

Arkansas Natural Resources Commission*
Rules Governing the Arkansas Water Resource
Agricultural Cost-Share Program

Title 10

(Effective February 16, 1994)

*In 2005, the agency known as ‘Arkansas Soil and Water Conservation Commission’ was renamed ‘Arkansas Natural Resources Commission’ pursuant to Act 1243 of 2005. References to the Commission in these rules have been updated to reflect the 2005 name change.

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Subtitle I. General provisions

Section 1001.1 Purpose.

The purpose of these rules is to establish the procedures for implementing the Arkansas Water Resource Agricultural Cost-Share Program. These rules are applicable to both the Commission and Conservation Districts, when receiving Commission delegation to implement the program.

Section 1001.2 Enabling and pertinent legislation.

- A. Ark. Code Ann. § 15-22-913 through 914, Arkansas Ground Water Protection Act.
- B. Ark. Code Ann. § 15-22-507, Water Development Fund.
- C. Ark. Code Ann. § 15-20-201 through 207, Arkansas Natural Resources Commission.
- D. Ark. Code Ann. § 14-125-101 through 907, Conservation Districts Law.

Section 1001.3. Definitions.

The following definitions shall apply to all parts of this title:

- A. Agricultural Stabilization and Conservation Service: United States Department of Agriculture Agricultural Stabilization and Conservation Service or its successor.
- B. Agricultural Cost-Share Program: The program administered by the Agricultural Stabilization and Conservation Service pursuant to 16 U.S.C. § 590g-q3, 7 C.F.R. Part 701 and 1-AR(ACP)(Rev. 11) Part 2, as amended.
- C. Chief Engineer: The chief engineer of the Arkansas Natural Resources Commission.
- D. Commission: The Arkansas Natural Resources Commission, as defined in Ark. Code Ann. § 15-20-201 through 207.
- E. Conservation Plan: A set of decisions addressing resource use, development and conservation on a unit of land or water. The decisions are formally recorded in the conservation plan document that describes the schedule of operations and activities needed to solve identified problems.
- F. Cooperator: A person who has entered into a cooperative agreement with a conservation district to work together in planning and carrying out resource use, development, and conservation on a specific land area.
- G. District: A conservation district created under the Conservation District Law, Ark. Code Ann. §14-125-101 through 907.
- H. Executive Director: The person appointed to administer the affairs of the Arkansas Natural Resources Commission, as defined by Ark. Code Ann. §15-20-205.
- I. Soil Conservation Service: United States Department of Agriculture Soil Conservation Service or its successor.

J. Water conservation and development project or practice: A project or practice to preserve or protect water. This term includes projects that result in either water quantity or quality benefits or substitutes the use of surface water for ground water such that the ground water resource may be protected.

Section 1001.4 District transfer of funds.

A district obtaining delegation under Subtitle II of this Title may by appropriate resolution of the board of directors transfer funds held for use under this title to the water conservation education/information fund created under Subtitle XXV of Title II of the Commission rules. Notice of this transfer shall be properly noted in the district permanent records and accounting records.

Subtitle II. Procedure for delegation of Agricultural Cost-Share Program to conservation districts

Section 1002.1 Memorandum of understanding.

Any district wishing to obtain delegation of the agricultural cost-share program within its boundaries shall enter into a memorandum of understanding with the Commission agreeing to abide by these rules.

Section 1002.2 Annual plan.

Upon delegation, a district shall develop an annual plan in which it prioritizes water conservation activities within the district. The District shall take this plan in account when considering applications for financial assistance under this program. This plan shall be reviewed and updated annually. This plan must be submitted to the Commission at the time the District Operating Plan, required under Section 217.2 of the Commission rules, is submitted.

Section 1002.3 Report of activities.

A. The District shall provide the Commission a copy of the annual reports of cost-share activities within the district. These reports shall be in a form acceptable to the Executive Director and may include, but are not limited to, the following information:

1. Number and type of applications received.
2. Number and type of projects or practices approved.
3. Benefits to be received from approved projects or practices, and amount of cost-share funding approved.
4. Projects or practices completed, including cost-share funds disbursed and estimated dollar value of projects or practices installed. Benefits to be received from the installed project or practice, including estimated quantity of benefits received (e.g., Acre feet of ground water use converted to surface water use).
5. Projects pending.

B. This report shall be submitted with the assessment of activities required to be submitted to the Executive Director pursuant to Section 217.2E.

Section 1002.4 Financial records.

A. A district obtaining delegation under this program shall establish and maintain a system of management and accounting for cost-share funds that is acceptable to the Executive Director.

B. Funds provided under this program to a District shall be subject to the financial reporting requirements of Subtitle XIX of Title II of the Commission's Rules Governing Conservation Districts.

Subtitle III. Application procedures – generally

Section 1003.1 Applicant in general.

A. An applicant may be an individual, partnership, corporation, limited liability company, joint venture, watershed improvement district, drainage district, or regional water distribution district.

B. Except for drainage and watershed improvement districts, the Applicant must be the owner of the property where the project is to be constructed/installed or have property rights to said land that equal or exceed the predetermined project life of the project for which funding is requested.

Section 1003.2 Applicant must be cooperator.

An applicant must be a cooperator with the District in which the cost-share funds are to be expended. If applicant is a joint venture, then all individuals shall be cooperators. This section shall not be applicable to drainage or watershed improvement districts.

Section 1003.3 Conservation plan on file.

The farm on which the proposed project is located must have a current conservation plan on file with the District. This conservation plan must identify the proposed practice or project as a solution to one or more identified water conservation problems.

Section 1003.4 Application period.

Applications for agricultural cost-share funds shall be accepted during the months of November, December, and January, unless otherwise approved by the Executive Director.

Section 1003.5 Application procedure.

Applications shall be made on forms provided by the district or Commission and approved by the Commission. Required information includes, but is not limited to, the following:

- A. Name, address and telephone number of the applicant.
- B. Description of proposed practice or project.
 - 1. location of project
 - 2. type of project
 - 3. sketch showing the location of proposed practice or project
- C. Benefits to be obtained from the proposed project.

Section 1003.6 Application review.

A. As soon as practicable after the close of the application period, the applications received shall be reviewed. In making a decision concerning an application consideration shall be given to the proposed project furtherance of the local district's annual plan, the Arkansas Water Plan developed by the Commission and any applicable plan of the Arkansas Department of Pollution Control and Ecology or Arkansas Livestock and Poultry Commission.

B. All applications shall be prioritized as to benefits to be received in accordance with Subsection A. Applications shall be approved based upon this prioritization.

Section 1003.7 Additional technical information on highest ranking applications.

The Executive Director for applications made to the Commission, or the district board of directors for applications made to a district, shall request that applicants with highest priority ranking applications submit additional technical information concerning their applications. The following information shall be completed in consultation with the Soil Conservation Service, district or Commission technical staff or an Arkansas licensed professional engineer and submitted to supplement the application:

- A. Estimate of extent of work (e.g. number of acres, feet of pipe, cubic yards of dirt).
- B. Estimated construction schedule.
- C. Estimated cost of project or practice.
- D. Amount of cost-share funds requested.

If the Applicant does not provide the additional information within thirty (30) days the application will lose its priority ranking. As additional cost-share funds become available applicants with the next highest ranking priority shall be requested to submit this additional information.

Section 1003.8 Consideration of applications.

A. The Executive Director on applications made to the Commission - or the district board of Directors on applications made to a district - may approve, disapprove or approve subject to conditions or limitations any application received.

B. An application may be approved for the current year and up to two years into the future.

C. No application shall be approved for cost-share funds in excess of \$2,500.00 per year.

For joint venture applications, the limitation under this subsection shall be applicable to each individual joint venture participant.

Section 1003.9 Limitation of cost-share participation

A. Cost-share participation under this program is limited to forty per cent (40%) of allowable costs.

B. Total cost-share participation from all contributing sources, including federal, state and local sources, is limited to seventy-five per cent (75%) of allowable costs.

Subtitle IV. Projects and practices – generally

Section 1004.1 Project design criteria.

All projects or practices shall be designed and installed in compliance with current standards and technical specifications of the Soil Conservation Service or other standards and specifications approved by the Chief Engineer.

Section 1004.2 Project design.

All projects or practices shall be designed by an employee of the Soil Conservation Service, District, or Commission or by an Arkansas licensed professional engineer.

Section 1004.3 Final inspection.

Upon completion of the installation of a project or practice, an inspection shall be conducted by a representative of the district, Commission or Soil Conservation Service to insure the projects are installed in compliance with applicable standards. Any deficiency found must be corrected prior to the disbursement of cost-share funds.

Section 1004.4 Project maintained for project life.

A. All projects or practices constructed or installed under this program shall be properly maintained for the predetermined project life. Project maintenance shall be the responsibility of the applicant.

B. If a project or practice funded under this program is removed prior to the end of its predetermined life, the applicant shall repay to the Commission or district the pro rata share of the remaining life of the project or practice. For example: A project with a ten year predetermined life is removed four years after being installed, then $(10 - 4)/10$ or sixty per cent (60%) of the cost-share funds must be returned to the District or Commission.

C. The district and Commission reserve the right to make periodic inspections of the project or practice during the predetermined life of the project or practice.

Subtitle V. Approved projects and practices

Section 1005.1 Agricultural Conservation Program projects.

All projects and practices approved for Arkansas by the Agricultural Conservation Program, as operated by the Agricultural Stabilization and Conservation Service, shall qualify as an approved water conservation and development project and be eligible for cost-share assistance under this program.

Section 1005.2 Projects and practices approved by the Chief Engineer.

The Chief Engineer may approve certain classes of projects and practices as water conservation and development projects eligible for cost-sharing under this program.

Section 1005.3 Specific project approval.

An applicant wishing to develop a project or practice not being approved under Sections 1005.1 or 1005.2 of this Title may request approval of the project from the Chief Engineer. Upon approval by the Chief Engineer as an approved water conservation and development practice, the project or practice shall be eligible for cost-share funding under this program.

Subtitle VI. Agreements and payments

Section 1006.1. Cost-share agreement.

Within 60 days after approval of an application, or if application is approved subject to availability of funds 60 days after applicant is notified that funds are available, the applicant must enter into a cost-share agreement with the district or Commission. The form of the agreement must be approved by the Executive Director.

Section 1006.2 Supplemental design, construction, or operation information.

The district or Commission may require additional information concerning design, construction, or operation of the project or practice at any time.

Section 1006.3 Payment request and certification..

Upon final inspection and approval of the project or practice by the Commission or district, the applicant may request payment of cost-share funds. This request shall be in a form approved by the Executive Director and at a minimum contain:

- A. An accounting of expenses incurred in the installation of the project or practice.
- B. The allowed cost-share expenses.
- C. Certification by the applicant that the project or practice was installed in compliance with approved specifications.

Section 1006.4 Payment of cost-share funds.

Upon satisfactory review and approval, the Commission or district shall make the proper payment to the applicant.