

## ATV ADVISORY MINUTES

October 28, 2005

Bangor, ME

Meeting was brought to order at 10:20am. The following were in attendance:

Brian Bronson, ATV Coordinator, DOC, Off Road Vehicle Division;

Mark Doty, Plum Creek Timber Co; Jon Olson, Maine Farm Bureau;

Scott Nadeau, Maine Recreational Motor Sports; Dan Mitchell, President, ATV Maine;

Bill Swan, Inland Fisheries and Wildlife; Carl Campbell, Aroostook Riders ATV Club;

Dave Anderson, Topsham Trail Riders Club; Charles Corliss, Narraguagus ATV Club;

Paul Bernier, Towns of Frenchville & St. Agatha; Joe Benzing, SWOAM;

Nancy Sferra, The Nature Conservancy; Michael Sawyer, Inland Fisheries and Wildlife.

The first item on the agenda was the proposed changes to title 12, §13157-A. A draft was passed out to council members for discussion.

Dan Mitchell opened with his comments regarding the changes. Stated that the way the law is currently written makes it confusing, the law needs to state that the landowners wishes supersedes the law and if any landowner wants to have an open land policy, that need to be able to do this.

These comments led to discussion on the intent of the law. The intent was to allow for this to take place, however as written, it does not allow a farmer to open his/her land without written permission. One problem however, would be how to let riders know this open land policy is in effect. Currently the presumption is that the land is closed and landowners should not have the burden of posting signs stating policy. Putting the burden back to the clubs is one way of resolving this issue. Encouraging local clubs to inform members of who has an open policy, thus possibly encouraging memberships to grow, also make sure the clubs are notifying local authorities as to which landowners have an open land policy. Even with this effort, the point was brought up that there could still be issues since this could increase the amount of traffic a landowner sees on the property. While some landowners don't want to close their land, they don't really want to have a huge increase in traffic either.

Nancy brought up the issue of trails that are posted as trails on lands without permission. Suggested rewording law to state "representative of Landowner". However it was pointed out that there have only been two cases where signs have been posted on land without permission, and both cases were resolved. This did bring up an important point as to what to do to prevent others from stealing club signs to post on unauthorized trails. Some clubs have started to put the club initials on the signs, and since doing this have had less trouble with missing signs. Putting the responsibility on the user to gain permission was the intent of the law, so that the landowner would not be burdened, this is where the clubs need to step in and do a more thorough job of communicating the information to the riders. One of the biggest concerns is that ATVers who ride in areas that have an open land policy may ride in areas that are not appropriate, and cause damage to the environment.

Education is key once again to the riding etiquette for ATVers. Teaching riders which areas are not appropriate for riding will be very important. Most riders are becoming more sensitive to new regulations and people try to educate themselves to find out what trails are open before heading out. Landowners in general are happy with the way the law is currently working, people are more conscientious of conditions and sensitive areas.

One very important point that was brought up several times was that if we open the law up for changes, and make too many suggestions, then we may be inviting interpretation of the suggestions. When submitting recommendations, they must be clear and concise with no room for misinterpretation.

One suggestion for violating agricultural land was to make the fine higher for this violation, and to include New Growth forest plantations. Agricultural lands generally are ok if the rider stays on the roads that cross the land, however there are many issues if they go off the roads, and this is where there should be higher fines and equal protection for seedling areas. Many landowners are also reluctant to press charges against violations, therefore the law needs to be more straightforward and cover the following:

Landowner doesn't have to post signs,  
Landowner does not have to go to court for violations,  
And the ATV USER is responsible.

The question arose as to how to address the situation where a landowner will not give permission, but isn't going to stop anyone. Should there be something in the law to address this situation? Some landowners are not going to give permission since they feel very vulnerable when they open their land.

Carl stated that it seems wrong that they allow pickups to go anywhere, however ATVs are prohibited. Why the discrepancy? Some landowners are asking what is in it for them if they open the land? Why should they allow a trail? The clubs can help regulate where and when use occurs. Dave pointed out that many landowners are finding they have fewer problems with riders once they started working with the clubs, this could be an incentive for landowners to work with clubs. Scott N. points out that we need to have better maps and communication with riders so that they know they can use discretion when riding. The law enforcement issues won't be a problem if people know where they can ride.

Carl asks the question about why not use the town roads to get around these sections or blocks of land where you can't cross. Some States have allowed the roads to be used by ATV's in this situation.

Joe reminded the groups that since the landowners are different the "what's in it for landowner" question varies. Why couldn't a club lease this land for a trail from small landowners? The easier it is for a landowner to make money the less likely they will split their land up.

Dan points out that there is a benefit for landowners indirectly, through economic growth brought to the area by having ATV trails. Some of the incentives that are suggested for landowners to allow trails include the following:

Clean Up land (old dumping sites),

Fixing roads and trails making it better for their Personal Use.

NH has a program that pays landowners for use, however not sure this would work in Maine since it might impact the landowner liability law. Anything that is State funded needs to remain open for public use, private or exclusive trails cannot be funded and landowner liability would be in jeopardy. There is also a struggle with what would be a fair compensation for use of land.

Mike has the last word before breaking for lunch, and states that with LD1 & the Homestead tax, liability has shifted to owner. Even with tax breaks other rates inevitably increase. Everywhere you turn it costs more money to own land. There are many things to consider.

12:00 Break for Lunch. 12:48 Meeting is brought to order.

Dan: Everyone take 2 minutes to state their opinions on landowner permission before taking a vote on what recommendations will be made.

Dave A: Does not want to have to get permission for going on open lands, wants to change permission to presumed, agrees we should change the wording as suggested on handout.

Jon O. Opposed to changing any language that would negatively impact farmlands but is for clarification of the current way the law is written.

Nancy- Fine with the proposed changes, in favor of landowner permission laws, wants to be sure to send a strong statement that landowner permission is saved.

Joe - Is concerned with landowner rights to give or deny land use. Supports education over denying use. Approves the proposed changes as written.

Paul- Supports proposed changes as written, concerned about legislature changing any of the wording.

Carl- For proposed changes, would like to see penalty wording changed in law as well.

Bill- Supports proposed changes, and the change of "shall" to "may" with regards to revocations. Also would like to see a change in the suspensions of licenses to one year instead of "until ethics course is taken".

Mark- Does NOT support language changes. Has seen positive improvements and the focus should be on education. Feels the law should be left as it is since making proposed

changes will allow the legislature to possibly change the language even more. Should work with game wardens to make sure they understand the laws and work together.

Charlie- Supports the proposed changes to the language since it could help clarify permissions and supports the proposed change from “shall” to “may” with regards to revocations.

Dan- Has concerns about expansion of the landowner permission law, but has changed mind regarding laws since ATV’s are more intrusive than are other sports. In favor of proposed changes since it will get the law back to the original intent.

Joe motions to accept the proposed language change. Paul seconds.  
Formal vote: 10 for the change, 1 against, and 1 absent  
Motion is carried; proposed language changes will be recommended.

Next, each member voices opinion on changes regarding language changes for revocation penalties and for changing “shall” to “may”.

Charlie C. Is for the change from “shall” to “may”. Not really sure if changing the penalty to one year is a good idea, since it seems a bit stiff. Also does not feel the fine change is high enough.

Mark- Does not want change since current law is working. Feels education rather than lessening the law is a better way to go.

Scott- Warden service is doing a good job, does not think 1 year is too stiff; supports “may” change, and does not feel this will weaken the law.

Mike: As municipals get involved more officers will be involved with enforcement. What is happening may have too many making judgments because they don’t want to have someone loose all their licenses.

Bill: May want to consider adding landowner of croplands, pastures or orchards, may have open land policy. Get intent of first paragraph clearer. Will support the change from “shall” to “May”. (Dan suggestion is that landowner policy supersedes the law).

Carl- He believes the paragraph F should not be in this section since it is not at the same level as the other offenses are far worse. Abuse is already covered. Wants to strike paragraph “F” from the revocation section. If we do that “shall” can stay

Paul- Changing from “shall” to “may” handles the issue of severity of the revocations. So Changing to “may” should ultimately cover Carl’s concerns.

Nancy- Supports wording for proposed changes opposed to taking “F” out of law. Paragraph “F” was put in because of repeat offenders. The intent was to be able to have a significant penalty for them.

Joe- Small woodland owners would oppose anything that would weaken the law and the landowners' rights to do what they want with their land. Discretion should be left to Warden. Favors education over regulation comfortable with proposed changes.

Jon- No changes to motion that was passed. He feels wardens may over look things too often with such stiff penalties. Wants to think about adding wording to "open land policy".

Dave: approves proposed changes as voted.

Dan: moves to next topic, will bring copy of the proposed changes as voted on to the next meeting.

Next item discussed is the Age Matrix. Handout of age chart is passed to members. It is stated that the Federal Government may mandate changes and training for everyone.

Mike sawyer gave an overview of the Maine ATV accident statistics.

Over a 3-year period there were 300 incidents with ATV's.

6 Fatalities in 2002,

6 in 2003,

And 11 in 2004- one of the fatalities in 2004 was under 20 (11 year old).

25-40 Range have the MOST incidents and the most problems. 32 out of 332 had safety training. With 66,000 ATV's registered there were probably many incidents that were over looked or not reported. Emergency rooms are generally cautious about reporting accidents because of patient's rights.

Carl would like to see the age drop to 14 to cross a road if you have completed the safety training.

Highest ages of accidents reported are among the 11-16 range, however that may be due to them being more likely to get checked out at a hospital than older teens and adults. Years of driver experience may be a better way to look at it.

Biggest issues with accidents are by adults. Dan states that we should move in the direction of making the ages the same as snowmobiles lowering it from 16-14 to cross public way but keep the mandatory safety training.

Dave made a motion to change from 16 accompanied by an adult 21 or older to 14 with Safety Education. Charlie seconded the motion.

The vote carried with 10 for, 1 against, and 1 absent.

Next meeting we will discuss the original Task Force planned implementation phases I, II, & III to see what has and hasn't been accomplished.

Bill passed out Registration breakdown- ATVs registered to date is 35,000. The numbers may be down but they won't be by 50% though.

Budget breakdown for IF&W shows that the budget for safety training has not kept up with the increases. The breakdown of costs will be available at the next meeting.

Jon: addressing Mike, asked when they took 5% of the budget cuts across the board to put in the part 2 budget, did they take that from him? Does he anticipate that happening again? Mike is not sure of the answer for that, as no one is right now, changes that are taking place will affect the budget, moves, consolidating services in government.

The next meeting will cover: Implementation Phases, Trail Pass, and Law changes (review).

Mark: DEP is putting out new shore land zoning standards that towns will incorporate into their own standards for trails in close proximity to water. Not sure there is a need for additional permits to build trails. The standards for trails are stiffer than for wood harvests. Encourages all to read and write comments to DEP concerning this since it could impact trails considerably.

Charlie: The new regulations state that the wider the trail the further it must be from water. DEP has never required a permit for trails but they are considering it because of the larger trails that are being built. LURC is considering the same guidelines if DEP get them approved.

Meeting is adjourned at 3:10pm.

Next meeting is set for December 2, 2005. In Augusta. Maine Forest Products Council Building on Rt. 27 from 10-3.

Directions: Take Rt. 27 North off Exit 112 (Civic Center) off the Interstate and it is a little less than a mile on the right .