

Arkansas Natural Resources Commission
Premium Biosolids Incentives
Cost Share Program
Title 9
(2011)

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Title IX

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Subtitle I. General provisions

Section 901.1 Purpose.

A. This program is intended to provide financial incentives to reduce the amount of sludge in Arkansas landfills.

B. This program will persuade Arkansas treatment works not already creating premium biosolids to generate additional income by investing in infrastructure necessary to manufacture premium biosolids and will incentivize a market for biosolids application in Arkansas.

C. After June 30, 2013, Applicants may only claim cost share for eligible premium biosolids generated within the state.

D. For purposes of this program, the generation of premium biosolids by a treatment works facility and subsequent sale to a purchaser for land application shall be deemed synonymous with the purchase of premium biosolids by a farm supply dealer or other retailer and subsequent sale to a purchaser for land application.

Section 901.2 Legislation.

This program is established by Act 333 of 2011, the "Premium Biosolids Marketing Incentive Act," Arkansas Code Ann. § 15-20-1401 through 1406.

Section 901.3 Cost share incentive.

A(1). The Commission may provide cost share funds from the Water Development Fund of fifteen dollars (\$15.00) for every dry ton of eligible premium biosolids purchased by an Applicant and then sold by Applicant to a purchaser for land application within Arkansas.

(2) The Executive Director shall determine whether the premium biosolids forming the basis of Applicant's cost share incentive application qualify for cost share funds under this program.

B. Only a farm supply dealer, treatment works facility, or other retailer of premium biosolids located within Arkansas may be approved for cost share.

C. Approval of applications shall be limited to the extent money is made available to the Commission for the program.

Section 901.4 Summary of cost share funding process.

The cost share funding process is summarized below:

1. Applicant files a request for cost share approval with the Commission;

2. The Executive Director issues a Cost Share Approval letter to Applicant stating the amount of cost share approved for Applicant;
3. Applicant files an application with the Commission; and
4. The Executive Director issues cost share funding to Applicant.

Section 901.5 Definitions.

As used in these rules:

- A. "Act" means the Premium Biosolids Marketing Incentive Act.
- B. "Applicant" means a natural person or business entity that is a farm supply dealer, treatment works facility, or other retailer of premium biosolids located within Arkansas who applies to participate in the premium biosolids cost share program.
 - C(1). "Biosolids" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works and includes domestic septage, scum or solids removed in a primary, secondary, or advanced wastewater treatment process; and material derived from a biosolid.
 - (2). This definition does not include ash generated during the firing of biosolids in a biosolids incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
 - D. "Bulking agent" means a material such as wood chips, leaves and yard trimmings, used in composting to provide structural support.
 - E. "Commission" means the Arkansas Natural Resources Commission.
 - F. "Cost Share Approval Letter" means the document issued by the Executive Director indicating the amount of cost share under this program for which Applicant has been approved.
 - G(1). "Domestic septage" means liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device designed to prevent overboard discharge of sewage, or similar treatment works that receives only domestic sewage.
 - (2). This definition does not include material received from a treatment works that receives commercial wastewater or industrial wastewater or grease removed from a grease trap at a restaurant.
 - H. "Domestic sewage" means waste and wastewater from a human or a residence that is discharged to or otherwise enters a treatment works.
 - I. "Eligible premium biosolids" means premium biosolids that are sold:
 1. In bulk and not in bags or other containers or vehicles having a capacity of one metric ton or less;
 2. By a farm supply dealer, other retailer, or treatment works facility located in the state; and

3. For application to land in a location and manner not likely to cause water pollution within the meaning of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

J. “Executive Director” means the Executive Director of the Arkansas Natural Resources Commission.

K. “Incentive Certification Form” means an executed form approved by the Commission that contains information regarding sale and purchase of eligible premium biosolids.

L. “Land” means land located within the state and includes agricultural land, pasture land, forest land, a reclamation site, a public park, or a golf course.

M. “Land application” means the spreading on or incorporation of biosolids into the soil mantle primarily for beneficial purposes.

N. “Nutrient Surplus Area” means a defined geographic area, declared by Ark. Code Ann. § 15-20-1104, which has been determined to be an area in which the soil concentration of one or more nutrients is so high or the physical characteristics of the soil or area is such that continued application of the nutrient to the soil could negatively impact soil fertility and the waters within the state.

O. “Premium biosolids” means a biosolids fertilizer that meets the pollutant concentration limits of Table 3 of 40 C.F.R. pt. 503.13 as it existed on November 1, 2010, Class A pathogen reduction limits, and one of the vector attraction reduction requirements of 40 C.F.R. pt. 503.33(b)(1) – (8), as it existed on November 1, 2010.

P. “Premium biosolids certification materials” means documented proof acceptable to the Executive Director and submitted by the Applicant which demonstrates that Applicant’s premium biosolids meet applicable pollutant concentration limits, Class A pathogen reduction limits, and vector attraction reduction requirements for premium biosolids.

Q. “Premium biosolids compost” means an organic material created by combining biosolids with a bulking agent to create a premium biosolids fertilizer that meets the pollutant concentration limits of Table 3 of 40 C.F.R. pt. 503.13 as it existed on November 1, 2010, Class A pathogen reduction limits, and one of the vector attraction reduction requirements of 40 C.F.R. pt. 503.33(b)(1) – (8), as it existed on November 1, 2010.

R. “Purchaser’s Certification Form” means the form approved by the Commission and executed by the Purchaser of Applicant’s eligible premium biosolids which certifies that the Purchaser shall follow the land application practices set forth in 903.5.

S. “Treatment works” means a federally owned, publicly owned, or privately owned device or system used to treat, recycle, or reclaim domestic sewage or a combination of domestic sewage and liquid industrial waste.

T. "Treatments works facility" means the owner or operator of a treatment works.

Section 901.6. Land application in Nutrient Surplus Areas.

If the eligible premium biosolids for which cost share funds under this program have been requested are land applied in a Nutrient Surplus Area, the Purchaser shall comply with Ark. Code Ann. § 15-20-1101 et seq., "Arkansas Soil Nutrient Application and Poultry Litter Utilization Act," and Title 22, Arkansas Natural Resources Commission Rules Governing the Arkansas Soil Nutrient and Poultry Litter Application and Management Program.

Subtitle II. Request for and issuance of cost share approval

Section 902.1 Request for cost share approval.

A. Prior to obtaining actual cost share funds, an Applicant shall request cost share approval from the Executive Director.

B. Applicant's request must include:

1. Contact information, including name, address, and telephone number; and
2 (a). A copy of an invoice demonstrating that the applicant has purchased at least twenty tons of premium biosolids;

(b). Expression of intent to purchase a specific amount that is equivalent to or more than twenty tons of premium biosolids; or

(c.) A statement that the applicant will generate a specific amount of premium biosolids that is equivalent to or more than twenty tons.

C. Applicant may not make more than one request for cost share approval per week.

D. Applicant may not request cost share approval for more than one thousand tons in any one application.

Section 902.2 Issuance and effect of cost share approval.

A(1). Upon receipt of a request for cost share approval containing the information indicated in Section 902.1, the Executive Director shall issue to Applicant a Cost Share Approval Letter stating the amount of cost share funds approved for Applicant pending Applicant's satisfaction of all application requirements.

(2). With the exception of an Applicant who is also a treatment works facility, if Applicant's request for cost share approval did not include an invoice, Applicant must provide an invoice within two weeks after receipt of the Executive Director's letter. Applicant's failure to provide an invoice shall be deemed as withdrawal of the request for cost share approval.

B. The Executive Director's Letter shall provide a deadline six months from issuance of the Letter by which Applicant must claim approved cost share money.

C. Once the Executive Director issues cost share approval to an Applicant, Applicant is responsible for completing the application, in a manner acceptable to the Executive Director, to claim approved cost share money.

Subtitle III. Application for cost share funds

Section 903.1 Contents of application for cost share funds.

A. To complete the application for cost share funds, Applicant must provide the following materials to the Executive Director, in a form and manner acceptable to the Executive Director:

1. An application fee;
2. An invoice or other documentation from the treatment works supplying the eligible premium biosolids, including
 - a. the name and address of the treatment works, and
 - b. the amount of biosolids purchased or generated.
3. Premium biosolids certification materials,
4. Incentive Certification or Certifications, and
5. Purchaser's Certification or Certifications.

B. The Applicant shall provide these materials within ninety (90) days after a Purchaser has accepted delivery of eligible premium biosolids.

Section 903.2 Application fee.

A. The Executive Director shall assess an administrative fee in an amount equal to three percent (3%) of the total amount of cost share funds for which the Applicant is eligible.

B. Prior to issuing cost share funds to the Applicant, the Executive Director shall deduct the amount of the administrative fee from the amount of money disbursed to Applicant.

Section 903.3 Premium biosolids certification materials.

An Applicant shall obtain proof acceptable to the Executive Director stating that the premium biosolids sold by applicant meets the pollutant concentration limits of Table 3 of 40 C.F.R. pt. 503.13 as it existed on November 1, 2010, Class A pathogen reduction limits, and one of the vector attraction reduction requirements of 40 C.F.R. pt. 503.33(b)(1) – (8), as it existed on November 1, 2010.

Section 903.4 Incentive Certification.

A. An Applicant for cost share funds shall provide a completed "Incentive Certification" supplied by the Executive Director describing each sale by the Applicant.

B. The Incentive Certification shall include:

1. The name and business address of the Purchaser of Applicant's eligible premium biosolids;
2. The name and business address of Applicant's retail establishment or treatment works facility where the purchase was made;
3. The date of sale;
4. The amount of the eligible premium biosolids sold by Applicant to Purchaser, at a minimum of one ton, rounded up to the nearest one-tenth of a ton;

5. The type of land on which the eligible premium biosolids are to be applied;
6. The county or counties including the land on which the eligible premium biosolid is to be applied;
7. Either the address or addresses of the land on which the eligible premium biosolids are to be applied or the latitude and longitude of the land on which the eligible premium biosolids will be applied;
8. if known, the watershed of the land on which the eligible premium biosolids shall be applied;
9. The approximate number of acres of the land on which the eligible premium biosolids shall be applied;
10. A statement that the Purchaser has taken delivery of the eligible premium biosolids and has received from the Applicant a credit against the purchase price equal to the amount of the cost share incentive due the Applicant for the amount of eligible premium biosolids purchased and sold;
11. The signature of the Applicant and Purchaser; and
12. Any other additional relevant information requested by the Executive Director.

Section 903.5 Purchaser's Certification that it will comply with land application setbacks.

An Applicant for cost share funds shall provide a "Purchaser's Certification Form," supplied by the Executive Director and executed by the Purchaser, corresponding to each sale by Applicant. The certifications shall include:

1. Purchaser shall only apply the eligible premium biosolids to land identified in the Incentive Certification Form signed by Purchaser;
2. Purchaser shall not apply eligible premium biosolids to land within one hundred feet (100') of streams including intermittent streams, ponds, lakes, springs, sinkholes; rock outcrops; wells; and water supplies;
3. Purchaser shall not apply eligible premium biosolids to land within three hundred feet (300') of Extraordinary Resource Waters, Ecologically Sensitive Waterbodies, and Natural and Scenic Waterways, as defined by the Arkansas Pollution Control and Ecology Commission, or occupied buildings;
4. Buffer distances for streams, ponds and lakes shall be measured from the ordinary high water mark;
5. Purchaser shall not apply eligible premium biosolids to soil that is water saturated, frozen, or covered with snow;
6. Purchaser also agrees not to apply eligible premium biosolids to soils when precipitation is imminent; and
7. If Purchaser intends to apply eligible premium biosolids to any land located in a Nutrient Surplus Area, Purchaser certifies that it shall comply with Arkansas Natural Resources Commission's Title 22, "Rules Governing the Arkansas Soil Nutrient and Poultry Litter Application and Management Program."

Section 903.6 Record retention obligations of applicants.

A. Applicant shall retain copies of all requests for cost share approval, applications for cost share funds, including premium biosolids certification materials, Incentive Certification Forms, Purchaser Certification Forms, and other materials and documents submitted to the Commission for the purpose of participating in the program for a period of not less than five (5) years after the date of submission to the Commission.

B. In addition, Applicant shall retain copies of all invoices for the purchase of eligible premium biosolids and all invoices for the sale of eligible premium biosolids for which the payment of cost share funds have been requested from the Commission for a period of not less than five (5) years after the date on which requests for the payment of cost share funds relating to the Applicant's sale of such eligible premium biosolids have been submitted to the Commission.

Subtitle IV. Issuance of cost share funds

Section 904.1 Decision to issue cost share funds.

A. Upon receipt of an application for cost share funds, properly and timely completed in the form and manner required by the Executive Director, the Executive Director shall issue to the Applicant an amount of cost share funds up to the amount approved for Applicant as indicated by Applicant's Cost Share Approval Letter or Amended Cost Share Approval Letter.

B. The Executive Director shall issue the total amount of cost share for which Applicant is approved at one time; the Executive Director shall not issue partial amounts.

Section 904.2 Disapproval of application.

A. If the Executive Director issues a letter to the Applicant disapproving the application, the Executive Director shall state the reason or reasons for disapproval and provide Applicant with the opportunity to submit acceptable materials, if applicable.

B. Applicant shall have thirty (30) days to correct the deficiencies noted. Failure of the Applicant to submit acceptable materials within this time period shall be deemed as a withdrawal of the request.

Section 904.3 Audit right of the Commission.

The Commission shall have the right to audit, review and make copies of all records of an Applicant required to be maintained by the Applicant pursuant to these rules upon the giving of advance written notice to the Applicant by the Executive Director.

Section 904.4 Appeals.

An Applicant may appeal, pursuant to Title I, Subtitle V of the Commission's Rules, any decision or action of the Executive Director.