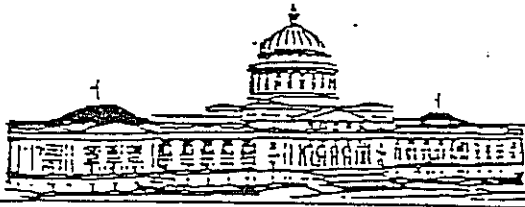


ARKANSAS REGISTER

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BY _____



Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Ar. 72201-1094

For Office Use only: Effective Date 9/7/98 Code Number 007.04.98.--001
Name of Agency Arkansas Department of Health
Department _____
Contact Person Terry Brumbelow Phone: 501-661-2171
Statutory Authority for Promulgating Rules A.C.A 20-7-109

Intended Effective Date _____ Legal Notice Published 4/25/98 DATE
(public hearing)

Emergency Final Date for Public Comment 5/27/98

10 Days After Filing Filed With Legislative Council 4/27/98

Other _____ Reviewed By Legislative Council 6/4/98

Adopted By State Agency 7/23/98

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Rules Were Adopted
In Compliance With Act 434 Of 1967 As Amended.

[Signature]
Signature
(501) 661-2574
Phone Number

Director, Bureau of Environmental Health Services
Title

08/27/98
Date

DEPARTMENT Arkansas Department of Health
DIVISION Environmental Health Protection

FILED
AR. REGISTER DIV.

PERSON COMPLETING THIS STATEMENT Terry Brumbelow

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TELEPHONE NO. (501) 661-2171

FAX NO. (501) 661-2572

FINANCIAL IMPACT STATEMENT

SECRETARY OF STATE
STATE OF ARKANSAS

To comply with Act 884 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules and Regulations pertaining to Outdoor Bathing Regulation

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? Yes _____ No X
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

1995-96 Fiscal Year

1996-97 Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other _____
Total _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other _____
Total _____

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

1995-96 Fiscal Year

1996-97 Fiscal Year

Program already in place

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

1995-96 Fiscal Year

1996-97 Fiscal Year

Program already in place

July 28, 1995

ARKANSAS DEPARTMENT OF HEALTH

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STATE OF ARKANSAS

BY _____

RULES AND REGULATIONS
PERTAINING TO
OUTDOOR BATHING PLACES

ENVIRONMENTAL PROGRAM SERVICES
DIVISION OF ENVIRONMENTAL HEALTH PROTECTION

**RULES AND REGULATIONS PERTAINING TO
OUTDOOR BATHING PLACES**

AUTHORITY

The following Rules and Regulations Pertaining to Outdoor Bathing Places are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including, without limitation, Act 96 of 1913, as amended. the same being A.C.A. 20-7-109

SECTION I. PURPOSE

To define outdoor bathing places and establish criteria for safety and water quality relating to public health aspects of such operations.

SECTION II. DEFINITIONS

- A. **Outdoor bathing places:** Any bathing place, together with buildings and appurtenances if any and the water and land areas used in connection therewith, as a natural pond, lake, stream or other body of water which is operated for a fee or any other compensation or which is openly advertised as a place for bathing or swimming for the public. This definition does not apply to swimming pools.
- B. **Person:** Person is any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, public or private agency, political subdivision of this State, or any legal successor, representative agent or agency of the foregoing; other than the Arkansas Department of Health.
- C. **Bathhouse:** Any structure or enclosure provided to be used for changing to or from bathing suits or beachwear, to include all plumbing, accessories and appurtenances.
- D. **Department:** The Arkansas Department of Health, Division of Sanitarian Services Environmental Health Protection.

SECTION III. COMPLIANCE

Any person responsible for the operation of an outdoor bathing place shall be responsible for compliance with these Regulations.

SECTION IV. SAFETY

The responsible person at each outdoor bathing place shall take all necessary safety precautions. The following conditions will affect the safety of outdoor bathing places:

- A. Good water quality, to include bacteria count, turbidity, and other chemicals and materials that may be in the body of water;

- B. The following Minimum lifesaving and first-aid equipment shall should be provided and shall should be readily available for emergency use at each public bathing place:.
1. **Reaching devices.** One or more reaching devices. These devices may include but are not limited to: poles, ropes, and any reasonable means to extend a person's reach.
 2. **Flotation devices.** One or more buoys, life jackets, or flotation devices that can support an adult in water.
 3. **First-aid kit.** A first-aid kit, filled and readily accessible for emergency use.
 4. **Boundaries.** Boundaries of swimming area should be marked and depth markers, either by graduated poles or floating buoys, provided.
- C. **Signs.** When no lifeguard is on duty at any outdoor bathing place, a legible sign or signs stating "No Lifeguard on Duty" shall be posted in clearly legible letters at least four (4) inches high.
- D. **Communications.** A telephone or other means of communication with numbers posted of nearest emergency services should be provided.

SECTION V. BACTERIOLOGICAL WATER QUALITY

- A. No public swimming or bathing shall be permitted in any body of water when the most probable number of bacteria (coliform organisms) exceeds 1000 per 100 ml. in more than 20 percent of the samples tested, or if any of the samples contain more than 2400 bacteria (coliform organisms) per 100 ml. the E. coli density of any sample collected exceeds 126 per 100 ml.
- B. When the fecal coliform E.coli density of any sample collected exceeds 100 126 per 100 ml., daily samples shall immediately be collected and analyzed for fecal coliform E. coli for at least two consecutive days. Swim areas remain closed until satisfactory conditions are verified by two consecutive E. coli samples.

SECTION VI. BATHHOUSE AND TOILET FACILITIES

- A. Adequate and convenient toilet facilities shall be provided at all outdoor bathing places. These facilities shall meet the approval of the Department.
- B. If a bathhouse is provided by the responsible person, plans and specifications shall be submitted to and approved by the Department prior to construction.

- C. No multiple use towels, bathing suits or other similar materials shall be furnished or rented.
- D. All bathhouses and toilets shall be maintained in a clean and sanitary manner.

SECTION VII. SANITARY SURVEY

A. Responsibility

The sanitary survey shall be conducted by the Department.

B. Frequency

1. **Existing Beaches.** A sanitary survey may be conducted if indicated by the results of an unsatisfactory water sample.
2. **Proposed Beaches.** On proposed bathing beaches, a sanitary survey shall be conducted before construction or expansion.

C. Scope

1. **Existing Beaches.** The history of the bacteriological quality of the water shall be reviewed.
2. **Proposed Beaches.** The results of samples as required in Section VIII. B. 4., shall be reviewed by the Department.
3. **Nature and Sources of Contamination.** The nature of potential sources of contamination, including but not limited to streams, unsewered residential areas, wastewater treatment plants, combined sewer and storm drain outlets, industrial outlets, sanitary landfills, open dumps, animal enclosures, and potential high erosion areas.
4. **Bather Load.** History of average and peak bather load. On proposed beaches anticipated bather load.

SECTION VIII. SUBMISSION OF PLANS

- A. **GENERAL.** All reports, final plans and specifications should be submitted at least 30 days prior to the date on which action by the Department is desired. Preliminary plans should be submitted for review prior to the preparation of final plans. No approval for construction shall be issued until final, complete, detailed plans and specifications have been submitted to the Department and found to be satisfactory. Documents submitted for formal approval shall contain sufficient information to demonstrate to the Department that the proposed public bathing beach, or

improvements thereto will meet the standards contained herein and shall include but not be limited to:

B. GENERAL LAYOUT

1. Detailed description of the watershed with location and identification of all potential sources of contamination including any anticipated future development.
 - a. **Extent of Watershed to Include.** In the instance of a large watershed, the area to be covered shall be determined based on knowledge of the area.
 - b. **Plot Maps.** A plot map drawn to scale, showing the bathing beach and any contaminating or potentially contaminating discharges.
 - c. **Potential Sources of Contamination.** The potential sources of contamination include but are not limited to, the following: streams, unsewered residential areas, wastewater treatment plants, combined sewer and storm drain outlets, industrial outlets, sanitary landfills, open dumps, animal enclosures, and potential high erosion areas.
 - d. **Topographical Influences.** The influence or potential influence of topography or unusual factors in the watershed.
2. Location of access roads, parking, buildings, water supplies, sanitary and storm sewers, electrical and telephone services and the proposed facilities relative to existing facilities.
3. Location relative to nearest population center with service facilities such as medical, fire protection and communication.
4. **Bathing Beach Water Quality.** Information concerning the source, quality and quantity of the water, and the results of at least one set of representative bacterial samples and a chemical analysis of the water shall be provided.
5. **BASIS OF DESIGN**
 - a. **BATHER LOAD.** Maximum and average attendance and anticipated swimmer loads.
 - b. **DEPTH AND SLOPE OF BOTTOM.** The depth of water in the swimming area and the existence of any dangerous slopes or dropoffs.

- c. **SAFETY.** The physical condition and safety of construction of any floating platforms, diving towers or lifeguard towers located in the water, the condition of the bathhouse and other appurtenances on the beach.
- d. **Sanitation.** The number, location and condition of water sources and sewage treatment devices serving the beach area.
- e. **Water Level.** Seasonal or anticipated water level variations.
- f. **Other.** Any other notable characteristics in the watershed or bathing beach.

6. Operational Detail.

- a. Dates when public bathing beach will be operated.
- b. Training, experience and number of on-site management, supervisory and lifeguard personnel.

7. PROHIBITIONS FOR ESTABLISHING NEW BATHING BEACHES.

New bathing beaches may be prohibited when contamination from sources outlined in Section VIII.B.1.c., is likely or potential design problems as outlined in Section VIII.B.5., are determined by the Department.

SECTION IX. RELATED REGULATIONS

All outdoor bathing places shall comply with all appropriate State laws, Rules and Regulations, including but not limited to the following:

- A. ARKANSAS DEPARTMENT OF HEALTH RULES AND REGULATIONS PERTAINING TO GENERAL SANITATION;
- B. ACT 402 OF 1977 and RULES AND REGULATIONS PERTAINING TO SEWAGE DISPOSAL SYSTEMS AND INSTALLERS;
- C. ARKANSAS DEPARTMENT OF HEALTH RULES AND REGULATIONS PERTAINING TO PUBLIC WATER SYSTEMS;
- D. ARKANSAS DEPARTMENT OF HEALTH RULES AND REGULATIONS PERTAINING TO FOOD SERVICE ESTABLISHMENTS;
- E. STATE PLUMBING CODE.

SECTION X. ACCESS TO BATHING PLACE; PLACE TO BE CLOSED FOR VIOLATION OF ACT

- A. The Department at all reasonable times shall have access to and is hereby empowered to enter upon any and all parts of the premises of any bathing

place used and let for hire to the public or individuals, and to make such examinations and investigations as shall determine the sanitary conditions and all hazards and dangers and whether the provisions of these rules and regulations of the department are being complied with or are being violated.

- B. If it is determined upon such examination and investigation that any bathing place is being maintained contrary to the provisions of these Regulations, such bathing place forthwith shall be closed to all persons, until provision is made to comply with this law and permission given by the department to reopen the same.

SECTION XI. SEVERABILITY

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

SECTION XII. REPEAL

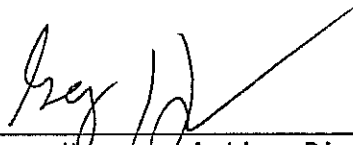
All Regulations and parts of Regulations in conflict herewith are hereby repealed. Any outdoor bathing place constructed prior to these regulations shall not be required to adhere to any more stringent construction requirements than those in effect at the time of approval.

SECTION XIII. PENALTY CLAUSE

Every firm, person or corporation violating any provisions of these rules and regulations shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by imprisonment not exceeding one (1) month or both and each day of violation shall constitute a separate offense. (See Ark. Statute, Annotated 82-121. [Ark. Code. Ann. §§ 14-262-101 and 20-7-101].)

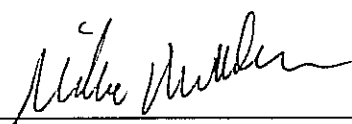
CERTIFICATION

This will certify that the foregoing **Rules and Regulations Pertaining to Outdoor Bathing Places** were adopted by the State Board of Health of Arkansas at a regular executive session of said Board held in Hot Springs, Arkansas, on the 23rd day of July 1998.



George Harper, Acting Director
Arkansas Department of Health

The foregoing Rules and Regulations, copy having been filed in my office, are hereby approved this 20 day of August, 1998.



Mike Huckabee, Governor