

HB 1188, Commission to Study the Use of OHRVs in New Hampshire

Thursday, November 16, 2023, 10am-12

Department of Fish and Game Director's Conference Room, 11 Hazen Dr. Concord

Remote Access – Microsoft Teams

**Present:**

Abby Evankow, Clerk, NH Rail Trails Coalition, via remote

Andy Renzullo, Representative, House Resources Recreation and Development Committee

George Sykes, Representative, House DOT Committee

Mike Ouellet, Representative, Coos County

Craig Rennie, Chief NH Bureau of Trails

Captain Michael Eastman, NH Fish and Game

Chief Dan Buteau, NH Association of Police Chiefs, via remote

David Rodrigue, NH Department Of Transportation

Steven Wilkie, NH Off Highway Vehicle Association

Paul Robitaille, NH Municipal Association, via remote

Ann Davis, NH Timberland Owners Association / NH Farm Bureau Federation

Paul Doscher, Society for the Protection of NH Forests/ Appalachian Mtn Club/ Nature Conservancy

**Absent:**

Suzanne Smith, Chair, New Hampshire Association of Conservation Commissions

Kevin Avard, Senator

Eamon Kelley, Representative, House RRD Committee

Steve Jackson, North Country Council

Dan Bennett, NH Auto Dealers Association

NH State Police - vacant

**Guests:**

Ben Engel, LCHIP; Terry Lambert, NHOHVA secretary; Matt Leahy, SPNHF; Meredith Hatfield, Nature Conservancy; Carol Foss, Audubon; Chris Thayer, AMC; Jim Oehler, F&G Wildlife Habitat Supervisor F&G; Jackson Bouley, NHADA lobbyist.

10:00 AM Call to Order. Rep Renzullo chairing meeting in Chair Smith's absence. Introduction of members and guests, meeting recorded.

10:05 AM Approval of Minutes from September 29 meeting. Approved unanimously.

### **Legislative update:**

SB256 establishing a safety program for off-highway recreational vehicles. Governor Sununu's veto held.

2024 Draft bills as available. 2 LSRs by Rep Kelley. One bill addresses golf carts, the other enhances penalties for operating OHRVs with suspended license. Currently there is still no safety program that addresses riders over the age of 16. This bill would enhance the penalty for operating an OHRV/Snowmobile with a suspended driver's license using the same penalties as driving a motor vehicle with a suspended license on the road. Captain Eastman has seen snowmobile and OHRV riders get multiple tickets but no meaningful penalty. This has been going on for 20 years. Additionally the \$50 Event Permit fee would no longer go to Grant In Aid, but would stay in F&G because of their administrative time. Some events are on lakes and don't even involve trails. Request made to see if F&G can maintain a list of permitted events on website.

### **Discussion of RSA 215-A:41 Intent.**

20 years after siting statute established, we have learned more about ATV and trail bike impacts on trails. We might need to change fine and coarse filters related to trails. It's about putting the trails in the right places to avoid conflict. We've heard about a lot of conflict. Look at wilderness and wildlife filters. Maybe there are places to re-locate trails.

OHRV trails that cross trout streams are an opportunity for fine material to destroy trout eggs. With the increase in number of extreme climate events, is 5 year flood standard for building trails still adequate?

Chapter 215-A:41 focuses on scientific perspective.

Some of the trails from Plattsburg to Rte 3 are very close to river. Much of the forest there is spruce and fir which is major deer habitat. OHRVs are disruptive, making situation dangerous for both deer and riders. There are also recreation user conflicts. Recommendation for ad hoc committee to look at 215-A:41 and come back with recommendations to Commission for review.

Chief Rennie: Recently in Nash Stream State Forest, the filter worked. Discovery of raptor nest stopped a potential new connector. A deer wintering area also stopped snowmobile trail.

RSA 215-A:41 only applies to trail on state land. It does not apply to trails on federal land or private property. Even if bureau maintains the trail on private land - decisions are up to landowner. BOT won't build trail in a swamp, even if not bound by coarse and

fine filter. OHRV clubs follow DES standards. A lot of BMPS are to build bridges to stay out of wet areas.

Ms. Evankow suggested addressing Sovereign immunity because otherwise the details of the laws don't matter - if BOT can claim immunity. The issue is statewide, not limited to Gorham. Following the laws should not be dependent upon who is Bureau Chief. Suggestion made to ask A.G. to come and to speak to issue of sovereign immunity. Others felt this was a red herring.

Ms. Hatfield's experience with ATVs has been on private land - large land owners, also large foresters who have opened their roads to ATVs. She has seen a lot of damage on the logging roads. Will this review process address rights and responsibilities of those landowners? How does system interface w/ landowners? Sometimes RSA specifies "and on private land"

80% of trail network is on private land - the rest is state and federal land. Portion of registration fee goes to Grant In Aid, reimbursement program, for trail maintenance, improvements, re-routes (not new trails). Clubs get written permission of landowner. Municipalities can apply for grants - but only clubs do. Towns can not spend money on class VI roads - but Clubs can.

Question of how trails are repaired on private land. Courser Brook Road comes up hill because of high level of trail use - the curve gets a big berm from Rte 26. The Clubs apply for grants for individual projects. Clubs do not give landowners money for repairs. GIA funded projects are audited.

Seen road kill - if no logging - then most likely ATV.

Dust is huge issue - fine particles go a distance from road - suggests this should be documented. ATVs go faster than other vehicles so send more dust.

Noise - how far does it extend off the trail? Is monitoring of traffic occurring? There are traffic counters that distinguish between different kinds of vehicles.

Ms. Hatfield is researching declining songbirds. For nests within site of trail, from song bird perspective - dust is more of issue than noise. Vehicle can be less disturbing than pedestrian.

Mr. Doscher - recommends reading Mr. Oehler's guide: "Trails for People and Wildlife"

Chief Rennie: Dust mitigation is funded by GIA - calcium chloride and wood chips are applied, also wood chips. There are traffic counters in Nash Stream - but does not distinguish bike from ATV from car. Pedestrians can be more startling than vehicles.

Mr. Thayer supports sub-committee, citing the new reality of extreme weather events and increased visitation creating a new reality for trails.

Mr. Leahy supports sub-committee, state policy can inform trails on private and municipal property.

Charge of sub-committee: to review RSA 215-A:41,42, 43 and related documents to make recommendations on improvement of statute, (which beget rules which beget best practices.) It is premature to address the administrative rules 8500.

Rep Renzullo was part of the process 20 years ago that created the coarse and fine filter and addressing conflict. Today's context has changed. Trails and machines are not the same as when the RSA was written in 2002.

Anything to ease tension and to take care of environment and wildlife.

Mr. Doscher volunteered to chair the sub-committee and asked Chief Rennie to co-chair. Additional members: Captain Eastman, Ms. Foss, Mr. Oehler, Mr. Wilkie, Ms. Davis, Mr. Thayer. Ms. Davis offers to take notes and communication. Rep Sykes says 8 is a big sub-committee. Time frame? Will be agenda item on commission meetings to give updates to Commission. Chief Rennie says new trails on state land is very minimal, but state standards set standards for municipal trails.

Ms. Evankow received letter from resident speaking of disturbance - will send out to full commission. Asks if Commission can ask police departments for feedback re: complaints they receive? Captain Eastman reports receiving fewer complaints.

Next Meeting: Jan 5, 11:00 DNCR

motion to adjourn 12:00 PM

Respectfully submitted,  
Abby Evankow, Clerk