

MEMORANDUM

TO: Jon Davidson
Arkansas Register Editor

FROM: Jane Jones-Schulz
Education and Information Coordinator

DATE: January 11, 2002

SUBJECT: PRIMARY PURPOSE – RULES &
REGULATIONS OF THE ARKANSAS
NATURAL HERITAGE COMMISSION

The Arkansas Natural Heritage Commission is filing the attached Rules and Regulations of the Commission, as per the Administrative Procedures Act. We have provided one hard copy and one copy on disk of the Transmittal Sheet, the Financial Impact Statement, and the Rules and Regulations. This memo serves as our “explanatory statement” containing the Primary Purpose of the rules.

The Arkansas Natural Heritage Commission is promulgating new and amended rules and regulations to address the following activities of the Commission:

- Operating procedures for the 15-member Natural Heritage Commission (quorum, voting requirements, officers, and meetings)
- How the State Agency provides information (including the Fees for Data Research as processed in 1992).
- Rules for the System of Natural Areas (including acquiring land, managing lands, public use of lands in the System of Natural Areas)
- Rules for Non-System Lands (including Wetlands Conservation Easements)
- Former responsibilities of Scenic Rivers Commission which was abolished and transferred to NHC by Act 1023 of 1997
- Rules for the Registry of Natural Areas
- Rules for collaboration with state and federal agencies and other entities.

RULES AND REGULATIONS
OF THE
ARKANSAS NATURAL HERITAGE COMMISSION

ARTICLE I

Name

The name of this commission shall be the Arkansas Natural Heritage Commission (Arkansas Code Annotated § 15-20-304), hereinafter referred to as the Commission.

ARTICLE II

Duties

Section 1. Authority

The Commission shall have the following rights, powers, and duties (A.C.A. §§ 15-20-308, 15-20-309, 15-20-312, 15-20-317, and 15-23-308):

- (a) Choose lands, waters, and interests therein to be acquired for inclusion in the Natural Area System
- (b) Acquire fee or other interests in real property for inclusion in the System of Natural Areas
- (c) Consider the characteristics of the Natural Area, the type and extent of management required to maintain that area, the types and extent of activity permissible, and other factors, and retain fee title or convey that title to another agency or department of the state
- (d) Acquire and hold any interest in real property less than fee, including environmental or scenic easements
- (e) Establish and amend policies, rules, and regulations for the selection, acquisition, management, protection, and use of the System of Natural Areas
- (f) Cooperate and contract with government agencies, private organizations, and Individuals
- (g) Maintain a registry or inventory of lands and waters in the state that retain their primeval character to a substantial degree or that have features of significant scientific, educational, or recreational interest
- (h) Maintain an inventory of habitats of rare, vanishing, or endangered species, subspecies, or populations of plants and animals, and other appropriate records
- (i) Conduct research and investigation and publish and disseminate information and recommendations
- (j) Supervise the protection, management, and use of the System of Natural Areas and administer and enforce its policies, rules, and regulations

- (k) Investigate, promote, advise, and assist in the preservation, protection, and management of natural areas
- (l) Advise agencies of the federal government concerning areas or streams eligible for treatment under federal criteria as wildlife refuges; wilderness areas; or wild, scenic, or recreational rivers
- (m) Submit to the Governor and General Assembly, and publish, on or before December 1 of each year, a report which describes and accounts for the status and condition of each portion of the System of Natural Areas and of each natural area listed in the Registry of Natural Areas
- (n) Receive gifts, grants, donations, fee conveyances, or transfers of money and property and sell or dispose of such property
- (o) With the advice and consent of the Arkansas Legislative Council and the Governor, acquire real property for the purpose of trade or exchange, and exchange such property for lands to be included in the Natural Area System
- (p) Cause articles of dedication to be recorded in each county wherein any portion of the property affected by the articles shall lie
- (q) Establish by rule and operate a system of fees to defray the expense of providing research services to users of the heritage data system
- (r) Survey, evaluate, and assess rivers to be considered for designation as components of the Arkansas Natural and Scenic Rivers System
- (s) Recommend to the General Assembly rivers to be considered for entry into the Natural and Scenic Rivers System
- (t) Contract for professional services with any agency or private individual or organization for the proper performance of its functions with respect to natural and scenic rivers
- (u) Organize, establish, and serve on an advisory committee for each river considered for recommendation
- (v) Review water-related projects for their potential impacts on the Arkansas natural streams system

Section 2. Compliance with Statutes.

All procedures and all actions taken by the Commission will conform with the Arkansas Administrative Procedures Act (A.C.A. § 25-15-201 et seq.) and the Arkansas Freedom of Information Act (A.C.A. §§ 25-15-101 et seq.)

ARTICLE III

Public Information and Education

Section 1. Authority.

- (a) The Commission is empowered to publish and disseminate information and recommendations pertaining to Natural Areas and to the System of Natural Areas. (A.C.A. § 15-20-308 (7)).

- (b) The Commission is required to submit to the Governor and the General Assembly and to publish, on or before December 1 of each year, a report which describes and accounts for the status and condition of each portion of the System of Natural Areas and of each natural area listed on the Registry of Natural Areas. (A.C. A. . § 15-20-308 (11).

Section 2. Annual Report.

The Commission shall publish an annual report on or before December 1 of each year and post the report on the agency's Web site.

Section 3. Access to Information.

Information about the Commission and its activities is provided to anyone requesting it. Interested persons may find answers to many questions about the Natural Heritage Commission from its Web site or by making contact with the Commission's staff at

1500 Tower Building
323 Center Street
Little Rock, Arkansas 72201
(501) 324-9619

Charges are assessed for certain kinds of information (see ARTICLE XI, Sec. 4).

ARTICLE IV

Members

The Arkansas Natural Heritage Commission shall consist of fifteen (15) members (A.C.A. §§ 15-20-305), as follows:

Section 1. Members Appointed by the Governor

Nine (9) members appointed by the Governor from persons with an interest in the preservation of natural areas, with two (2) members appointed from each congressional district and one (1) member appointed from the state at large. Of these,

- (a) One (1) member of the commission shall be a member of the board of directors of a levee or drainage district.
- (b) One (1) member shall be chosen from a list of five (5) persons jointly nominated by the Arkansas Farm Bureau Federation, the Arkansas Farmer's Union, and the Arkansas Agricultural Council.

- (c) One (1) member shall be chosen from a list of five (5) persons nominated by the Arkansas Wood Products Association.
- (d) One (1) member shall be chosen from a list of five (5) persons nominated by the Arkansas Wildlife Federation.
- (e) Any successor appointments and appointment to vacancies on the commission shall be appointed in the same manner.

Section 2. Terms of Members Appointed by the Governor

- (a) Members appointed by the Governor shall serve terms of nine (9) years and shall serve until their successors have been appointed and qualified.
- (b) When an appointment is made to fill a member vacancy, the appointment shall be for the remaining term of the position vacated.
- (c) A member of the commission appointed by the Governor who has served two (2) consecutive full terms shall not be eligible for reappointment for a period of one (1) year following the expiration of the second full term.
- (d) Members of the commission appointed by the Governor shall be subject to confirmation by the Senate.

Section 3. Other Members

- (a) Three (3) members shall be appointed by the Speaker of the House of Representatives to serve at the pleasure of the Speaker.
- (b) Three (3) members shall be appointed by the President Pro Tempore of the Senate to serve at the pleasure of the President Pro Tempore.

Section 4. Compensation.

- (a) Members of the Commission shall serve without compensation, except that they may receive expense reimbursement and stipends in accordance with A.C.A. § 25-16-901 et seq.
- (b) In addition to the per diem, for each mile in traveling from their homes and returning, members may be paid a mileage allowance equal to the rate prescribed for state employees.

Section 5. Attendance.

- (a) Any member who shall be absent from three (3) successive regular meetings, without attending any intermediary called special meetings, shall be subject to removal in the event he or she fails to present to the Governor a satisfactory excuse for such absence. In that event, such unexcused absence shall be forthwith certified to the Governor by the Commission, pursuant to A.C.A. § 25-16-804.
- (b) Any member referred to the Governor because of excessive absences shall not be entitled to any per diem, stipend, or expense reimbursement for travel to or attendance at subsequent meetings until the member receives notice from the Governor that the member has been excused for the absences, pursuant to A.C.A. § 25-16-804 .

Section 6. Code of Ethics.

- (a) All members of the Commission shall comply with the Arkansas Code of Ethics Law (A. C. A. § 21-8-301 et seq.)
- (b) No Commission member shall use his or her position on the Commission to secure special privileges or exemption for him- or herself; his or her spouse, child, parents, or other persons standing in the first degree of relationship; or those with whom he or she has a substantial financial relationship, that are not available to others, except as may be otherwise provided by law, pursuant to the Arkansas Code of Ethics Law (A.C.A. § 21-8-301) or any successor act thereto.
- (c) No Commission member shall accept employment or engage in any public or professional activity while serving as a public official which he or she might reasonably expect would require or induce him or her to disclose any information acquired by him or her by reason of his or her official position which is declared by law or regulation to be confidential, nor shall any member disclose any such information gained by reason of his or her position, nor shall he or she otherwise use such information for his or her personal gain or benefit
- (d) Members shall disclose any personal or financial past, current, or anticipated interest concerning an item to be discussed and then may participate in the discussion.
- (e) Members shall abstain from any official action taken by the Commission concerning any item of business in which they have a conflict of interest.

ARTICLE V

Officers

Section 1. Officers and Duties.

- (a) The officers of the Commission shall be a Chairman, a Vice-chairman, and a Secretary. Officers shall perform the duties prescribed by these bylaws and by the parliamentary authority adopted by the Commission. Officers shall have general supervision of the affairs of the Commission between its regular meetings; fix the hour, place, and agendas of meetings; and make recommendations to the Commission. Officers shall be subject to the orders of the Commission, and none of their acts shall conflict with action taken by the Commission.
- (b) All officers shall be elected by ballot. Ballots shall be dispensed with by unanimous vote when there is but one candidate for office.
- (c) Chairman: The Chairman of the Commission shall be chosen by the voting members of the Commission. The Chairman shall preside at meetings, may join in debate, and shall vote on all questions. On roll call votes, the Chairman's name shall be called last.
- (d) Vice-chairman: The Vice-chairman of the Commission shall be chosen by the voting members of the Commission. The Vice-chairman shall preside in the absence of the Chairman. If there is a vacancy in the Chairmanship, the Vice-Chairman shall become Chairman for the remainder of the term. If the Vice-Chairmanship becomes vacant, the Commission's members shall elect a new Vice-Chairman by ballot.
- (e) Secretary: At least seven (7) days before the date of each meeting the Secretary shall send to members and legislative advisors of the Commission a copy of the minutes of the previous meeting. The Secretary shall record the minutes of each meeting, notify members of meetings as provided in Article VI, Section 4 hereof, record the votes on all motions, be the custodian of the records of the Commission, and engage in correspondence on behalf of the Commission at the direction thereof. Within thirty (30) calendar days after each regular commission meeting, the Secretary shall notify the Governor in writing of any member who has been absent from three (3) successive regular meetings without attending any intermediary called special meetings. The notice to the Governor shall include a copy of all meeting notices and attendance records for the past year. The Secretary shall make available for public inspection all minutes, resolutions, and records of the Commission at all reasonable times. The Secretary may delegate these duties to the Commission Staff, but shall be responsible therefor. In the absence of the Secretary, a temporary secretary shall be appointed by the presiding officer of the meeting. If the office of Secretary becomes vacant, the Commission's members shall elect a new Secretary by ballot.

Section 2. Terms of Office.

Officers shall be elected once a year at the first meeting after January 14 and shall serve for a period of one (1) year or until their successors are elected. Officers may be elected to succeed themselves.

ARTICLE VI

Meetings

All meetings of the Natural Heritage Commission and of its committees shall be open to the public except as noted in A.C.A. § 25-17-208 and shall in all other respects comply with the Arkansas Freedom of Information Act.

Section 1. Regular Meetings.

The Commission shall meet in regular session on a date set by the Commission at least once during each quarterly period, and shall meet in special session as often as the Commission's business may require, pursuant to A. C. A. § 25-17-208. The Secretary shall provide written notice of each meeting to every member of the Commission.

Section 2. Special Called Meetings.

The Commission shall meet on call of the Chairman or upon request of three (3) or more members of the Commission, such call to be filed with the Secretary not less than ten (10) days before the date of the meeting. The purpose of the meeting shall be stated in the call.

Section 3. Emergency Voting.

When timing of a decision is critical, the Chairman or acting chairman may arrange a telephone conference call for the purpose of taking a vote, provided that the public and the news media are advised in advance and given the opportunity to participate in accordance with provisions of the Arkansas Freedom of Information Act (A.C.A. § 25-19-106). The purpose of the conference call shall be stated in the meeting notice, and action taken by the Commission during the call shall be limited to the announced purpose. Such a conference call may include a presentation of information, questions and answers, and discussion. Participation in the call may also include the director of the Natural Heritage Commission and such other persons as the Chairman may designate.

Section 4. Quorum and Action Taken.

- (a) Eight (8) members of the Commission shall constitute a quorum.
- (b) All action taken by the Commission shall be by affirmative vote of a majority of the fifteen (15) members of the Commission.
- (c) Every member present when a question is stated by the presiding officer shall vote thereon unless excused by the members present because of personal interest in the question; if so excused, he or she shall not vote.
- (d) At the request of any two members, a roll call vote shall be taken on any question.
- (e) Whenever a person or delegation presents a request in a meeting of the Commission, at the Commission's discretion, action on that request may be deferred to the next meeting.

Section 5. Committee Meetings.

Committee meetings may be called by the respective chairmen of each committee. Decisions may be made by a majority vote of the committee members.

ARTICLE VII

Parliamentary Authority

The rules contained in the most recently published edition of *Robert's Rules of Order* shall guide the Commission in all cases to which they are applicable and in which they are not inconsistent with law, with these bylaws, or with any special rules of order the Commission may adopt.

ARTICLE VIII

Committees

The Chairman shall appoint committee members for standing or ad hoc committees as the Commission or Officers shall from time to time deem necessary for conducting the work of the Commission.

ARTICLE IX

Suspension of Rules

Any provision of these bylaws may be suspended or waived by affirmative vote of eight (8) members of the Commission to adopt a motion that sets out the circumstances necessitating such action.

ARTICLE X

Fiscal Procedures

Section 1. Fiscal Year.

The Commission shall operate on the State of Arkansas's fiscal year.

Section 2. Compliance with Other Laws.

Disbursement of funds shall be limited to the appropriation to the Commission and funds made available by law for support of the Commission's appropriation. In disbursement of funds the Commission shall comply strictly with the restrictions of the fiscal control laws of the State of Arkansas where applicable and regulations promulgated by the Arkansas Department of Finance and Administration as authorized by law. Contracts for any professional or consultant services shall be subject to the restrictions for state contracts.

Section 3. Auditing.

The financial operations of the Commission shall be subject to auditing by the staff of the Arkansas Bureau of Legislative Audit.

ARTICLE XI

Research

Section 1. Authority.

- (a) The Commission is to conduct research and investigation and to publish and disseminate information and recommendations pertaining to Natural Areas and to the system. (A.C.A. § 15-20-308 (7)).
- (b) The Commission shall maintain an inventory of habitats of rare, vanishing, or endangered species, subspecies, or populations of plants and animals, and other records of natural areas. (A.C.A. § 15-20-308 (6) (B)).
- (c) The Commission also shall survey, evaluate, and assess the rivers to be considered for designation as components in the Arkansas Natural and Scenic Rivers System (A.C.A. § 15-23-308).

Section 2. Inventory.

For practical reasons, the Commission relies on its staff to maintain an extensive inventory of elements of natural diversity in the state of Arkansas. It has adopted the natural heritage data system used by the international network of Heritage Programs and Conservation Data Centers for organizing its inventory data. The primary purpose of the inventory is to aid the Commission in making sound land-protection decisions.

Section 3. Data Sharing.

The Commission shares inventory information with all who need it for educational purposes, for research, and for planning economic development, in accordance with the policy of the State of Arkansas, “to strike a proper balance among population growth, economic development, environmental preservation, and ecological diversity” (A.C.A. § 15-20-302).

Section 4. Fees for Data Research.

- (a) The Commission shall establish by rule and operate a system of fees or special charges to defray a portion of the expense of providing research services to users of the natural heritage data system (A.C.A. § 15-20-317). Any and all moneys so collected shall be used solely for the purpose of carrying out the provisions of A.C.A. § 15-20-308 (A.C.A. § 15-20-318) and shall be placed in an account created specifically for the continuing operation of the natural heritage data system (A.C.A. § 15-20-319).
- (b) The fee schedule adopted by the Commission is as follows:

FEES FOR DATA RESEARCH

Data user	for staff time	per-record charge
agencies of government, 501(c)(3)-qualified not-for-profit organizations, and students engaged in completing their assignments	no charge for the first two hours of any project; thereafter, \$30.00/hour or fraction of an hour	no charge for the first 20 records; thereafter, \$1.50/record
all other organizations, offices, and individuals	\$30.00/hour or fraction of an hour	\$1.50/record

- (c) Notwithstanding the schedule of fees detailed above, the Director of the Natural Heritage Commission is authorized to enter into fixed-price contracts to provide services that go beyond retrieval of data already on hand. In such cases the fee will be determined through negotiation. The Director of the Natural Heritage Commission is authorized also to negotiate agreements to supply data/information in exchange for data/information.

- (d) When requested, the Natural Heritage Commission’s staff will provide an estimate of cost prior to initiating research services. Prepayment is not required; invoices normally are sent with the data for which the charge is made.
- (e) Prospective users of the Commission’s data services should address requests to the Director. Letters should state how the information will be used and when the information is needed and should include a copy of a map delineating project boundaries (USGS 7.5’ topographic if possible). Typically, a two-week turn-around period is required; but larger jobs take longer.

ARTICLE XII

Approval for Acquisition of Land or Interests in Land

Section 1. Authority.

- (a) The Commission is to acquire, by purchase, gift, devise, grant, dedication, as hereinafter defined, or otherwise, the fee or other interest in real property for inclusion in the system.” (A.C.A. § 15-23-308 (2))
- (b) The Commission has authority at its discretion either to retain fee title or to convey said title to such other agency or department of state government as the Commission may select. (A.C.A. § 15-20-308 (2)).
- (c) The Commission is authorized, with the advice and consent of the Arkansas Legislative Council and the Governor, to acquire, by purchase or otherwise, real property for the purpose of trade or exchange, and to trade or exchange any such property acquired for lands to be included in the Natural Area System. However, the Commission shall exercise this power in such manner that any and all property acquired for the purpose of trade or exchange shall in fact be traded or exchanged forthwith and without delay. (A.C.A. § 15-20-309).
- (d) The Commission has the authority to purchase or receive by gift, devise, grant, or dedication conservation easements in real property for the protection of rivers and streams in the state (A.C.A. § 15-23-309).

Section 2. Limitations.

- (a) No acquisition of lands, waters, or any interests therein, whether by dedication or otherwise, shall become effective until after the Governor shall have received thirty (30) days notice in writing. (A.C.A. § 15-20-310 (b)).

- (b) In any county in which thirty-three percent (33%) or more of the total acreage is publicly owned land, the Commission shall not purchase in excess of forty (40) acres per year, provided the Commission may purchase not to exceed forty (40) additional acres in any year in any such county if it first obtains approval of the Legislative Council (A.C.A. § 15-20-311 (a)). The Commission shall not under any circumstance purchase in excess of eighty (80) acres in any such county in any one (1) year unless specifically authorized to do so by legislation enacted by the General Assembly at a regular or special session. (A.C.A. § 15-20-311 (b)).

Section 3. Disposition of Interests in Real Property.

The Commission shall — after due consideration of the particular characteristics of a natural area, the type and extent of management required to maintain that area in its natural condition, the types and extent of activity permissible which are consistent with the preservation of natural heritage, and other factors relating to conservation — retain fee title or convey that title to such agency or department of the state as it may select (A.C.A. § 15-20-308 (2)).

Section 4. Preliminary Approval.

- (a) Each area of land proposed for acquisition shall be examined and described to members of the Commission and advisors by a person or persons designated by the Commission. After discussion, the Commission shall be asked to grant preliminary approval for acquisition, based on the preservation value of the tract in question.
- (b) If after receipt of a preliminary report, the Commission finds that a tract is suitable for acquisition, it shall adopt a resolution giving preliminary approval to proceed toward acquisition.
 - 1) Such resolution shall include an approximate legal description of the tract but need not refer to precise boundaries or to possible terms of acquisition.
 - 2) The Commission's approval for submission of a grant application that names the tract in question or a group of tracts in which it is included may constitute preliminary approval.
 - 3) Adoption of a resolution granting preliminary approval shall not bind the Commission to any further action.

Section 5. Notification to the Governor.

The Commission shall notify the Governor of its intent at least thirty (30) days before the acquisition of land or interest in land shall become effective, and this notification shall be in writing.

Section 6. Final Approval.

- (a) A written report will be required by the Commission for consideration of final approval for acquisition of land or interests in land. The report shall include the following information:
 - 1) Legal description
 - 2) Location of the tract in relation to the nearest city or town
 - 3) Relation of the tract to the natural division of the State of Arkansas in which it occurs and a description of the tract's preservation value in relation to that natural division and to the state in general
 - 4) Information about ownership
 - 5) A description of the general character and condition of the tract, including its natural features, the degree of disturbance, its relation to adjoining lands, and general proposals for custody and management
 - 6) An acquisition summary that documents the monetary value, terms of acquisition (purchase agreement), access, clear title, and availability of funds
 - 7) Full description of any grant agreement or partnership agreement
 - 8) Confirmation of Governor's notification
- (b) Final approval shall be by roll call vote.

ARTICLE XIII

Articles of Dedication: Entry into the System of Natural Areas

Section 1. Authority.

- (a) Dedication is defined as the creation of a scenic, conservation, or environmental easement, to be vested in and legally enforceable by the Commission (A.C.A. § 15-20-312 (a)). Dedication may be donated or for consideration.
- (b) The Commission shall have the power to acquire, by purchase, gift, devise, grant, dedication, as hereinafter defined, or otherwise, the fee or other interest in real property for inclusion in the System (A.C.A. § 15-20-308 (b)).

- (c) The following categories of real property shall be eligible for inclusion in the System of Natural Areas: 1) areas representative of the various types of lands and habitats typical of those portions of the state still substantially untrammelled by the works of man; 2) areas of substantially undisturbed natural quality; 3) areas containing habitats for rare, vanishing, or endangered species, subspecies, or populations of animals or plants; 4) areas of unusual aesthetic or ecological quality along the banks of rivers, lakes, or streams; 5) areas in private ownership within the boundaries of national forests, wildlife refuges, state wildlife management areas, or similar publicly owned or administered areas; 6) swamps, overflow lands, flood plains, or wetlands of unusual aesthetic or ecological quality; 7) areas necessary or desirable to serve as buffer zones to protect other portions of the System; and 8) any other lands, waters, or interests therein listed in the Registry of Natural Areas (A.C.A. § 15-20-310).
- (d) The owner of fee title to certain real property, whether a private individual, private organization, or a public or government agency or department may impress such an easement upon his, her, or its property by executing and delivering to the Commission, with its consent, articles of dedication specifying the terms and conditions of the easement. (A.C.A. § 15-20-312 (c)).
- (e) Interests in land created by dedication shall be perpetual and may not be altered, changed, or modified except in accordance with the procedures set forth in Section 6 below. (A.C.A. § 15-20-314).

Section 2. Intent, Procedure, and Execution.

- (a) The strongest protection the Commission can give to land is that bestowed through the process of dedication. When the Commission itself acquires land for the purpose of placing it in the System of Natural Areas, it subsequently impresses articles of dedication and has them recorded. As the landowner in such a case, it is the Commission that executes the articles.
- (b) Approval of any articles of dedication shall be by a roll call vote.

Section 3. Recording.

Articles of dedication shall be in writing, under seal, and acknowledged. The Commission shall cause the articles to be recorded by the recorder of deeds in each county wherein any portion of the property affected by the articles shall lie (A.C.A. § 15-20-312 (d)).

Section 4. Effect of Dedication.

Interests in land created by dedication shall be perpetual and may not be altered, changed, or modified (A.C.A. § 15-20-314 (a)) unless specific conditions given in Sec. 6 below are met.

Section 5. Naming System Areas.

Naming areas in the System of Natural Areas shall be the responsibility of the Commission. The name of each natural area shall be determined at the time of dedication.

Section 6. Removing Land from the System.

Under extreme circumstances, lands dedicated into the System may be removed from it. The procedure for doing so is as follows:

- (a) First the Commission must find, after public notice and hearing, that the particular change, alteration, or modification is required by imperative public necessity, that there is no feasible and prudent alternative thereto, and that all possible planning has been done to minimize harm caused to the System thereby. (A.C.A. § 15-20-314 (a)). No portion of the Natural Area System may be alienated or encumbered, directly or indirectly, in whole or in part, except in accordance with procedures set forth in A.C.A. §§ 15-20-314 and 15-20-315.
- (b) At least thirty (30) days written notice of any such hearing shall be given to the Governor; to each official advisor to the Commission; to each member of the General Assembly; and to each person, organization, or entity that shall have requested notice. (A.C.A. § 15-20-314 (b)).
- (c) Any finding made by the Commission as a result of such a hearing shall be subject to judicial review under the Arkansas Administration Procedure Act, as amended. (A.C.A. §§ 25-15-201 and 15-20-314 (c)).
- (d) No such alteration, change, or modification of any interest created by dedication shall become effective until the next regular session of the General Assembly following the fulfillment of this section shall have adjourned sine die (A.C.A. § 15-20-314 (d)).

ARTICLE XIV

Stewardship of the System of Natural Areas

Section 1. Authority.

- (a) The Commission shall establish and, from time to time, amend such policies, rules, and regulations for the selection, acquisition, management, protection, and use of the System as it may find necessary or appropriate to preserve the lands or interests in land acquired under that law. (A.C.A. § 15-23-308 (4)).
- (b) These policies, rules, and regulations shall prevail, in the event of conflict, over any policies, rules, regulations, and practices of any agency or department that may receive title to any portion of the system. (A.C.A. § 15-20-308 (4)).

- (c) The Commission shall have the authority to promulgate rules and regulations establishing policies governing the use and protection of natural areas (A.C.A. § 15-20-502 (1)).

Section 2. Plans and Records

Records shall be kept for each Natural Area.

- (a) A Management Plan shall be developed for each property within the System of Natural Areas. The Management Plan shall set forth in detail the purpose, character, resources, management, and other considerations for the protection and use of the specific Natural Area. The Management Plan shall consist of text and maps. The form and method of administration and stewardship of the Natural Area is explained in the Management Plan.
- (b) Each management plan and all plan revisions shall be reviewed by a peer committee made up of one (1) member of the Commission appointed by the Chairman, and at least two (2) representatives from the following groups:
 - 1) a conservation-related agency of state government;
 - 2) a conservation-related agency of federal government;
 - 3) a private conservation organization;
 - 4) a researcher or recognized authority in a related field from a college or university.
- (c) The management plan and plan revisions will be distributed to the peer review committee for a thirty (30) day comment period. At the end of the review period, staff of the Natural Heritage Commission will compile a summary report of all comments received and note any changes made to the plans as a result of these comments.
- (d) A summary of the original management plan and/or all revised management plans will be presented to the Commission for review and approval.
- (e) Each management plan shall be re-evaluated at least once every three years.
- (f) Site Assessment Reports document the condition of the Natural Area, management needs, management/stewardship activities and accomplishments, natural catastrophes, and other influences affecting natural conditions within each natural area. Site Assessment Reports will be maintained by the staff of the Natural Heritage Commission and retained with the Natural Area Records.

Section 3. General Rules and Regulations.

- (a) Within the System of Natural Areas, there shall be no intrusions of structure, easements, rights of way, or land use, which do not conform with the Management Plan.
- (b) Defacement, destruction, or removal of signs, gates, fences, barricades, and other effects of the Commission is prohibited in Natural Areas.
- (c) Boundary Markers shall be posted at intervals specified in the Management Plan.
- (d) Vehicle Use
 - 1) Vehicles may not be operated off-road within a Natural Area except for management purposes authorized by the Staff of the Commission in accordance with the Management Plan.
 - 2) Access lanes for motorized vehicles will be established and maintained within a Natural Area where essential for public access, management or research activities in accordance with the Management Plan, or for fire control.
- (e) Littering
Dropping, discarding, or otherwise disposing of litter on Natural Areas is prohibited.
- (f) Use of Fire
No fires shall be set or spread within Natural Areas, except for management purposes authorized by the Staff of the Natural Heritage Commission in accordance with the Management Plan.
- (g) Collection and Removal Activities
Removal, alteration, or consumptive use of any material, product, or object from a Natural Area is prohibited, with the following exceptions:
 - 1) Permits for Research or Education Activities
A person or persons wishing to engage in research or educational activities in a Natural Area otherwise not permitted by these rules shall secure a permit approved by the staff of the Commission. Each permit shall contain provisions and restrictions necessary to comply with the Management Plan.

A person holding the permit shall report to the Staff before commencing and upon completing the permitted activities.

2) Public Hunting

For those Natural Areas where public hunting is permitted:

- a) Notification shall be listed annually in the Arkansas Game and Fish Commission’s hunting regulations publication.
- b) Game animals may be removed, subject to Arkansas Game and Fish Commission Regulations and other rules specified herein.
- c) No off-road motorized vehicles may be utilized for hunting.
- d) No signs, notices, structures, buildings, etc. may be erected
- e) The use of hunting dogs is prohibited

(h) Prohibited Public Hunting

For those Natural Areas where public hunting is prohibited, notification shall be conspicuously posted at the entrance(s) to the Natural Area.

Public hunting is prohibited on the following Natural Areas (NA):

Baker Prairie	Konecny Grove
Bear Hollow	Konecny Prairie
Big Fork Creek	Logoly
Byrd Lake	Lorance Creek
Cave Springs Cave	Louisiana Purchase
Chalk Bluff	Mills Park
Cossatot River	Pine Hollow
Dardanelle Rock	Searles Prairie
Gap Creek	Striplin Woods
Holloway Memorial	Taylor Woodlands

(i) Closing Hours

Closing hours for a Natural Area may be established in accordance with the Management Plan, and shall be conspicuously posted at the entrance(s) to the Natural Area.

Section 4. Enforcement and Penalties.

- (a) Any person violating any of the rules or regulations promulgated by the Commission shall upon conviction be fined not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250.00) or imprisoned for not less than ten (10) days nor more than thirty (30) days for each and every offense. (A.C.A. § 15-20-502 (b)).
- (b) Any law enforcement officer shall have the right to issue citations and to apprehend persons detected violating any rules or regulations promulgated by the Commission for use and protection of natural areas and to take offenders before any court having jurisdiction in the county where the offense is committed. (A.C.A. § 15-20-502 (c))

- (c) By Memorandum of Agreement, the Arkansas Game and Fish Commission agrees to enforce standard Wildlife Management Area regulations on Natural Areas, including access by motorized vehicles, littering and timber cutting.
- (d) The Director may apply to the chancery court of any county in which a violation of this subchapter is occurring or in which the Director has reasonable cause to believe a violation of this subchapter is about to occur, and that court shall have jurisdiction to grant a temporary or permanent injunction restraining any person from violating this subchapter without requiring the Director to post bond during the pendency of this action. (A.C.A. § 15-20-502 (d)).
- (e) In addition to criminal penalties set forth above, any person who violates any rules or regulations promulgated by the Commission or who causes such violation by his employee or agent shall be liable for a civil penalty of five hundred dollars (\$500.00) or triple the value of the damages caused, whichever is greater, such penalty to be recovered in an action brought by the Attorney General or the Commission's attorney in the proper circuit court. The penalty shall be used to restore the Natural Area or to secure the preservation of similar areas. (A.C.A. § 15-20-502 (e)).

ARTICLE XV

Property Acquired for Purposes other than the System of Natural Areas

The Commission may acquire an interest in real property less than fee for purposes other than entry in the System, including environmental or scenic easements. (A.C.A. § 15-20-308) These purposes include but are not limited to wetland conservation easements, access easements, riparian easements, leases, and buffer lands.

Section 1. Wetland Conservation Easements.

- (a) **Purpose**
In recognition of the high degree of interrelation between individual parcels of land in wetland ecosystems, the Commission administers a program for acquiring wetland conservation easements. By entering wetland conservation easements, the Commission is able to maintain the hydrological relationships that are essential for preservation of the wetland ecosystem.
- (b) **Terms**
The terms of wetland conservation easements are perpetual, but they are otherwise less restrictive than those of conservation easements that dedicate land into the System. Trees may be harvested for any purpose, including commercial timber production on a sustained yield basis, in accordance with a plan prepared in consultation with a registered forester and approved by the Commission. No hydrologic modifications are allowed.

- (c) Procedures
 - 1) The Commission issues a “Request for Written Proposal” advertisement in a Statewide Newspaper that identifies area of interest.
 - 2) Commission staff conducts an ecological assessment of each proposed tract.
 - 3) Proposals are rated based on ecological values for the ecosystem as identified in the “Request for Written Proposals”, and related to the proposal’s cost per acre.
 - 4) Once the price per acre is established, it may be applied to other tracts of land within the same ecosystem project.

Section 2. Other Single Purpose Easements.

- (a) The Commission acquires access easements whenever necessary to connect lands purchased for other purposes to nearby public roads and to use for developing parking facilities.
- (b) The Commission has specific authority to purchase or receive by gift, devise, grant, or dedication conservation easements in real property for the protection of rivers and streams. (A.C.A. § 15-23-309). These easements are known as riparian easements.

Section 3. Leases.

The Commission purchases leases on property that it deems to have sufficient conservation value if the property is not for sale and if a perpetual easement cannot be acquired.

Section 4. Buffer Lands.

Where appropriate, the Commission acquires land not in a natural condition to serve as buffer for protection of adjacent land acquired for the System. (A.C.A. § 15-20-310 (a)(7)).

Section 5. Procedure for Approval.

The approval process for acquiring such interests in land is the same as that outlined for Natural Areas in Article XIII, Sections 5, 6, and 7.

ARTICLE XVI

Stewardship of Property Acquired for Purposes other than the System of Natural Areas

Section 1. Authority.

Wetlands conservation easements, riparian easements, and leases all require periodic monitoring for compliance with the terms under which the Commission holds its interests. Access easements and buffer lands are held for particular benefits to the Natural Areas to which they are applicable, and the Commission's parameters for maintaining them are spelled out in the monitoring plans for non-system properties. (A.C.A. § 15-20-409 (c)).

Section 2. Plans and Records.

- (a) Records shall be kept for each location/property.
- (b) A Monitoring Plan shall be developed for each location/property. The Monitoring Plan shall set forth in detail the purpose, character, resources, management, and other considerations for the protection and conservation of the specific location/property. The Monitoring Plan shall consist of text and maps. The form and method of administration and monitoring is explained in the Monitoring Plan.
- (c) Site Assessment Reports document status and compliance with the Monitoring Plan. Site Assessment Reports will be maintained by the Staff of the Natural Heritage Commission.

ARTICLE XVII

Designation of a River: Entry into the Natural and Scenic Rivers System

Section 1. Authority.

A.C.A. § 15-23-311 establishes procedures which the Arkansas Natural Heritage Commission shall follow to submit a river to the Arkansas General Assembly for designation as a component in the Arkansas Natural and Scenic Rivers System.

Section 2. Classification.

Following is the classification and evaluation system for determining the priority of rivers to be considered for inclusion in the Natural and Scenic Rivers System (A.C.A. § 15-23-303).

- (a) “Natural river” means those rivers or sections thereof that are generally free from man-made impoundments and may have primitive, undeveloped roads, whose lands are essentially primitive, with a minimal level of human disturbance. The water shall have the use classification AA according to the 1976 Arkansas water quality inventory report by the Arkansas Department of Environmental Quality.
- (b) “Scenic river” means those rivers or sections thereof that are largely free of impoundments. Their shorelines may have a moderate amount of human disturbance which does not substantially interfere with the public use, or fish and wildlife, natural vegetation, or water quality of the river.
- (c) “Pastoral river” means those rivers or sections thereof which are readily accessible, have some housing or other development near their shorelines, have preexisting impoundments that do not substantially alter the character and quality of the stream, partially or predominantly flow through agricultural areas, and have the use classification B according to the 1976 Arkansas water quality inventory report.

Section 3. Procedures for Designation.

- (a) The Commission shall decide, based upon the classification and evaluation system, the priority of rivers for inclusion in the Arkansas Natural and Scenic Rivers System. (A.C.A. § 15-23-311(1)).
- (b) After selection of a river, the Commission, with the advice of the local county government through which the river flows, shall establish a river designation advisory committee pursuant to A.C.A. § 15-23-311 (2).
- (c) After a management plan has been developed, the Commission shall conduct a public hearing for its review. (A.C.A. § 15-23-311 (3) (A)).
- (d) The Commission shall submit to the General Assembly a report on the proposed river designation. The report shall include the proposed area (river segment) and the river’s classification, the characteristics which qualify the river for inclusion in the system, the general ownership and land use in the area, and the management plan approved by the Natural Heritage Commission. (A.C.A. § 15-23-311 (4)(A)).
- (e) The report shall be made available to other concerned agencies for comment. (A.C.A. § 15-23-314 (B)).
- (f) A river or river segment may be included in the Arkansas Natural and Scenic Rivers System by the General Assembly’s enacting its management plan into law. (A.C.A. § 15-23-311 (5)).

Section 4. River Designation Advisory Committee.

(a) Members

- (1) Three (3) members from the Arkansas Natural Heritage Commission appointed by the Commission Chairman to represent the state at large.
- (2) Five (5) members who are residents of the river area and appointed by the local quorum court, at least three (3) of whom must be riparian landowners.
- (3) If the river flows through more than one (1) county, four (4) members shall be appointed by each county quorum court. At least three (3) of the local residents of the four (4) appointed from each county shall be riparian landowners.

(b) Chairman

The committee shall elect a chairman from among its members.

(c) Duties

The committee shall assist and advise the Commission concerning plans for managing and protecting the river, including development of a management plan.

(d) Scheduling Meetings

The committee shall serve at the call of the Natural Heritage Commission or on call of a majority of the members of the committee.

Section 5. Management Plan.

(a) Approval

- (1) The management plan developed by the committee shall be submitted to the quorum court of each county through which the river flows. If the court fails to take action within three (3) months from the date when the plan was submitted, the plan or portions thereof not acted upon by the court shall be deemed to have been approved. (A.C.A. § 15-23-312)).
- (2) The management plan also must be approved by the Arkansas Natural Heritage Commission before submission to the General Assembly. (A.C.A. § 15-23-311 (4)(A)).

- (b) Date of Effect

The management plan shall not be effective until enacted into law by the General Assembly. (A.C.A. § 15-23-311 (5)).

Section 6. Monitoring.

Periodic assessments for compliance with the classification criteria for inclusion in the System of Natural and Scenic Rivers will be accomplished by site visits (with landowner approval) and information maintained in the inventory of elements of natural diversity by the Commission's staff.

ARTICLE XVIII

Registry of Natural Areas

Section 1. Authority.

- (a) The Commission maintains a registry or inventory of lands and waters in the state, whether publicly or privately owned, that retain their primeval character to a substantial degree or that have floral, faunal, ecological, geological, or archaeological features of significant scientific, educational, or recreational interests. The registry, to be known as the Registry of Natural Areas, maintains an inventory of habitats of rare, vanishing, or endangered species, subspecies, or populations of plants and animals, and other records. (A.C.A. § 15-20-308 (6)).
- (b) The Commission accounts in its annual report for the status and condition of each natural area on the Registry. (A.C.A. § 15-20-308 (11)).

Section 2. Limitations.

The Commission shall have no regulatory jurisdiction over lands or interests not actually acquired for the System of Natural Areas. (A.C.A. § 15-20-308 (6)).

Section 3. Procedure.

- (a) At the meeting held October 13, 2000, the Natural Heritage Commission defined that the Registry of Natural Areas would consist of the list of special species and their locations that is contained in the inventory information maintained by the Commission's staff.
- (b) The Registry of Natural Areas is published in the Commission's annual report in the form of county lists of elements of special concern.

ARTICLE XIX

Collaboration

Section 1. Authority.

The Commission shall have the right, power, and duty to cooperate and contract with any federal, state, or local government agency, private organization, or individual. (A.C.A. § 15-20-308).

Section 2. Procedure.

(a) Cooperative Management Agreements (System of Natural Areas)

- 1) The staff of the Arkansas Natural Heritage Commission may propose Cooperative Management Agreements for the conservation and stewardship of properties included in the System of Natural Areas.
- 2) Each proposed Cooperative Management Agreement shall be presented in writing to the Commission for approval.

(b) Cooperative Agreements (Not related to the System of Natural Areas)

- 1) Through Cooperative Agreements, the Commission may promote conservation of natural diversity on lands not included in the System of Natural Areas.
- 2) The Cooperative Agreement shall specify the commitment of Commission staff time and other resources.
- 3) Each Cooperative Agreement shall be presented in writing to the Commission for approval.

ARTICLE XX

Amendment of Bylaws

These bylaws may be amended at any regular meeting of the Commission by affirmative vote of eight (8) members of the Commission provided that the amendment has been submitted in writing to all members of the Commission at the previous meeting. The Commission will follow the procedures specified in the Arkansas Administrative Procedure Act (A.C.A. § 25-19-102) for adoption of amended bylaws.

All previous bylaws are revoked and replaced by these bylaws.

ARTICLE XXI

Severability

If any part of these bylaws or any application thereof shall be held invalid, the remainder hereof shall nevertheless be and remain in full force and effect.