

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
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www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT Arkansas Department of Agriculture
BOARD/COMMISSION Natural Resources Commission
BOARD/COMMISSION DIRECTOR Chris Colclasure
CONTACT PERSON Corey Seats
ADDRESS 1 Natural Resources Drive, Little Rock, AR 72205
PHONE NO. (501) 219-6361 **EMAIL** corey.seats@agriculture.arkansas.gov
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Chris Colclasure and/or Corey Seats
PRESENTER EMAIL(S) chris.colclasure@agriculture.arkansas.gov, corey.seats@agriculture.arkansas.gov

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?
Title 2 - Rules Governing Conservation Districts
2. What is the subject of the proposed rule? Conservation District Board Appointments and Elections
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

14-125-108

14-125-606

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

This rule is being amended to conform with Acts 690 and 691 of 2023, concerning the election of conservation district directors.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

17-47-202
14-125-108

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

Act 690 of 2023
Act 691 of 2023

11. What is the reason for this proposed rule? Why is it necessary?

The proposed rule incorporates the legislative changes resulting from Act 690 and 691 of 2023 regarding the appointment and election of conservation district board members.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

<https://www.agriculture.arkansas.gov/natural-resources/rules/proposed-rules/>

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: March 15, 2024

Time: 9:00 a.m.

Place: Arkansas Department of Agriculture 1 Natural Resources Dr., Little Rock, AR

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. March 18, 2024

15. What is the proposed effective date for this rule? After ALC approval

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.
Arkansas Association of Conservation Districts

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Arkansas Department of Agriculture
BOARD/COMMISSION Arkansas Natural Resource Commission
PERSON COMPLETING THIS STATEMENT Chris Colclasure
TELEPHONE NO. (501) 682-3961 **EMAIL** chris.colclasure@agriculture.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Title 2 Rules Governing Conservation Districts

1. Does this proposed, amended, or repealed rule have a financial impact?
 Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
 Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation? N/A

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00 _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00 _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00 _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00 _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ 0.00 _____

Next Fiscal Year

\$ 0.00 _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0.00 _____

Next Fiscal Year

\$ 0.00 _____

This rule transfers the responsibility of conservation district board appointments and elections from the Arkansas Natural Resources Commission to each of the 75 conservation districts in the state.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Linda Luebke

From: Legal Ads <legalads@arkansasonline.com>
Sent: Thursday, February 15, 2024 8:45 AM
To: Linda Luebke
Subject: Re: Legal Notice - Arkansas Natural Resources Commission Rules Governing Conservation Districts Title 2

Thanks, Linda. As per your request, this will run in the non-statewide edition on Sun 2/18 (will run in print in 63 counties, excluding NW Arkansas), and Mon 2/19 and Tues 2/20 (running in print in Pulaski County only).

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Linda Luebke" <linda.luebke@agriculture.arkansas.gov>
To: "legalads@arkansasonline.com" <legalads@arkansasonline.com>
Cc: "Corey Seats" <corey.seats@agriculture.arkansas.gov>, "Megan Perkins (ADNR)" <Megan.M.Perkins@agriculture.arkansas.gov>, "Chris Colclasure" <Chris.Colclasure@agriculture.arkansas.gov>, "Wes Ward" <wes.ward@agriculture.arkansas.gov>, "Cynthia Edwards" <cynthia.edwards@agriculture.arkansas.gov>, "Autumn Causey" <Autumn.causey@agriculture.arkansas.gov>
Sent: Wednesday, February 14, 2024 9:36:16 AM
Subject: Legal Notice - Arkansas Natural Resources Commission Rules Governing Conservation Districts Title 2

Please run the attached legal notice February 18 – 20, 2024.

Sunday, February 18, 2024, statewide. Monday (2/19/24) and Tuesday (2/20/24) in all counties that still receive daily (Mon. – Sat.) delivery of the printed edition.

Thank you!

Linda Luebke

Administrative Analyst

Arkansas Department of Agriculture
1 Natural Resources Drive, Little Rock, AR 72205
(501) 225-1598
linda.luebke@agriculture.arkansas.gov
agriculture.arkansas.gov



Legal Notice

Arkansas Natural Resources Commission

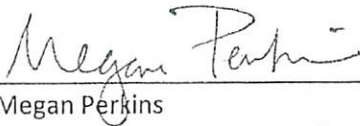
The Arkansas Natural Resources Commission is proposing amendments to rules under Acts 690 and 691 of 2023, Title II – Rules Governing Conservation Districts.

The purpose of the proposed rule amendment is to incorporate legislative changes resulting from Acts 690 and 691 of 2023 regarding the appointment and election of conservation district board members.

Comments can be mailed to: Arkansas Department of Agriculture – Attn: Megan Perkins, 10421 West Markham Street, Little Rock, AR 72205, or emailed to megan.m.perkins@agriculture.arkansas.gov.

Written comments will be accepted beginning February 18, 2024 until March 18, 2024. Oral comments may be made in person at the Arkansas Department of Agriculture, 1 Natural Resources Drive, Little Rock, AR 72205 on March 15, 2024 at 9 am.

The proposed rules changes can be viewed on the website at www.arkansas.agriculture.gov



Megan Perkins
Conservation Program Coordinator
Arkansas Department of Agriculture

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

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**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": ~~The means the~~ Arkansas Natural Resources Commission, ~~formerly known as Arkansas Soil and Water Conservation Commission, as defined in Ark. Code Ann. §15-20-201, et seq.~~
- B. "Conservation district" or "district": ~~A means a~~ district created under the Conservation District Law Act, Ark. Code Ann. §14-125-101, et seq.
- C. "Conservation Division Chief": ~~The means the person employed by the Commission to oversee decisions related to conservation programs and conservation districts.~~
- D. "District Director": ~~The means~~ A member of the governing board of a conservation district, as defined by Ark. Code Ann. §14-125-301, et seq.
- E. Executive "Director/Department": ~~The person appointed to administer the affairs of the Arkansas Natural Resources Commission, as defined by Ark. Code Ann. §15-20-205 means the~~ Director of the Arkansas Department of Agriculture's Natural Resources Division.
- F. "Local Funds": ~~Funds means~~ funds provided to, or earned by, the district from a source other than the state during the fiscal year of the request.
- G. "Operating Plan": ~~A means a~~ district's proposed budget, goals, and annual report, as defined in Section ~~217207.2~~ 207.2 of these rules.
- H. "Special Project": ~~A means a~~ planned undertaking to research, demonstrate, construct or enhance the conservation of land and water resources.
- I. "Operating Funds": ~~State means state~~ funds provided to a conservation district with an operating plan approved by the ~~Executive Director/Department.~~

Section 201.4 ~~Executive Director District and staff~~ assistance.

The ~~Executive Director/Department and Commission staff~~ shall assist the 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

~~[Subtitles VII through VIII~~XVI~~ reserved]~~

~~**Subtitle IX. Appointment of Conservation District Directors Emeritus**~~

~~**Section 209.1 Conservation District Directors Emeritus Program.**~~

~~This program recognizes individuals who have served twenty five (25) or more years of concurrent or intermittent service on a conservation district board or boards, or alternatively, twenty five (25) or more years of experience deemed equivalent by the Commission. It also provides a mechanism for tapping institutional knowledge attained by these individuals without requiring them to serve as government officials.~~

~~**Section 209.2 Role of a Director Emeritus.**~~

~~A Director Emeritus serves the district by providing knowledge, experience, and wisdom to the district's elected and appointed directors. A Director Emeritus may continue to commit time, energy, and other resources to the District while serving in an advisory, non-voting capacity without legal or fiduciary responsibilities. A Director Emeritus is appointed for life.~~

~~**Section 209.3 Process of awarding Director Emeritus title.**~~

~~A. After obtaining the consent of a qualifying individual who has provided previous service to the district or who currently serves as a district director, a conservation district board may nominate him or her to the Commission for appointment as a Director Emeritus.~~

~~B. Upon receipt of a conservation district board's completed nominating petition for a qualifying individual, the Commission will approve the nominated individual.~~

~~**Section 209.4 Process for filling board vacancy due to acceptance of Director Emeritus position.**~~

~~If the Commission approves an individual as a Director Emeritus that currently serves as a district director, the Commission shall appoint a director to serve the remainder of the Director Emeritus's term.~~

~~**Subtitle X. Appointment and reappointment of district directors**~~

~~**Section 210.1 Notification of expiration of term.**~~

~~Sixty days prior to the expiration of an appointed director's term, the Executive Director shall notify the director and the district board of the date of the expiration of the term.~~

~~**Section 210.2 Board recommendation.**~~

~~The Commission shall consider any appointment recommendation which may be made by the remaining members of the local governing board.~~

~~**Section 210.3 Reappointment of director.**~~

~~A. Any appointed director seeking reappointment shall provide the Executive Director with a certified statement from the district board summarizing the director's attendance at district board~~

meetings, area, and state meetings for the past three years, and proof of completion of the Commission's approved training program for directors.

B.(1). No appointed director shall be reappointed unless that director has attended sixty five percent (65%) of the district meetings and three area or state meetings within the last three years or has obtained a waiver pursuant to Subtitle XII of these rules.

(2). A director may meet the state or area meeting attendance requirement by attending a meeting or meetings approved by the Executive Director as being of regional or state importance to soil and water conservation.

Section 210.4 Public request for appointment.

Any person owning land within a district who is registered to vote under the election laws of Arkansas may be considered by the Commission for appointment by filing a written request with the Executive Director. The request shall remain on file with the Commission until the district's next board vacancy. If the Commission receives a written request for appointment to a particular conservation district board, the Commission will notify that board of the request.

Section 210.5 Review of qualifications of prospective appointees.

The Executive Director shall review the qualifications of anyone proposed as an appointed director. This review may include an interview with the applicant, or a request for recommendations from persons having knowledge of the applicant's interest and activities in the areas of soil and water conservation.

Section 210.6 Report of the Executive Director.

By the first regular meeting of the Commission after the expiration of the appointed director's term, the Executive Director shall provide the Commission with the names and qualifications of all prospective appointees.

Section 210.7 Commission action.

Upon presentation by the Executive Director, the Commission may:

- A. Select one of the prospective appointees;
- B. Ask for additional information concerning any of the applicants; or
- C. Ask the Executive Director to seek additional applicants.

Section 210.8 Issuance of certificate of appointment.

After a director has taken the oath of office and submitted proof to the Commission, the Executive Director shall issue a certificate of appointment to the district director.

Subtitle XI. Election and reelection of district directors

Section 211.1 Elections.

Elections will be held on the first Tuesday in March in districts designated by statute. All polling places shall be open for voting from 8:00 a.m. to 5:00 p.m.

Section 211.2 Notice to district.

By December 10, the Executive Director shall notify the districts which have elections scheduled for the following March.

Section 211.3 Appointed directors to serve as election committee.

The appointed district directors constitute the District Election Committee, the Commission's representative for conducting elections. The Committee's duties include the following:

1. Publishing notice of the election, availability and qualifications for obtaining an open position on the board, and the deadline for filing the candidate nomination petition;
2. Selecting the polling sites;
3. Appointing a person or persons to oversee polling sites;

4. Conducting the election; and
5. Collecting absentee and regular ballots and counting votes.

Section 211.4 Approval of polling place.

By February 1 of election year, the District Election Committee shall submit, for the Executive Director's approval, the location(s) of polling place(s) for the district election. The number and location of the polling place(s) shall provide adequate coverage of the district.

Section 211.5 Petitions.

A. To qualify as a candidate, a person residing within the district, owning land within the district, and registered to vote under the election laws of Arkansas shall submit to the Commission a candidate nomination petition, signed by twenty five (25) or more qualified electors, stating that each signatory is a registered voter in the State of Arkansas and is an owner of land within the district.

B. All petitions for candidacy shall be submitted to the Commission on or before February 10.

Section 211.6 Reelection of directors.

A. Any elected director seeking re-election shall provide the Executive Director with the following: a certified statement from the district board summarizing the director's attendance at district board meetings, area and state meetings for the past three years, and proof of completion of the Commission's approved training program for directors.

B. (1). No elected director shall be re-elected unless that director has attended sixty five percent (65%) of the district meetings and three area or state meetings within the last three years or has obtained a waiver pursuant to Subtitle XII of these rules.

(2) A director may meet the state or area meeting attendance requirement by attending a meeting or meetings approved by the Executive Director as being of regional or state importance to soil and water conservation.

Section 211.7 Certification of candidates.

The Executive Director must certify a person as a candidate prior to the election before that person may be elected to the office of director.

Section 211.8 Notice of election.

A. The Election Committee shall, prior to the election and at district expense, publish a notice of election twice, seven days apart, in a district newspaper of general circulation.

B. The Executive Director shall, prior to the election, publish a notice of election twice, seven days apart, in a newspaper of statewide circulation. The notice shall identify districts holding elections that year.

Section 211.9 Ballots.

A. The Executive Director shall provide the requested number of ballots to the District Election Committee.

B. The names of certified candidates shall be alphabetized, by surname, on the ballots. The ballots shall contain instructions to vote for three by placing an "X" in the appropriate boxes.

Section 211.10 Voting procedure.

A. Any person who is a registered voter of the state and is an owner of real estate within the district is a qualified elector.

B. Prior to obtaining a ballot, a person shall sign a registration of voters, an affirmation that the person is a qualified elector.

C. After obtaining a ballot, the person shall select up to three candidates to serve as district directors by putting an "X" in the appropriate boxes, and then placing the ballot in the ballot box.

Section 211.11 Early voting and absentee ballots.

A. Ballots shall be available at the district office two weeks prior to the election for all qualified voters. No ballot shall be removed from the district office except as provided in Subsection B below. The voting procedure under this subsection shall be the same as the regular procedure contained in Section 211.10 of these rules.

B. An infirmed person, whose physical condition makes it difficult to vote on Election Day may obtain a ballot by presenting a signed, written statement that the person making the request:

1. Is a registered voter in Arkansas;
2. Owns land within the district;
3. Cannot vote on Election Day due to health reasons; and
4. Is attaching the name of the person authorized to deliver the ballot to the infirmed person. The person so named shall present the request to the Election Committee to obtain a ballot and shall return the ballot to the district office by the Monday before Election Day.

Section 211.12 Write-in candidates.

No write-in candidates shall be allowed. Votes for write-in candidates shall be void and shall not be counted.

Section 211.13 Vote tally.

A. After the polls close, the Election Committee shall collect all ballot boxes and election materials.

B. Both members of the Election Committee shall together open the ballot boxes and count the votes cast.

C. Any ballot with more than three candidates marked shall be disqualified and not be counted. Any ballot with write-in candidates shall be disqualified and not be counted.

D. The Election Committee shall certify to the Commission the results of the election, including the number of voters and the number of votes for each candidate.

E. The Election Committee shall then post results at polling place(s), the district office and other public places in the district.

F. The ballots and other election materials shall be maintained in a secure place until the Executive Director requests that they be sent to the Commission or indicates that they may be destroyed.

Section 211.14 Election challenge.

A. Any person challenging results of the election shall, within three days of the election, notify the Executive Director, in writing, outlining the reasons for the challenge.

B. The Executive Director shall investigate any allegations made, including taking ballots and other election materials into custody, recounting the vote, or verifying those voting in the election.

C. The Executive Director shall report any findings to the Commission.

D. The Commission may then require a recount of votes, confirm the results as reported, set aside the results and conduct a special election, or take any other appropriate action.

211.15 Issuance of certificate of election.

After a director has taken the oath of office, and submitted proof to the Commission, the Executive Director shall issue a certificate of election to the district director.

Subtitle XII. Waiver of attendance requirement for reappointment or certification as candidate for reelection

Section 212.1 Request for waiver.

Any appointed or elected director failing to meet the attendance requirement and seeking certification as a candidate for reappointment or re-election may request a waiver by submitting a request in writing to the Executive Director. In the request, the director should explain the failure to meet the attendance requirement for the past term.

Section 212.2 Meeting with director making request.

After receipt of a waiver request, a member of the Commission chosen by the Commission Chairman and the Executive Director, or his designee, shall meet with the director making the waiver request. At the meeting, inquiry should be made as to the reason for failure to meet the attendance requirement and the director's ability to meet the attendance requirement in the future. The Executive Director and Commission member shall stress the importance of regular attendance at district board meetings and attendance at area and state meetings.

Section 212.3 Consideration of request.

A. Prior to the meeting in which a director's request for waiver is to be considered, the Executive Director shall invite, but not require, the director to attend the next Commission meeting and make a statement, if he so desires, concerning the waiver request.

B. At the time of consideration of the waiver request the member of the Commission and Executive Director or his designee shall make a report of the meeting held pursuant to Section 212.2.

C. The Commission shall then approve or disapprove on the waiver of attendance requirement request, and the decision shall be duly noted in the Commission's permanent records.

Section 212.4 Criteria in making decision with respect to waiver request.

A. Local meeting requirements. Attendance at local conservation district board meetings is of utmost importance to efficient and effective district activities. Waivers for directors failing to attend more than fifty percent (50%) of the local meetings will not be considered.

B. Area and state meeting requirements. Directors should make every effort to make the appropriate area and state meetings. In determining whether to grant a waiver request, the Commission may consider other conservation district activities undertaken by the director making the request.

Subtitle XIII. Resignation of district directors and decline of office

Section 213.1 Resignations in writing.

All resignations shall be in writing.

Section 213.2 Resignations filed with Commission.

All resignations shall be filed with the district board and the Commission.

Section 213.3 Resignations effective.

Unless the resignation provides otherwise, a resignation shall be effective upon receipt by the Executive Director.

Section 213.4 No contingent resignations.

No resignation shall be contingent upon another event.

Section 213.5 Decline of office.

An elected or appointed director will be deemed to have declined the office of director if that director fails to take the required oath of office within 60 days of certification of election returns or appointment by the Commission. The Commission shall then appoint a new director pursuant to these rules.

Subtitle XIV. Removal of district directors

Section 214.1 Grounds for removal.

The Commission shall have the power to remove directors for neglect of duty or malfeasance in office, but for no other reason. A director who is absent from three, successive, regular monthly meetings shall be removed for neglect of duty, unless the Commission is presented with a satisfactory written explanation.

Section 214.2 Petition for removal.

Any person seeking a director's removal shall file a petition with the Executive Director, stating specific allegations of the director's alleged neglect of duty or malfeasance in office. The signed petition shall be accompanied by an affidavit stating that the information contained in the petition is true to the best of affiant's knowledge and belief.

Section 214.3 Executive Director to investigate.

Upon receipt of a petition contained in Section 214.2, or on personal initiative, the Executive Director shall investigate whether there are grounds for a district director's removal under Section 214.1. The Executive Director shall then report any findings and recommendations to the Commission.

Section 214.4 Review of Commission.

If, after receiving the Executive Director's report on the allegations, the Commission determines a hearing is warranted, then a hearing by the Commission, or by an appointed hearing officer, shall be conducted as an administrative adjudication under the Administrative Procedure Act.

Section 214.5 Decision of the Commission.

The Commission shall enter a finding of fact and a conclusion of law, and if the Commission determines that a director should be removed, an order authorizing removal. The Commission may, based upon the record presented, remove a director for neglect of duty or malfeasance in office.

Section 214.6 Appointment of successor.

Upon removal of a director under this subtitle, the Commission shall appoint a successor pursuant to these rules.

~~{Subtitles XV through XVI reserved}~~

Subtitle XVII. District operations

Section 217207.1 Operating plan required.

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

Section 217207.2 Operating plan contents.

The operating plan shall contain ~~as a minimum~~ 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 217207.3 Disqualification from CommissionState funding.

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

Section ~~217207.4~~ 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 Commission 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 ~~Commission~~Department immediately following approval.

Section ~~217207.5~~ 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 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 ~~217207.6~~ 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 submission 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 XVIII. State funding

Section ~~218208.1~~ State fund requests.

- A. Workers' compensation premiums and fidelity bond premiums will be withheld and paid by the Commission 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 Commission Department office by September 1.

C. The ~~Executive Director's~~ 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 of Agriculture, the costs of administering the election incurred by the Department shall be deducted from operating funds owed to the district.

Section 218208.2 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 Commission Department.

E. Upon completion of the project, all remaining state funds shall be returned to the Commission 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 218208.3 Approval of applications.

A. The ~~Executive Director~~ 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 ~~Executive Director~~ 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 ~~by the Commission based upon~~ 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 Commission 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 Commission Department shall establish the maximum amount of operating funds available for each district under this subtitle.

Section 218208.4 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 Commission Department may withhold operating funds from any district that fails to submit required reports, including the annual operating plan. The Commission Department may also withhold funds from districts that fail to meet deadlines for

administration of ~~Commission~~Department programs, including ~~poultry registration and~~ water use reporting.

Section ~~218208.5~~ 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 XIX. Financial records

Section ~~219209.1~~ Accounting.

- A. A district shall use an accounting system approved by the ~~Executive Director~~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 ~~219209.2~~ Financial report.

By September 1 of each year, the district shall submit to the ~~Commission~~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 ~~219209.3~~ Annual review of financial records.

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

Section ~~219209.4~~ Report of difficulties.

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

Section ~~219209.5~~ 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 ~~Commission~~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 ~~219209.6~~ 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 ~~Executive Director~~ Department.
- C. All money received for equipment rental and the sale of goods shall be credited to the applicable accounts.

Section ~~219209.7~~ Program accounting.

- A. A district shall follow the standardized chart of accounts established by the ~~Commission~~ 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 ~~219209.8~~ 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 ~~219209.9~~ 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 ~~XXX~~. Conservation district beaver control program

Section ~~220210.1~~ Purpose.

- A. The Conservation District Beaver Control Program enables the ~~Commission~~ 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 ~~Commission~~ Department shall not be liable for reimbursements requested after the money available for the program is expended.

Section ~~220210.2~~ District participation.

To receive money under the Conservation District Beaver Control Program, conservation districts must submit a written beaver control plan to the ~~Executive Director~~ Department by January 1 of the applicable calendar year. The district plan must be approved by the ~~Executive Director~~ Department before reimbursable harvesting may begin. The ~~Executive Director~~ 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 ~~Commission~~Department for reimbursements by submitting the Reimbursement Form to the ~~Executive Director~~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 ~~Commission~~Department with quarterly reports and proof of payment to trappers.

Section ~~220210.3~~ Funding.

- A. After expiration of the time for submission of beaver control plans, the ~~Executive Director~~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 ~~Executive Director~~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 ~~Executive Director~~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 ~~Executive Director~~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 ~~Executive Director~~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 XXI reserved]

Subtitle ~~XXIXI~~. Conservation district grant program

Section ~~222211.1~~ 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 ~~222211.2~~ Availability of funds.

- A. Upon review of the ~~Commission~~Department's annual appropriation for conservation districts and other funds available for the district program, the ~~Commission~~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 ~~Commission~~Department for this purpose. The ~~Commission~~Department is not required to provide funds under this subtitle if the funds are not appropriated or otherwise not available.

Section ~~222211.3~~ Application period and notification of application period.

- A. Upon allocation of funds for this program by the ~~Commission~~Department, the ~~Executive Director~~Department shall establish a period in which ~~he shall accept~~ applications for funds available under this program shall be accepted. The application period shall be at least thirty (30) days.
- B. The ~~Executive Director~~Department shall notify each conservation district that applications are being accepted for the program and the last day that applications will be accepted.

Section 222211.4 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 222211.5 Application procedure.

Applications shall be in writing and submitted in a form acceptable to the ~~Executive Director~~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 ~~Executive Director~~.
- G. Application shall be authorized by the district board and signed by the district chairman.

Section 222211.6 Review of applications.

- A. All applications received during application period shall be reviewed by the ~~Conservation Division Chief and field staff~~Department.
- B. The ~~Conservation Division Chief and field staff~~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 ~~Executive Director~~Department as to award of grants.
- C. After review of the rankings and recommendations, the ~~Executive Director~~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 222211.7 Award of grants.

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

Section ~~222211.8~~ Grant agreement and reports.

- A. Prior to providing funds, the ~~Executive Director~~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 ~~Executive Director~~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 ~~XIX-IX~~ of these rules. The ~~Executive Director~~Department may require additional accounting of funds as the ~~Executive Director~~Department deems necessary.

Section ~~222211.9~~ 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 ~~222211.5~~, the conservation district must ask the ~~Executive Director~~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 ~~Executive Director~~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 XXIII through Subtitle XXIV reserved]~~

Subtitle ~~XXVII~~. Rules governing the delegation and operation of the water conservation education and information program by conservation districts

Section ~~225212.1~~ 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 225212.2 Request for delegation of local program.

Upon request by a conservation district and determination by the ~~Executive Director~~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 225212.3 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 ~~Commission~~Department agreeing to abide by the rules of the ~~Commission~~Commission.

Section 225212.4 Available funding.

The ~~Commission~~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's rules.

Section 225212.5 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 225212.6 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 ~~Commission~~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 ~~Executive Director~~Department may approve.

Section 225212.7 Specific local plan and review.

A. As a part of the district's operating plan submitted pursuant to Section 217207.2(C) of the ~~Commission~~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 217207.2(D) of the ~~Commission~~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 217207.2(E) of the ~~Commission's~~Commission rules.

Section 225212.8 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.

**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.