

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

**Rulemaking related to the all-terrain vehicle registration revenue grant program**

The Natural Resource Commission (Commission) hereby rescinds Chapter 28, “All-Terrain Vehicle Registration Revenue Cost-Share Program,” and adopts a new Chapter 28, “All-Terrain Vehicle Registration Revenue Grant Program,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 321I.2.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 321I.8.

*Purpose and Summary*

Chapter 28 sets forth the rules for the all-terrain vehicle registration grant program. The chapter identifies eligible participants (political subdivisions and incorporated private organizations), provides the procedure for the grant application and approval process, lists eligible uses, and outlines required tracking and documentation of spending.

Consistent with Executive Order 10 (January 10, 2023) and the five-year review of rules in Iowa Code section 17A.7(2), this chapter was edited for length and clarity. Specifically, there were provisions in this chapter that were outdated, duplicative, and unnecessary. These provisions have been removed.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 27, 2023, as **ARC 7244C**. Public hearings were held on January 30, 2024, at 12 noon and January 31, 2024, at 4 p.m. at Wallace State Office Building, Conference Room 4E, 502 East 9th Street, Des Moines, Iowa. No one attended the public hearings. Three comments were received in support of the proposed changes. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on April 11, 2024.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

This rulemaking is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual

or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on June 5, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 571—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28  
ALL-TERRAIN VEHICLE  
REGISTRATION REVENUE GRANT PROGRAM

**571—28.1(321I) Definitions.**

*"All-terrain vehicle (ATV)"* means the same as defined in Iowa Code section 321I.1.

*"Commission"* means the same as defined in Iowa Code section 321I.1.

*"Department"* means the same as defined in Iowa Code section 321I.1.

*"Designated riding area"* means the same as defined in Iowa Code section 321I.1.

*"Director"* means the same as defined in Iowa Code section 321I.1.

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

*"Local share"* 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, severely overgrazed pasture or second-growth forest, quarries, mines, and sand pits.

*"Sponsor"* means the incorporated organization or other public agency receiving funding from the all-terrain fund grant program through an agreement to acquire, develop, maintain or otherwise improve designated riding areas and trails.

*"State share"* means those funds that may be used by the state for administration, law enforcement, or other expenses related to the program.

**571—28.2(321I) Purpose and intent.** This program provides funds from the all-terrain vehicle registration fund to political subdivisions and incorporated private organizations for the acquisition of land, development and maintenance of designated riding 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 in Iowa Code section 321I.8 and to execute agreements between the department and sponsors, under the authority of the director. All designated riding areas, trails and facilities established or maintained using revenues under this program shall be open to use by the general public.

**571—28.3(321I) Distribution of funds.** The local share 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. The local share 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.

**571—28.4(321I) Application procedures.**

**28.4(1) Forms.** Applications for local 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) Grant application submission.** The process of applying for a grant shall follow guidelines, and the application shall be on form(s) provided by the department. The department shall publish on its website the date and time for submitting an application, providing at least 90 days' notice. Applications must be submitted to the department as described on the website. Applications will be posted on the department's website, at minimum, at least once per year.

**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 share 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 in a manner as determined by the department within 30 days following the application deadline. Applications eligible for funding will be reviewed and ranked by the committee. The committee's recommendations will be submitted to the director for approval.

**571—28.6(321I) Director's review of approved projects.** The director shall review, amend, reject or approve committee selections. Appeals of the director's decision may be made to the commission. Applicants shall be notified of their grant status in writing within 30 days after the review and selection committee meeting.

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

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

**571—28.8(321I) Items eligible for funding.** Items listed in this rule or approved by the director which can reasonably be utilized in the operation, development, or maintenance of designated riding areas or trails shall be eligible for funding.

**28.8(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 share of registration revenues shall be in the name of the sponsor unless otherwise approved by the commission. The grant may be used 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 all-terrain registration revenues shall utilize the following specific criteria:

- a. Designated riding areas shall be limited to previously disturbed areas. High-quality natural areas and historical and cultural areas shall be avoided. If a proposed riding area contains fragments of any of the aforementioned areas, those areas 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 land acquisition, a public informational meeting shall be held to address the proposed designated riding area. 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 designated riding area. 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 designated riding area and shall implement and abide by an approved operational plan, which includes a cooperative agreement with the local sponsor and political subdivision.

*f.* A local sponsoring political subdivision shall support the designated riding area and may provide local input.

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

*h.* The commission shall make the final determination whether to acquire a tract of land as a designated riding area.

*i.* An act of the commission can undesignate a riding area.

**28.8(2)** Operation and maintenance of property that has been designated as a riding area by a local political subdivision and the commission.

**28.8(3)** Hourly wages may be reimbursed for operation and maintenance. Labor costs shall be documented in a manner approved 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 grant agreement. The sponsor shall obtain any federal, state or local permits required for the project.

**28.8(4)** Actual material cost of tools, gravel, gates, bridges, culverts, and fencing supplies. Diesel fuel, propane, gasoline, oil, parts and repair bills for equipment used for area management.

**28.8(5)** Purchase of approved equipment to be used for maintenance of designated riding areas. Cost of leasing equipment used to maintain designated riding areas.

**28.8(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 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. All-terrain vehicle fund moneys 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.

**28.8(7)** Cost of law enforcement for designated riding areas.

**28.8(8)** Developmental expenditures. Access roads, parking lots, picnicking, camping and playground facilities; sanitary facilities, shelters, and concession facilities; and utilities.

**28.8(9)** Pursuant to an agreement between the department and the Iowa Off-Highway Vehicle Association, miscellaneous personal expenses for an association representative may be reimbursed at a rate approved by the director. Expenses shall be documented in a manner approved by the department and submitted at the end of the term specified in the agreement.

**28.8(10)** Travel expenses. In-state travel reimbursement for overnight lodging, registration costs, and mileage to educational events, conferences, and meetings as approved by the review and selection committee and the director. Out-of-state travel for up to three sponsors annually will be eligible. Reimbursement rates will follow department policy.

**28.8(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, equipment, and trail signs.

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

**571—28.9(321I) Use of funded items.** Manufactured products or machinery purchased by sponsors with all-terrain vehicle fund moneys shall be used only for the purpose of establishing or maintaining designated riding areas, trails, or facilities and as emergency rescue equipment, where applicable.

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

**28.10(1)** Without prior written approval of the department, sponsors shall not dispose of or trade any manufactured products, machinery, facilities or property with a purchase value over \$5,000 if a portion or all of the actual cost was paid for with the all-terrain vehicle fund. Sponsors shall, in the case of equipment or facilities, reimburse the all-terrain vehicle fund a percentage of the disposal price received, that percentage being the percent of the original purchase price paid by the 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 fund.

**571—28.11(321I) Recordkeeping.** Sponsors receiving funds under this program shall keep adequate records relating to the administration of the grant, particularly relating to all incurred costs as stated in the grant agreement. These records shall be available for audit by appropriate personnel of the department and the state auditor's office.

**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.

**571—28.13(321I) Competitive bids.** Any equipment or development expense costing more than \$2,500 and funded by the all-terrain vehicle fund 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.

**571—28.14(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.

**571—28.15(321I) Expense documentation, balance payment or reimbursement.**

**28.15(1)** Documentation of expenditures eligible for prepayment or reimbursement shall be submitted in a manner approved by the department and shall be accompanied by applicable receipts. 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. The sponsoring organization shall provide copies of canceled checks or other verification of expenditure payment.

**28.15(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 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.

**28.15(3)** Documentation of expenditures under the all-terrain vehicle revenue program must be received within 60 days of the project end date as specified in the grant agreement, 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 or ineligibility for future grants.

**28.15(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 all-terrain vehicle fund.

**571—28.16(321I) 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 agreement, the grantee shall request an amendment to the project. If the department and review and selection committee approve a project amendment, the department shall notify the project sponsor in writing. Whenever any real or personal property acquired, developed or maintained with 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.

These rules are intended to implement Iowa Code sections 321I.1, 321I.2, and 321I.8.

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