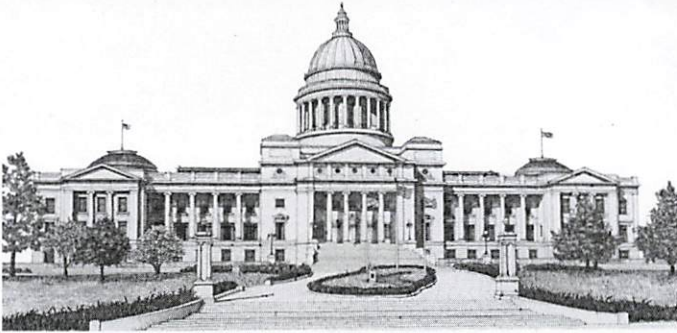


# ARKANSAS REGISTER

## Transmittal Sheet

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Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Department of Agriculture

Department Arkansas Natural Resources Division

Contact Corey Seats E-mail corey.seats@agriculture.arkansas.gov Phone 501-225-1598

Statutory Authority for Promulgating Rules 14-125-108

**Rule Title:** Arkansas Natural Resources Commission Rules Governing Conservation Districts Title 2

Intended Effective Date (Check One)		Date
<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published .....	<u>2/18/24 - 2/20/24</u>
<input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment .....	<u>3/18/24</u>
<input type="checkbox"/> Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislative Council .....	<u>5/31/24</u>
	Adopted by State Agency .....	<u>4/5/24</u>

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)  
Linda Luebke linda.luebke@agriculture.arkansas.gov June 3, 2024  
Contact Person E-mail Address Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-225-1598 corey.seats@agriculture.arkansas.gov  
Phone Number E-mail Address

\_\_\_\_\_  
General Counsel Title

June 3, 2024  
Date

Arkansas Natural Resources Commission  
Rules Governing Conservation Districts  
Title 2

**Subtitle I. General provisions**

**Section 201.1 Purpose.**

The purpose of these rules is to outline procedures for the establishment and operation of conservation districts.

**Section 201.2 Enabling and pertinent legislation.**

- A. Ark. Code Ann. §14-125-101, et seq., Conservation District Law.
- B. Ark. Code Ann. §15-20-201, et seq., Arkansas Natural Resources Conservation Commission.

**Section 201.3 Definitions.**

The following definitions shall apply to all parts of these rules:

- A. "Commission" means the Arkansas Natural Resources Commission.
- B. "Conservation district" or "district" means a district created under the Conservation District Law Act, Ark. Code Ann. §14-125-101, et seq.
- C. "District Director" means a member of the governing board of a conservation district, as defined by Ark. Code Ann. §14-125-301, et seq.
- D. "Department" means the Arkansas Department of Agriculture.
- E. "Local Funds" means funds provided to, or earned by, the district from a source other than the state during the fiscal year of the request.
- F. "Operating Plan" means a district's proposed budget, goals, and annual report, as defined in Section 207.2 of these rules.
- G. "Special Project" means a planned undertaking to research, demonstrate, construct or enhance the conservation of land and water resources.
- H. "Operating Funds" means state funds provided to a conservation district with an operating plan approved by the Department.

**Section 201.4 District assistance.**

The Department shall assist districts in complying with these rules. Guidelines may be developed to assist districts in complying with these rules, but the rules themselves shall be controlling.

**Subtitle II. Creation of a district**

[Reserved] See Ark. Code Ann. §14-125-201 et seq.

**Subtitle III. Division of a district**

[Reserved] See Ark. Code Ann. §14-125-401 et seq.

**Subtitle IV. Combination of districts**

[Reserved] See Ark. Code Ann. §14-125-401 et seq.

**Subtitle V. Discontinuance of a district**

[Reserved] See Ark. Code Ann. §14-125-901 et seq.

**Subtitle VI. Changing the name of a district**

[Reserved] See Ark. Code Ann. §14-125-410

**Subtitle VII. District operations**

**Section 207.1 Operating plan required.**

Each year prior to September 1, the district shall submit to the Department an operating plan for the fiscal year (July 1-June 30).

**Section 207.2 Operating plan contents.**

The operating plan shall contain the following:

- A. A brief statement of existing district programs;
- B. The district's long-term and short-term goals in regard to local resource concerns and needs;
- C. Specific activities for the upcoming year, defined in a plan of work, to accomplish the district's goals;
- D. A budget itemizing use of district funds to accomplish the activities.
  - 1. Proposed annual budget due by September 1 each year.
  - 2. The proposed budget must reflect the proposed operating revenue and expenditures and will incorporate any financial goals stated in the annual operating plan.
- E. An assessment of last year's activities and the effectiveness in accomplishing district goals (due by September 1); and
- F. An assessment of the thistle problem, if any, within the district, proposed methods of thistle control and eradication, and an assessment of the effectiveness of the last year's efforts to control and eradicate the thistle.

**Section 207.3 Disqualification from State funding.**

Failure to submit an operating plan acceptable to the Department shall result in the district being disqualified from receiving funds.

**Section 207.4 District meetings.**

- A. Each district must provide notice of its meetings, regular and special, in compliance with the Arkansas Freedom of Information Act.
- B. Each district shall hold at least nine monthly meetings per year.
- C. Each district must establish a consistent time and date for its monthly board meetings. If due to unforeseen circumstances there is need to change the time and date, the district must notify the public within twenty-four (24) hours of the decision to reschedule the meeting and must provide at least twenty-four (24) hours of notice of the newly scheduled date and time.
- D. Each district must submit its minutes to the Department immediately following approval.

**Section 207.5 Hiring practices**

- A. To avoid all appearance of impropriety, no conservation district shall:
  - 1. Hire an employee to supervise or be supervised by a relative, and
  - 2. Hire an employee who is a relative of a district board member.

B. A relative shall be considered someone related to a supervisory employee or district director within the third degree according to civil law.

1. To determine the degree of relationship, begin with one of the individuals and count one degree for each level of the genealogical chart up to the common ancestor, and then count one degree for each level downward until the other individual is reached. For example, brothers or brothers-in-law would be related to each other within the second degree.

C. Any employee hired prior to the effective date of this rule is exempt from the application of this rule.

**Section 207.6 District employees.**

A. Districts shall adopt employment policies addressing at least the following issues:

1. Rate of pay;
2. Pay periods;
3. Leave accrual, both vacation and sick leave; and
4. Compensation for unused leave.

B. District employees may be paid only upon completion of a timesheet for the applicable pay period signed by the employee and accounting for hours worked during the pay period and leave taken during the pay period.

1. Timesheets must be reviewed and signed by at least one member of the district board before an employee may be paid.

2. District employee paychecks must be signed by two bonded, unrelated persons, one of whom must be a district director.

C. Leave time records must be reviewed by district boards.

**Subtitle VIII. State funding**

**Section 208.1 State fund requests.**

A. Workers' compensation premiums and fidelity bond premiums will be withheld and paid by the Department from state funds prior to commitment of operating or special project funds.

B. Application for operating funds and the corresponding operating plan will be submitted to the Department office by September 1.

C. The Department's approval of the operating plan is necessary before operating funds are distributed to the district.

D. Following an initial election of a newly created conservation district or other election as provided by law that is administered by the Department, the costs of administering the election incurred by the Department shall be deducted from operating funds owed to the district.

**Section 208.2 Special project fund requests.**

A. Special project fund requests may be submitted at any time after approval of the operating plan.

B. A special project may be funded only if the district does not have sufficient reserve funds to cover the cost of the project.

C. A request for special project funds shall include:

1. A narrative of the proposed project including how the project is beneficial to conservation of land and water resources, and
2. A project budget including sources and uses of funds.

D. Upon completion of the project, an accounting of monies spent on the project shall be submitted to the Department.

- E. Upon completion of the project, all remaining state funds shall be returned to the Department.
- F. Failure to comply with the requirements of this subtitle may result in the district being ineligible for State funds for up to three years.

**Section 208.3 Approval of applications.**

- A. The Department shall report to the Commission the approval or disapproval of each district's operating plan, which shall be duly noted in the Commission minutes.
- B. The Department shall recommend to the Commission, at its regular May meeting, a commitment of state funds to each district which is in compliance with these regulations.
- C. Requests for operating funds and special project funds shall be prioritized according to the following criteria:
  - 1. The degree of cooperation and assistance from county and municipal government;
  - 2. Nature and extent of resource problems within the district;
  - 3. Adequacy of operating plan in addressing priority problems;
  - 4. Consistency with Department goals;
  - 5. Furtherance of district's goals; and
  - 6. Whether the district's actual expenditures were consistent with its proposed budget during the previous fiscal year.
- D. The Department shall establish the maximum amount of operating funds available for each district under this subtitle.

**Section 208.4 Distribution of operating funds.**

After approval of a conservation district's operating plan, operating funds will be distributed as often as quarterly, starting in July. The Department may withhold operating funds from any district that fails to submit required reports, including the annual operating plan. The Department may also withhold funds from districts that fail to meet deadlines for administration of Department programs, including water use reporting.

**Section 208.5 Fund limitations and priority.**

All funding requests are subject to the availability of state revenues, with operating funds having priority over special project funds.

**Subtitle IX. Financial records**

**Section 209.1 Accounting.**

- A. A district shall use an accounting system approved by the Department. A district may use either the cash or accrual basis for accounting.
- B. All district checks must bear authorized signatures of two, bonded, unrelated persons, including at least one district director.
- C. No district check may be signed with a blank payee line or amount.
- D. Signature stamps shall not be used on district checks.
- E. Debit cards shall not be obtained or used by districts.
- F. Each district shall instruct its financial institution to mail statements for all district bank accounts to a member of the district board.
- G. A current comparative balance sheet, comparative profit and loss report, bank reconciliation and copies of the most recent bank statements for all district accounts must be signed by the district treasurer and attached to and made part of the minutes of each regular district board meeting.

**Section 209.2 Financial report.**

By September 1 of each year, the district shall submit to the Department a financial report including a comparative balance sheet and comparative income statement for the previous fiscal year, signed by the district board members and the employee who prepared the report.

**Section 209.3 Annual review of financial records.**

- A. The Department shall provide a Certified Public Accountant to perform agreed-upon procedures established by the Department.
- B. All district books are subject to review by Department staff.

**Section 209.4 Report of difficulties.**

Districts shall immediately report any financial difficulty or irregularity to the Department, who shall investigate and offer assistance. The Department may also require additional financial reports or request an audit of the district books and accounts by Arkansas Legislative Audit.

**Section 209.5 Inventory.**

- A. Districts shall maintain an inventory of district owned equipment, listing date of purchase and serial number of each item.
- B. Each item of equipment shall be given a number and the number placed permanently upon the equipment.
- C. Prior to disposal or sale of any equipment listed in the district's inventory, the district must contact the Department in advance of the sale to obtain approval.
- D. Upon disposal of any equipment on the inventory, the date and method of disposal shall be noted in the inventory records.

**Section 209.6 Equipment rental and sale of goods.**

- A. A district shall maintain an inventory of goods owned by the district that are made available to the public for rental or sale.
- B. A district shall establish accounts as necessary to track equipment rental and sales and maintain those accounts using the method approved by the Department.
- C. All money received for equipment rental and the sale of goods shall be credited to the applicable accounts.

**Section 209.7 Program accounting.**

- A. A district shall follow the standardized chart of accounts established by the Department. All money received by the district shall be credited to the applicable accounts.
- B. Districts shall issue all required Internal Revenue Service forms to contractors and cooperators.

**Section 209.8 District travel.**

Districts should substantially comply with the State of Arkansas Travel Regulation as promulgated by the Chief Fiscal Officer of the State pursuant to Ark. Code Ann. § 19-4-901, et seq.

**Section 209.9 Penalty for noncompliance.**

Failure to comply with requirements of this Subtitle may disqualify a district from operating funds for up to three years pursuant to Ark. Code Ann. § 14-125-109(d).

**Subtitle X. Conservation district beaver control program**

**Section 210.1 Purpose.**

- A. The Conservation District Beaver Control Program enables the Department to help control Arkansas's beaver population by reimbursing conservation districts ten dollars per beaver for payments districts make to beaver harvesters under these rules.
- B. Reimbursements shall be made for beaver only, though district plans may offer incentives for the control of other nuisance animals.
- C. The Department shall not be liable for reimbursements requested after the money available for the program is expended.

**Section 210.2 District participation.**

To receive money under the Conservation District Beaver Control Program, conservation districts must submit a written beaver control plan to the Department by January 1 of the applicable calendar year. The district plan must be approved by the Department before reimbursable harvesting may begin. The Department may allocate a portion of the appropriation available in the applicable fiscal year to each district which submits an approved plan. The district plan must comply with the following provisions:

- A. The district board shall designate a beaver control officer.
- B. To receive payments, beaver harvesters shall present beaver tails to the beaver control officer, who shall cut a "V" notch in the rounded end.
- C. The beaver control officer shall certify to the district board, at intervals to be set in the district plan, the number of beavers presented by each certified harvester.
- D. The district may then apply to the Department for reimbursements by submitting the Reimbursement Form to the Department at reasonable intervals.
- E. The plan shall specify the anticipated number of beavers for which reimbursement will be requested during the fiscal year.
- F. Each district must also provide the Department with quarterly reports and proof of payment to trappers.

**Section 210.3 Funding.**

- A. After expiration of the time for submission of beaver control plans, the Department shall review the state funds available for the program in the current fiscal year and determine the funds available for the beaver control program.
- B. The Department shall allocate the available funds to each district desiring to participate in the program. This allocation shall be based upon the district's demonstrated need for beaver control and the probable success of the district's beaver control program. In making the allocation, the Department may consider the following: the beaver control plan, the estimated number of beavers within the district, the type and severity of damage, the number of beavers harvested in the past under this or similar programs, and other factors to ensure equity in allocation.
- C. After allocation, the Department shall provide each participating district the amount of its allocation.

D. Each district may request reimbursement as provided in this subtitle up to the amount of its allocation.

E. The Department shall review the allocation of funds on or about April 1 of each year or as otherwise necessary to assure that the funds are used as effectively as possible. No reduction in any participating district's allocation shall occur without prior notification to the district.

#### **Subtitle XI. Conservation district grant program**

##### **Section 211.1 Purposes.**

A. The purpose of this program is to enhance the capability of conservation districts to carry out conservation within their respective district.

B. The purpose of the subtitle is to establish a procedure to administer the program.

##### **Section 211.2 Availability of funds.**

A. Upon review of the Department's annual appropriation for conservation districts and other funds available for the district program, the Department may allocate a portion of available funds for the grant program.

B. Funds provided under this subtitle are limited to those funds actually made available by the Department for this purpose. The Department is not required to provide funds under this subtitle if the funds are not appropriated or otherwise not available.

##### **Section 211.3 Application period and notification of application period.**

A. Upon allocation of funds for this program by the Department, the Department shall establish a period in which applications for funds available under this program shall be accepted. The application period shall be at least thirty (30) days.

B. The Department shall notify each conservation district that applications are being accepted for the program and the last day that applications will be accepted.

##### **Section 211.4 Projects for which grants may be obtained and applicants.**

A. Projects eligible for grant funds must carry out resource enhancement, restoration or protection and must be new or in addition to those in which a district is currently involved.

B. Projects intended to replace existing programs are not eligible for grant funding.

C. Only conservation districts may make application for assistance under this subtitle.

##### **Section 211.5 Application procedure.**

Applications shall be in writing and submitted in a form acceptable to the Department. The following information shall be submitted:

A. The name, address, telephone and facsimile number of the conservation district making application.

B. The name, address and telephone number of a contact person with knowledge of the application.

C. A brief narrative of the project including benefits to be gained for the project.

D. Project budget, including funds requested under this subtitle and amounts and sources of other funds. Budget shall be of such detail to allow review of application for financial feasibility.

E. List of other governmental agencies, groups, associations, corporations or individuals that have agreed to assist with the project, including any in-kind resources that they will provide. Monetary contributions should be listed in Subsection D above.



- F. Any additional information requested by the Department.
- G. Application shall be authorized by the district board and signed by the district chairman.

**Section 211.6 Review of applications.**

- A. All applications received during application period shall be reviewed by the Department.
- B. The Department shall:
  - 1. Review the applications for feasibility, practicability, and potential benefits to the applying district;
  - 2. Rank the applications; and
  - 3. Make recommendations to the Department as to award of grants.
- C. After review of the rankings and recommendations, the Department shall make a recommendation of projects to be funded to the Commission, based upon the review and the project's potential to further the goals of the Arkansas Water Plan, the Nonpoint Source Pollution Abatement Program, the Arkansas Conservation Partnership Strategic Plan, or other identifiable conservation goal.

**Section 211.7 Award of grants.**

After review of the applications and the recommendations of the Department, the Commission may grant awards based upon the potential benefits to conservation in the applying district, region or the State as a whole.

**Section 211.8 Grant agreement and reports.**

- A. Prior to providing funds, the Department and conservation districts awarded a grant under this subchapter shall enter into a grant agreement.
- B. The grant agreement shall incorporate the application by reference and establish the terms and conditions of the grant. No funds shall be disbursed prior to execution of the grant agreement.
- C. At the completion of the project for which grant funds have been provided, the conservation district shall provide to the Department a review of the project including, but not limited to the following:
  - 1. actual benefits of the project;
  - 2. how actual benefits differed from what was expected; and
  - 3. summary of project receipts and project expenditures.
- D. On multiple year projects, this review shall be done annually.
- E. Funds provided for under this subtitle shall be accounted for as part of a conservation district's financial operation as contained in Subtitle IX of these rules. The Department may require additional accounting of funds as the Department deems necessary.

**Section 211.9 Additional conditions.**

The following conditions shall apply to grants provided under this subtitle:

- A. Maximum total grant available per district is \$25,000 per year. For multiple district applications, grants of up to \$25,000 per project per district per year may be approved.
- B. Grants shall be awarded for only two years for the same or similar projects.
- C. Grant funds must be matched by local cash funds or cash equivalents on a ratio of \$1 local to \$2 grant. Local funds may be used only once for any matching requirement.
- D. At the time the grant application is submitted under Section 211.5, the conservation district must ask the Department for a determination that its proposed cash equivalents be eligible for the

matching requirement. The request must concisely describe the type and the source of the proposed non-cash matching. Prior to or at the time of grant award, the Department will notify the requesting district of the acceptability of non-cash matching as cash equivalents for Subsection C requirements.

E. In cases where the grant is used to fund personnel, it must be used for newly hired personnel or additional hours of existing employees.

## **Subtitle XII. Rules governing the delegation and operation of the water conservation education and information program by conservation districts**

### **Section 212.1 Purpose.**

A. The Commission pursuant to Ark. Code Ann. §15-22-907 is required to develop and implement an education and information program to encourage water conservation. This program should increase the public's awareness of the need for and techniques available for water conservation.

B. The Commission has determined that for this program to be most effective, a portion of the effort should be on a local basis. Conservation districts are well qualified to undertake the local water conservation education and information program and are the most logical organizations to operate the program on a local basis. This subtitle establishes the procedure for delegation and operation of a local water conservation education information program by a conservation district.

### **Section 212.2 Request for delegation of local program.**

Upon request by a conservation district and determination by the Department that the district has the ability to successfully undertake the program, the local portion of the education and information program may be delegated to the requesting district under the terms of these rules.

**Section 212.3 Memorandum of understanding.** Any district wishing to obtain delegation of the local portion of the education and information program within its boundaries shall enter into a memorandum of understanding with the Department agreeing to abide by the rules of the Commission.

### **Section 212.4 Available funding.**

The Department will from time to time make funds available for the education and information program to the districts operating the local program. The source of the funds may be, but is not limited to, water use reporting fees collected pursuant to Ark. Code. Ann. §15-22-913 and Titles III and IV of the Commission rules.

### **Section 212.5 Local program contents.**

Each local program shall contain the following elements:

- A. Education,
- B. Training,
- C. Technology transfer,
- D. Technical assistance, and
- E. Demonstration projects.

### **Section 212.6 Specific local program activities.**

The scope of the program must be tailored to meet local water conservation needs and available funding. It may consist of any or all of the following activities:

- A. Making presentations to civic groups, schools, and professional organizations;
- B. Producing newsletters to be sent to all water users and other interested groups;
- C. Setting up displays at meetings, symposiums, and the county fair;
- D. Attending water conservation training provided by the Department, USDA, Natural Resources Conservation Service, or other agency or group and utilizing that information within the district;
- E. Conducting or making presentations at irrigation or conservation field days;
- F. Assisting volunteer groups in developing water education programs;
- G. Establishing a one-on-one training program for the water user;
- H. Utilizing the local media, including radio and television, to inform residents of water use reporting and water conservation information;
- I. Using educational videos dealing with water use reporting and water resources conservation information; or
- J. Any other activity that the Department may approve.

**Section 212.7 Specific local plan and review.**

- A. As a part of the district's operating plan submitted pursuant to Section 207.2(C) of the Commission rules, the district shall outline the specific goals and activities that it will undertake to accomplish these goals as part of its local education and information water conservation plan.
- B. A budget for the education and information plan shall be prepared and submitted as part of the district's proposed budget within the operating plan prepared pursuant to Section 207.2(D) of the Commission rules.
- C. An assessment of last year's water conservation education and information activities and its effectiveness in obtaining those goals shall be included in the operating plan assessment required under Section 207.2(E) of the Commission rules.

**Section 212.8 District transfer of funds.**

A district obtaining delegation of the local water conservation education and information program under this subtitle may, by appropriate resolution of the district board, transfer funds held for use under this title to the Arkansas Water Resource Agricultural Cost-Share Program fund created under Title X of the Commission rules. Notice of this transfer shall be properly noted in the district's permanent records and accounting records.