

Title 15. Natural Resources and Economic Development

Chapter I. Arkansas Natural Resources Commission, Department of Agriculture

Subchapter A. Generally

Part 1. Organization and General Operation of the Arkansas Natural Resources Commission

Subpart 1. The Commission

15 CAR § 1-101. Name of the commission.

(a) The name of the commission shall be "Arkansas Natural Resources Commission".

(b) The name "Arkansas Soil and Water Conservation Commission":

(1) Appears in the rules of the Arkansas Natural Resources Commission and in all other documents of the Arkansas Natural Resources Commission; and

(2) Shall be considered to mean "Arkansas Natural Resources Commission".

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-102. Seal of commission.

(a) The Arkansas Natural Resources Commission shall have a seal.

(b) The Secretary of the Arkansas Natural Resources Commission shall have possession of the seal.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-103. Office of commission.

(a) The administrative office of the Arkansas Natural Resources Commission shall be in the city of Little Rock, State of Arkansas.

(b) The commission may have branch offices at such other place or places as it may from time to time designate.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-104. Number and qualification.

(a) The Arkansas Natural Resources Commission shall consist of nine (9) members, residents and electors of the State of Arkansas, to be appointed by the Governor with advice and consent of the Senate.

(b) At least two (2) members shall reside in each congressional district as existed on August 1, 1985.

(c) The term of office shall be for seven (7) years.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-105. Prohibited activities.

No member of the Arkansas Natural Resources Commission, including the Secretary of the Arkansas Natural Resources Commission, shall:

(1) Use his or her position to secure special privileges or exemption for:

(A) Himself or herself;

(B) His or her spouse, child, parents, or other persons standing in the first degree of relationship; or

(C) Those with whom he or she has a substantial financial relationship that is not available to others, except as may be otherwise provided by law;

(2) Accept employment or engage in any public or professional activity while serving as a public official which he or she might reasonably expect would require or induce him or her to disclose any information acquired by him or her by reason of his or her official position which is declared by law or regulation to be confidential; or

(3)(A) Disclose any such information gained by reason of his or her position, nor shall he or she otherwise use such information for his or her personal gain or benefit.

(B) Arkansas Code § 21-8-304.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-106. Delegation of authority.

The Arkansas Natural Resources Commission may, by resolution duly adopted, delegate to the Secretary of the Arkansas Natural Resources Commission any of the powers or duties vested in or imposed upon it by law, rule, or regulation.

Authority. Arkansas Code § 15-20-206.

Subpart 2. Officers

15 CAR § 1-201. Officers.

(a) The officers of the Arkansas Natural Resources Commission shall be a:

- (1) Chair;
- (2) Vice chair; and
- (3) Secretary.

(b) The Chair of the Arkansas Natural Resources Commission and Vice Chair of the Arkansas Natural Resources Commission shall:

- (1) Be elected from the membership of the commission; and
- (2) Serve a term of one (1) calendar year.

(c)(1) The election shall be held at the last regularly scheduled meeting of the prior calendar year.

(2) If elections are not held at the last regular meeting, then the current officers shall serve until the next regular meeting when elections will be held.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-202. Chair.

(a) The Chair of the Arkansas Natural Resources Commission shall preside at all meetings of the Arkansas Natural Resources Commission.

(b) He or she is authorized to:

- (1) Execute all documents on behalf of the commission; and
- (2) Appoint the committees of the commission.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-203. Vice chair.

The Vice Chair of the Arkansas Natural Resources Commission, in absence of the Chair of the Arkansas Natural Resources Commission, shall act as chair.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-204. Secretary.

(a) The Director of the Arkansas Natural Resources Commission shall be ex-officio Secretary of the Arkansas Natural Resources Commission, but have no vote on matters coming before it.

(b) The secretary shall:

- (1) Submit such recommendations and information as he or she may consider proper concerning the business, affairs, and policies of the Arkansas Natural Resources Commission;
- (2) Have the power to affix the seal of the commission attested by his or her signature to all contracts and instruments as may require the same;
- (3) Be charged with administering the provisions of the commission's code, rules, and orders established thereunder;
- (4) Be custodian of all property held in the name of the commission; and
- (5) Be the disbursing agent of all funds available for its use.

Authority. Arkansas Code § 15-20-206.

Subpart 3. Meetings

15 CAR § 1-301. Regular meetings.

(a) The Arkansas Natural Resources Commission shall have at least one (1) regular meeting in any four-calendar-month period.

(b)(1) At the last regular meeting of each calendar year, the commission shall adopt a schedule of meetings for the next calendar year.

(2) This schedule shall state date, time, and location of meetings.

(c) The Chair of the Arkansas Natural Resources Commission in consultation with the Secretary of the Arkansas Natural Resources Commission may make necessary changes in time, date, or location of meetings not inconsistent with the law or subsection (a) of this section.

(d) The commission shall conduct business pursuant to Robert's Rules of Order Newly Revised unless the rules of the commission conflict, in which case, the rules will apply.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-302. Special meetings.

A special meeting may be called by the Chair of the Arkansas Natural Resources Commission, or the Vice Chair of the Arkansas Natural Resources Commission if he or she be, for any reason, the acting chair, either:

(1) At his or her own instance; or

(2) Upon the written request of at least four (4) members.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-303. Quorum.

(a) A quorum shall consist of more than one-half (1/2) of the Arkansas Natural Resources Commission membership at any regular or special meeting for the purpose of conducting commission business and exercising commission powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained.

(b) When a quorum is in attendance action may be taken by the commission upon an affirmative vote of more than one-half (1/2) of the members.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-304. Manner of voting.

(a) Each member shall have one (1) vote in all matters coming before the Arkansas Natural Resources Commission.

(b) In all but unanimous decisions the voting on all questions coming before the commission shall be by yeas and nays and the vote of each commissioner present shall be:

- (1) Announced by the Chair of the Arkansas Natural Resources Commission;
- and
- (2) Entered upon the minutes of such meetings.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-305. Record of meetings.

(a) The Secretary of the Arkansas Natural Resources Commission or his or her designated representative shall record minutes at all regular and special meetings except in the case of an executive session of the Arkansas Natural Resources Commission.

(b) As soon as practical, but not less than seven (7) days prior to the next regular meeting, the secretary shall mail to each member a draft copy of the proposed minutes

of the previous regular meeting in order that the members may review and make corrections to the proposed minutes.

(c) Any draft minutes of special meetings held since the last regular meeting shall be forwarded as soon as practical in order that the members may review and make corrections to the proposed minutes.

(d) Upon resolution of approval by the commission, these minutes shall be the official record of the commission's action.

(e) The secretary may, at the request of the Chair of the Arkansas Natural Resources Commission, or if he or she deems it appropriate, prepare a verbatim transcript of meetings or portions of meetings to preserve the record in its totality.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-306. Permanent record.

(a) The Secretary of the Arkansas Natural Resources Commission shall keep a permanent record of Arkansas Natural Resources Commission actions including minutes, transactions, findings, orders, determinations, resolutions, and rules in the commission's administrative office.

(b) The secretary shall upon request certify photocopies as true and correct copies of the official commission records.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-307. Notice of meeting — Agenda.

(a) The Secretary of the Arkansas Natural Resources Commission shall provide Arkansas Natural Resources Commission members with notice of regular meetings by mail at least seven (7) days prior to the meeting date.

(b) For special meetings the secretary shall give notice by means most practical.

(c) Each special meeting shall be at a time and place which in the opinion of the Chair of the Arkansas Natural Resources Commission and secretary would allow the greatest number of members to attend.

(d) Included in this notice shall be an agenda outlining the items to be considered at the meeting, along with any briefing materials.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-308. Freedom of information and open meetings.

(a) In all proceedings, the Arkansas Natural Resources Commission shall follow rules set forth in the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., governing freedom of information.

(b) All meetings of the commission, formal and informal, special or regular, shall be public meetings.

(c) The time and place of each regular commission meeting shall be furnished to anyone who requests the information, and the time and place of special commission meetings shall be announced to representatives of newspapers, radio stations, and television stations requesting notification at least two (2) hours before said special meeting.

(d)(1) Executive sessions will be permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of any officer or employee.

(2) No action of the commission considered or arrived at in any executive session shall be legal unless following the executive session the commission:

- (A) Reconvenes in public session; and
- (B) Presents and votes on such action.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-309. Appearance, presentation, or submission to the commission.

(a)(1) Unless provided otherwise in the Arkansas Natural Resources Commission's rules, persons wishing to make an appearance or presentation before or submission to the commission shall notify the Secretary of the Arkansas Natural Resources Commission at least ten (10) days prior to the meeting at which the appearance or presentation is to be made or submission is to be considered.

(2) The notice shall contain enough information as to convey the essence of the:

- (A) Appearance;
- (B) Presentation; or
- (C) Submission.

(b) If the secretary determines that the appearance, presentation, or submission is of such technical engineering, scientific, or legal nature as to require detailed commission staff review, he or she may in consultation by the Chair of the Arkansas Natural Resources Commission postpone the appearance, presentation, or submission until the regular meeting following review by the commission staff.

(c) If any time frame requirement under this section creates a significant adverse impact to any person, the secretary or chair may waive the requirements.

(d) This section shall not apply to any matter that is an administrative adjudication under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code § 15-20-206.

Subpart 4. Declaratory Orders

15 CAR § 1-401. Purpose.

(a) A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutes, rules, or orders over which the Arkansas Natural Resources Commission has authority.

(b)(1) A petition for declaratory order may be used only to resolve questions or doubts as to the application of statutes, rules, or orders to the petitioner's particular circumstances.

(2) A petition for declaratory order is not the appropriate means to:

(A) Determine the conduct of another person; or

(B) Obtain a policy statement of general applicability from the commission.

(3) A petition must describe the impact to the petitioner of the statute, rule, or order.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-402. Declaratory order — Request.

(a) Any person requesting a declaratory order shall make application as if requesting such action, order, or permit.

(b) On the application the applicant shall state "Request for Declaratory Order".

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-403. Review and determination.

(a) Upon receipt of request for declaratory order, the Director of the Arkansas Natural Resources Commission shall promptly review the request and determine whether it meets the requirements of 15 CAR § 1-401.

(b) If it is a proper request, the director shall issue a declaratory order within ninety (90) days of the receipt of the request.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-404. Notice of determination.

(a) The Director of the Arkansas Natural Resources Commission shall give the applicant written notice of the determination.

(b) Copies of the determination shall be provided to the members of the Arkansas Natural Resources Commission.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-405. Appeal.

The applicant may appeal a declaratory order pursuant to 15 CAR § 1-501 et seq.

Authority. Arkansas Code § 15-20-206.

Subpart 5. Appeals Procedure

15 CAR § 1-501. Appeals procedure — Generally.

This procedure shall apply to all matters where the Arkansas Natural Resources Commission is required by law to make its determination after notice and hearing including but not limited to the following:

- (1) Issuance of permits;
- (2) Determination of compliance; and
- (3) Adjudication of an order.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-502. Review — Referee’s decision.

Any aggrieved party may request that the decision of a referee, including the Director/Secretary of the Arkansas Natural Resources Commission, be reviewed by the Arkansas Natural Resources Commission by filing written request for review with the secretary within ten (10) days from the date of the referee’s decision.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-503. Commission-initiated review.

Within ten (10) days of the referee's decision, any Arkansas Natural Resources Commission member or the Secretary of the Arkansas Natural Resources Commission may file with the secretary a request for review before the commission.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-504. Commission review.

(a) The Arkansas Natural Resources Commission review shall be limited to the record before the referee with such written or oral argument as may be authorized by the presiding officer at the hearing of the review.

(b) The review may be conducted before such members of the commission as may be designated, but the affirmative vote of a majority shall be necessary for any commission action.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-505. Judicial review.

(a) The referee's decision, if not reviewed pursuant to the rules of the Arkansas Natural Resources Commission, and if reviewed, the commission decision, shall constitute final agency action for the purpose of judicial review.

(b) Judicial review of final agency action shall be as provided by the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-506. Stay pending review.

(a) Any decision of a referee will be stayed pending Arkansas Natural Resources Commission review.

(b) Upon petition by the affected party, the commission may stay any decision pending judicial review.

Authority. Arkansas Code § 15-20-206.

Subpart 6. [Reserved]

Subpart 7. [Reserved]

Subpart 8. [Reserved]

Subpart 9. [Reserved]

Subpart 10. Fees

15 CAR § 1-1001. Fees generally.

(a) The Arkansas Natural Resources Commission has the authority to establish and collect fees for services that it provides.

(b) The fees and procedures for collecting the fees are contained in the rules to the applicable program under which the service is provided.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-1002. Miscellaneous fees.

(a)(1) The Director of the Arkansas Natural Resources Commission shall establish fees for miscellaneous services provided by the Arkansas Natural Resources Commission.

(2) Services for which fees will be charged shall include, but are not limited to:

- (A) Photocopying;
- (B) Handling and mailing;
- (C) Providing publications; and
- (D) Processing dishonored checks.

(b)(1) The director will prepare and make available to the public a list of services for which fees apply and the applicable charges.

(2) This list may be updated from time to time as the director determines necessary.

Authority. Arkansas Code § 15-20-206.

15 CAR § 1-1003. Fees deposited into water development fund.

(a) All fees collected shall be deposited into the Arkansas Water Development Fund unless the applicable law or the Arkansas Natural Resources Commission rules provide otherwise.

(b) The fees collected shall be used for the general operation of the commission.

Authority. Arkansas Code § 15-20-206.