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**IDAPA 26
TITLE 01
Chapter 35**

26.01.35 - RULES GOVERNING THE OFF-ROAD MOTOR VEHICLE FUND

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho Parks and Recreation Board pursuant to Idaho Code Section 67-5201, et seq., and Idaho Code Section 67-4223 and are intended to further define and make specific Idaho Code Section 57-1901, et seq., and Idaho Code Section 67-7122, et. seq. as they pertain to administration of the department's off-road motor vehicle fund and the department's motorbike recreation fund. (7-1-93)

001. -- 002. (RESERVED).

003. APPEALS.

Any applicant who may be adversely affected by a final order, decision, ruling, or direction of the director or board may appeal such final order, decision, ruling, or direction as outlined under IDAPA 26.01.01.250, "Rules of Administrative Procedure of the Idaho Park and Recreation Board". (7-1-93)

004. PUBLIC RECORDS.

The records relative to any grant project are public records, and are to be controlled as outlined under IDAPA 26.01.01.300, "Rules of Administrative Procedure of the Idaho Park and Recreation Board". (7-1-93)

005. -- 009. (RESERVED).

010. DEFINITIONS.

Certain terms used herein are defined as follows: (7-1-93)

01. Applicant. Any legal governmental entity, user group, organization, or individual willing to take financial responsibility, planning responsibility, and management responsibility for an ORMV fund project. (7-1-93)

02. All Terrain Vehicle (ATV). Any recreation vehicle with two (2) or more tires, under six hundred (600) pounds and less than forty-eight (48) inches in width, traveling on low pressure tires, less than five (5) pounds psi, and designed to be ridden by one (1) person. (7-1-93)

03. Board. The Idaho Parks and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. (7-1-93)

04. Committee or ORMV Fund Advisory Committee. A nine (9) member advisory committee appointed by the board, consisting of three (3) members each from northern Idaho, southwestern Idaho, and southeastern Idaho. The areas of representation shall be made up of the following IDPR planning regions; north Idaho, regions 1 and 2; southwest Idaho, regions 3 and 4; southeast Idaho, regions 5 and 6. Two (2) members from each area shall represent the following groups: motorbikes or ATV riders and snowmobilers. One (1) member interested in ORMV projects shall be appointed from each area without regard to the recreational activity in which that member participates and shall represent interests other than motorbike or ATV riders and snowmobilers. Each member of the advisory committee shall serve a term of four (4) years, except that the term of the initial appointees shall commence on the date of appointment and shall be of staggered lengths each expiring on June 30. Following the initial appointment, the deadline for accepting nominations to fill vacancies will be January 1 of each year. (7-1-93)

05. Department. The Idaho Department of Parks and Recreation, 2177 Warm Springs Avenue, Statehouse Mail, Boise, Idaho 83720. (7-1-93)

06. Director. The director and chief administrator of the Idaho Department of Parks and Recreation, or the designee of the director. (7-1-93)

07. Dune Buggies. A four (4) wheel vehicle used for travel in sandy areas and rough terrain. Usually built from the basis of a consumer vehicle but modified for off-highway use. (7-1-93)

08. Four (4) Wheelers. A four (4) wheel drive vehicle which can be licensed for on-highway travel and also is capable of being used for off-highway and rugged terrain travel. (7-1-93)
09. Management. The actions taken in exercising control over, regulating the use, operation, and maintenance of trails, areas, facilities, or programs. (7-1-93)
10. Manager. Any individual who agrees to assume the principal responsibility for the ongoing management of a completed project. (7-1-93)
11. Manual. A manual with supplemental information to aid applicants in applying for a project for ORMV funds. (7-1-93)
12. Motorbike Recreation Fund (MBRF). This fund, created by Idaho Code Section 67-7122 may be used for all of the purposes outlined in Subsection 010.15 of this chapter, plus rider education programs. When reference is made to the ORMV fund in these rules, it is intended to include the MBRF the same as if it was specifically denoted as such. (7-1-93)
13. Motorcycle. Any self-propelled two (2) or three (3) wheeled motorcycle or motor-driven cycle, excluding tractor, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trial bikes, motocross (motorcross) bikes or dual purpose motorcycles. (7-1-93)
14. Off-Road Motor Vehicle (ORMV). Any motorized vehicle that is used primarily for recreation purposes for off highway travel, and further defined in Subsections 010.02, 010.07, 010.08, 010.13, and 010.19 of this chapter. (7-1-93)
15. Off-Road Motor Vehicle (ORMV) Fund. That account created by Idaho Code Section 57-1901, the moneys may be used to acquire, purchase, improve, repair, maintain, furnish and equip off-road motor vehicle facilities and sites or areas used by off-road vehicles on public or private land, and to assist with enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho. (7-1-93)
16. ORMV Planner. The staff administrator of the ORMV fund. (7-1-93)
17. Project. Any effort in compliance with Idaho Code Section 57-1901 for which ORMV funds shall be used to acquire, purchase, improve, repair, maintain, furnish and equip off-road motor vehicle facilities and sites in Idaho. (7-1-93)
18. Project Site. The parcel of land or trail or road or segment thereof for or upon which ORMV funds may be used. (7-1-93)
19. Snowmobile. Any self-propelled vehicle under one thousand (1,000) pounds unladen gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners and which is not otherwise registered or licensed under the laws of the state of Idaho. (7-1-93)
20. Sponsor. Any federal, state, county, municipal, city or other governmental agency, club, association, organization, or other individual identifying a need for a project, supplying initial support data, who applies for a project through the ORMV fund. (7-1-93)

011. -- 049. (RESERVED).

050. ELIGIBLE APPLICANTS FOR ORMV FUNDS.

01. Governmental Entities. Governmental agencies that may apply for an ORMV-funded project include, but are not limited to, the following: Federal agencies, state agencies, counties, cities, or other public agencies involved in providing recreation services. (7-1-93)
02. Nongovernmental Entities. Private groups, organizations or individuals may also apply for project funding. The applicant must provide evidence of its ability to implement or operate and maintain the project

following the completion of the project. (7-1-93)

051. -- 099. (RESERVED).

100. APPLICATION PROCEDURES AND REQUIREMENTS FOR PROPOSED PROJECTS.

All forms and documentation required by these rules are to be completed to the satisfaction of the ORMV planner or a project will not be considered for funding. (7-1-93)

01. Project Proposal Preliminary Procedures. The applicant will review the project with the ORMV planner to assure that procedures are understood and necessary forms are provided to the applicant. The ORMV planner will review the application to ensure that there is adequate data available to present the project to the committee. When possible, the ORMV planner will perform an on-site inspection for preliminary fact finding and to evaluate support information. (7-1-93)

02. Site Planning Considerations. (7-1-93)

a. Site planning in general should consider ingress and egress, parking facilities, support facilities, refuse disposal, sign and boundary markers, and unloading ramps. (7-1-93)

b. Trail planning should consider all of the above elements, plus erosion controls, bridging, water course protection, trail reinforcement, cribbing, gradient, turn radius/slide protection, surface condition (earth or snow), traffic flow and signing. (7-1-93)

03. Requirements for Proposed Projects. A topographic U.S. Forest Service, Bureau of Land Management, or county map showing the project site in relation to surrounding communities and terrain is required, with a minimum scale of one (1) to one hundred twenty-five thousand (125,000). A site plan of no less than one (1) inch to one thousand (1,000) feet is required, with an outline showing the relationship of facilities, structures and development to each other. Black and white photos from the ground showing the feature, or in the case of trails, where deterioration is expected, repair is needed, and other impacted areas are required. Slides or aerial photos may be required by the ORMV planner if additional information is necessary for clarification or project approval. A written justification describing the proposed project and what is expected to be accomplished is required on appropriate forms supplied by the ORMV Planner. Present, past and anticipated future use of the area or trails shall be furnished to the ORMV planner on appropriate forms which will be supplied by the ORMV Planner. (7-1-93)

04. Public Comment Required. Prior to project approval, the project sponsor shall contact all known organized ORMV interest groups, user groups within a reasonable area around the project, affected landowners, non-motorized recreation groups, and conservation groups and request their input. The applicant shall supply the information obtained on forms furnished by the ORMV Planner. The ORMV planner will provide project explanation and public comment opportunities, such as news releases in local papers which will specifically invite public comments on proposed projects. (7-1-93)

101. -- 149. (RESERVED).

150. PROJECT TIME PERIOD.

01. Project Application Deadline. For the spring board meeting shall be January 1 each year and July 1 for the fall board meeting. (7-1-93)

02. Time for Application Processing. Minimum time to process an application will be at least ninety (90) days. Maximum time to process an application will be no more than one (1) year, unless unforeseen circumstances cause delays. Each of these time periods may be altered depending upon the quantity of projects being considered at that time and the work load of the ORMV Planner and committee. Application processing will take longer if any other grant funds are involved. If project processing takes longer than one (1) year, the applicant will be informed in writing and told the reasons for the delay. (7-1-93)

03. Two (2) Years Maximum Obligation for ORMV Funds. After a project is approved and funds are obligated, the department may allow up to two (2) years to expend the funds. It is preferable that the funds be spent

within one (1) year. If the funds are not expended to the satisfaction of the ORMV planner at the end of the two (2) years, the project will be cancelled and the funds reallocated to other projects. Cancellation of the project and reallocation of the funds will be preceded by a written notice and explanation. (7-1-93)

04. Project Time Extension. If unforeseen circumstances prevent the project from being completed within the two (2) year period, the project applicant may request an extension of time. Requests must be in writing and must provide an explanation of reasons for the request. An extension of time may be granted by the ORMV planner provided the circumstances preventing completion of the project are beyond the control of the sponsor. All such extension requests shall be made no later than ninety (90) days prior to the end of the two (2) year period or sooner, if possible. (7-1-93)

151. -- 199. (RESERVED).

200. ELIGIBILITY AND PRIORITY RATING OF PROJECTS.

01. Project Eligibility. Eligibility of all projects will be determined by the staff, as outlined in Section 050 of this chapter. (7-1-93)

02. Priority Rating Criteria. Project priorities will be established by the ORMV staff and the advisory committee rating each ORMV fund request that is ready to submit to the board by using the criteria outlined in the priority rating system IDPR form # ORV 50-1: (7-1-93)

- a. Type of user groups served. (7-1-93)
- b. Population served. (7-1-93)
- c. Type of project. (7-1-93)
- d. Funding of project. (7-1-93)
- e. Percent of local contributions. (7-1-93)
- f. Is project identified in existing plans. (7-1-93)
- g. Number of users served (registrations). (7-1-93)
- h. Other project proximity. (7-1-93)
- i. Organization of project. (7-1-93)
- j. Project urgency. (7-1-93)
- k. Resource protection plan. (7-1-93)

03. Point System. A more specific discussion of priorities and point breakdowns is included in the project priority rating form, IDPR form # ORV 50-1, available from the department. (7-1-93)

201. -- 249. (RESERVED).

250. APPROVAL OR REJECTION OF PROPOSED PROJECTS.

The proposed projects will be submitted to the committee for further recommendations, approval, and/or return to the applicant for more data or notification to the applicant, in writing, that the project has been rejected, and why it has been rejected. If the proposed project is approved by the committee, the ORMV planner will submit the project request for approval as specified in Section 300 of this chapter. (7-1-93)

01. ORMV Committee. The committee provides advice and input regarding various aspects of proposed projects. Projects will be reviewed by the committee at meetings called by the department. Input from this

committee is advisory only, as the board, or the director when the board so delegates, has the final authority for project disposition. (7-1-93)

02. Duties of the Committee. Duties of the committee include: (7-1-93)

a. Representing the best interests of the ORMV users and activities which they represent in the area in which they are appointed; (7-1-93)

b. Advising the department as to whether proposed ORMV projects meet the needs of ORMV users in that area; (7-1-93)

c. Advising the department as to how funds can be used to rehabilitate areas on public or private lands and how the department can assist in the enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho; (7-1-93)

d. The three (3) motorbike or all terrain vehicle representatives from the ORMV advisory committee shall advise the department on matters relating to the use of moneys in the motorbike recreation account as provided in Idaho Code Section 67-7127. (7-1-93)

251. -- 299. (RESERVED).

300. AUTHORITY FOR FUNDING APPROVAL.

Projects under ten thousand dollars (\$10,000) may be approved by the director. Projects over ten thousand dollars (\$10,000) will be presented to the board for approval. Requested cost increases that do not take the total project request over ten thousand dollars (\$10,000) may be approved by the director. Cost increases that bring the total project amount over ten thousand dollars (\$10,000) will be presented to the board for approval. (7-1-93)

301. -- 349. (RESERVED).

350. REQUIREMENTS AFTER PROJECT APPROVAL/PERMITS.

The sponsor shall write the project bid specifications, secure all contractual agreements and leases, announce a call for bids for the project according to the applicants bidding procedures, award the contract, and provide specification and project control. All local, state and federal permits required for the construction or development of projects must be legally acquired by the applicant before the relevant off-road motor vehicle fund grant monies can be expended. (7-1-93)

351. -- 399. (RESERVED).

400. ACCOUNTING FOR PROJECT COSTS.

Payment to the sponsor will be on an agreed upon schedule but no sooner than thirty (30) days prior to project start up or material purchase. All costs incurred on a project must have prior approval of the ORMV planner and must be accountable before and after payment is made. All claims against the fund shall be examined, audited, and allowed or disallowed in the same manner as now or hereafter provided by law for claims against the state. The project applicant must retain all financial information regarding a project for a time period of three (3) years and all such information shall be made available to the department upon request. (7-1-93)

401. -- 449. (RESERVED).

450. MANAGEMENT OF THE SITE OR FACILITY AFTER PROJECT COMPLETION.

The project manager shall maintain a project review system in order to identify development and operation problems, become aware of any deteriorations of land or facilities which would be the key to success of additional projects, and provide regular management attention. (7-1-93)

451. -- 499. (RESERVED).

500. OPERATION AND MAINTENANCE OF PROJECT.

The project applicant or sponsor shall make all arrangements for operation and management of the completed project.

(7-1-93)

01. Entrance and Use Restrictions. Entrance to and use of the project area shall not be restricted except for uses clearly hazardous or incompatible with ORMV use. Special use regulations regarding the safety of users, use hours, or seasonal use for the protection of the project area, fish, wildlife, livestock, and the general environment shall be established by the project applicant and sponsor. If necessary, the department may require the sponsor to impose any rules or regulations considered in the best interest of ORMV users or the general environment of the project.

(7-1-93)

02. Restricted Areas for Specific Events. A project area may have, within its boundaries, a defined or fenced area for closed-type competition, providing said area occupies no more than twenty (20) acres or twenty percent (20%) of the project area and the course is open to general use during periods when the course is not being used for organized competition. The area shall not be closed earlier than one (1) day prior to the closed-type competition or one (1) day after the completion of the competition for preparation and clean up purposes.

(7-1-93)

03. Scheduling of Specific Events. Events may be scheduled in a project area as determined by the project sponsor, with the ORMV Advisory Committee reserving the right to alter the scheduling to best meet the needs of the ORMV recreationist. A limited number of other events may be scheduled upon agreement of the sponsor and staff.

(7-1-93)

04. Fees and Donations. Entrance to and use of a project area shall be open to the public and no form of admission, gate, toll, or fee shall be charged, except in certain and specific instances the ORMV planner may require or allow a limited form of admission, gate, toll, or fee to be charged for entrance into specific areas and assessment may be made for participants in an event held within the project area by the groups responsible for the event. Donations may be solicited of spectators by the groups responsible for the event in lieu of other admissions, gates, tolls, or fees and not in addition to them and then only with specific consent of the planner.

(7-1-93)

05. Disposition of Fees and Donations. Fees collected from use of the facility or a percentage thereof shall be used for facility operation and maintenance costs.

(7-1-93)

06. Use by Other Than ORMV Users. Groups other than ORMV users shall be welcome to use the facility or area with the understanding that the project was funded by ORMV funds and that ORMV users will be present.

(7-1-93)

07. Notice of Registration Requirements. Project applicants and sponsors shall be responsible for posting a written notice of the requirement of applicable registration requirements and enforcing such requirements for special events as well as general use.

(7-1-93)

08. Acknowledgement of ORMV Funding Assistance. Project sponsors will be required to display signs acknowledging the use of ORMV funds on a project.

(7-1-93)

09. Maintenance Standards. Facilities shall be maintained and operated in the condition equivalent to that existing when the facility was funded by ORMV funds. Normal wear and tear is expected and is acceptable. Maintenance standards shall be adopted by the sponsor or applicant in the planning process.

(7-1-93)

501. -- 549. (RESERVED).

550. PROJECT CONVERSION.

ORMV funded projects shall not be converted to uses other than for ORMV, except when uncontrollable circumstances prevail and the ORMV Fund Advisory Committee and staff determines the conversion the best policy and when ORMV funds spent on the project can be returned to the fund or a satisfactory trade or exchange can be made in lieu of the money spent on the project, as determined by the ORMV Planner.

(7-1-93)

01. Approving a Conversion. The ORMV Fund Advisory Committee will make the final determination of whether or not a project may be converted to other uses.

(7-1-93)

02. Resolving a Conversion. If there is a project conversion, the sponsor is responsible for repaying the

ORMV fund an amount determined by investment amortization through use, project life expectancy, and depreciation or appreciation of the facilities or equipment. (7-1-93)

03. Conversion Requests. Project conversion requests must be in writing by the applicant prior to any conversion attempts. (7-1-93)

04. Exception. Any congressional act which results in what would otherwise constitute a conversion under Section 550 of this chapter shall be exempted from requirements set forth in this section, provided the board may seek voluntary sponsor compliance with conversion provisions. (7-1-93)

551. -- 599. (RESERVED).

600. RESPONSIBILITY FOR EQUIPMENT PURCHASED WITH ORMV FUNDS.

Equipment purchased with ORMV funds shall remain the property of the department to be leased to the sponsor through a lease contract. If the equipment is being under utilized, misused, used for purposes other than ORMV projects, or other considerations, it may be reclaimed by the department for use by another sponsor. Determination will be made on the advisability of reclaiming the equipment with advice of the committee and the staff. (7-1-93)

01. Lease Time Period. Equipment purchased with ORMV funds shall be leased to the project applicant for the length of time determined by the director as applicable to accomplish the project under the parameters of project viability, equipment usability and user needs. (7-1-93)

02. Lease Price. Equipment lease price will be negotiated and determined prior to project approval and will be commensurate with the cost/benefit ratio of services provided the ORMV user group that it serves. (7-1-93)

03. Responsibility for Damages to Leased Equipment. Project applicants shall bear the full responsibility for the damage or destruction of project facilities and equipment through their own means or applicable insurance. (7-1-93)

04. Liability. Project applicants, through a signed agreement, will assume all project and equipment liability and hold harmless the department. (7-1-93)

601. -- 649. (RESERVED).

650. LAND OR REAL ESTATE.

Land or any real estate purchased with ORMV funds will become the property of the applicant and will remain its property until such time as it becomes unusable for its intended purposes or if use ceases at which time ownership will revert to the department. Any deed for land or real estate purchased with ORMV funds shall contain a reversion clause which will return such land or real estate to the department in the event of conversion or non-use of the property. (7-1-93)

641. -- 699. (RESERVED).

700. PUBLIC USE/NONDISCRIMINATION.

Physical facilities and real property purchased with off-road motor vehicle grant moneys shall be available for public use, regardless of race, religion, sex, age, or origin. No fees for the use of such facilities shall be charged unless approved by the board. (7-1-93)

701. -- 999. (RESERVED).