

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 Pollution Control & Ecology Commission

Department Department of Energy and Environment

Contact Michael McAlister E-mail mcalister@adeq.state.ar.us Phone 501-682-0918

Statutory Authority for Promulgating Rules Act 704 of the 93rd General Assembly

Rule Title: Rule 4, " Rule to Require a Disposal Permit for Real Estate Subdivisions in Proximity to Lakes and Streams"

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204) Legal Notice Published _____

☐ 10 Days After Filing (ACA 25-15-204) Final Date for Public Comment _____

☐ Other _____
(Must be more than 10 days after filing date.) Reviewed by Legislative Council _____

Adopted by State Agency _____ 12/03/2021

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

Peter Alberg Peter.Alberg@adeq.state.ar.us 12/15/2021
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.)

Charles Moulton
Signature

501-682-7890 moulton@adeq.state.ar.us
Phone Number E-mail Address

Administrative Law Judge
Title

10/13/2021
Date

STATE OF ARKANSAS

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

REGULATIONRULE NO. 4

**REGULATIONRULE TO REQUIRE A DISPOSAL PERMIT FOR REAL ESTATE
SUBDIVISIONS IN PROXIMITY TO LAKES AND STREAMS**

Adopted: June 28, 1973

1. Pursuant to the provisions of Section 3 of Title I of the Arkansas Water and AIR Pollution Control Act, hereinafter referred to as the "Act", (Act 472 of the Acts of Arkansas for 1949, as amended; Ark. Stats., 82-1904), the Arkansas ~~Commission-on~~ Pollution Control and Ecology ~~Commission~~ hereby promulgates this ~~RegulationRule~~ No. 4 requiring a disposal permit for real estate subdivisions in proximity to certain lakes and streams.
2. When used in this ~~regulationrule~~:
 - (a) **"Subdivision"** means any tract of land which is divided into two (2) or more parcels, any parcel of which is less than two (2) acres in size, along an existing or proposed street, highway, easement, or right-of-way, for sale, rent, or lease as residential, industrial, or commercial building lots described by reference to a map or survey of the property.
 - (b) **"Lake"** means any lake, whether natural, artificial or a combination thereof, with a surface area of 500 acres or more measured at the ordinary high-water mark.
 - (c) **"Stream"** means a stream listed on Schedule A attached hereto.
 - (d) **"~~DepartmentDivision~~"** means the ~~Department of Pollution Control and Ecology~~ Division of Environmental Quality.
 - (e) **"Commission"** means the ~~Commission-on~~ Pollution Control and Ecology ~~Commission~~.
 - (f) Words and phrases defined in the Act (but not defined herein) shall have the same meaning when used herein.

3.(a) From and after the effective date of this ~~regulation~~,~~rule~~ no real estate developer shall cause any new subdivision to be created or platted, containing in the aggregate 50 or more lots, any part of which subdivision is located within 2,640 feet of any lake or stream, and which will not be connected to a public sanitary sewer collection and treatment system, unless the developer shall have first submitted to the ~~Department~~Division for approval plans for a disposal system or systems to serve said subdivision adequate to prevent pollution of the waters of the State of Arkansas, together with an application for a permit to install and operate such system or systems, and unless a disposal permit, or approval of future phased construction of the system or systems, has been issued by the ~~Department~~Division.

(b) Any presently subdivided land owned and/or developed by a single developer or a group of developers acting in concert (hereinafter called "development") where such subdivided land is contiguous or is known, designated or advertised as a common unit or by a common name and is being offered for sale as part of a common promotional plan shall be covered by this ~~regulation~~~~rule~~ and the developer shall obtain a disposal permit as required by Subparagraph (a) hereof, without regard to the number of lots in successive individual offerings or subdivisions and without regard to the platting and partial sale of lots in said development prior to the adoption of this ~~regulation~~~~rule~~ so long as said developer or developers own 50 or more lots in said development, as of the effective date of this ~~regulation~~~~rule~~, which are predominately contiguous to each other, any of which are located within 2,640 feet of any lake or stream, and are not connected to a public sanitary sewer collection and treatment system. A permit for developments covered by this subparagraph shall be filed with the ~~Department~~Division within sixty days after the effective date of this ~~regulation~~~~rule~~.

4. The limitation as to the minimum number of lots in the subdivisions covered hereunder shall not be applicable when the method of subdividing and/or sale is found by the Commission to have been adopted for the purpose of evasion of this ~~regulation~~rule.

5. This ~~regulation~~rule shall be in full force and effect as of the date of its promulgation.

SCHEDULE A

STREAMS COVERED BY REGULATIONRULE NO. 4

I. Arkansas River Basin

Arkansas River	Big Bayou Meto
Big Maumelle River	Big Piney Creek
Cadron Creek	Fourche La Fave River
Frog Bayou	Illinois River
Illinois Bayou, including East Fork, Middle Fork, North Fork	

Lee Creek	Little Sugar Creek
Mulberry River	Petit Jean River
Point Remove Creek	Poteau River
South Fourche La Fave River	Spavinaw Creek

II. White River Basin

Bayou Des Arc	Bayou DeView
Bayou LaGrue	Black River
Buffalo River	Cache River
Crooked Creek	Current River
Eleven Point River	Kings River
Little Red River	Norfork River
North Sylamore Creek	Salado Creek
Spring River	South Fork Spring River
South Sylamore Creek	Strawberry River
Village Creek	War Eagle Creek
White River, including West Fork and Middle Fork	

III. St. Francis River Basin

L'Anguille River	Little River
St. Francis River	Tyronza River

IV. Ouachita River Basin

Antoine River	Bayou Bartholomew
Caddo River	Little Missouri River
Moro Creek	
Ouachita River, including South Fork and Irons Fork Saline River, including North, Alum, Middle and South Fork	

V. Red River Basin

Cossatot River

Little River

Mountain Fork Little River

Red River

Rolling Fork Little River

Saline River

Sulfur River

Adopted: June 28, 1973

STATE OF ARKANSAS

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

RULE NO. 4

RULE TO REQUIRE A DISPOSAL PERMIT FOR REAL ESTATE SUBDIVISIONS
IN PROXIMITY TO LAKES AND STREAMS

Adopted: June 28, 1973

1. Pursuant to the provisions of Section 3 of Title I of the Arkansas Water and AIR Pollution Control Act, hereinafter referred to as the "Act", (Act 472 of the Acts of Arkansas for 1949, as amended; Ark. Stats., 82-1904), the Arkansas Pollution Control and Ecology Commission hereby promulgates this Rule No. 4 requiring a disposal permit for real estate subdivisions in proximity to certain lakes and streams.
2. When used in this rule:
 - (a) **"Subdivision"** means any tract of land which is divided into two (2) or more parcels, any parcel of which is less than two (2) acres in size, along an existing or proposed street, highway, easement, or right-of-way, for sale, rent, or lease as residential, industrial, or commercial building lots described by reference to a map or survey of the property.
 - (b) **"Lake"** means any lake, whether natural, artificial or a combination thereof, with a surface area of 500 acres or more measured at the ordinary high-water mark.
 - (c) **"Stream"** means a stream listed on Schedule A attached hereto.
 - (d) **"Division"** means the Division of Environmental Quality.
 - (e) **"Commission"** means the Pollution Control and Ecology Commission.
 - (f) Words and phrases defined in the Act (but not defined herein) shall have the same meaning when used herein.

- 3.(a) From and after the effective date of this rule, no real estate developer shall cause any new subdivision to be created or platted, containing in the aggregate 50 or more lots, any part of which subdivision is located within 2,640 feet of any lake or stream, and which will not be connected to a public sanitary sewer collection and treatment system, unless the developer shall have first submitted to the Division for approval plans for a disposal system or systems to serve said subdivision adequate to prevent pollution of the waters of the State of Arkansas, together with an application for a permit to install and operate such system or systems, and unless a disposal permit, or approval of future phased construction of the system or systems, has been issued by the Division.
- (b) Any presently subdivided land owned and/or developed by a single developer or a group of developers acting in concert (hereinafter called "development") where such subdivided land is contiguous or is known, designated or advertised as a common unit or by a common name and is being offered for sale as part of a common promotional plan shall be covered by this rule and the developer shall obtain a disposal permit as required by Subparagraph (a) hereof, without regard to the number of lots in successive individual offerings or subdivisions and without regard to the platting and partial sale of lots in said development prior to the adoption of this rule so long as said developer or developers own 50 or more lots in said development, as of the effective date of this rule, which are predominately contiguous to each other, any of which are located within 2,640 feet of any lake or stream, and are not connected to a public sanitary sewer collection and treatment system. A permit for developments covered by this subparagraph shall be filed with the Division within sixty days after the effective date of this rule.
4. The limitation as to the minimum number of lots in the subdivisions covered hereunder shall not be applicable when

the method of subdividing and/or sale is found by the Commission to have been adopted for the purpose of evasion of this rule.

5. This rule shall be in full force and effect as of the date of its promulgation.

SCHEDULE A

STREAMS COVERED BY RULE NO. 4

I. Arkansas River Basin

Arkansas River	Big Bayou Meto
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Frog Bayou	Illinois River
Illinois Bayou, including East Fork, Middle Fork, North Fork	

Lee Creek	Little Sugar Creek
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Point Remove Creek	Poteau River
South Fourche La Fave River	Spavinaw Creek

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Bayou Des Arc	Bayou DeView
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Cossatot River

Little River

Mountain Fork Little River

Red River

Rolling Fork Little River

Saline River

Sulfur River

Adopted: June 28, 1973

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Approval
of Amendments to APC &
EC Rules**

Docket No. 21-003-MISC

MINUTE ORDER NO. 21- 18

Pursuant to Act 704 of the 93rd General Assembly, the Arkansas Pollution Control and Ecology Commission hereby grants and approves the Division of Environmental Quality's Motion to Approve Rule Amendments, and approves the amendments to rules which are specifically set forth and contained in the mark-up drafts of rules provided to the Commission with the above-referenced motion; that further, the Commission orders that the existing effective date of each rule shall remain the same and that no substantive changes to these rules are promulgated or intended by these amendments.

**THIS 3RD DAY OF DECEMBER, 2021, BY ORDER OF THE ARKANSAS
POLLUTION CONTROL AND ECOLOGY COMMISSION.**

COMMISSIONERS:

<u>SUA</u>	S. Ausbrooks
<u>AB</u>	L. Bengal
<u>CC</u>	C. Colclasure
<u>JSF</u>	J. Fox
<u>MNG</u>	M. Goggans
	R. McMullen

<u>D.A. by 11</u>	D. Melton
<u>RM</u>	R. Moss, Jr.
<u>RR</u>	R. Reynolds
<u>R</u>	R. Roper
<u>D</u>	D. Vandergriff
<u>WWW</u>	W. Ward

10.27.21 SUBMITTED BY: Michael McAlister DATE PASSED: 12/03/21
R. Roper, Chair