

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

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

Name of Agency Arkansas Department of Health

Department Environmental Health Services

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Statutory Authority for Promulgating Rules § 20-7-109 et seq.

Rule Title: Rules Pertaining to Septic Tank Cleaning

Intended Effective Date

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☐

Emergency (ACA 25-15-204)

Legal Notice Published .....

Date  
9/4/19

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8/1/19

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Laura Shue

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9/18/2020

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

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

Signature

501-661-2297

Phone Number

Laura.Shue@arkansas.gov

E-mail Address

General Counsel

Title

9/18/2020

Date

**A Revision To:**

**The Rules Pertaining To Septic Tank Cleaners Promulgated**

**under the authority of:**

**Act 71 of 1973 as amended**

Ark. Code Ann. § 17-38-101, et seq.

and

**Act 96 of 1913**

Ark. Code Ann. § 20-7-101, et seq.

Effective Date:  
September 28, 2020

RULES PERTAINING TO SEPTIC TANK CLEANING OPERATIONS WITHIN THE STATE  
OF ARKANSAS

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AUTHORITY

The following Rules Pertaining to Septic Tank Cleaning Operations Within the State of Arkansas are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the laws of the State of Arkansas including, Act 71 of 1973 as amended (Ark. Code Ann. § 17- 45-101-105) and Act 96 of 1913 (Ark. Code Ann. § 20-7-101, et seq.).

SECTION I. DEFINITIONS

For the purpose of these Rules, the following terms are defined:

A. APPROVED. Acceptable to the Department following a determination of compliance with appropriate public health and environmental standards.

B. AUTHORIZED AGENT. The Environmental Health Specialist assigned to the County Business Unit by the Department.

C. BOUND RECORD. A tamper resistant book with numbered, non-removable pages with entries made with indelible ink.

D. THE DEPARTMENT. The Arkansas Department of Health or its authorized agent.

E. EQUIPMENT. All tanks, devices, tools and implements used in the cleaning or pumping of septic tanks, holding tanks, marine sanitation devices, portable toilets, or other sewage handling facilities.

F. HOLDING TANK. A septic tank, marine sanitation device, portable toilet, or other device used for the temporary storage of untreated human waste.

G. LAND APPLICATION. A method of septage disposal utilizing either surface spreading, subsurface injection, burial or other process approved by the Department.

H. LICENSEE. The licensed owner or operator of a business, firm, or corporation engaged in the business of cleaning septic tanks, marine sanitation devices, portable toilets, and or the transporting of septage or sewage.

I. MARINE SANITATION DEVICE. Any device on board a vessel designed to retain, treat, or discharge human body waste.

J. PORTABLE TOILET. Any equipment used to receive and retain human waste prior to its delivery to a sewage treatment facility.

K. PUMPER VEHICLE. Any truck, trailer, boat, tank or combination there of used to transport septage or sewage.

L. SCUM. The partially submerged mat of floating solids that forms at the surface of septic tanks or sewage handling facilities.

M. SEPTAGE. The liquid, scum and sludge from a septic tank or sewage handling facility excluding biosolids from a municipal or publicly owned treatment facility.

N. SEPTIC TANK CLEANER. Any person, firm, corporation or association which cleans septic tanks, marine sanitation devices, portable toilets, or transports septage or sewage within the State of Arkansas.

O. SEWAGE. The contents of holding tanks, marine sanitation devices, portable toilets, or other tanks used for the storage of human waste.

P. SLUDGE. The accumulation of settled, solid material in the bottom of a septic tank or sewage handling facility.

## SECTION II. COMPLIANCE

No person, firm, corporation, partnership or association shall be engaged in the business of septic tank cleaning or the transportation of septage or sewage for compensation, unless they are in compliance with these rules.

## SECTION III. EQUIPMENT SPECIFICATIONS

A. Tanks. The minimum tank size for tank pumper vehicles is 1000 gallons. Portable toilet cleaning vehicles and marine cleaning vessels are exempt from the 1000 minimum size requirement. All tanks used for the transportation of septage or sewage shall be constructed of metal throughout that is welded, water tight and splash-proof. The firm or owner's name, license number, and the capacity of the tank shall be shown conspicuously on each side of the tank in letters at least 4 inches in height. Some type of gauge or measuring device shall be provided on each tank to adequately measure the contents of the tank at varying depths. Before the initial

licensing, a certified weight slip shall be filed with the Department showing the weight of the empty tank and also the weight of the tank when full of water. Any changes or modifications to the tank shall require the submission of current weight slips to the Department.

B. Pumps. Pumps utilized for cleaning septic tanks or sewage treatment facilities shall be adequate to lift the scum, sludge and liquid contents of the septic tank into the tank pumper vehicle. Pumps shall be so constructed that there is no leakage, spillage or splashing onto the outer surfaces of the tank or equipment. A tight metal hood shall be provided over the pump on all diaphragm or similar types of open pumps.

C. Valves. A leak proof gate valve with a minimum of 2-1/2 inches in size shall be provided on each tank for the discharge of the contents while being emptied.

D. Hoses. A discharge hose compatible with the discharge valve shall be provided for each vehicle. This hose shall have sufficient length to discharge into a manhole or near the ground surface when land application is utilized. The hoses used to pump the contents of septic tanks or holding tanks shall be of an adequate length and have the proper fittings to preclude spillage or leakage.

E. Racks. All racks used for the carrying of equipment on the vehicle shall be made of metal. All parts of the truck and equipment shall be easily cleanable. No pockets shall be permitted where accumulation of septage or sewage may result.

F. Marine cleaning vessels. Vessels designed and licensed to pump and transport marine wastes shall be equipped with a welded, leak and splash-proof tank constructed of metal or other approved material. All hoses, valves and fittings shall be designed and used in a manner that prevents the leakage or spillage of marine wastes into the environment. Each marine cleaning vessel shall be equipped with or provided with the necessary pumps, hoses, valves, fittings, and other devices necessary to transfer the marine wastes to the land vehicle or facility where the marine wastes will be transported to the receiving sewage treatment plant.

G. Portable toilet cleaning vehicles. Vehicles used for the cleaning and maintenance of portable toilets shall be equipped with a welded, leak and splash-proof metal tank for the transport of waste to the receiving treatment facility. The vehicle shall also be equipped with separate tanks for wash down solution and disinfectant. Additionally, each portable toilet cleaning vehicle shall be provided with the hoses, brushes, and other equipment necessary to clean, service, and sanitize portable toilets.

#### SECTION IV. DISPOSAL

A. The disposal of sewage or septage by any method that violates any state or federal law or rule is strictly prohibited. The wastes from holding tanks, portable toilets, and marine sanitation devices shall not be land applied. These wastes shall be disposed of in a permitted and properly operated sewage treatment facility.

B. LAND APPLICATION DISPOSAL SITES. The land application of septage at any site not previously inspected, approved, and on file with the department shall be a violation of these

rules. To obtain approval for land application of septage, each site shall be inspected by an authorized agent prior to licensing. A notarized statement from the landowner granting permission for the land application of septage shall be obtained for each disposal site. The licensee shall furnish a legal description, topographical map, and vicinity map for each disposal site. The maps shall reflect pertinent information pertaining to the number of acres, GPS coordinates, the location and distance to property lines, nearby homes, roads, ditches, wells, utilities, gullies, streams and land use (cropland, pastures, etc.) relevant to septage disposal.

C. PROPER SEPTAGE DISPOSAL AT LAND APPLICATION SITES. Septage shall be evenly distributed across the site in a manner that prevents surface runoff, ponding, or the accumulation of septage more than one-inch in depth. To achieve even distribution, the vehicle applying the septage shall remain in motion and utilize a splash plate or other approved method of dispersal. There shall be no disposal within 1000 feet of any place of habitation; 500 feet of any public road; 25 feet of any rock outcrops or sink holes; 50 feet of property lines; 100 feet of streams, lakes, ponds, springs, wells or water supplies.

Options for the land application of septage include:

1. The pH of the septage shall be raised to a minimum of twelve (12) or higher by the addition of an alkali such as hydrated lime or quick lime, and without adding more alkali, the septage shall remain at a pH of twelve (12) or higher for not less than thirty (30) minutes prior to being land applied. OR
2. Septage shall be injected below the surface of the soil. When septage is injected below the surface of the soil, no significant amount of septage shall be present on the surface of that soil after one (1) hour. OR
3. Septage shall be evenly spread over the surface of the soil and incorporated into the surface of that soil within six (6) hours of application.

Septage shall not be applied in excess of the below described annual application rates for nitrogen and phosphorus.

1. During any 365-day period, the amount of domestic septage applied to a land application site shall not exceed the annual application rate calculated using the equation  $AAR = N \div 0.0026$ , where:

$AAR$  = Annual application rate in gallons per acre per 365-day period

$N$  = Amount of nitrogen in pounds per acre per 365-day period needed by the crop or vegetation grown

2. Annual septage land application shall not exceed the phosphorus rates for the crop or vegetation grown and shall not be applied in rates that result in phytotoxicity.

The septage being land applied shall be screened and shall contain no paper, plastic, or other solid material measuring more than one-half inch in any dimension. Grease and/or the contents of grease traps shall not be disposed of at any land application site approved under these rules.

Sites demonstrating a slope of 15% or greater are not suitable for land application. Land application shall be avoided when the soil is saturated, frozen, covered with snow, during rainy weather or when precipitation is in the immediate forecast. Licensees utilizing land application sites for the disposal of septage shall have available a storage tank sufficient to store the septage collected during periods when climatic conditions preclude land application. These tanks shall be provided with a spill containment berm.

Food crops with harvested parts above the ground surface shall not be harvested for fourteen (14) months after the last application of septage. Food crops with harvested parts that are at or below the ground surface shall not be harvested for thirty-eight (38) months after the last application of septage. At approved application sites, human contact shall be restricted for 30 days after application, and no grazing or harvesting of hay, silage or grain shall commence for 60 days.

For each land application site, the licensee shall maintain a permanent, bound site application record indicating each application of septage, the volume of septage applied, the date it was applied, the crop to which it was applied, a description of the vector and pathogen reduction method used, the method of land application used, and the name of the person applying the septage. These records shall be kept for a minimum of five years and shall be made available to both state and federal regulators on request.

**D. DISPOSAL INTO SEWAGE TREATMENT SYSTEMS.** A current contract with each and every sewer improvement district and / or sewage treatment facility where the licensee disposes of sewage and / or septage shall be on file with the Department. The disposal of sewage or septage at a site or facility not on file with the Department is a violation of these rules.

**E. DISPOSAL OF HOLDING TANK, MARINE SANITATION DEVICE, AND PORTABLE TOILET CONTENTS.** The contents of holding tanks, marine sanitation devices, and portable toilets is considered untreated sewage and shall not be land-applied under any circumstances. The only acceptable means of disposal for these wastes is into a public sewer system with which the licensee has a contract.

## **SECTION V. LICENSEE RESPONSIBILITIES.**

A. The licensee shall pass an examination as prescribed by the Department which will reflect the licensee's knowledge in the areas of diseases transmitted by septage and sewage, vector and pathogen reduction, applicable federal and state laws, stream pollution, land application, and permitting requirements.

B. The licensee shall be responsible for the actions of his employees, partners, associates and co-owners regarding septic tank cleaning and the proper disposal of septage and sewage.

C. Each licensee shall be responsible for displaying, on each licensed vehicle, a decal issued by the Department at the initial licensing. This decal shall be located on the tank of the pumper vehicle adjacent to the firm or owner's name, license number and tank capacity. When the annual re- licensing requirements are met, renewal decals will be issued by the Department.

D. The annual license fee is \$25.00. Licenses shall be issued with an effective date of July 1 of each year and will expire one year from the effective date. In addition to the annual license fee, an annual fee of twenty-five dollars (\$25) will be charged for every pumper vehicle above the first vehicle owned by the licensee or the business he represents.

E. Applications for renewal shall include current inspection reports for each pumper vehicle, notarized permission statements from all receiving landowners, and contracts with all sewer improvement districts and treatment facilities where sewage and / or septage will be disposed. Renewal applications shall be submitted to the Department by July 1 of each year. The renewal request shall include any equipment changes or modifications made to pumper vehicles during the previous license period.

F. The annual vehicle inspection shall be conducted by the local authorized agent in the county of the licensee's or firm's residence or place of business. Inspection of each pumper vehicle shall be conducted with the tank filled. The required equipment shall be inspected at this time. The owners of pumper vehicles which are located outside of Arkansas shall contact the authorized agent of the nearest or most conveniently located Arkansas county and arrange a time and place for inspection.

G. The owner or employee of a business licensed under these Rules shall, upon performing any work for which compensation is received, place his name and the number of the license issued to the business on the customer's receipt.

H. Each pumper vehicle shall maintain and have on board a bound service record listing the operators name, the date and location of each septic tank, treatment plant, holding tank, marine sanitation device, portable toilet, or other sewage handling facility pumped, the vector and pathogen reduction method used, the date and location of disposal.

#### SECTION VI. LICENSE REQUIRED

No person, firm, corporation, partnership or association shall engage in the business of septic tank cleaning or the transportation of septage, sewage or sludge for compensation without a valid license as provided herein. Proceedings regarding a license shall be conducted pursuant to the Department's rules of administrative procedure. No part of this rule authorizes a licensee or any of his assigns to construct, repair, or modify an individual sewage system without that person first obtaining a valid Septic Tank Installers License and a valid Individual Sewage Disposal Permit from the Department.

#### SECTION VII. RECIPROCITY AND LICENSURE (A.C.A. §17-1-108(C),(D)(1)(A)) AND A.C.A. § 17-1-106

A. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:

The applicant shall hold a substantially similar license in another United States jurisdiction.

A license from another state is substantially similar to an Arkansas license if the other state's licensure qualifications require:



The applicant shall hold his or her occupational licensure in good standing;

The applicant shall not have had a license revoked for:

An act of bad faith; or

A violation of law, rule, or ethics; and

The applicant shall not hold a suspended or probationary license in a United States jurisdiction;

Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas, the applicant shall submit the following information:

Evidence of current and active licensure in that state. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other's state's licensing board;

and

Evidence that the other state's licensure requirements match those listed in Section VII A. The Department may verify this information online or by telephone to the other's state's licensing group.

To demonstrate that the applicant meets the requirements in Section VII A the applicant shall provide the Department with:

The names of all states in which the applicant is currently licensed or has been previously licensed; and

Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in Section VII A and does not hold a license on suspended or probationary status as described in Section VII A. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other's state's licensing department.

As evidence that the applicant is sufficiently competent in the field of design; or installation; or monitoring of onsite wastewater systems. An applicant shall pass the Designated Representative test, or Installer test, or the Certified Monitoring Test conducted by the Department.

#### B. Temporary and Provisional License

The Department shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under this Section.

The temporary and provisional license shall be effective for least 90 days or until the Department makes a decision on the application, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections in Section VII in which case the provisional and temporary license shall be immediately revoked.

An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

License for person from state that does not license profession. Act 1011, A.C.A. § 17-1-108(d)(2)

Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

Passing the required test for Septic Tank Cleaner.

Reciprocity and state-specific education. Act 1011, A.C.A. § 17-1-108(d)(3)

The Department shall require an applicant to take the test if the applicant is licensed in another state that does not offer reciprocity to Arkansas residents that is similar to reciprocity provided to out-of-state applicants in A.C.A. § 17-1-108.

Reciprocity in another state will be considered similar to reciprocity under A.C.A. § 17-1-108 if the reciprocity provisions in the other state:

Provide the least restrictive path to licensure for Arkansas applicants;

Do not require Arkansas applicants to participate in the apprenticeship, education, or training required as a prerequisite to licensure of a new professional in that state, except that the state may require Arkansas applicants to participate in continuing education or training that is required for all professionals in that state to maintain the licensure.

Do not require Arkansas applicants to take a state-specific education unless required to do so under the same conditions described in A.C.A. § 17-1-108.

Automatic licensure for active duty service members, returning military veterans, and spouse. A.C.A. § 17-1-106

As used in this subsection “automatic licensure” means granting the occupational licensure without an individual’s having met occupational licensure requirements provided under this title or by the rules of the occupational licensing entity.

As used in this subsection, “returning military veteran” means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.

The Department shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:

An active duty military service member stationed in the State of Arkansas;

A returning military veteran applying for licensure within one (1) year of his or discharge from active duty; or

The spouse of a person above

The Department shall grant such automatic licensure upon receipt of all of the below:

Payment of the initial licensure fee;

Evidence that the individual holds a substantially equivalent license in another state; and

Evidence that the applicant is a qualified applicant under above.

#### C. Prohibiting Criminal Offenses

An individual is not eligible to receive or hold a license issued by the Department if that individual has pleaded guilty or nolo contendere to or been found guilty of any of the offenses detailed in Ark. Code Ann. §17-3-102 et. seq. by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court, unless the conviction was lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013 § 16-90-1401 et. seq. or otherwise sealed pardoned or expunged under prior law.

The Department may grant a waiver as authorized by Ark. Code Ann. § 17-3-102 in certain circumstances.

The Department is not authorized to conduct criminal background checks, but may inquire about criminal convictions upon application or renewal of a license. Any applicant or licensee which provides false information to the Board regarding a criminal conviction may be subject to suspension, revocation or denial of a license.

#### D. Pre-Licensure Prohibiting Offense Determination

Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.

The individual must obtain the pre-licensure criminal background check petition form from the Department.

The Department will respond with a decision in writing to a completed petition within a reasonable time.

The Department response will state the reason(s) for the decision.

All decisions of the Department in response to the petition will be determined by the information provided by the individual.

Any decision made by the Department in response to a pre-licensure criminal background check petition is not subject to appeal.

The Department will retain a copy of the petition and response and it will be reviewed during the formal application process.

An individual is not eligible to receive or hold a license issued by the Department if that individual has pleaded guilty or nolo contendere to or been found guilty of any of the offenses detailed in Ark. Code Ann. §17-3-102 et. seq. by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court, unless the conviction was lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013 § 16-90-1401 et. seq. or otherwise sealed pardoned or expunged under prior law.

The Department may grant a waiver as authorized by Ark. Code Ann. § 17-3-102 in certain circumstances.

The Department is not authorized to conduct criminal background checks, but may inquire about criminal convictions upon application or renewal of a license. Any applicant or licensee which provides false information to the Board regarding a criminal conviction may be subject to suspension, revocation or denial of a license,

#### SECTION VIII. PENALTIES.

Every firm, person, or corporation who violates any of the rules issued or promulgated by the State Board of Health or who violates any condition of a license, permit, certificate, or any other type of registration issued by the board may be assessed a civil penalty by the board. The penalty shall not exceed one thousand dollars (\$1,000) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

#### SECTION IX. SEVERABILITY.

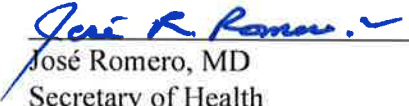
If any provision of these Rules, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Rules which can give effect without the invalid provisions or applications, and to this end the provisions hereto are declared to be severable.

#### SECTION X. REPEAL

All Rules and parts of Rules in conflict herewith are hereby repealed.

**CERTIFICATION**

This will certify that the foregoing Rules Pertaining to Septic Tank Cleaners were adopted by the Arkansas Board of Health on the 1st day of August, 2019.

  
\_\_\_\_\_  
José Romero, MD  
Secretary of Health  
Arkansas Department of Health