

Rules of Organization and General Operation
of the Arkansas Natural Resources Commission

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(2005)

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Subtitle I. The Commission

Section 101.1 Name of the Commission.

A. The name of the Commission shall be “Arkansas Natural Resources Commission” (“Commission”).

B. The name “Arkansas Soil and Water Conservation Commission” appears in the Rules of the Commission and in all other documents of the Commission, and shall be considered to mean “Arkansas Natural Resources Commission”.

Section 101.2 Seal of Commission.

The Commission shall have a seal. The Commission Secretary shall have possession of the seal.

Section 101.3 Office of Commission.

The administrative office of the Commission shall be in the city of Little Rock, State of Arkansas. The Commission may have branch offices at such other place or places as it may from time to time designate.

Section 101.4 Number and qualification.

The Commission shall consist of nine members, residents and electors of the State of Arkansas, to be appointed by the Governor with advice and consent of the Senate of the Arkansas General Assembly. At least two members shall reside in each congressional district as existed on August 1, 1985. The term of office shall be for seven years.

Section 101.5 Prohibited activities.

No member of the Commission, including the Secretary shall:

A. Use his position to secure special privileges or exemption for himself, his spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he has a substantial financial relationship, that is not available to others, except as may be otherwise provided by law.

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

C. Disclose any such information gained by reason of his position, nor shall he otherwise use such information for his personal gain or benefit. (Ark. Code Ann. §21-8-304).

Section 101.6 Delegation of authority.

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

Subtitle II. Officers

Section 102.1 Officers.

The officers of the Commission shall be a Chairman, Vice-Chairman, and Secretary. The Chairman and Vice-Chairman shall be elected from the membership of the Commission and serve a term of one calendar year. The election shall be held at the last regularly scheduled meeting of the prior calendar year. 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.

Section 102.2 Chairman.

The Chairman shall preside at all meetings of the Commission. He or she is authorized to execute all documents on behalf of the Commission and appoint the committees of the Commission.

Section 102.3 Vice-chairman.

The Vice-Chairman, in absence of the Chairman, shall act as Chairman.

Section 102.4 Secretary.

The Executive Director of the Commission shall be ex-officio Secretary of the Commission, but have no vote on matters coming before it. The Secretary shall:

- A. Submit such recommendations and information as he or she may consider proper concerning the business, affairs, and policies of the Commission.
- B. 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.
- C. Be charged with administering the provisions of the Commission's code, rules, regulations and orders established thereunder.
- D. Be custodian of all property held in the name of the Commission.
- E. Be the disbursing agent of all funds available for its use.

Subtitle III. Meetings

Section 103.1 Regular meetings.

- A. The Commission shall have at least one regular meeting in any four calendar month period.
- B. At the last regular meeting of each calendar year, the Commission shall adopt a schedule of meetings for the next calendar year. This schedule shall state date, time, and location of meetings.
- C. The Chairman in consultation with the Secretary 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.

Section 103.2 Special meetings.

A special meeting may be called by the Chairman, or the Vice-Chairman if he be, for any reason, the acting Chairman, either at his own instance, or upon the written request of at least four (4) members.

Section 103.3 Quorum.

A quorum shall consist of more than one-half (1/2) of the 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. 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.

Section 103.4 Manner of voting.

Each member shall have one vote in all matters coming before the Commission. 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 announced by the Chairman and entered upon the minutes of such meetings.

Section 103.5 Record of meetings.

The Secretary of his/her designated representative shall record minutes at all regular and special meetings except in the case of an executive session of the Commission. As soon as practical, but not less than seven 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. 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. Upon resolution of approval by the Commission, these minutes shall be the official record of the Commission's action. The Secretary may, at the request of the Chairman or if he/she deems it appropriate prepare a verbatim transcript of meetings or portions of meetings to preserve the record in its totality.

Section 103.6 Permanent record.

The Secretary shall keep a permanent record of Commission actions including minutes, transactions, findings, orders, determinations, resolutions, rules and regulations in the Commission's administrative office. The Secretary shall upon request certify, photocopies as true and correct copies of the official Commission records.

Section 103.7 Notice of meeting; agenda.

The Secretary shall provide Commission members with notice of regular meetings by mail at least seven days prior to the meeting date. For special meetings the Secretary shall give notice by means most practical. Each special meeting shall be at a time and place which in the opinion of the Chairman and Secretary would allow the greatest number of members to attend. Included in this notice shall be an agenda outlining the items to be considered at the meeting, along with any briefing materials.

Section 103.8 Freedom of information and open meetings.

In all proceedings, the Commission shall follow rules set forth in Ark. Code Ann. §25-19-101 *et seq.* governing "Freedom of Information." All meetings of the Commission, formal and informal, special or regular, shall be public meetings. 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 station, and television stations requesting notification at least two hours before said special meeting. Executive sessions will be permitted, only for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of any officer or employee. No action of the Commission considered or arrived at in any executive session shall be legal unless following the executive session the Commission reconvenes in public session and presents and votes on such action.

Section 103.9 Appearance, presentation, or submission to the Commission.

A. Unless provided otherwise in the Commission's Rules and Regulations, persons wishing to make an appearance or presentation before or submission to the Commission shall notify the Secretary at least ten days prior to the meeting at which the appearance or presentation is to be made or submission is to be considered. The notice shall contain enough information as to convey the essence of the appearance, presentation, or 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 Chairman 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 Chairman may waive the requirements.

D. This Section shall not apply to any matter that is an administrative adjudication under the Arkansas Administrative Procedures Act (Ark. Code Ann. §25-15-201 *et seq.*).

Subtitle IV. Declaratory orders

Section 104.1 Purpose.

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 Commission has authority. 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. A petition for declaratory order is not the appropriate means to determine the conduct of another person or to obtain a policy statement of general applicability from the Commission. A petition must describe the impact to the petitioner of the statute, rule, or order.

Section 104.2 Declaratory order-request.

Any person requesting a declaratory order shall make application as if requesting such action, order or permit. On the application the applicant shall state "Request for Declaratory Order."

Section 104.3 Review and determination.

Upon receipt of request for declaratory order, the Executive Director shall promptly review the request and determine whether it meets the requirements of Rule 104.1. If it is a proper request, the Executive Director shall issue a declaratory order within ninety (90) days of the receipt of the request.

Section 104.4 Notice of determination.

The Executive Director shall give the applicant written notice of the determination. Copies of the determination shall be provided to the members of the Commission.

Section 104.5 Appeal.

The applicant may appeal a declaratory order pursuant to Title I Subtitle V of the Rules of the Commission.

Subtitle V. Appeals procedure

Section 105.1 Appeals procedure-generally.

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

- A. Issuance of permits.
- B. Determination of compliance.
- C. Adjudication of an order.

Section 105.2 Review; referee's decision.

Any aggrieved party may request that the decision of a Referee, including Executive Director/Secretary of the Commission, be reviewed by the Commission by filing written request for review with the Secretary within ten days from date of Referee's decision.

Section 105.3 Commission initiated review.

Within ten days of the Referee's decision, any Commission member or the Secretary of the Commission may file with the Secretary a request for review before the Commission.

Section 105.4 Commission review.

The 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. 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.

Section 105.5 Judicial review.

The Referee's decision, if not reviewed pursuant to the rules of the Commission and if reviewed, the Commission decision, shall constitute final agency action for the purpose of judicial review. Judicial review of final agency action shall be as provided by the Arkansas Administrative Procedure Act.

Section 105.6 Stay pending review.

A. Any decision of a Referee will be stayed pending Commission review.

B. Upon petition by affected party, the Commission may stay any decision pending judicial review.

[Subtitles VI to IX reserved]

Subtitle X. Fees.

Section 110.1 Fees generally.

The Commission has the authority to establish and collect fees for services that it provides. The fees and procedures for collecting the fees are contained in the rules to the applicable program under which the service is provided.

Section 110.2 Miscellaneous fees.

A. The Executive Director shall establish fees for miscellaneous services provided by the Commission. Services for which fees will be charged shall include, but are not limited to, photocopying, handling and mailing, providing publications and processing dishonored checks.

B. The Executive Director will prepare and make available to the public a list of services for which fees apply and the applicable charges. This list may be updated from time to time as the Executive Director determines necessary.

Section 110.3 Fees deposited into water development fund.

All fees collected shall be deposited into the Water Development Fund, unless the applicable law or the Commission rules provide otherwise. The fees collected shall be used for the general operation of the Commission.