

CHAPTER 28
ALL-TERRAIN VEHICLE REGISTRATION
REVENUE COST-SHARE PROGRAM
[Prior to 12/31/86; Conservation Commission[290] Ch 52]

571—28.1(321I) Definitions.

“All-terrain vehicle (ATV)” or *“off-highway vehicle (OHV)”* means a motorized flotation-tire vehicle with not less than three low-pressure tires, but not more than six low-pressure tires, or a two-wheeled off-road motorcycle, that is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 750 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

“Commission” means the natural resource commission.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources.

“High-quality natural area” means an area that includes high-quality native plant communities or highly restorable native plant communities or an area that provides critical wildlife habitat. An on-site evaluation by a qualified person(s) for each proposed site is necessary in making this determination.

“Local cost-share portion” means those funds available for use by incorporated organizations or other public agencies through cost-sharing, grants, subgrants or contracts.

“Previously disturbed” means an area where the plant community has been severely disturbed and has not recovered or the natural (native) plant biota is nearly gone. Such an area has been so heavily disturbed that the plant community structure has been severely altered and few or no higher plants of the original community remain. Examples are newly cleared land, cropland, improved pastureland, severely overgrazed second growth forest, rock-gravel quarries, mines, and sand pits.

“Sponsor” means the incorporated organization or other public agency receiving funding through the ATV grant program to acquire, develop, maintain or otherwise improve all-terrain vehicle areas and trails.

“State share” means those funds that may be used by the state for administration or for other miscellaneous expenses related to the program such as law enforcement.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.2(321I) Purpose and intent. This program provides funds from the all-terrain vehicle registration to political subdivisions and incorporated private organizations for the acquisition of land; development and maintenance of all-terrain vehicle areas and trails; and facilities for such use on lands which may be in other than state ownership. This chapter is intended to clarify procedures used in implementing agreements under Iowa Code section 321I.8 between the department and sponsors and the authority of the director of the department. All areas, trails and facilities established or maintained using revenues under this program shall be open to use by the general public.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.3(321I) Distribution of funds. The local cost-share portion of state all-terrain vehicle registration funds as established in Iowa Code section 321I.8 and this rule shall be distributed in accordance with this chapter and upon execution of agreements under Iowa Code section 321I.8. The local cost-share portion of the registration fund shall be at least 50 percent of appropriate registration revenues. The remaining revenues shall be known as the state share. State share funds shall not exceed 50 percent of the total registration revenue generated for the program per fiscal year.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.4(321I) Application procedures.

28.4(1) Forms. Applications for cost-share moneys shall be made on forms available from the department. The application must be completed and signed by the chairperson or chief executive officer of the applying sponsor. The application must be accompanied by a copy of the minutes of the sponsoring organization meeting at which the request was approved.

28.4(2) *Deadlines for application submission.*

a. Applications for all-terrain vehicle fund moneys must be received by the department no later than 4:30 p.m. on April 1 or October 1 or the closest business day of each year.

b. Applications received after the dates given in 28.4(2)“a” will be returned to the submitting sponsor and shall not be considered for cost-share moneys during the current review and selection process, unless the application deadline has been extended by the director.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.5(321I) Review and selection committee.

28.5(1) The committee responsible for reviewing, ranking and selecting projects to receive funding from the local cost-share portion of the all-terrain vehicle registration revenue shall be comprised of two representatives appointed by the president of the Iowa Off-Highway Vehicle Association and three department representatives appointed by the director.

28.5(2) The review and selection committee shall meet at the department central office in Des Moines within 30 days following the application deadline for the program. Applications eligible for funding will be reviewed and ranked by the committee. The committee’s recommendations will be submitted to the director for approval.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.6(321I) Director’s review of approved projects. The director shall review, amend, reject or approve committee selections and may reject any application recommended by the committee for funding. Appeals of the director’s decision may be made to the commission. A project is considered approved and the grant period shall begin and end as specified in the grant approval letter from the program administrator. Applicants shall be notified of their grant status in writing within 30 days after the review and selection committee meeting.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.7(321I) Project selection criteria. In reviewing, ranking and recommending projects to receive available funding, the following criteria shall be used:

1. Projects proposing maintenance and management of existing approved all-terrain vehicle trails and use areas.
2. Development within existing approved all-terrain vehicle trails or use areas.
3. Projects having documented local support and involvement.
4. Acquisition and development projects located in areas of high demand that have preference given to projects with the most long-term, stable management plan and that have the least adverse environmental and social impacts.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.8(321I) Eligibility of projects. Items listed in this chapter or approved by the director which can reasonably be utilized in the construction or maintenance of riding areas or trails for ATV riding shall be eligible for funding.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.9(321I) Use of funded items. Manufactured products or machinery purchased by sponsors with state assistance under this program shall be used only for the purpose of establishing or maintaining riding areas, trails, or facilities and as emergency rescue equipment where applicable.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.10(321I) Disposal of equipment, facilities or property.

28.10(1) Without prior written approval of the department, sponsors shall not dispose of any manufactured products, machinery, facilities or property if the department paid all or a portion of the actual cost. Sponsors shall, in the case of equipment or facilities, reimburse the department a percentage of the disposal price received, that percentage being the percent of the original purchase price paid by the all-terrain vehicle fund.

28.10(2) Real property and equipment shall be disposed of as stipulated in the grant agreement under which they were acquired. Reimbursements from the sale of real property and equipment shall be credited to the all-terrain vehicle registration account.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.11(321I) Record keeping. Sponsors receiving funds under this program shall keep adequate records relating to the administration of the grant, particularly relating to all incurred costs. These records shall be available for audit by appropriate personnel of the department, the state auditor's office, and the Iowa Off-Highway Vehicle Association.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.12(321I) Sponsors bonded. Prior to receiving prepayment from this grant program, all nonpublic sponsors must produce proof that their chairperson and treasurer are covered under a fidelity bond, personal or surety, to the sponsor in a sum of no less than the total prepayment amount for each office.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.13(321I) Items eligible for funding.

28.13(1) Land acquisition. Purchasing of easements or fee title land acquisition as approved by the review and selection committee and director. Title to property acquired using the local cost-share portion of registration revenues shall be in the name of the sponsor, unless otherwise approved by the commission. The grant may be for prepayment or reimbursement of land acquisition expenses including appraisals, surveys and abstracts in addition to the property cost. The grant may pay the sale price or appraised value, whichever is less. Appraisals are required and must be approved by the department. Payments may be made directly to the landowner by the department. The grant agreement may contain provisions in addition to those contained in this chapter for disposal of property if it ceases to be managed and used for the purpose for which it was acquired. Land acquisitions (or leases) using ATV registration revenues shall utilize the following specific criteria:

a. ATV parks shall be limited to previously disturbed areas. High-quality natural areas and historical and cultural areas shall be avoided. If a proposed ATV park contains fragments of any of the aforementioned areas, they shall be managed and protected as off-limit sites.

b. In making the determination of whether high-quality natural areas and historical or cultural areas exist, an expert in the said field shall complete a thorough assessment utilizing all available resources including local expertise.

c. Prior to ATV land acquisition, a public informational meeting shall be held to address the proposed ATV park. The meeting shall be posted in accordance with Iowa Code section 362.3 and meeting minutes shall be made available to the commission.

d. Neighboring property owners shall be notified of the proposed ATV park. Public comment received by the department or local political subdivision will be evaluated and presented to the commission.

e. A local project sponsor shall be willing and able to maintain the ATV park and shall implement and abide by an approved operational plan.

f. A local sponsoring political subdivision shall support the park and may provide local input.

g. The topography and associated soil erosion potentials shall be cost-effectively manageable as determined by the ATV review and selection committee.

h. The commission shall make the final determination whether to acquire a tract of land as an ATV park.

28.13(2) Development and maintenance of existing publicly owned property that has been recognized and designated as an ATV area by a local political subdivision or the commission.

28.13(3) Hourly wages may be reimbursed as approved by the director. Approved labor expenses may include equipment maintenance or repair and trail maintenance activities. Labor costs shall be documented on logs provided by the department and shall be accompanied by proof that the cost was paid by the sponsor. If labor and repair are contracted, reimbursement shall be at the amount specified

in the contract approved by the director. The sponsor shall obtain any federal, state or local permits required for the project.

28.13(4) Actual material cost of trail maintenance tools, gravel, fence openings, gates, bridges, culverts, and fencing supplies. Diesel fuel, propane, gasoline, oil, parts replacement and repair bills for equipment used for land or property management.

28.13(5) Purchase of approved equipment to be used for maintenance of riding areas or trails. Cost of leasing equipment used to maintain or manage ATV riding areas or trails.

28.13(6) Program and facility liability insurance. Insurance shall be in place for project sponsors receiving grant funds. If insurance is purchased by the sponsor, proof of liability insurance shall be provided to the department. The state may purchase a statewide insurance policy covering all project sponsors receiving funds from the ATV grant program, in which case a copy of the policy shall be made available to covered sponsors upon request. This insurance coverage may include liability insurance for the landowner(s) or other insurable interests. ATV registration funds shall not be used to purchase insurance for special events. The total payment from the all-terrain vehicle fund shall be 100 percent of the approved actual cost. All insurance paid under this subrule must be furnished by companies licensed to do business in Iowa.

28.13(7) Cost of educational, enforcement or medical services for ATV areas funded through the ATV program.

28.13(8) Trail signs. Signs shall be provided to the sponsor by the department. Only those signs approved by the department for use on funded areas or trails shall be used by the sponsor. Signs appropriate to the ATV program shall be ordered on forms provided by the department. The sign order deadline shall be the same as the application date specified in subrule 28.4(2).

28.13(9) Developmental expenditures. Access roads, parking lots, picnicking, camping and playground facilities; sanitary, shelter, concession and control facilities; and utilities.

28.13(10) Pursuant to an agreement between the department and the Iowa Off-Highway Vehicle Association, miscellaneous personal expenses and salary for an association representative may be reimbursed at a rate approved by the director. Expenses and salary expenses shall be documented on logs provided by the department and submitted at the end of the term specified in the agreement.

28.13(11) Direct payment to vendors. The department may establish operational procedures to facilitate direct payment to vendors for:

a. Major expenditures or specialty items including land acquisitions, development expenses, program liability insurance fees and trail signs.

b. Unexpected repairs including materials or other expenses costing more than \$250 that may be necessary to operate and maintain the ATV use area or trail in a safe manner.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.14(321I) Competitive bids. Any equipment or development expense costing more than \$500 and funded by grant funds must be purchased through a competitive bid or quotation process. Documentation of such process must be submitted before funds are released by the state. Items purchased by any other means are not reimbursable by the state.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.15(321I) Prepayment for certain anticipated costs. Only those expenditures contained in signed agreements may be prepaid. Program or facility liability insurance may be prepaid up to 100 percent. Approved facility and development costs and operations and maintenance costs may be prepaid up to 90 percent.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.16(321I) Expense documentation, balance payment or reimbursement.

28.16(1) Documentation of expenditures eligible for prepayment or reimbursement shall be submitted on forms provided by the department and shall be accompanied by applicable receipts showing evidence that the expense is chargeable to the program. The sponsoring organization shall sign a certification stating that all expenses for which reimbursement is requested are related to the program

and have been paid by the sponsor prior to requesting reimbursement. If necessary, the department may request copies of canceled checks to verify expenditures.

28.16(2) The sponsor is responsible for maintaining auditable records of all expenditures of funds received whether by prepayment or on a reimbursement basis. This documentation shall include daily logs of maintenance equipment, operation and repair. Work done under contract to the sponsor requires a copy of the contract and copies of canceled checks showing payment.

28.16(3) Documentation of expenditures under the all-terrain vehicle revenue cost-sharing program must be received within 60 days of the project end date as specified in the grant approval letter unless the project sponsor has requested an extension and the extension has been approved in writing by the department. Failure by the sponsor to complete projects in a timely manner may be cause for termination of the agreement and cancellation of the grant.

28.16(4) Approved expenditures by the sponsor in excess of the prepayment amount received, up to the maximum approved amount, will be reimbursed by the department if appropriately documented. In instances where the sponsor has expended less than the amount prepaid, the sponsor shall reimburse the balance to the department to be credited back to the annual local share or the appropriate fund.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

571—28.17(3211) Use of funds. If a grantee desires to use the approved funds for a purpose not within the approved project scope as stated in the grant approval letter, the grantee shall request an amendment to the project. If the department approves a project amendment, the department shall notify the project sponsor in writing. Whenever any real or personal property acquired, developed or maintained with ATV registration funds passes from the control of the grantee or is used for purposes other than the approved project purpose, such an act will be considered an unlawful use of the funds. Whenever the director determines that a grantee is in violation of this rule, that grantee shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the department.

[ARC 1226C, IAB 12/11/13, effective 1/15/14]

These rules are intended to implement Iowa Code sections 3211.2 and 3211.8.

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