

Section 8: Benchmarking of International Off-Road Sectors

8.1 Introduction

This section contains highlights from the international benchmarking exercise that was undertaken.

Regulation of the off-road sectors in the USA, Australia and Canada was investigated, with a focus on the following areas:

- Vehicle registration and licensing;
- Driver registration and licensing; and
- Trail operation – off-road vehicle use in designated areas.

We also tried to determine, where possible, gaps in the regulation of the off-road sector and how successful regulation efforts have been.

8.2 Regulation of the Off-Road Sector in the USA

8.2.1 Introduction

The regulation of off-road vehicle use in the USA has been brought about to:

- Prevent damage to land;
- Prevent air and water pollution;
- Protect wildlife; and
- Protect the safety of the public, especially children.

Since the late 1980s, ATV use has tripled across the USA, which has led to increased conflict between ATV users, environmentalists, child safety advocates etc.

The Natural Trails and Waters Coalition provides the following statistics on off-road vehicle use in the USA:

- There are at least 11 million dirt bikes, ATVs, snowmobiles and jet skis in the USA which have access to almost all public lands and waters;
- The Bureau of Land Management (“**BLM**”), which manages 264 million acres of land in the west and Alaska, estimates that nearly 93% of this land in the continental USA is open in some form to off-road vehicles while 94% of BLM land in Utah is open to dirt bikes, ATVs and jeeps. In Montana and Nevada, ORVs can access 99% of all BLM land;
- America’s national forests are criss-crossed by more than 400 000 miles of roads and routes, with an additional 60 000 miles of “ghost roads” blazed, largely by ORVs; and
- In the entire National Forest system, covering more than 190 million acres in 155 forests, only 2 forests do not allow off-road vehicle use.

There are 50 states and one district in the USA. It is the duty of the different states to regulate off-road activities, although there is some national legislation that is also applicable in this regard.

Regulation of the off-road sectors in the States of Wyoming, Minnesota and Michigan was investigated.

The term ORV is used interchangeably with the term off-highway vehicle (“**OHV**”) in the USA, largely because ORVs tend to predominantly be used off-highways. However the term ORV has a legally established definition in the Presidential Executive Orders and the BLM’s related 43 Code of Federal Regulations (“**CFR**”) 8340.

In some states however, legislation around ORVs still uses the term OHV.

8.2.2 National Legislation Related to Off-Road Vehicle Use in the USA

There are various Acts, Statutes, regulations and Executive Orders, which provide for the control of off-road vehicle use in the USA. Some of these are included in **Table 8.1**.

For at least the last 30 years or so, legislation has been in place to protect the environment against ORV damage.

In the various states, there is also legislation in place, some of which is recent, or has been updated recently, related to ORV use.

Another important piece of legislation is *43 CFR 8340 – Off-Road Vehicles*, which provides the following 3 designation categories of BLM-managed public lands for ORV use:

- **Open** – All types of vehicle use are permitted at all times, subject to operating regulations and vehicle standards;
- **Limited** – Vehicle use is restricted to certain times, in certain areas and/or to certain vehicle;
- **Closed** – off-road use is prohibited in these areas.

Areas are designated by local authorities in the State concerned.

Table 8.1: National Legislation Governing Off-Road Use in the USA

Legislation	Off-Road Use
Executive Order 11644	<ul style="list-style-type: none"> • Issued by President Nixon in 1972, states that “the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among various uses of those lands”.
Executive Order 11989	<ul style="list-style-type: none"> • Issued by President Carter in 1977, directs federal land managers to close land to off-road vehicles where their use "will cause or is causing considerable adverse effects on soil, vegetation, wildlife, wildlife habitat or cultural or historic resources...until such time as (the manager) determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence”.
Regulations codified at 43 C.F.R. 8340 et seq	<ul style="list-style-type: none"> • These implement the Executive Orders. They require that areas and routes for off-road vehicle use shall be designated to minimize conflicts with other visitors and impacts on natural resources.
Federal Land Policy and Management Act, 1976	<ul style="list-style-type: none"> • 43 U.S.C. 1782(c) requires the BLM to manage wilderness study areas so that their suitability as wilderness will not be impaired; • 43 U.S.C. 1732(b), requires the BLM to manage BLM lands so that they are not unduly or unnecessarily degraded.
United States Wilderness Act, 1964	<ul style="list-style-type: none"> • Section 4(c) prohibits the following activities in a wilderness area: <ul style="list-style-type: none"> – The establishment of permanent or temporary roads; – Use of motor vehicles, motorised equipment or motorboats; – Landing of aircraft; – Other forms of mechanical transport; and – Others structures or installations.

Legislation	Off-Road Use
	<ul style="list-style-type: none"> The only exception to the rule is the provisions relating to access for people with disabilities and the use of motor vehicles or motorised equipment by state officials or the nonconforming uses where necessary to insure the health and safety of people.
Endangered American Wilderness Act, 1978	<ul style="list-style-type: none"> Places restrictions on the use of motor vehicles or motorised equipment in a wilderness area

8.2.3 Off-Road Vehicle Regulation in the State of Wyoming

Introduction

The use of off-road vehicles in Wyoming is regulated through legislation, most specifically the *Wyoming Off-Road Recreational Vehicles Statute Title 31 – Motor Vehicles*. This provides for the compulsory registration of off-road recreational vehicles to be used on designated ORV trails and areas.

Under this Statute, there are 3 classes of off-road recreational vehicles that have been defined, viz:

- Recreational vehicles primarily designed for off-road use (according to a certain specification);
- Unlicensed motorcycles designed to be ridden off-road (according to a certain specification); and
- Multi-wheeled motorized vehicle, not required by law to be licensed and designed for cross-country travel on and over land, snow, ice or other natural terrain (according to a certain specification).

Vehicle Registration

The following applies with regards to ORV registration:

- Under the Statute, all ORVs used on off-road recreational vehicle trails have to be registered with the Wyoming Department of Parks and Cultural Resources. Other motor vehicles need to be registered at the local county treasurer’s office.
- Once registered, a permit is obtained which is valid for one calendar year (it expires on 31 December of the registration year) and must be displayed on the ORV.
- Funds obtained from registration fees of ORVs are used to operate the Wyoming ORV Trails Programme, which develops, maintains and manages ORV trails in the areas where funds are collected.

- Permits can be obtained online, by phone, or at one of the numerous selling agents e.g. selected Forest Service, State Park offices, BLM, local businesses, local sporting goods stores, ORV dealers and some county treasurer offices etc.
- Permits contain a warning message advising that trespassing upon private property is a punishable offence including a fine, imprisonment or both.
- The Wyoming Department of Parks and Cultural Resources is required to keep full and complete records of all registered off-road recreational ORVs.
- Off-road recreational vehicles owned or used by a governmental agency are exempt from the Statute.
- Only a Wyoming permit is valid i.e. an ORV permit from another state is not valid.

Driver Registration

The following applies with regards to ORV driver registration:

- In Wyoming a driver's licence is only required if a vehicle is to be operated on the roads, streets and highways. It does not necessarily have to be a Wyoming licence, but must be current and legal;
- There are 4 classes of licences, with a commercial and non-commercial version each (except for motorcycles);
- A driver's licence to operate an ORV on roads and highways falls under Class M, which includes motorcycles, ATVs and mopeds. Class M is available in licence form, or as an added endorsement to any of the other 3 classes; and
- No driver's licence is required for off-road vehicle driving.

Designated Trails

ORVs are mostly restricted to travel upon established roads and trails. ORV use is only permitted on public lands, which are designated as "open" for motorised travel by appropriate local land managers.

There are essentially two types of "roads" where ORV use may be permitted, viz:

- Off-road trails or areas (trails) – in designated areas only; and
- Roads, street and highways (roads) – in both designated and non-designated areas.

Table 8.2 provides an overview of ORV use.

Table 8.2: ORV Use in Wyoming

Location	Conditions
Designated off-road trails	<ul style="list-style-type: none"> • ORVs may only be used in designated areas. • ORVs operated on designated trails without a permit, will be in violation of the Statute and are subject to a fine. • It is illegal to operate ORVs off trail, or on any trail area closed to ORV use.
Designated Roads and Highways	<ul style="list-style-type: none"> • On roads that have been designated as part of the ORV Programme. However, in this case, the following conditions apply: <ul style="list-style-type: none"> – Driver of the ORV must have a valid driver’s licence or permit; – ORVs may be only operated on a portion of street, road or highway designated to be open; – ORVs must cross the road at a right-angle, yielding the right of way to all traffic in the road; – ORVs being used a half an hour after sunset until one and a half hours before sunrise must be equipped with brake lights, taillights and headlights; – ORVs must be equipped with an adequate hand or foot operated braking device; and – ORVs operated on state or federal land must be equipped with: <ul style="list-style-type: none"> ○ An approved spark arrester; and ○ A noise muffler.
Non-Designated Roads and Highways	<ul style="list-style-type: none"> • On roads not designated as part of the ORV Programme. In this case, the following conditions apply: <ul style="list-style-type: none"> – Driver of the ORV must have a valid motorcycle (Class M) driver’s licence and carry proof of liability insurance; – ORV must be street legal and have motorcycle plates; and – ORV must be equipped with approved and operating spark arresting mufflers and must comply with sound regulations.

8.2.4 Regulation of Off-Road Vehicle Use in the State of Minnesota

Introduction

In the State of Minnesota, the term OHV is used which includes:

- ATVs – 2 classes;
- Off-highway motorcycles (“OHMs”); and
- ORVs.

OHV use in Minnesota is controlled by various safety laws, rules and regulations. Information contained in this section is based on “*Off-Highway Vehicle Regulations 2007-08*”, produced by the Minnesota Department of Natural Resources, which provides a summary of applicable legislation.

Vehicle Registration

The following applies with regards to OHV registration:

- Person must be 18 years or older to register an OHV;
- OHVs must be registered with the Department of Natural Resources unless:
 - The OHV is registered in another state or county and is not in Minnesota for more than 30 days; or
 - The OHV is owned and used by the state.
- First time registration must be done directly at the Department of Natural Resources, but the OHV registration can be renewed online;
- OHV registration is valid for 3 years. Dealers and manufacturers which use OHVs for testing or demonstration purposes are also required to register the OHVs, but this registration is only valid for 1 year;
- OHV permits must be displayed on the vehicle. The location thereof is prescribed and varies by type of OHV and where the OHV will be used (e.g. trails or highways);
- **ATV Registration:**
 - All ATVs, whether used exclusively on private property or not, must be registered, except for:
 - ATVs 25 years and older if they were originally produced as a separate identifiable make by a manufacturer; and
 - ATVs used exclusively in organised racing track events.

- Class 1 and Class 2 ATVs are registered as such and the class of ATV is shown on the owners registration card and permit;
- There are different types of registration based on where the vehicle will be used, viz:
 - Public / recreational use;
 - Private / agricultural use; and
 - Public and private use.
- **OHM Registration:**
 - All OHMs, whether used exclusively on private property or in track racing events, must be registered, unless the OHM is registered for highway use and is operated on forest roads;
 - OHMs may be legally licensed for highway use, if properly equipped; and
 - OHMs licensed for highway and off-road use need to have an OHM and motorcycle licence.
- **ORV Registration:**
 - Many ORVs are licensed for both highway and off-road use, but the ORV must have a regular vehicle licence and OHV registration.
- Public use ATV and all OHM and ORV permits expire on the 31st December of the last year the registration is valid. Private use ATV registration does not expire and is valid until ownership is transferred.

OHVs operated on public lands, waters, trails and public streets and roads open to vehicle use have to be equipped with brakes, throttle, mufflers and towing equipment that meets certain specifications.

Driver Registration

Any OHVs driven on highways require the driver to be licensed. However we have been unable to determine if there is a specific OHV licence.

There is no driver's licence required for off-road vehicle driving.

OHV safety training is recommended. This generally includes OHV familiarisation, operating procedures, safety concerns, rules and regulations, ethics and environmental considerations.

Designated Trails

OHVs may be operated on:

- Private land with the landowner's permission;
- Frozen public waters where legal access is available; and
- On public lands and trails open to OHVs.

When driving in designated areas, OHV use is subject to several rules, including those governing speed, crossing public roads, firearm usage etc.

Other regulations associated with ATV use, include

- Passenger or operator under 18 must wear a helmet;
- Person under 16 needs to have their parent or guardian's permission to operate an ATV;
- Person under 18 may not carry a passenger;
- An operator and passenger under 18 must wear a seatbelt if provided by the manufacturer.

Many of these regulations are new, indicating the importance placed by Minnesota on safety.

Enforcement of OHV rules is by conservation officers, deputy sheriffs, police & peace officers and natural resource officers.

8.2.5 Regulation of Off-Road Vehicle Use in the State of Michigan

Introduction

In the State of Michigan, an ORV is defined by law, as any motor vehicle that can be operated cross-country (without benefit of a road or trail) over land, snow, and other natural terrain. This includes:

- Multi-track or multi-wheeled vehicles;
- ATVs;
- Motorcycles or related multi-wheeled vehicles;
- Amphibious machines (water-to-land and back);
- Hovercrafts; and
- Other vehicles that use mechanical power including 2- or 4-wheel-drive vehicles that are highway registered but operated off highways or off roads.

The following are not considered ORVs by Michigan law – registered snowmobiles; farm, construction or logging vehicles (when being used in usual work practices); and military, fire, emergency and law enforcement vehicles.

Information contained in this section is based on “*The Handbook of Michigan Off-Road Vehicle Laws*”, produced by the Department of Natural Resources.

Vehicle Registration

The following applies with regards to ORV registration:

- Owners are required to obtain:
 - A **certificate of title** from the secretary of state (not required for non-residents which use their ORVs in Michigan). Every ORV sold through a dealer will have a certificate of origin, which contains all the information needed when applying for the certificate of title. Application must be made within 15 days of purchase by the dealer (on behalf of the owner) or by the owner (if the ORV is purchased from someone other than a dealer); and
 - A **licence** for the ORV with the Department of Natural Resources. OHVs must be registered with the Department of Natural Resources;
- Licences are valid for one year, from 1 April to 31 March of the following year, regardless of the date of purchase;
- ORV licences are available from the Department of Natural Resources, online, by mail, through participating ORV dealers and through participating hunting and fishing licence agents;
- Licences must be permanently attached and visibly displayed on the vehicle;
- Vehicles registered as “street licensed” only require an ORV licence when being used on designated trails or in areas designated for cross-country use;
- Private landowners and their invited guests are not required to licence ORVs used exclusively on their private property;
- Licensing is required for all ORVs used in areas designated open for their use, regardless of whether the ORV is owned by a Michigan resident or non-resident.

Required equipment (dictated by law) includes:

- **Operators and Passengers** must wear:
 - US Department of Transportation approved crash helmet; and
 - Protective eyewear or goggles.

Unless the ORV has an approved roof and the operator and passengers are wearing properly adjusted and fastened seat belts.

- **ORVs** must be equipped with the following (according to specifications):
 - Braking system;
 - Throttle system;
 - Spark arrestor and muffler;
 - Seating; and
 - Lights.

Driver Registration

Any ORVs driven on highways require the driver to be licensed. However we have been unable to determine if there is a specific ORV licence.

No driver's licence is required for off-road vehicle driving.

Designated Areas

The following terms may be used when describing where or how ORVs may be operated on state-owned lands:

- **Designated:** Any place that is posted as open for ORV use with appropriate signs.
- **Designated Area:** An area that is signed for cross-country ORV use by the Department of Natural Resources. An ORV license is required.
- **Designated Route:** A forest or state road that has been signed for ORV use by the Department of Natural Resources. Use of these roads is allowed for ORVs of all sizes. Either an ORV license or a Secretary of State conventional license is required.
- **Forest Roads:** Hard-surfaced roads, gravel and dirt roads, and other routes that can be traveled by a conventional 2-wheel-drive vehicle designed for highway use (passenger car). Forest roads include fire lanes and logging roads. Forest roads do not include any state, federal, or county highways or roads. In general, forest road means a road other than a county or state road on which a family car can operate without assistance.
- **Designated ORV Trail:** Designated paths or ways that can only be traveled by vehicles that are less than 50 inches in width. An ORV license is required.

There are restrictions in place governing the operation of ORVs by children under the age of 16 (see **Table 8.3** below), including a safety education requirement.

Table 8.3: Age Restrictions for ORV Use in Michigan

Age of ORV Operator (years)				
	Under 10	10-11	12-15	16 or older
Allowed to operate 3-wheeled ATV?	No	No	No	Yes
Allowed to operate 4-wheeled ATV?	No except on private land while performing farm-related work operations	No except on land owned by the parent or guardian, under visual supervision, with ORV certificate	Yes if under visual supervision, with ORV certificate	Yes
Allowed to operate other ORVs (trail bikes, etc.)?	Yes if under visual supervision, with ORV certificate	Yes if under visual supervision, with ORV certificate	Yes if under visual supervision, with ORV certificate	Yes
Allowed to cross street or highway?	No	No	Yes if under visual supervision, with ORV certificate	Yes

All ORV operators under 16 are required to possess a valid safety training certificate when operating an ORV. The certificate is awarded after a safety education course has been completed and a certification exam completed.

8.2.6 Conclusion

Table 8.4 provides an overview of off-road regulation in Wyoming, Minnesota and Michigan.

Off-road sector use in the USA is mostly legislated including:

- Compulsory vehicle registration; and
- Legally designated off-road trails and routes.

It is difficult to determine whether or not regulation of the off-road sector through legislation has been successful. On the whole, it does not appear as if USA citizens are opposed to off-road legislation, possibly because legislation has been around for many years, and the citizens see the value of operating responsibly and safely.

Table 8.4: Off-Road Sector Regulation in Wyoming, Minnesota and Michigan

	Wyoming	Minnesota	Michigan
Definition of off-road	<ul style="list-style-type: none"> • Definition is legislated • ORVs include ATVs and dirt-bikes but not 4x4s 	<ul style="list-style-type: none"> • Definition is legislated • OHVs include ATVs, OHMs and ORVs 	<ul style="list-style-type: none"> • Definition is legislated • ORVs include ATVs, motorcycles etc.
Registration of ORVs	<ul style="list-style-type: none"> • Compulsory registration by the Wyoming Department of Parks and Cultural Resources • Permit must be displayed on vehicle • Valid for one year • Fee is imposed – used to develop trails etc. 	<ul style="list-style-type: none"> • Compulsory registration with the Department of Natural Resources • Registration required for private and public land use • ATVs, OHMs and ORVs registered separately • ATVs registered according to where used • Permit must be displayed on vehicle • Valid for 3 years • Fee is imposed 	<ul style="list-style-type: none"> • Compulsory registration including certificate of title and licence (by the Department of Natural Resources) • Registration required for public land use only – private land use is excluded • Permit must be displayed on vehicle • Valid for one year • Fee is imposed
Licensing of ORV drivers	<ul style="list-style-type: none"> • Only if ORV is to be used on roads, streets and highways • Special class of licence (i.e. Class M) for motorcycles and ATVs 	<ul style="list-style-type: none"> • Only if OHV is to be used on roads, streets and highways • Does not appear to be a special class of licence 	<ul style="list-style-type: none"> • Only if ORV is to be used on roads, streets and highways • Does not appear to be a special class of licence
Use of ORVs	<ul style="list-style-type: none"> • ORVs can be only be used on trails designated as open • ORVs can be used on designated and non-designated roads, subject to certain conditions 	<ul style="list-style-type: none"> • OHVs can be only be used on trails designated as open • OHVs to be used on roads and highways must be street legal and separately licensed 	<ul style="list-style-type: none"> • ORVs can be only be used on trails designated as open • ORVs to be used on roads and highways must be street legal and separately licensed

8.3 Regulation of the Off-Road Sector in Australia

8.3.1 Introduction

This section includes relevant information on how the off-road sector is regulated in Australia. Australia consists of:

- 6 states, viz:
 - New South Wales;
 - Queensland;
 - South Australia;
 - Tasmania;
 - Victoria; and
 - Western Australia.

- 2 territories, viz:
 - Australian Capital Territory; and
 - Northern Territory.

Western Australia and New South Wales have dedicated off-road vehicle legislation.

Other states use a combination of measures including local government laws and access permit controls to regulate off-road vehicles.

In Tasmania, ORVs are managed under a single, state-wide Act that provides for the control and regulation of all vehicles.

Nationwide, local governments have primary responsibility for the day-to-day management of off-road vehicles.

We have included an overview of ORV regulation in Western Australia and New South Wales.

8.3.2 Off-Road Vehicle Regulation in Western Australia

Introduction

In the mid 1970's, community concerns regarding the noise, environmental impacts and need to provide areas for recreational use resulted in the *Control of Vehicles (Off-Road Areas) Act 1978*.

The Act had the following key objectives:

- To prohibit the use of vehicles in certain places;
- To make provision for the use of vehicles otherwise than on a road;
- To provide for areas where the use of off-road vehicles shall be permitted; and
- To provide for the registration of off-road vehicles for related purposes.

Local governments administer and enforce the Act and may make by-laws, which they administer and enforce, related to the Act.

Vehicle Registration

There are two classes of vehicles in Western Australia, viz:

- Road licensed vehicles; and
- Registered ORVs.

Under the *Road Traffic Act 1974*, any vehicle being used on a highway, road or street open to, or used by, the public must be licensed. This includes 4-wheel drives, which can travel off-road.

The *Control of Vehicles (Off-Road Areas) Act 1978* states that all off-road vehicles must be registered. An ORV is described as a vehicle that is not:

- Licensed under the Road Traffic Act 1974;
- Deemed to be licensed under the Road Traffic Act 1974; and
- The subject of a permit granted under the Road Traffic Act 1978.

ORVs includes 3- and 4-wheel motorbikes, beach buggies, and some 2-wheel motorbikes. Motorised scooters and small motorcycles which are not designed to be ridden off-road may not be licensed as ORVs. In addition, they cannot be registered for on-road use either.

Four-wheel drive vehicles and owners are not included in the *Control of Vehicles (Off-Road Areas) Act 1978*.

A registration fee must be paid, and the vehicle must display registration plates, which help identify registered vehicles and prove ownership.

ORVs must meet the required vehicle compliance safety standards as listed within the *Control of Vehicles (Off-Road Areas) Act 1978*, which includes where the seat should be located on the vehicle, and whether seat belts are required.

It is compulsory to wear a protective helmet when riding a motor-bike, and there are also regulations in terms of noise levels.

Vehicles that are licensed under the *Road Traffic Act 1974* as well as vehicles used exclusively on private land by consent do not need to be registered under the *Control of Vehicles (Off-Road Areas) Act 1978*.

All unlicensed vehicles (as defined by the *Road Traffic Act 1974*) are illegal within the State and drivers may be subject to heavy penalties.

Driver Registration

In order to drive a vehicle on a public road, a driver must be licensed.

All States and Territories in Australia have a uniform driver licence system. The licence classes are:

- **C: Car** – A “Class C” licence allows one to drive cars, utilities, vans, some light trucks, car-based motor tricycles, tractors and implements such as graders. You can also drive vehicles that seat up to 12 adults, including the driver;
- **R: Rider** – Motorcycle riders require a “Class R” licence;
- **LR: Light Rigid;**
- **MR: Medium Rigid;**
- **HR: Heavy Rigid;**
- **HC: Heavy Combination; and**
- **MC: Multi-Combination.**

Different licences are required for driving different types of articulated vehicles.

The driver of a vehicle carrying paying passengers (such as a school bus or tourist coach) requires an appropriate driver licence and a Public Passenger Vehicle Driver Authority, which is issued by the Ministry of Transport.

We have been unable to determine whether the drivers of ORVs driven off-road need to be licensed, but given that anyone older than 8 years of age can drive an ORV, it seems unlikely that driver licensing is required for off-road use.

Designated Areas

ORVs can only be used on:

- Land within a permitted area; and

- Private land with the consent of the land owner.

A permitted area is an area declared by the Minister and specified in a published notice. In addition, the Minister also declares permitted and prohibited areas over private land, if in the public interest.

8.3.3 Off-Road Vehicle Regulation in New South Wales

The *Recreation Vehicles Act 1983* regulates the off-road use of motor vehicles in New South Wales. This Act allows for:

- The registration of motor vehicles for use in recreational vehicle areas; and
- The application and registration of recreational vehicle areas.

Vehicle Registration

No motor vehicle may be driven in a recreation vehicle area, unless the motor vehicle is registered under the *Road Transport (Vehicle Registration) Act 1997* or the *Recreation Vehicles Act 1983*.

Under the *Road Transport (Vehicle Registration) Act 1997*, any device with a motor must be registered for use on a road or a road related area unless it is specifically exempt. Motorised foot scooters, miniature motorbikes (mini-bikes) and other motorised recreational devices do not meet minimum Australian design standards for safety and so cannot be registered. This means they must not be used on roads or in any public areas such as footpaths, car parks and parks.

Conditional registration is available for vehicles that do not comply with Australian Design Rules. This includes amongst others ATVs and recreational vehicles. However, registration is subject to certain conditions and circumstances (see **Annexure F**) for details.

The *Recreational Vehicles Act 1983* specifies that motor vehicles for use in recreational areas, need to be registered. The following conditions apply to the registration:

- The applicant for registration of the motor vehicle may not be child;
- The motor vehicle must be insured; and
- The motor vehicle is in registerable condition.

Registration plates must be attached to motor vehicles used in recreational vehicle areas.

Driver Registration

Driver licensing has been covered under the Western Australian discussion above.

We have been unable to determine if a specific off-road licence is required, however it seems unlikely because the *Recreation Vehicles Act 1983* does not specifically provide for off-road licensing. As in Western Australia, a child younger than 8 years of age may not drive a motor vehicle in a recreational vehicle area.

Designated Areas

The *Recreation Vehicles Act 1983* allows for the application and designation of land as a recreation vehicle area.

In applying for the designation of land as a recreation vehicle area, the land occupier must apply to the Environment Protection Authority with evidence that any necessary development consent under the *Environmental Planning and Assessment Act 1979* has been obtained in relation to the use of that land for the purposes of a recreation vehicle area.

8.3.4 Conclusion

Table 8.5 contains an overview of regulation of the off-road sector in Western Australia and New South Wales. In these states, off-road sector use is mostly legislated including:

- Compulsory vehicle registration; and
- Legally designated recreational vehicle routes or areas.

The *Control of Vehicles (Off-Road Areas) Act 1978* has resulted in some success with regards to the regulation of the off-road sector in Western Australia, but there are some key lessons to be learned from their experiences.

Mounting pressure to manage the noise and environmental impacts of off-road vehicle use with the needs of “off-road” users in Western Australia, has resulted in a statutory review of the *Control of Vehicles (Off-Road Areas) Act 1978* and regulations.

A Position Paper was put forward, which the industry was then invited to respond to.

Public consultation relating the statutory review is complete, and the Government is currently considering recommendations for legislative and regulatory amendments to the Act.

One of the key comments received was that there is a lack of access for ORV users to areas set aside for their use, which has resulted in difficulties in controlling and managing ORV activities. A more strategic approach has been suggested, with actions needed to improve, develop and expand access of ORVs.

Other comments from the industry include:

- The provision of areas for recreational use has largely not been done, as the industry seems to suffer from a “do nothing it’s all too hard approach”;
- One of the suggestions for change is that a number of different agencies be involved in administering the Act, with local government developing and implementing their own laws. Industry are concerned that this creates confusion for the public, and rather the sector should work towards one regulatory body and one set of rules which everyone understands.
- Clubs have their limitations in terms of what they can do. They are in general manned by unpaid volunteers. They should not be ignored, but their involvement should be in the form of input, suggestions and guidance.
- Improved education programmes has been suggested, but this must be by suitably qualified personnel.

Ultimately, it is recommended that a co-ordinated and coherent approach to the management and control of off-road vehicles be developed, as this is currently insufficient. Strategic planning and management issues such as land use planning, are critical elements requiring improvement. A recommendation is that a strategic framework be facilitated.

In addition, off-road forums that are active in Australia comment on the tension within the off-road sector in Australia, with particular reference to lobbying for no off-road recreational use of public land.

Table 8.5: Off-Road Sector Regulation in Western Australia and New South Wales

	Western Australia	New South Wales
Definition of off-road	<ul style="list-style-type: none"> • <i>Control of Vehicles (Off-Road Areas) Act 1978</i> – includes 3- and 4-wheel motorbikes, beach buggies, and some 2-wheel motorbikes • 4-wheel drive vehicles included in separate legislation (i.e. <i>Road Traffic Act 1974</i>) 	<ul style="list-style-type: none"> • <i>Recreational Vehicles Act 1983</i> – specifies recreational vehicles
Registration of ORVs	<ul style="list-style-type: none"> • Compulsory registration • Registration fee applies • Vehicle must display permit number on registration plates 	<ul style="list-style-type: none"> • Compulsory registration • Registration fee applies • Vehicle must display registration plates
Licensing of ORV drivers	<ul style="list-style-type: none"> • Only if ORV is to be used on roads, streets and highways • Does not appear to be a special class of licence • No children under 8 may operate an ORV 	<ul style="list-style-type: none"> • Only if ORV is to be used on roads, streets and highways • Does not appear to be a special class of licence • No children under 8 may operate an ORV
Use of ORVs	<ul style="list-style-type: none"> • Only in permitted areas, or on private land with the consent of the landowner 	<ul style="list-style-type: none"> • Only in designated recreational vehicle areas

8.4 Regulation of the Off-Road Sector in Canada

8.4.1 Introduction

There are 10 provinces and 3 territories in Canada. In Canada it is the responsibility of the various provinces and territories to regulate off-road activities.

We have included information on the province of Ontario, which has existing statutes providing for the regulation of off-road vehicles.

8.4.2 Regulation of the Off-Road Sector in Ontario

The off-road sector in Ontario is controlled by the *Ontario Off-Road Vehicle Act, R.S.O. 1990*, as amended.

Off-road vehicles in Ontario included are any two- or three-wheeled motorised vehicles, as well as specific vehicles, with four or more wheels, intended for recreational use (governed by regulations).

Vehicle Registration

Under the *Ontario Off-Road Vehicle Act, R.S.O. 1990* all ORVs must be registered and have a valid permit, except in exempt areas (e.g. Northern Ontario). A number plate showing the number of the permit must be displayed on the vehicle.

Every driver of an off-road vehicle is required to carry the permit (or a copy thereof), with the exception of drivers of off-road vehicles on land where the owner of the vehicle is the occupier of the land.

Driver Registration

In Ontario, there are 14 different licence classes, each of which qualifies one to drive a different type of vehicle (see **Annexure G**).

None of these are ORV specific.

With regards to off-road vehicle use on highways, riders must wear a motorcycle helmet, have a valid G2/M2 or greater driver's licence, registration and insurance.

Children under the age of 12 are not permitted to drive ORVs unless the ORV is being operated on land occupied by the vehicle owner or under the close supervision of an adult.

Designated Areas

Under the *Canadian Highway Traffic Act 1990* no off-road vehicles may be driven on a highway (i.e. common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof) except in accordance with the regulations and any applicable municipal by-laws.

Up until 2003, the *Ontario Off-Road Vehicle Act, R.S.O. 1990* did not apply to any off-road vehicles being used on highways and roadways with the exception of an ORV:

- Driven directly across a highway / roadway; or
- On a highway / roadway, if the vehicle is designed to travel on more than two wheels and the driver is a farmer using the vehicle for agricultural purposes, or a person

licensed under the Fish and Wildlife Conservation Act, 1997 to trap furbearing mammals, if the person is using the vehicle for trapping purposes.

The driver must however have a driver's licence.

On the 31st July 2003 new regulations came into effect which provided more access to the shoulder and paved portions of some Ontario highways, for one category of ORV that:

- Has four wheels, the tires of which are all in contact with the ground;
- Has steering handlebars;
- Meets requirements of federal Motor Vehicle Safety Act and American National Standards Institute; and
- Is designed to carry a driver only and no passengers.

Municipalities have been given the authority to determine whether or not off-road vehicles should be allowed access to highways under their authority. Municipalities must put a by-law in place for ORVs to be allowed access to their highways. Municipalities can determine which highways, where on the highway, time of day, and season that ORVs are allowed access. They can also set speed limits that are lower than those set out in the regulation. If a by-law does not exist, ORVs are not allowed access to that municipality's road.

The new regulations apply to provincial highways only and certain regulations apply e.g. in terms of speed limits etc.

We did not find any indications that off-road trails / routes are designated by legislation – rather, regulations apply to areas where ORVs may not go e.g. highways.

8.4.3 Conclusion

Table 8.6 provides a summary of off-road regulations in Ontario. Registration of ORVs is compulsory, but unlike the USA and Australian examples, off-road trail / route designation has not been legislated, and there are in fact few designated trails.

The lack of designated off-road areas in Ontario appears to have been problematic. According to Ontario Trails Strategy, published by the Ontario Ministry of Health there is an issue with inadequate trail access for off-road vehicles. Off-road vehicle operators want access to a network of suitable trails around the province. However, mechanisms are lacking for resolving conflicts between motorized and non-motorized users over incompatible uses of trails, as well as issues associated with the use of surrounding lands.

The Ontario Trails Strategy is a long-term plan that outlines ways to plan, manage, promote and use trails within Ontario. These trails include both motorised and non-motorised use.

Clearly non-designated trails have proved problematic.

Table 8.6: Off-Road Sector Regulation in Ontario

Regulations	
Definition of off-road	<ul style="list-style-type: none"> Any two- or three-wheeled motorised vehicles, as well as specific vehicles, with four or more wheels, intended for recreational use
Registration of ORVs	<ul style="list-style-type: none"> Compulsory registration Registration fee applies Vehicle must display number plates
Licensing of ORV drivers	<ul style="list-style-type: none"> Only if ORV is to be used on roads, streets and highways Minimum licence requirements and compulsory insurance No children under 12 may operate an ORV (some exceptions)
Use of ORVs	<ul style="list-style-type: none"> Most ORVs not permitted on highways

4x4 Vehicles used on highways, which can go off-road, must be licensed under normal licensing conditions.

8.5 Conclusion

Table 8.7 provides a comparison of off-road sector regulation in South Africa, the USA, Australia and Canada.

In Australia, the USA and Canada the off-road sectors are largely regulated through legislation, either at a national or state / territory level. In addition, most of these regulations have been in place for many years. In South Africa, there is no national or provincial legislation governing the off-road sector.

In South Africa, although there is no legislated definition of ORVs, the term is widely accepted to include 2x4 and 4x4 motor vehicles, quad bikes (ATVs) and various classes of motorbikes. In the Western Australia and some states in the USA, the term ORV is legislated, but excludes 4x4 motor vehicles.

In South Africa there is no legislated registration of off-road trails or areas, the same as Ontario in Canada. In the USA and Australia however, off-road trails and areas are legally designated for ORV driving.

None of the 4 countries have trail grading systems in place that we came across, although South Africa has developed a voluntary grading system framework, which is currently being tested.

In all 4 countries, registration of ORVs is legislated for both off-road and on public road use, in most cases. There are some exceptions, for example, in Michigan, ORVs used exclusively on private land, do not have to be registered. In most cases, there is no special class of ORV registration, except in Minnesota and Western Australia.

South Africa is the only country, of the 4, that does not require proof of registration to be displayed, either in the form of a permit or number plate, while the vehicle is being driven.

It must be noted however that ORV registration is largely to control who owns vehicles which are only used off-road and possibly aspects of roadworthiness, but not to control, manage or minimise environmental impacts in the way the vehicle is driven.

In all 4 countries driver licensing is only required for ORVs driven on public roads. With the exception of Wyoming, there is no specific class of ORV licence.

From what we could determine, nowhere is off-road driver competency managed in any way, except in Michigan where children under 16 are required to undergo compulsory safety training.

However despite these controls, the off-road sectors in the USA, Australia and Canada are still experiencing problems.

In Australia for example, the lack of co-ordinated management of the off-road sector and a lack of available ORV trails is resulting in a revision of their legislation.

Not having enough control also appears to be problematic. In Ontario for example, the shortage of officially designated off-road trails has resulted in issues arising between motorised and non-motorised trail users.

Table 8.7: Off-Road Sector Regulation in South Africa, USA¹, Australia² and Canada³

	South Africa	USA	Australia	Canada
Level of Off-Road Sector Regulation	<ul style="list-style-type: none"> No legislation currently in place 	<ul style="list-style-type: none"> Some national legislation Regulation is controlled at state level, with many states having legislation in place 	<ul style="list-style-type: none"> Regulation is controlled at local government level In Western Australia and New South Wales, regulation is legislated at state level 	<ul style="list-style-type: none"> Regulation is controlled at state or territory level In Ontario regulation is legislated at state level
Classes of Vehicles	<ul style="list-style-type: none"> No legislated definition of ORVs ORVs generally include: <ul style="list-style-type: none"> 2x4 and 4x4 motor vehicles; Quad bikes; and Motorbikes (e.g. trail bikes, off-road bikes and on-and-off road bikes). 	<ul style="list-style-type: none"> Legislated definition at state level, applicable to ORVs (e.g. Wyoming and Michigan) or OHVs (Minnesota) Generally includes ATVs and various types of motorcycles In some states (e.g. Wyoming), 4x4s are not included in the definition 	<ul style="list-style-type: none"> Legislated definition at state level In Western Australia 4x4s are not included in the definition 	<ul style="list-style-type: none"> Legislated definition at state level ORVs include: <ul style="list-style-type: none"> 2- and 3-wheeled motorised vehicles Specific 4- or more wheel recreational vehicles
Site / Trail Registration	<ul style="list-style-type: none"> Not legislated No system currently in place 	<ul style="list-style-type: none"> Legislated registration of off-road trails and areas, with ORV use dictated by three classes – open, limited and closed 	<ul style="list-style-type: none"> Legislated designation of areas in which ORV use is permitted 	<ul style="list-style-type: none"> No legislated designated trails

¹ Applicable to Wyoming, Minnesota and Michigan

² Applicable to Western Australia and New South Wales

³ Applicable to Ontario

	South Africa	USA	Australia	Canada
Site / Trail	<ul style="list-style-type: none"> • Not legislated 	<ul style="list-style-type: none"> • Not found 	<ul style="list-style-type: none"> • Not found 	<ul style="list-style-type: none"> • Not found
Grading	<ul style="list-style-type: none"> • A grading system framework has been developed, but this needs to be reworked and finalised. 			
Vehicle Registration and Licensing	<ul style="list-style-type: none"> • Legislated registration of ORVs used off-road and on public roads – no specific category for ORVs • Compliance is not enforced • Only enforced until ownership changes • No vehicle licensing for vehicles used off-road • Legislated licensing for ORVs that are used on public roads – no specific category for ORVs 	<ul style="list-style-type: none"> • Legislated registration of ORVs used off-road and on public roads • Some exceptions e.g. in Michigan ORVs used on private land do not have to be registered • In some states (e.g. Minnesota) there are separate ORV categories • Permit linked to registration must be displayed • Valid for a minimum of 1 year 	<ul style="list-style-type: none"> • Legislated registration of ORVs used off-road and on public roads • In Western Australia, there is a specific category for ORVs • Permit linked to registration must be displayed 	<ul style="list-style-type: none"> • Legislated registration of ORVs used off-road and on public roads except in exempt areas • Number plate linked to registration must be shown

	South Africa	USA	Australia	Canada
Driver Licensing	<ul style="list-style-type: none"> • No licensing of drivers using ORVs off-road • Legislated licensing of drivers operating ORVs on public roads – no specific category for ORVs 	<ul style="list-style-type: none"> • No licensing of drivers using ORVs off-road • Legislated licensing of drivers operating ORVs on public roads – in some states (e.g. Wyoming) there is a special class of ORV licence 	<ul style="list-style-type: none"> • No licensing of drivers using ORVs off-road • Legislated licensing of drivers operating ORVs on public roads – no specific category for ORVs 	<ul style="list-style-type: none"> • No licensing of drivers using ORVs off-road • Legislated licensing of drivers operating ORVs on public roads – no specific category for ORVs
Driver Competency	<ul style="list-style-type: none"> • Not currently in place • Unit Standards governing off-road driver competency are currently in the process of being registered 	<ul style="list-style-type: none"> • Generally non-existent, except in Michigan where safety training for under 16-year old ORV drivers is legislated 	<ul style="list-style-type: none"> • Not found 	<ul style="list-style-type: none"> • Not found
Guide Registration	<ul style="list-style-type: none"> • Legislated registration of tourist guides – no specific category of off-road tourist guides 	<ul style="list-style-type: none"> • Not found 	<ul style="list-style-type: none"> • Not found 	<ul style="list-style-type: none"> • Not found
Guide Training	<ul style="list-style-type: none"> • Training of tourist guides is indirectly controlled through registration which is legislated 	<ul style="list-style-type: none"> • Not found 	<ul style="list-style-type: none"> • Not found 	<ul style="list-style-type: none"> • Not found

Some key take-home points with regards to the international off-road sectors, viz:

- No other country licenses ORV drivers and there is no driver competency;
- Licensing of ORVs is common;
- ORVs are usually a defined class of vehicle;
- Trails in certain areas must be registered
- Grading systems are not regulated nor are they common; and
- Off-road tourist guides are not regulated.