

## Regulating Off-Road Vehicles in Yukon (sample survey)

### Proposed Approach

#### 1 What and who would an ORV regulation apply to?

We heard that there is public interest in having an ORV regulation apply to all public land, including the public land surrounding communities. However, it is also recognized that not all areas in Yukon are impacted by the use of ORVs in the same way and not all areas need ORVs to be restricted. For example, there are more environmental impacts from using ORVs 'off-road' than using them on existing roads and trails.

The proposed regulation would not apply on maintained and unmaintained roads that are considered "highways" and regulated under the *Highways Act*. A "highway" is:

- a used for the passage of cars, trucks and other vehicles;
- b surveyed for use as a public highway, road or street; or
- c declared to be a highway under the *Highways Act*.

There has also been strong public support for any ORV regulations to apply to everyone equally. This was also one of the recommendations from the Select Committee Report. There have been questions regarding how existing rights pertaining to access will be impacted by an ORV regulation, including treaty/Aboriginal rights and authorized resource users, such as for mining exploration.

### Proposed Approach

**1.1. ORV use would be regulated only within designated ORV Management Areas. These areas would have management tools in place, such as restrictions or prohibitions on the use of ORVs.**

Disagree                      x Neutral                      Agree                      Don't Know

**1.2. A new ORV regulation would apply to all ORV users (subject to treaty and Aboriginal rights). Persons with pre-existing legal rights within specific ORV Management Areas (e.g. owner of cabin) would have their access needs and interests addressed through area-specific provisions.**

Disagree                      Neutral                      x Agree                      Don't Know

#### 1.3. Comments

*We support the creation of ORV Management Areas. However, ORVMAs should not be the only tool used. Damage to alpine and wetlands and the proliferation of trails across the Yukon require other tools as well to enable a proactive and comprehensive approach while ORVMAs are being created.*

## 2 How would ORV Management Areas be established?

The *Territorial Lands (Yukon) Act* allows the Yukon government to establish ORV Management Areas (on public land) if necessary for the protection of “ecological balance” and “physical characteristics”. However, the Act does not provide details of how these areas are to be established and managed. There has been strong interest in ensuring that the process of area designation involve the public and First Nations and that it be evidence-based.

### Proposed Approach

**2.1. A proposal to designate an ORV Management Area can originate from many sources:**

- through a public (individual or organization) or First Nation request;
- from within government; or
- from a government-approved land or natural resource management plan (e.g., regional land use plan, special management area plan).

Disagree

Neutral

x Agree

Don't Know

**2.2. The process for designating an ORV Management Area would be led by the Yukon government. The process would be subject to public review and decisions would be based on evidence, expertise, and input from First Nations, stakeholders and the public.**

Disagree

Neutral

x Agree

Don't Know

**2.3. Criteria to help determine which areas should be designated as ORV Management Areas would be set by policy, rather than being included in the regulation.**

x Disagree

Neutral

Agree

Don't Know

**2.4. The ORV regulation would enable an ORV Management Area to be divided into different geographic sections reflecting different rules for each section, if needed.**

Disagree

Neutral

x Agree

Don't Know

### 2.5. Comments

*Nomination proposals must be simple, efficient, proactive and transparent.*

*ORVMAs could use existing Game Management Zone boundaries.*

*Large ORVMAs should be nominated at the first intake.*

### 3 How would rules (restrictions or prohibitions) be established within ORV Management Areas?

Once an area is designated as an ORV Management Area, the Yukon government can establish (through regulation) the kinds of restrictions to be put in place within that area. These regulations can include ORV restrictions or prohibitions and/or ORV operating conditions. There are currently no processes or guidelines in place to determine how this will be decided. There is strong interest in ensuring that First Nations and the public have input into this process and that decisions are informed by evidence. There was also strong public support for the Yukon government taking responsibility for establishing the ORV rules that would apply to these areas.

#### Proposed Approach

**3.1. The process of determining restrictions or prohibitions within ORV Management Areas would be led by the Yukon government. The process would be subject to public review and decisions would be based on evidence, expertise, input from First Nations, stakeholders and the public and subject to treaty and Aboriginal rights.**

Disagree                      Neutral                      x Agree                      Don't Know

**3.2. Restrictions and prohibitions for ORV Management Areas could also originate from a government-approved land or natural resource management plan that includes ORV-related recommendations (e.g., local area plan, habitat management plan).**

Disagree                      Neutral                      x Agree                      Don't Know

**3.3. An area-specific regulation would specify some elements to be included in the permitting process, including:**

- **General permit required to use an ORV in an ORV Management Area;**
- **Special permit for users with certain rights/authorizations to use an ORV in a specific ORV Management Area with customized terms and conditions;**
- **Duration of permit (e.g., annual, multi-year);**
- **Permit fees;**
- **Application requirements;**
- **Scope of permit terms and conditions; and**
- **How permits are issued.**

Disagree                      Neutral                      x Agree                      Don't Know

#### 3.4. Comments



## 5.2. Comments

*ORVs should be licensed and registered as soon as possible.*

## 6 Compliance and Enforcement

An ORV regulation will need to include offences, penalties and other enforcement provisions to ensure compliance. Currently, there are offences and penalties under the *Territorial Lands (Yukon) Act*, but they are somewhat limited. The public has asked for effective enforcement measures and for fines to be high enough to deter ORV users from committing offences. We plan to undertake a public education campaign prior to, and during the implementation of the regulation.

### Proposed Approach

**6.1. The ORV regulation would include prohibitions and offences, such as including the rule that no one is allowed to operate an ORV within an ORV Management Area unless their ORV is registered.**

Disagree                      Neutral                                      x Agree                                      Don't Know

**6.2. The ORV regulation would outline powers of enforcement officers, such as the power to stop an ORV, to issue a ticket.**

Disagree                      Neutral                                      x Agree                                      Don't Know

**6.3. The ORV regulation would clarify that the Minister can appoint enforcement officers (within the Yukon government), including from the Department of Energy, Mines and Resources (i.e., Natural Resource Officers) and Department of Environment (i.e., Conservation Officers and Parks Officers).**

Disagree                      Neutral                                      x Agree                                      Don't Know

**6.4. Penalties in the ORV regulation would include:**

- Tickets and fines to be set between \$100 and \$800, depending on the offence; and
- Permit cancellation.

x Disagree                      Neutral                                      Agree                                      Don't Know

### 6.5. Comments

*Fines ranging from \$250 to \$2000 would be more appropriate and taken more seriously.*

*For serious or repeat offenders, seizure of equipment should be an option as it is under the Wildlife Act.*

## **7 Anything Else?**

### **7.1. Have we missed anything?**

*To support the government's commitment to proactive and comprehensive ORV management given in the 2016 election:*

- *Create ORV Management Areas of all the Yukon's alpine using elevation benchmarks*
- *stop proliferation of trails*
- *Get this done quickly.*