteered to take part. Larry Tucker and Justine Egan also offered to participate.

Training classes have been cancelled due to lack of registration. The committee is welcome and encouraged to take OHV Handbooks to distribute. For a larger supply, contact Lt. Grady. More handbooks should be given to dealers, but people aren't buying as many new OHVs right now, so they aren't interacting as much with dealers as with other organizations. MEP tries to target outdoor activities and venues to distribute the handbooks.

Some aspects of the Handbook are still unclear. The "Operating legally" section is still not clear on what is illegal, could be presented in a more straightforward manner. We need a one page summary of the basics of the law, similar to the hunting and fishing laws abstract.

4. Enforcement update. (Lt. Michael Grady, MEP)

The OHV Fund isn't use-or-lose; what isn't spent from year to year accumulates until we find an appropriate use.

(See handout on OHV sales in Mass.) UTVs (where two people sit side-by-side) are increasing in popularity, and may be selling faster than ATVs now. It's not clear if they're included in these numbers, but they are only through 2010 so it may not. More recent numbers will be helpful.

Many OHVs are bought and sold used, which wouldn't be reflected in these numbers. Even when people do buy new OHVs, if they have an old vehicle that they

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want to get trade-in value, they may go to New Hampshire or Maine to make their purchases because used "high-mileage" (5,000+ miles) OHVs don't have good trade-in value in Massachusetts.

A visitor noted that in addition to lost sales tax revenue, there is also an economic impact of OHV tourism, as described in a recent article in the American Motorcycle Association's magazine entitled "Following the Money Trail."

Why doesn't Massachusetts do point-of-sale registration of OHVs? This could ensure better compliance with regulations, and also increase the value of the OHV Fund. The registration system is currently outdated, so it limits what can be done. There is a growing consensus that the whole system needs to be redone, which might present an opportunity for creating a means of point of sale registration. Could we compare purchase vs. registration numbers in MA, to give an idea of how many registrations are missing, and how much registration money is never collected?

2014 1st quarter MEP OHV activity (see handout)

The Massachusetts Environmental Police have about 89 total officers, including command and staff, down from 139 prior to the recession. It has a large obligation to police boating and marine areas, so there aren't always many officers that can be committed to OHV patrols.

Notes on table of 170 citations issued in Jan. and Feb. 2014:

This data is for MEP only; local police generally do not report information to MEP.

Ch. 90B 22 = unregistered vehicle

Ch. 90B 24 = equipment violation

Ch. 90B 25 = operating on a public way

Ch. 90B 26a = underage

Ch. 90B 27 = accident

Motor vehicle trespass, Ch. 266, is not listed

Ch. 90B 26e, illegal operation on private property, is not listed.

Illegal operation on public property or on wetlands are also not listed.

Civil citations can be a fine. Criminal citations can be fine, penalty, or arrest, or some combination of these. Generally the type of citation is left to the officer's discretion, but the preferred response is civil. Things like fleeing and resisting arrest will incur criminal citations.

Why so many verbal warnings? A warning is not nothing—it goes into the registry so the next time that individual is pulled over, the officer will see that he's already

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been warned, and they will receive a more severe response. Police have to exercise a lot of discretion, but they want to build a relationship with people, get them to trust the police and talk to them. It does no one any good if people don't trust the police and run every time they see them. Some people feel that officers don't issue enough fines, others think they issue too many. Arrest should be the last thing you do. People that violate the law and have no registration will still get a record of the warning or citation—the officer can run their driver's license, photo, name, birthdate, etc. If they really have no identification, they're much more likely to be leaving with the officer.

There have been no known incidents of OHVs being towed or confiscated. Only in very limited circumstance can MEP confiscate an OHV. Operating on a public way, or during an accident investigation. Afterwards the vehicle is usually returned to the owner.

Warm weather typically brings more accidents. We are looking for trends in the data on accidents and citations—are there holes in the training or education that could be addressed? We're seeing growing operation on public ways; even the Boston Police recently contacted MEP because people were riding on the streets. We still don't—and may never—have information on what really changes people's behavior.

Local police departments, enforcement.

Local police are a far larger force than the statewide environmental police. Even though local police are also limited with staff and budgets, money is the best way to get more police action on an issue—if they don't have the funds to commit officers to OHV enforcement, they're not going to do it, they're going to focus on their core responsibilities. A high-profile fatality could also get more police attention.

Local police departments need a segregated fund which allows them to capture a portion of OHV citation revenues. Chief Horn has draft language for a town meeting vote that would establish a separate Law Enforcement Trust Fund account into which OHV fines could be deposited. It needs added language from Ch. 9c, which is the drug law. A loophole in the original law left this out. If the law were changed, each town could take advantage of it to establish a mechanism to apply the law.

Is there a role for selectboards? If they were told that the police chief could get more funds if they set up a way to get them?

Environmental and property damage caused by OHVs should also motivate the police—water supplies, earthen dams, agriculture, etc. are all damaged by OHVs. It's not a victimless crime, and there are costs to the community.

Stephanie Cooper will send the draft language for setting up a law enforcement trust fund.

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5. Regulations revision.

MEP promulgated regulations in 2011 for the 2010 law, and went through an established process of drafting, etc. It was quickly realized that there was an error with the age limitations and their application to snowmobiles. We set out to fix this and a few other things in the regulations. Then, a clarification to the law was passed by the legislature, which made it necessary to make additional adjustments to the regulations. The clarifying law gave the Director of Law Enforcement the authority to give exemptions to the rules on education and training for out of state riders participating in specific events. An organization holding an event has to apply to MEP for an exemption, and must submit a plan, information on the event, and who the participants would be. The required information must be submitted not fewer than 15 days prior to the event so there is enough time to review it. At the last meeting, some specific suggestions were made, such as to define "sanctioned." MEP is working to incorporate these. Sanctioned may mean different things for different vehicle types. It also isn't specified who or what entity is doing the sanctioning.

NETRA (New England Trail Riders Assoc., for off-road motorcycles) has specific rules and requirements for its member clubs. When a member club puts on an event, it must follow the NETRA rulebook for course design, management, medical care, officiating, etc. If it follows the rulebook, it will be sanctioned by NETRA and receive advertising and insurance, etc. so member clubs want their events to be sanctioned. "Sanctioned" for all kinds of OHV events could, like the NETRA rulebook, be rigorously defined in the regulations. Snowmobiles have three "vintage" snowmobile events that are sanctioned by the Snowmobile Association of Mass., but otherwise it doesn't sanction events because racing isn't as common as for dirtbikes. There are no known sanctioned ATV events or ATV sanctioning organizations in Massachusetts.

The requirement to know participants 15 days prior to the event is difficult for organizations because they are accustomed to allowing people to show up on the day of an event and register on-site. Organizations would prefer to provide participant information after the event. Because this is an exemption, it is important for the state to know who it is giving an exemption to. People who are already in compliance with Massachusetts laws could still register the day of a race because they don't need an exemption from the law.

Could a blanket exemption be given to an organization? Continuing the NETRA example, anyone who registers for a NETRA race must be a NETRA member, so it has information on any potential registrant. There are concerns about blanket

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exemptions, but it is something that could possibly be considered.

Regulations are designed for the worst-case scenarios. Committee members are losing some patience waiting for revisions to be completed.

6. DCR update

DCR is meeting with the Environmental Police to define enforcement priorities (even with the use of a portion of the OHV Fund, they still have only a limited capacity to conduct enforcement operations, so it's important to target them effectively). The plan is still to open trails on May 1st, but as always that is weather and conditions permitting.

Lulu Brook crossing repair is being conducted using federal Recreational Trails funds; the OHV Fund is being used as a 30% match.

Pittsfield: not many people are out riding. It's noted that currently people who camp there cannot ride OHVs from the campsite to the trails, instead they have to load them on their truck/trailer and drive to the trailhead, which is inconvenient and detracts from their desired experience.

October Mountain: concern that the parking area/trailhead is too small to accommodate more than three trucks with trailers. It's also not always clear where the parking areas are, due to unclear/inadequate signage.

The state is being cautious with its provision of OHV riding areas because it doesn't have the resources to adequately manage a lot of trails or mileage.

Freetown SF: illegal riding continues to be a problem here. The OHV Fund will be used to hire seasonal rangers. Erosion damage is especially bad around Rattlesnake Brook. Getting rangers is a first step in developing some good solutions to the persistent problems. It's also an opportunity for the OHV riding community and friends groups to suggest focus areas.

7. OHV Program Fund update.

The transfer of citation revenue from the courts to the OHV Fund has been regularized. This was a problem when the law was implemented through the RMV.

Next steps/action items

1. Complete ethics requirement: Conflict of Interest training (all)

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2. Develop outreach materials for movie theaters (MEP)
3. Can MA do point-of-sale registration for OHVs?
4. Send draft legislative language to establish law enforcement trust fund (EEA)

From previous meeting:

5. Could small amount of funding be offered to fund volunteer OHV education/outreach presence at local community events or schools?
6. Evaluate feasibility of running a movie trailer about OHV law, safety. (MEP)
7. Create short YouTube videos aimed at kids and teens. (MEP)
8. Create PSA for local cable access stations targeted at parents and town officials. (MEP, with possible assistance from community colleges?)
9. OHV riding permits by smartphone? (DCR)
10. Request JD Power data on OHV registration for other states (Dan D'Arcy)
11. Trail Opportunities grant program (EEA)
12. Regulations revision! (MEP)

Next meeting

Wednesday, June 11, 11:00am – 3:00pm

Location: Purgatory Chasm State Reservation, Sutton, MA