



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **OFF-HIGHWAY VEHICLE ACT OFF-HIGHWAY VEHICLE PILOT PROJECT REGULATIONS**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to August 8, 2020. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## OFF-HIGHWAY VEHICLE ACT

### CHAPTER 0-3

## OFF-HIGHWAY VEHICLE PILOT PROJECT REGULATIONS

Pursuant to subsection 12(2) and section 22 of the *Off-Highway Vehicle Act* R.S.P.E.I. 1988, Cap. O-3, Council made the following regulations:

### PART 1 - DEFINITIONS AND APPLICATION

#### 1. Definitions

In these regulations,

- (a) “**Act**” means the *Off-Highway Vehicle Act* R.S.P.E.I. 1988, Cap. O-3;
- (b) “**Department**” means the Department of Transportation, Infrastructure and Energy;
- (c) “**Director**” means the Director of Highway Safety referred to in section 3 of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5;
- (d) “**Federation**” means the Prince Edward Island All-Terrain Vehicle Federation;
- (e) “**highway**” means a highway as defined in clause 1(h.1) of the *Highway Traffic Act*;
- (f) “**Minister**” means the Minister of Transportation, Infrastructure and Energy;
- (g) “**newly licensed driver**” means a newly licensed driver as defined in clause 1(e) of the *Highway Traffic Act* Graduated Driver Licensing Regulations;
- (h) “**off-highway vehicle**” means an off-highway vehicle as defined in clause 1(g) of the *Act*;
- (i) “**participant**” means a person who is eligible to operate an off-highway vehicle in a pilot area;
- (j) “**peace officer**” means a peace officer as defined in clause 1(m.3) of the *Highway Traffic Act*;
- (k) “**permit**” means a permit issued to a participant that authorizes the participant to operate an off-highway vehicle in one or more pilot areas in accordance with the terms and conditions specified in the permit and these regulations;
- (l) “**pilot area**” means a portion of a highway or class of highway designated by the Minister where participants are authorized to operate off-highway vehicles subject to the restrictions and conditions specified in the designation and these regulations;
- (m) “**pilot project**” means the Department’s project for researching, testing and evaluating the use of off-highway vehicles on portions of highways or classes of highways, as authorized by these regulations;

- (n) “**Registrar**” means the Registrar of Motor Vehicles referred to in section 4 of the *Highway Traffic Act*;
- (o) “**roadway**” means a roadway as defined in clause 1(q.3) of the *Highway Traffic Act*;
- (p) “**vehicle**” means a vehicle as defined in clause 1(y.1) of the *Highway Traffic Act*.  
(EC453/20)

## 2. Application of *Highway Traffic Act* and regulations

Except as otherwise provided in these regulations, the provisions of the *Highway Traffic Act* and its regulations applicable to motor vehicles apply to the operation of an off-highway vehicle in a pilot area, except those provisions that by their very nature can have no application. (EC453/20)

## PART 2 - DESIGNATION OF HIGHWAYS

### 3. Designation

- (1) The Minister may, by notice published in the Gazette, designate a portion of a highway or class of highway as a pilot area for the purposes of these regulations.

#### Period of designation

- (2) The Minister may specify that a designation is for a definite period of time or for the duration of the pilot project.

#### Amend, vary, cancel

- (3) The Minister may at any time amend, vary or cancel a designation.

#### Restrictions, conditions

- (4) The Minister may specify restrictions and conditions in a designation.

#### Publication of designation

- (5) The Minister shall ensure that a notice of a designation and of an amendment, variation or cancellation of a designation is published in not less than two consecutive issues of the Gazette within 21 days after the designation, amendment, variation or cancellation is made.

#### Publication in newspaper

- (6) Despite subsection (5), where
  - (a) a designation or an amendment, variation or cancellation of a designation is for a period of less than 30 days; or
  - (b) a cancellation of a designation takes place less than 30 days after the designation is made,

the Minister shall ensure that a notice of the designation or of the amendment, variation or cancellation of the designation, as the case may be, is published in at least two daily or weekly newspapers in circulation in the province within 14 days after the designation, amendment, variation or cancellation is made. (EC453/20)

## PART 3 - EQUIPMENT REQUIREMENTS

### 4. Permitted off-highway vehicles

Only an off-highway vehicle that meets all of the following criteria may be operated in a pilot area as part of the pilot project in accordance with these regulations:

- (a) it has two or four wheels;
- (b) it has either a steering wheel or handle bars for steering control;
- (c) it has a muffler and an exhaust system that are in good working order and comply with the manufacturer's original specifications or where the muffler or exhaust system is replaced, the replacement complies with the equivalent manufacturer's specifications and the replacement muffler or exhaust system
  - (i) is not equipped with a muffler cut out, straight exhaust, gutted muffler, bypass or similar device which has the effect of bypassing or reducing the effectiveness of a muffler,
  - (ii) is not causing excessive or unusual noise, and
  - (iii) is equipped with a spark arrester in good working order which is in constant operation while the engine of the off-highway vehicle is running. (EC453/20)

## PART 4 - PARTICIPANT ELIGIBILITY

### 5. Eligibility for participation

- (1) To be eligible as a participant in the pilot project, a person shall have, in respect of an off-highway vehicle,
  - (a) a valid and subsisting driver's license issued by the Registrar pursuant to the *Highway Traffic Act*;
  - (b) a valid certificate of registration issued by the Registrar pursuant to the Act; and
  - (c) a valid license plate issued by the Registrar pursuant to the Act.

#### Member of the Federation or peace officer, requirement

- (2) In addition to the requirements of subsection (1), to be eligible as a participant in the pilot project, a person shall be
  - (a) a registered member in good standing of the Federation; or
  - (b) a peace officer.

#### Newly licensed driver

- (3) A person issued a driver's license as a newly licensed driver is not eligible to be a participant in the pilot project unless the person has successfully completed an off-highway vehicle safety training course approved by the Registrar.

#### Third-party liability insurance

- (4) A participant shall not operate an off-highway vehicle in a pilot area unless the owner of the off-highway vehicle carries third-party liability insurance coverage in the amount required by law to be carried in respect of the off-highway vehicle. (EC453/20)

## PART 5 - DELEGATION

### 6. Federation may issue permit

- (1) The Director may authorize the Registrar to delegate the issuance of a permit to the Federation.

#### Permit restrictions and conditions

- (2) The Registrar may, in the instrument of delegation, specify terms and conditions that apply to all permits issued by the Federation.

#### Permit not transferable

- (3) A permit issued by the Federation is not transferable. (EC453/20)

## PART 6 - OPERATING OFF-HIGHWAY VEHICLE IN PILOT AREAS

### 7. Permitted operation on highways

Except as otherwise permitted under the Act and the *Off-Highway Vehicle Act* Regulations, a person shall not operate an off-highway vehicle on a highway unless the person is a participant in the pilot project and is operating the off-highway vehicle in a pilot area in accordance with these regulations. (EC453/20)

### 8. Passengers

- (1) A participant shall not operate an off-highway vehicle in a pilot area with a passenger unless the off-highway vehicle is designed by the original equipment manufacturer
  - (a) to carry both a driver and a passenger; and
  - (b) the passenger is seated,
    - (i) in the case of an off-highway vehicle that is designed to be straddled, straddling the passenger seat behind the driver, facing forward with the passenger's feet securely on the separate foot rests intended for the passenger, or
    - (ii) in the case of an off-highway vehicle with seats that are not designed to be straddled, in the seat designed for the passenger.

#### Two-up seat

- (2) Where a two-up seat is added to an off-highway vehicle after manufacture, the owner of the off-highway vehicle shall ensure that the seat is properly installed and maintained on the vehicle. (EC453/20)

### 9. Age limit for passengers

A participant shall not operate an off-highway vehicle in a pilot area with a passenger who is under the age of nine years. (EC453/20)

### 10. Private dwellings - maximum speed

Where there are private dwellings within 100 metres of a pilot area, a participant shall not operate an off-highway vehicle in the pilot area at a rate of speed exceeding 40 kilometres per hour. (EC453/20)

**11. Maximum speed**

A participant shall not operate an off-highway vehicle in a pilot area at a rate of speed exceeding 50 kilometres per hour. (EC453/20)

**12. No towing**

A participant shall not operate an off-highway vehicle in a pilot area to tow another person, vehicle or device. (EC453/20)

**13. Helmets**

No person shall operate or be a passenger on an off-highway vehicle operated in a pilot area unless the person is wearing a helmet that complies with the standards specified in section 6 of the *Off-Highway Vehicle Act* Regulations. (EC453/20)

**PART 7 - RULES OF THE ROAD IN PILOT AREAS****14. Off-highway vehicle to be driven in same direction and on shoulder of highway**

- (1) A participant operating an off-highway vehicle in a pilot area shall drive
- (a) in the same direction as the traffic using the same side of the highway; and
  - (b) on the shoulder of the highway, except as provided in section 15.

**Parallel with right edge of shoulder of highway**

- (2) Where an off-highway vehicle is driven on the shoulder of a highway, the participant operating the off-highway vehicle shall drive as close to and parallel with the right edge of the shoulder of the highway as can be done practically and safely.

**Yield right-of-way**

- (3) Where an off-highway vehicle is entering the shoulder of a highway, the participant operating the off-highway vehicle shall yield the right of way to any traffic already using the shoulder of the highway and enter the shoulder only when it is safe to do so. (EC453/20)

**15. When off-highway vehicle driven on roadway**

- (1) An off-highway vehicle may be driven on a roadway in a pilot area where
- (a) there is no shoulder;
  - (b) the shoulder is not wide enough to be driven with all tires off the roadway completely;
  - (c) the shoulder is obstructed; or
  - (d) the operator of the off-highway vehicle is preparing to make a left turn across the roadway.

**Parallel with right edge of roadway**

- (2) Where an off-highway vehicle is driven on a roadway as permitted under this section, the participant operating the off-highway vehicle shall drive as close to and parallel with the right edge of the roadway as can be done practically and safely.

**Yield right-of-way**

- (3) Where an off-highway vehicle is entering a roadway, the participant operating the off-highway vehicle shall yield the right of way to any traffic already using the roadway and enter the roadway only when it is safe to do so.

**No driving in ditch in pilot area**

- (4) A participant shall not operate an off-highway vehicle in any ditch that is part of a highway or roadway in a pilot area. (EC453/20)

**16. No overtaking and passing**

- (1) Except as provided in subsection (2), a participant operating an off-highway vehicle in a pilot area shall not overtake and pass any moving motor vehicle when both the off-highway vehicle and the other motor vehicle are travelling on the same roadway or shoulder of a highway.

**Exception**

- (2) A participant operating an off-highway vehicle in a pilot area may overtake and pass a stationary off-highway vehicle or motor vehicle on the shoulder of a highway, if the movement can be made in safety while remaining on the shoulder and to the left of the other off-highway vehicle or motor vehicle. (EC453/20)

**17. Turning, stopping or decreasing speed**

- (1) Where a participant operating an off-highway vehicle in a pilot area is stopping, slowing down or turning, the participant shall give a hand and arm signal in the manner required by clause 23(2)(h) of the *Off-Highway Vehicle Act* Regulations.

**Beginning left turn**

- (2) Before beginning a left turn, a participant operating an off-highway vehicle in a pilot area shall, without interfering with the movement of traffic travelling in the same direction as the off-highway vehicle, move away from the shoulder of the highway or right edge of the roadway and be positioned on the roadway in the position from which the left turn is to be made.

**Completing left turn**

- (3) On completing a left turn from one roadway onto another roadway, a participant operating an off-highway vehicle in a pilot area shall, without interfering with the movement of traffic travelling in the same direction as the off-highway vehicle, move to the right edge of the roadway or shoulder of the highway. (EC453/20)

## **PART 8 - TRESPASS**

**18. Trespass**

- (1) Nothing in these regulations shall be deemed to alter the law of trespass.

**Prohibition**

- (2) A participant shall not operate an off-highway vehicle on any land without the expressed permission of the owner of that land or the tenant, licensee or permittee of the owner of that land. (EC453/20)

## PART 9 - OFFENCE AND PENALTY

### 19. Offence and penalty

- (1) Every person who contravenes any provision of these regulations is guilty of an offence and liable, on summary conviction,
  - (a) for a first offence, to a fine of not less than \$250 or more than \$500; and
  - (b) for a second or subsequent offence, to a fine of not less than \$500 or more than \$1,000.

#### **Idem**

- (2) Any person who permits another person to operate an off-highway vehicle in contravention of these regulations is guilty of an offence and liable, on summary conviction, to the fine amounts specified in subsection (1). *(EC453/20)*

