

Proposed Rulemaking

Title

Promulgated by:
Department of Agriculture

Title 2. Agriculture

Chapter I. Department of Agriculture, Generally

Subchapter A. Generally

Part 1. Arkansas Alternative Fuels Development Program Rules for Program Administration and Grant Application

Subpart 1. Generally

2 CAR § 1-101. Purpose.

To increase the availability of alternative fuels produced in Arkansas from feedstock processed in Arkansas by making available incentive grants to:

- (1) Alternative fuels producers;
- (2) Feedstock processors; and
- (3) Distributors.

2 CAR § 1-102. General provisions.

(a) Availability of grants is limited to:

- (1) Alternative fuels production and/or facilities located in Arkansas;
- (2) Alternative fuels production and/or investments made on or after January 1, 2007;
- (3) Two million dollars (\$2,000,000) to any one (1) alternative fuels producer in any one (1) fiscal year;

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(4) Two million dollars (\$2,000,000) to any one (1) feedstock processor in any one (1) fiscal year; and

(5) Fifty-thousand dollars (\$50,000) for any one (1) alternative fuels distributor at each alternative fuels distributor site in any one (1) fiscal year.

(b)(1) An entity that holds controlling interest in more than one (1) alternative fuels production facility is considered one (1) alternative fuels producer.

(2) An entity that holds controlling interest in more than one (1) feedstock processing plant is considered one (1) feedstock processor.

(3) Persons or entities who are alternative fuels producers and feedstock processors may apply for and receive grant funds under the act for alternative fuels production and for feedstock processing.

2 CAR § 1-103. Application deadline.

(a)(1) Funding decisions are made on the basis of one (1) round of competition.

(2)(A) The 2007 – 2008 fiscal year application deadline for grants is February 28, 2008.

(B) Applications may cover investments made on or after January 1, 2007, or investments proposed to be made before June 30, 2008.

(3) The 2008 – 2009 fiscal year application deadline is February 28, 2009.

(b) Applications must be submitted in writing to:

"Office of the Secretary
Department of Agriculture
1 Natural Resources Drive
Little Rock, AR 72205"

Subpart 2. Production Incentive Grant Applications

2 CAR § 1-201. General provisions.

(a) As defined in Acts 2007, No. 873, "alternative fuels producer" means a business located in Arkansas that uses biomass or other renewable resources, excluding recycled petroleum oils, to manufacture alternative fuels.

(b) Production incentive grants may be for capital improvement and/or operations costs.

(c) Capital improvement grants are to assist in the construction, modification, alteration, or retrofitting of alternative fuels production facilities that are located and operated in Arkansas.

(d)(1) Operations costs grants are for the operation of alternative fuels production facilities located and operated in Arkansas.

(2) Successful applicants for operations costs grants are eligible for incentive payments of up to twenty cents (20¢) per gallon of alternative fuel produced.

(e) Alternative fuels producers may apply for and receive grants to fund capital improvements and/or operations costs, however, the Department of Agriculture will not award grants in an amount that exceeds two million dollars (\$2,000,000) to any one (1) alternative fuels producer in any one (1) fiscal year.

2 CAR § 1-202. Narrative summary.

(a)(1) A narrative description of the proposed project is required.

(2) The format, style of presentation, and length may vary depending on the nature of the project.

(b) The narrative shall include the following sections:

(1)(A) Ownership.

(B) Legal ownership along with the names, titles, contact information, and roles of principal participants in alternative fuel production facility;

(2)(A) Location.

(B) Physical address of facility;

(3)(A) Description of current operation.

(B) If in operation, describe facility including:

(i) Feedstock processed;

- (ii) Current market;
- (iii) Production levels including expected gallonage; and
- (iv) Cost per unit;

(4)(A) Intended use of grant.

(B)(i) For capital improvement grant describe construction, modification, alteration, or retrofitting of production facility and permitting required.

(ii) Include pro forma operating statement, cash flow analysis, projected per unit cost, annual volume anticipated, expected employment, and anticipated markets for alternative fuel.

(C) For operating cost grant include operating pro forma analysis, cash flow analysis, projected per unit cost, annual volume anticipated, expected employment, and anticipated markets for alternative fuel; and

(5) Evidence alternative fuel production volume is sustainable.

2 CAR § 1-203. Selection criteria.

(a)(1) In order to achieve certain goals and priorities, applications will particularly be reviewed for the following criteria.

(2) Each will receive a weighted score, the maximum of which is indicated.

(3) The sum total score of all the criteria will be used to rank competing applications.

(b) Capital improvement grant criteria:

(1) Portion of feedstock grown in Arkansas to be used for alternative fuels production, fifteen (15) points;

(2) Portion of feedstock processed in Arkansas to be used for alternative fuels production, fifteen (15) points;

(3) Share of capital investment from equity investors, ten (10) points;

(4) Share of equity investment from Arkansas investors, ten (10) points;

(5) Suitability of the alternative fuel to be produced for utilization in the Arkansas fuel economy, ten (10) points;

(6) Technical capability of the management team, fifteen (15) points;

(7) New jobs and positions added to the Arkansas rural economy, ten (10) points; and

(8) Evidence company has in place established quality standards and practices, fifteen (15) points.

(c) Operating cost grant criteria:

(1) Evidence that applicant and facility will be long-term suppliers of alternative fuels to the Arkansas economy, twenty (20) points;

(2) Evidence that quality of volume for which claim is made met ASTM International standards, fifteen (15) points;

(3) Evidence that applicant attempted to maximize use of feedstock grown or processed in Arkansas, twenty (20) points;

(4) Evidence that applicant has sound marketing plan in place and is attempting to maximize marketing benefits, fifteen (15) points;

(5) Evidence that applicant has a plan in place to maintain costs at competitive levels, fifteen (15) points; and

(6) Evidence company has in place established quality standards and practices, fifteen (15) points.

2 CAR § 1-204. Request for payment.

(a) Upon notification that an application for a production incentive grant has been approved, successful applicants may request payment by reporting quarterly production on the Department of Agriculture form AFP-01.

(b) All requests for payment, regardless of the fiscal year for which the grant was approved, must be submitted to the department by May 30, 2009, or payment may be disallowed.

2 CAR § 1-205. Reporting requirements.

(a)(1) Grant recipients agree to report origin and total annual feedstock processed and total gallons of alternative fuel produced by the facility for the five (5) years subsequent to the construction, modification, alteration, or retrofitting being completed.

(2) Or, for operating costs grant, beginning with their first request for payment.

(b) Reports are to be submitted on the Department of Agriculture form AFP-02 and must be filed each fiscal year by August 31.

Subpart 3. Feedstock Processor Incentive Grant Applications

2 CAR § 1-301. General provisions.

(a) As defined in Acts 2007, No. 873, “feedstock processor” means a business located in Arkansas that uses biomass or other renewable resources, excluding recycled petroleum oils, to manufacture feedstock to be used in the production of alternative fuels.

(b) Grants are to assist in the construction, modification, alteration, or retrofitting of feedstock processing facilities that are located and operated in Arkansas.

2 CAR § 1-302. Narrative summary.

(a)(1) A narrative description of the proposed project is required.

(2) The format, style of presentation, and length may vary depending on the nature of the project.

(b) The narrative shall include the following sections:

(1)(A) Ownership.

(B) Legal ownership along with the names, titles, contact information, and roles of principal participants in feedstock processing facility;

(2)(A) Location.

(B) Physical address of facility;

(3)(A) Description of current operation.

(B) If in operation, describe facility including:

(i) Feedstock processed;

(ii) Current market;

(iii) Production levels; and

- (iv) Cost per unit; and
- (4)(A) Intended use of grant.
 - (B) Describe construction, modification, alteration, or retrofitting of feedstock processing facility.
 - (C) Include pro forma operating statement, cash flow analysis, projected per unit cost, permitting requirements, and anticipated markets for feedstock.

2 CAR § 1-303. Selection criteria.

(a)(1) In order to achieve certain goals and priorities, applications will particularly be reviewed for the following criteria.

- (2) Each will receive a weighted score, the maximum of which is indicated.
- (3) The sum total score of all the criteria will be used to rank competing applications.

(b) Feedstock processor incentive grant criteria:

- (1) Suitability of the feedstock to be produced for utilization by Arkansas alternative fuels producers, ten (10) points;
- (2) Percentage of Arkansas-grown crops or other biomass material to be used for processing, thirty (30) points;
- (3) Share of capital investment from equity investors, twenty (20) points;
- (4) Share of equity investment from Arkansas investors, twenty (20) points;
- (5) Technical capability of the management team, ten (10) points; and
- (6) New jobs and positions added to the Arkansas rural economy, ten (10) points.

2 CAR § 1-304. Reimbursement procedure.

(a) Upon notification that an application for a feedstock processor incentive grant has been approved, successful applicants may request reimbursement of approved expenditures on the Department of Agriculture form FP-01.

(b) All requests for reimbursement, regardless of the fiscal year for which the grant was approved, must be submitted to the department by May 30, 2009, or reimbursement may be denied.

2 CAR § 1-305. Reporting requirements.

(a) Grant recipients agree to report origin and total annual tonnage of feedstock processed by facility for the five (5) years subsequent to the construction, modification, alteration, or retrofitting being completed.

(b) Reports are to be submitted on the Department of Agriculture form FP-02 and must be filed each fiscal year by August 31.

Subpart 4. Distribution Incentive Grant Applications

2 CAR § 1-401. General provisions.

(a) As defined in Acts 2007, No. 873, "alternative fuels distributor" means a business located in the State of Arkansas that distributes alternative fuels or alternative fuels mixtures.

(b) Distribution incentive grants are restricted to capital investments in alternative fuels distribution facilities.

2 CAR § 1-402. Narrative summary.

(a)(1) A narrative description of the proposed project is required.

(2) The format, style of presentation, and length may vary, depending on the nature of the project.

(b) The narrative shall include the following sections:

(1)(A) Ownership.

(B) Legal ownership along with the names, titles, contact information, and roles of principal participants in alternative fuels distribution business;

(2)(A) Location.

(B) Physical address of business and distribution site or sites;

- (3) Current source of biofuel and monthly volume;
- (4) Intended use of the grant; and
- (5) Evidence sufficient to demonstrate grant will improve the statewide supply and distribution of alternative fuels and/or alternative fuels mixtures that are produced in Arkansas.

2 CAR § 1-403. Selection criteria.

(a)(1) In order to achieve certain goals and priorities, applications will particularly be reviewed for the following criteria.

- (2) Each will receive a weighted score, the maximum of which is indicated.
- (3) The sum total score of all the criteria will be used to rank competing applications.

(b) Distribution incentive grant criteria:

- (1) Additional volume of alternative fuels to be added for distribution as result of investment, twenty-five (25) points;
- (2) Location of investments in regions or areas of the state where distribution is lacking or deficient, thirty (30) points;
- (3) Improving assurance that investment will add to the capability of providing continuous supplies of alternative fuels throughout the year and across the entire state, thirty (30) points; and
- (4) Adding to the supply of alternative fuels in locations where there will be significant environmental benefits from use of alternative fuels, fifteen (15) points.

2 CAR § 1-404. Reimbursement procedure.

(a) Upon notification that an application for a distribution incentive grant has been approved, successful applicants may request reimbursement of approved expenditures on the Department of Agriculture form AFD-01.

(b) All requests for reimbursement, regardless of the fiscal year for which the grant was approved, must be submitted to the department by May 30, 2009, or may be disallowed.

2 CAR § 1-405. Reporting requirements.

(a) Grant recipients agree to report total annual amount of alternative fuel stored and/or distributed by distribution site for the five (5) years subsequent to the grant's utilization.

(b) Reports are to be submitted on the Department of Agriculture form AFD-02 and must be filed each fiscal year by August 31.