

**Title 15. Natural Resources and Economic Development**  
**Chapter I. Arkansas Natural Resources Commission, Department of**  
**Agriculture**  
**Subchapter B. Water**  
**Part 20. Rules for the Utilization of Surface Water**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 301.2 Enabling and pertinent legislation.

A. Ark. Code Ann. §15-20-201 et seq., General Provisions, (describing Arkansas Natural Resources Commission).

A. Ark. Code Ann. §15-22-201, et seq., Allocation and Use of Water.

C. Ark. Code Ann. §15-22-301 et seq., Determination of Water Use Requirements.

D. Ark. Code Ann. §15-22-501 et seq., Water Development Projects Generally.

E. Ark. Code Ann. §15-23-401 et seq., Arkansas River Compact.

F. Ark. Code Ann. §15-23-501 et seq., Red River Compact.

G. Ark. Code Ann. §25-15-201 et seq., Arkansas Administrative Procedure Act."

"Effective February 1, 2016"

**Subpart 1. General Provisions**

**15 CAR § 20-101. Purpose.**

(a)(1) In keeping with the policy of the State of Arkansas, the purpose of this part is to encourage and facilitate the conservation, development, and efficient use of surface water.

(2) Sensitivity to the public interest by the entire state requires the protection of:

- (A) Existing surface water uses;
- (B) Needs of all existing federal water projects;
- (C) Firm yield of all existing reservoirs;
- (D) Instream needs; and

(E) Future water needs.

(b) In pursuit of these objectives, this part establishes procedures for:

- (1) Surface water diversion registration;
- (2) Authorization of intrabasin and interbasin diversion by nonriparian owners;
- (3) Interstate transfers of water; and
- (4) Allocations during times of water shortages.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-102. Definitions.**

The following definitions shall apply to this part:

(1) "Affected persons" means persons, other than the petitioner, whose water rights could reasonably be affected by permitting or allocation of water under this part;

(2) "Allocation" means the assignment of an allowance of a specific quantity of water that may be removed from any given stream and transported away from the stream for a designated beneficial use during times of shortage;

(3) "Allocation level" means the level of a stream at which a water shortage occurs and the allocation process begins;

(4) "Arkansas Water Plan" means the comprehensive program for the orderly development and management of the state's water and related land resources developed by the Arkansas Natural Resources Commission;

(5)(A) "Average annual yield" means the average of the quantity of water passing through a watershed each year during the applicable period of record.

(B) In the event adequate records are not available for an arithmetic average, a suitable estimate may be computed;

(6) "Basin of origin" means the water basin from which an interbasin transfer of surface water is diverted;

(7) "Beneficial use" means the instream and offstream uses of water in such quantity as is economical and efficient and which use is for a purpose and in a manner that is:

- (A) Reasonable;
- (B) Not wasteful; and
- (C) Compatible with the public interest;

(8) "Commission" means the Arkansas Natural Resources Commission as defined in Arkansas Code § 15-20-201 et seq.;

(9) "Commissioner" means a member of the Arkansas Natural Resources Commission as defined in Arkansas Code § 15-20-201 et seq.;

(10) "Conservation district" means a district created under the Conservation Districts Law, Arkansas Code § 14-125-101 et seq.;

(11)(A) "Conservation plan" means a plan as evidenced by written document for implementation of economical and technically feasible practices for improving the efficiency of water use.

(B) At a minimum, the plan shall address the following concerns where applicable:

- (i) Leakage and loss control;
- (ii) Water reuse;
- (iii) Promotion of water-saving devices;
- (iv) Drought emergency plans;
- (v) Irrigation system efficiency; and
- (vi) Tailwater recovery;

(12) "Critical surface water area" means an area where current water use, projected water use, or quality degradation has or will cause a shortage of useful water within a relatively short period of time for a sufficient length of time to be expected to cause prolonged economic or environmental problems;

(13) "Diffused surface water" means water occurring naturally on the surface of the ground other than in natural or altered:

- (A) Stream channels;
- (B) Lakes; or
- (C) Ponds;

(14) "Director" means the Director of the Arkansas Natural Resources Commission as defined in Arkansas Code § 15-20-201 et seq.;

(15) "District" means conservation district or regional water district;

(16) "Diverter" means any person that removes water from any source and makes any use thereof;

(17) "Domestic use" means the use of water for ordinary household purposes including:

- (A) Human consumption;
- (B) Washing;
- (C) The watering of domestic:
  - (i) Livestock;
  - (ii) Poultry; and
  - (iii) Animals; and

(D) The watering of home gardens for consumption by the household;

(18) "Excess surface water" means twenty-five percent (25%) (to automatically increase to any higher percentage authorized by the General Assembly simultaneous with the effective date of any such act) of the average annual yield from any watershed above that amount, as determined by the Arkansas Natural Resources Commission, required to satisfy all of the following that are applicable:

(A) Riparian and nonriparian usage reported for the 1989 water year as provided for in 15 CAR § 20-201 et seq.;

(B) The water needs of federal water projects as they existed on June 28, 1985;

(C) The firm yield of all affected reservoirs existing on June 28, 1985;

(D)(i) Maintenance of minimum streamflows for the following streams:

- (a)* Arkansas River from Oklahoma boundary to mouth;
- (b)* Black River from Missouri boundary to mouth;
- (c)* Eleven Point River from Missouri boundary to mouth;
- (d)* Ouachita River from Lake Catherine to Louisiana boundary;
- (e)* Red River from Texas boundary to Louisiana boundary;
- (f)* St. Francis River from Marked Tree to mouth;
- (g)* Spring River from Missouri boundary to mouth; and
- (h)* White River below Bull Shoals Lake to mouth.

(ii) These constitute an initial phase.

(iii) Other streams will be added as needs arise and resources are made available; and

(E) Future water needs of the watershed as projected in the Arkansas Water Plan, 15 CAR pt. 29;

(19) "Firm yield" means the maximum amount of water the reservoir will yield based upon the worst period of record, recognizing that a more severe drought than any on record may occur;

(20) "Interbasin transfer" means the transfer of water between basins except transfers across a basin boundary by a riparian as described in 15 CAR § 20-501 et seq.;

(21)(A) "Intermittent stream" means those streams whose flow is seasonal in nature and does not flow continuously.

(B) The intent of the Arkansas Natural Resources Commission is to define intermittent streams by a statistical method once sufficient streamflow data is available at the conclusion of the low-flow characteristics of Arkansas streams study;

(22) "Intrabasin transfer" means the transfer of water within a basin as described in 15 CAR § 20-401 et seq.;

(23) "Minimum streamflow" means the quantity of water required to meet the largest of the following instream flow needs as determined on a case-by-case basis:

- (A) Aquifer recharge;
- (B) Fish and wildlife;
- (C) Interstate compacts;
- (D) Navigation; or
- (E) Water quality;

(24) "Municipal domestic use" means the use of water for ordinary household purposes, including human consumption, laundry, bathroom facilities, fire protection, and the watering of home gardens, that is distributed by a central distribution system;

(25) "Navigable stream" means any watercourse that:

- (A) The federal government or the laws of the State of Arkansas declare to be navigable; or
- (B) Can be found to be navigable as a matter of fact;

(26) "Nonconsumptive use" means the withdrawal of water for use in a manner that results in an approximately equal volume of water being returned to the same surface water body from which it was withdrawn;

(27) "Nonriparian owner" means the owner of land that is not contiguous to surface water and who has not obtained access to surface water by lease, easement, or other method prior to March 1, 1990;

(28) "Nonriparian water right" means a permit issued under this part to use excess surface water;

(29) "Permittee" means the holder of a water right permit;

(30) "Person" means any:

(A) Natural person;

(B) Partnership;

(C) Firm;

(D) Association;

(E) Cooperative;

(F) Municipality;

(G) County;

(H) Public or private corporation; and

(I) Federal, state, or local governmental agency;

(31) "Petitioner" means a person, other than the Arkansas Natural Resources Commission, who seeks allocation of water through the Arkansas Natural Resources Commission's rules;

(32) "Regional water district" means a district created under The Regional Water Distribution District Act, Arkansas Code § 14-116-101 et seq.;

(33)(A) "Riparian landowner" means the holder in fee, leasehold, easement, or other acquired access of any land that is contiguous to surface water in the State of Arkansas.

(B) Provided, however, that the leasehold, easement, or other acquired access must have been acquired prior to March 1, 1990.

(C) Flowage easements will not invalidate the riparian rights of the landowner;

(34) "Riparian water rights" means rights to water that accrue to riparian landowners;

(35) "Shortage" means when there is not sufficient water in a stream to meet all beneficial uses;

(36) "Stream" means a stream of water and its channel, including springs, lakes, or marshes in which the stream originates or through which it flows, where the stream flows in a reasonably definite channel, but excluding a depression, swale, or gully through which diffused water flows;

(37) "Surface water" means water occurring on the surface of the ground in:

(A) Lakes;

(B) Ponds; and

(C) Natural or channelized streams;

(38) "Tailwater recovery system" means a system for recovery and reuse of water by the same diverter;

(39) "Water year" means a twelve-month period beginning on October 1 of any year; and

(40) "Watershed" means the drainage area of a stream and its tributaries.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-103. Rules to support compacts.**

Any procedure contained in this part may be used to support and comply with the Red River Compact or the Arkansas River Compact.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-104. Delegation of authority.**

The Arkansas Natural Resources Commission may delegate its authority under this part to a local district.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**Subpart 2. Surface Water Diversion Registration**

**15 CAR § 20-201. Requirement to register.**

(a) All persons who divert surface water, except as hereinafter exempted, shall report the diversion no later than March 1 for the prior water year.

(b) The reports shall be made:

(1) On forms provided by the Arkansas Natural Resources Commission; and

(2) To the commission or to their local conservation district.

(c) Late registrations will be accepted only upon the payment of the appropriate fee as established by 15 CAR § 20-207.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-202. Exemptions.**

The following diversions are exempt from the requirement of registration:

- (1) Diversions by any person of less than three hundred twenty-five thousand nine hundred gallons (325,900 gals.) (one (1) acre-foot) of water in any water year;
- (2) Water diverted from natural lakes or ponds in the exclusive ownership of one (1) person; and
- (3) Diffused surface water.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-203. Report content.**

The reports shall contain information requested on the attached, or revised, forms:

- (1) For water used for agriculture:
  - (A) Number and size of diversions;
  - (B) Name, address, and phone number of water user;
  - (C) Type of crops, livestock, poultry, or fish grown;
  - (D) Acreage:
    - (i) Irrigated; or
    - (ii) Aquacultured;
  - (E) Quantity of water used; and
  - (F) Location of the:
    - (i) Diversions, including real estate tax bill parcel number; and
    - (ii) Water use;
- (2) For water used for other than agriculture:
  - (A) Number, size, and location of diversions;
  - (B) Name, address, and phone number of water user;
  - (C) Use made of the water; and

(D) Quantity of water used; and  
(3) Other information deemed necessary by the Arkansas Natural Resources Commission.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-204. No change in water use or no use of water.**

(a) After the initial report in compliance with this part, persons whose water use remains unchanged from the prior water year need only report no change in water use.

(b) In the event that no water is diverted during any water year and the person has registered diversions in prior years, the person must submit a registration form showing no diversion to maintain his or her priority position.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-205. Certificates of registration.**

(a) Before July 1 of the water year following the water year being reported, the Arkansas Natural Resources Commission shall furnish to the registrant a certificate of registration containing all the pertinent information set forth by the registrant.

(b) Registrants submitting registration forms after March 1 for the prior water year or registering water that is exempt from registration will not receive certificates of registration for that water year.

(c) The commission shall record the information received in all cases of diversions reported even if a certificate of registration is not issued thereon.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-206. Review of form.**

The Director of the Arkansas Natural Resources Commission shall:

(1) Annually review the form used in obtaining the information required in registering diversions of surface water; and

(2) Alter or amend such form as necessary to comply with the laws of the State of Arkansas and the rules of the commission.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-207. Failure to register.**

(a) Any person who fails to timely register surface water diversion as required by law and this part shall, in addition to registration fees, pay fees as follows:

- (1) Failure to register by March 1, written notice;
- (2) Failure to register by April 1, twenty-five-dollar fee;
- (3) Failure to register by June 30, fifty-dollar fee; and
- (4) Failure to register by September 30, one hundred-dollar fee.

(b) Conservation districts shall not accept late registration without payment of all applicable fees.

(c) Late registration penalties are to be assessed per registrant, not per diversion.

(d) The Arkansas Natural Resources Commission, by the Director of the Arkansas Natural Resources Commission, may assess fees as provided by Arkansas Code § 15-22-215 if it is determined that a registrant continues to fail to register following September 30.

(e) The maximum annual penalty per registrant is five hundred dollars (\$500) whether for ground or surface water use or both.

(f) The commission will not impose monetary penalties without proof that the late registrant has received notice of the registration requirement.

**Authority.** Arkansas Code §§ 15-20-206, 15-20-209, 15-22-205.

**15 CAR § 20-208. Fees.**

(a) **Assessment.**

(1) An annual fee of ten dollars (\$10.00) will be assessed per registered withdrawal, payable at the time of water use reporting, no later than March 1 following the reporting water year.

(2) A delinquency in paying annual fees will constitute failure to register for surface water withdrawal for the prior water year and will be subject to penalties of 15 CAR § 20-207.

(b) **Collection.** The Arkansas Natural Resources Commission may delegate the responsibility for collecting annual fees to:

(1) The Director of the Arkansas Natural Resources Commission or the director's designee or designees; or

(2) Qualified petitioning entities.

(c) **Disposition.**

(1) All moneys collected from fees and penalties will be deposited in the Arkansas Water Development Fund to be used pursuant to Arkansas Code § 15-20-207.

(2) Two-thirds (2/3) of such funds shall be used for an information/education program and cost-share assistance for water conservation and development, as provided in 15 CAR § 21-103(b)(3)(G).

(3) One-third (1/3) of such funds may be used for the administration of the commission's water management programs.

**Authority.** Arkansas Code §§ 15-20-206, 15-20-209, 15-22-205.

### **Subpart 3. Minimum Streamflow**

#### **15 CAR § 20-301. Minimum streamflow.**

Minimum streamflow is the quantity of water required to meet the largest of the following instream flow needs as determined on a case-by-case basis:

- (1) Aquifer recharge;
- (2) Fish and wildlife;
- (3) Interstate compacts;
- (4) Navigation; or
- (5) Water quality.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

#### **15 CAR § 20-302. Shortage levels.**

This subpart defines levels at which water shortages occur and removal of water from the designated water bodies will be curtailed or prohibited.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-303. Establishment of minimum streamflows does not ensure a specific streamflow.**

Minimum streamflow levels do not ensure a specific streamflow or compel flow augmentation from:

- (1) Reservoirs;
- (2) Impoundments; or
- (3) Any other sources.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-304. Streamflows at or below shortage levels.**

(a) When streamflows reach established shortage levels, a shortage exists.

(b) When there is a shortage, the Director of the Arkansas Natural Resources Commission shall implement the withdrawal restrictions set forth in this part by notifying registered riparian users and nonriparian permit holders by any means sufficient for the service of civil process.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**Subpart 4. Procedure for Issuance of Surface Water Permits for Intrabasin Use by Nonriparians**

**15 CAR § 20-401. Authority.**

(a) A person shall be authorized to divert excess surface water for nonriparian use upon proper application and the granting of a permit by the Director of the Arkansas Natural Resources Commission.

(b)(1) The Arkansas Natural Resources Commission calculates excess surface water using the numbers identified at A-3 – A-4 of the Appendix.

(2) These numbers may be decreased to reflect localized conditions and demonstrated changes in existing and projected water uses and instream requirements.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-402. Determination to grant permit.**

(a) The Director of the Arkansas Natural Resources Commission shall grant a permit after he or she determines that the water to be used:

- (1) Is excess surface water as defined herein;
- (2) Is intended for a reasonable and beneficial use; and
- (3) Will cause no significant adverse environmental impact.

(b) The water may be diverted for storage to meet future needs.

(c) In determining the reasonability of the proposed use the director may consider the following:

- (1) The lack of availability at a reasonable cost of alternative sources of water;
- (2) The environmental impact of the proposed transfer; and
- (3) The effect of the proposed transfer on other lawful water uses.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-403. Application.**

(a) Applications for a permit shall be on a form furnished by the Director of the Arkansas Natural Resources Commission and shall be filed with the Director of the Arkansas Natural Resources Commission.

(b) The applicant shall disclose:

- (1) The quantity of water to be diverted for direct use;
- (2) The quantity of water to be stored away from the point of diversion;
- (3) The total amount of water to be diverted;
- (4) The proposed time or times of diversion;
- (5) The purpose for which the water is to be diverted;

- (6) The location of the land on which the water is to be used;
- (7) The proposed conservation plan;
- (8) If for irrigation:
  - (A) The area and legal description of the lands irrigated; and
  - (B) The types of crops to be cultivated under irrigation during the water year;

and

- (9) Any other reasonable information requested by the director.

(c) All other questions contained on the form shall be answered or stated to be not applicable.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-404. Fees.**

(a) A five hundred-dollar fee must be submitted with an application for a permit to make an intrabasin water transfer to a nonriparian.

(b) A one hundred-dollar annual permit renewal fee shall be collected on or before October 1 of each year.

(c)(1)(A) Permits shall remain valid from year to year until date of expiration provided annual fees are not delinquent and permit terms are honored.

(B) See 15 CAR §§ 20-411 and 20-412.

(2) The Director of the Arkansas Natural Resources Commission may deny an application for or revoke an existing intrabasin water transfer permit if efforts to collect either the application or annual fees fail.

(d) Installation and maintenance of flow measurement devices shall be paid by the permittee.

(e) If the permit is not granted, the portion of the fee applicable to the cost and installation of the flow monitoring gauge or gauges shall be refunded.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-405. Permit conditions.**

If approved, the Director of the Arkansas Natural Resources Commission shall issue a permit and shall designate thereon:

- (1) The amount of water permitted;
- (2) The authorized use;
- (3) The point of approved diversion;
- (4) A legal description of the land of intended use; and
- (5) Approval of the conservation plan.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-406. Special conditions.**

(a) The Director of the Arkansas Natural Resources Commission may place upon a permit any special conditions necessary to:

- (1) Ensure that the water to be diverted is excess surface water; and
- (2) Guarantee a reasonable and beneficial use of the water.

(b)(1) The special conditions may include any other reasonable limitations or conditions to:

- (A) Protect the environment of the watershed of origin; and
- (B) Ensure against an unacceptable adverse impact of the transfer on other

lawful water uses.

- (2) An example would be limitations on season or time of withdrawal.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-407. Length of permit.**

Permits for intrabasin transfer may be issued for a period fixed by the Director of the Arkansas Natural Resources Commission, taking into consideration the investment required by the permittee to utilize the water and the period reasonably required to amortize such investment, but in no event in excess of fifty (50) years.

**Authority.** Arkansas Code §§ 15-20-206, 15-20-206, 15-22-205, 15-22-205.

**15 CAR § 20-409. Permittee water use report.**

All permittees shall report the amount of water diverted during each water year of the permit pursuant to 15 CAR § 20-201 et seq.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-410. Change in permit conditions.**

(a)(1) A permittee shall notify the Director of the Arkansas Natural Resources Commission of his or her desire to transfer the permit to another person.

(2) Permits are freely transferable.

(b)(1) A permittee wishing to make other changes in permit conditions shall seek prior approval of the director.

(2) The procedures set out in this part shall be used for permit modification other than as set out in subsection (a) of this section.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-411. Cancellation — Misuse.**

The Arkansas Natural Resources Commission may cancel any permit for:

(1) Violation of any condition contained in the permit;

(2) Use of water for a purpose other than stated in the permit; or

(3) The diversion of more water than permitted.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-412. Cancellation — Nonuse.**

The Arkansas Natural Resources Commission may cancel any permit issued for a period in excess of three (3) years if the permittee fails to take reasonable steps to obtain the ability to utilize the water permitted within two (2) years from the date of issuance of the permit.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-413. Irrigation permits run with land.**

(a) Irrigation permits run with the land described in the permit and can only be assigned to a subsequent owner or lessee of the land.

(b) These permits may not be sold separate and apart from the land, and any such attempts shall void the permit.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-414. Predetermined allocation plan.**

(a) After an application for a permit to make an intrabasin transfer is received, the Director of the Arkansas Natural Resources Commission where deemed desirable and appropriate shall initiate a study consistent with the provisions of 15 CAR § 20-701 et seq., 15 CAR § 20-801 et seq., and 15 CAR §§ 20-901 – 908, to determine the allocations that should be made if a water shortage should occur.

(b) The purpose of this advance determination is to allow immediate implementation of allocations if a water shortage does occur.

(c) In selecting the watershed to be studied, preference shall be given to those areas where a water shortage is most likely to occur.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-415. Water level monitoring.**

(a) The Director of the Arkansas Natural Resources Commission may, as he or she determines to be necessary, cause a staff gauge to be securely placed in the stream at the point of diversion.

(b) Each staff gauge shall have the following clearly marked thereon:

(1) **Minimum streamflow.**

(A) A zone marked in red.

(B) If the water level is at or below this mark, all diversions shall cease except diversions for domestic and municipal domestic use;

(2) **Allocation level.**

(A) A zone marked in yellow.

(B) If the water level is in the yellow zone, only water lawfully diverted that has not yet become subjected to reduction by allocation, water that has been allocated, or water usable without allocation (as defined hereinafter in 15 CAR § 20-702) may be diverted from the stream;

**(3) Normal diversion level.**

(A) A zone marked in green.

(B) If the water level is in the green portion of the staff gauge at the point of diversion:

(i) All allocations shall cease;

(ii) Riparians may resume water diversions; and

(iii) The nonriparian permittees may divert such water as shall have been permitted to them; and

(4) Other pertinent water level markings deemed appropriate by the director.

(c) It shall be unlawful for anyone to remove or alter any staff gauges placed for these purposes, and all such staff gauges shall indicate on them that they are the property of the Arkansas Natural Resources Commission.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-416. Appeal of permit decision.**

(a)(1) The applicant for a water rights permit or any affected person shall have the right to protest:

(A) The action of the Director of the Arkansas Natural Resources Commission in either granting or denying the application for a permit; or

(B) Any special conditions that may be placed thereon.

(2) A permittee shall have the right to protest the cancellation of a permit.

(b) If a protest is filed by the applicant within ten (10) days of the action of the director or is filed by an affected person within twenty (20) days of filing of the permit in the office of the circuit clerk of the county of the point of diversion, a hearing shall be scheduled before the Arkansas Natural Resources Commission or a hearing officer that may be designated by the commission for review of the director's action in the issuance, nonissuance, or inclusion of special conditions on the permit.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

## **Subpart 5. Procedure for Issuance of Surface Water Permits for Interbasin Use by Nonriparians**

### **15 CAR § 20-501. Basins defined.**

For purposes of interbasin transfers under this subpart, the state shall be divided into five (5) basins as listed below and depicted in the Appendix at A-1:

- (1) Arkansas River Basin;
- (2) Delta Basin;
- (3) Ouachita River Basin;
- (4) Red River Basin; and
- (5) White River Basin.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

### **15 CAR § 20-502. Authority.**

(a) A person shall be authorized to divert and transfer excess surface water for interbasin use upon proper application and the granting of a permit by the Director of the Arkansas Natural Resources Commission.

(b) Water may be diverted for storage to meet future needs.

(c)(1) The Arkansas Natural Resources Commission calculates excess surface water using the numbers identified at A-3 – A-4 of the Appendix.

(2) These numbers may be decreased to reflect localized conditions and demonstrated changes in existing and projected water uses and instream requirements.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

### **15 CAR § 20-503. Application.**

(a) Applications for a permit shall be on a form furnished by the Director of the Arkansas Natural Resources Commission and shall be filed with the director.

(b) The applicant shall disclose:

- (1) The quantity of water to be diverted for direct use;
- (2) The quantity of water to be stored away from the point of diversion when needed;
- (3) The total amount of water to be diverted;
- (4) The proposed time or times of diversion;
- (5) The purpose for which the water is to be diverted;
- (6) The location of the land on which the water is to be used;
- (7) The proposed conservation plan;
- (8) If for irrigation:
  - (A) The area and legal description of the lands irrigated; and
  - (B) The kinds of crops to be cultivated under irrigation during the water year;

and

(9) Any other reasonable information requested by the director.

(c) All other questions contained on the form shall be answered or stated to be not applicable.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-504. Notice and hearing.**

(a)(1) Upon receipt of an application for the interbasin transfer of water, the Director of the Arkansas Natural Resources Commission shall cause to be published a notice of application.

(2) The notice shall be published at the expense of the applicant at least once a week for two (2) consecutive weeks in the newspaper having the largest circulation in:

- (A) The county from which the diversion would be made;
- (B) The county to which the diversion would be made; and
- (C) Any other county through which the diversion would pass.

(3) The notice shall be in the form and shall set forth all pertinent information prescribed by the Arkansas Natural Resources Commission.

(b) The application shall be heard by the director at a time and place to be set by the director.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-505. Commission staff determination.**

Prior to the hearing the Arkansas Natural Resources Commission staff shall have made the following determinations:

- (1) The supply of water available in the basin of origin and in the basin to which proposed diversion is to be made;
- (2) The amount of excess surface water at the point of diversion of the basin of origin;
- (3) The present and future water demands of water users in the basin of origin;
- (4) Whether there are water shortages in the basin at the point of proposed use; and
- (5) The availability at a reasonable cost of alternative sources of water.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-506. Applicant to prove.**

The applicant shall be prepared to prove at the hearing that:

- (1) The water that is the subject of the proposed transfer can be feasibly transported out of the basin of origin to alleviate water shortages existing at the point of proposed use;
- (2) That other available supplies and sources of water in the watershed to which it is being diverted are inadequate;
- (3) That the demands placed upon available water supplies in the watershed to which it is being diverted exceed the water available for beneficial use; and
- (4) That no significant damages should result to the basin of origin as a result of the proposed transfer.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-507. Director's decision.**

(a) Within thirty (30) days following the hearing, the Director of the Arkansas Natural Resources Commission shall render his or her decision in granting or denying the application for interbasin transfer of water, with any special conditions to be placed thereon to:

- (1) Protect the watershed of the basin of origin; and
- (2) Ensure against an adverse impact of the transfer on other lawful water users.

(b) The director shall grant a permit after he or she determines that:

- (1) The water to be used interbasin by a nonriparian will be excess surface water as defined herein;
- (2) The proposed use is a reasonable and beneficial use; and
- (3) The transfer will cause no significant adverse environmental impact in the basin of origin.

(c) In determining the reasonableness of the proposed use the director may consider the following:

- (1) The lack of availability at a reasonable cost of alternative sources of water;
- (2) The environmental impact of the proposed transfer; and
- (3) The effect of the proposed transfer on other lawful water uses.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-508. Permit contents.**

If approved, the Director of the Arkansas Natural Resources Commission shall issue a permit and shall designate thereon:

- (1) The amount of water permitted;
- (2) The authorized use;
- (3) The point of approved diversion;
- (4) A legal description of the land of intended use; and
- (5) Approval of the conservation plan.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-509. Special conditions.**

(a) The Director of the Arkansas Natural Resources Commission may place upon a permit any special conditions necessary to:

- (1) Ensure that the water to be diverted is excess surface water; and
- (2) Guarantee a reasonable and beneficial use of the water.

(b)(1) The special conditions may include any reasonable limitations or conditions to:

- (A) Protect the environment of the watershed of origin; and
- (B) Ensure against an unacceptable adverse impact of the transfer on other

lawful water uses.

(2) An example would be limitations on season or time of withdrawal.

(c)(1) The director may require the applicant to transfer more water than the applicant plans to use so that it may be made available to others in the immediate vicinity of the proposed route of transportation.

(2) The permittee may also be required to contract with other users for the transportation of a specific quantity of water for a specific period at a reasonable price to be paid to the permittee by the other users.

(3) The price must be based only on the cost of transportation of the water and not for the water itself.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-510. Length of permit.**

Permits for interbasin transfer may be issued for a period fixed by the Director of the Arkansas Natural Resources Commission, taking into consideration the investment required by the permittee to utilize the water and the period reasonably required to amortize such investment, but in no event in excess of fifty (50) years.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-511. Filing.**

(a) Upon the issuance of a permit to divert to nonriparian uses, the Director of the Arkansas Natural Resources Commission shall:

- (1) Furnish the permit to the applicant;

- (2) Furnish a copy to the commissioners; and
- (3) Cause a copy thereof to be retained in the Arkansas Natural Resources Commission's records at the office of the commission.

(b) The permittee shall record his or her permit in the office of the circuit clerk in each county through which the diverted water shall pass.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-512. Permittee water use report.**

All permittees shall report the amount of water diverted during each water year of the permit pursuant to 15 CAR § 20-201 et seq.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-513. Change in permit conditions.**

(a) A permittee shall notify the Director of the Arkansas Natural Resources Commission of his or her desire to transfer the permit to another person.

(b) Permits are freely transferable.

(c)(1) A permittee shall seek prior approval from the director for any other changes to permit conditions.

(2) The procedures set out in this part shall be used for permit modification other than as set out in subsections (a) and (b) of this section.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-514. Fees.**

(a) A five hundred-dollar fee must be submitted with an application for a permit to make an interbasin water transfer to a nonriparian.

(b) A one hundred-dollar annual permit fee shall be collected on or before October 1 of each year.

(c)(1)(A) Permits shall remain valid from year to year until date of expiration provided annual fees are not delinquent and permit terms are honored.

(B) See 15 CAR §§ 20-515 and 20-516.

(2) The Director of the Arkansas Natural Resources Commission may deny an application or revoke an existing interbasin water transfer permit if efforts to collect either the application or annual fees fail.

(d) Installation and maintenance of flow measurement devices shall be paid by the permittee.

(e) If the application is not approved, the portion of the fee applicable to the cost of the water flow gauge or gauges and their installation shall be refunded.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-515. Cancellation — Misuse.**

The Arkansas Natural Resources Commission may cancel any permit for:

- (1) Violation of any condition contained in the permit;
- (2) Use of water for a purpose other than stated in the permit; or
- (3) The diversion of more water than permitted.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-516. Cancellation — Nonuse.**

The Arkansas Natural Resources Commission may cancel any permit issued for a period in excess of three (3) years if the permittee fails to take reasonable steps to obtain the ability to utilize the water permitted within two (2) years from the date of issuance of the permit.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-517. Irrigation permits run with land.**

(a) Irrigation permits run with the land described in the permit and can only be assigned to a subsequent owner or lessee of the land.

(b) Permits may not be sold separate and apart from the land, and any such attempts shall void the permit.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-518. Predetermined allocation plan.**

(a) After an application for a permit to make an interbasin transfer is received, the Director of the Arkansas Natural Resources Commission, where deemed desirable and appropriate, shall initiate a study consistent with the provisions of 15 CAR § 20-701 et seq., 15 CAR § 20-801 et seq., and 15 CAR §§ 20-901 – 20-908, to determine the allocations that should be made if a water shortage should occur.

(b) The purpose of this advance determination is to allow immediate implementation of allocations if a water shortage does occur.

(c) In selecting the watershed to be studied, preference shall be given to those areas where a water shortage is most likely to occur.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-519. Water level monitoring.**

The same procedure established herein in 15 CAR § 20-415 for water flow gauges at the point of diversion of water by a nonriparian for intrabasin transfers shall be applicable to transfers by a nonriparian for interbasin transfers.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-520. Appeal of permit decision.**

(a) The applicant or any affected person shall have the right to protest the decision of the Director of the Arkansas Natural Resources Commission in granting or denying the application for the interbasin transfer of surface water or to protest any special conditions placed on the approval.

(b) The appeals procedure is set out in 15 CAR § 1-501 et seq.

(c) No interbasin transfer of water shall be made until the time for appeal has expired.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

## **Subpart 6. Interstate Transfer**

### **15 CAR § 20-601. Application.**

No application for interstate transfer shall be considered by the Arkansas Natural Resources Commission unless it contains all information requested by the commission including the following:

- (1) Amount of water to be transferred;
- (2) Certification that a copy of application has been filed with the appropriate agency of the water-receiving state;
- (3) Method and route of transfer;
- (4) Point or points of proposed diversion;
- (5) Point or points of use;
- (6) Purpose of use; and
- (7) Water quality impact of proposed diversion.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205, 15-22-301.

### **15 CAR § 20-602. Fees.**

(a) A five hundred-dollar fee must be submitted with an application for a permit to make an interstate water transfer to a nonriparian.

(b) A one hundred-dollar annual permit renewal fee shall be collected on or before October 1 of each year.

(c) Permits shall remain valid from year to year until date of expiration provided annual fees are not delinquent and permit terms are honored.

(d) The Director of the Arkansas Natural Resources Commission may deny an application for or revoke an existing interstate water transfer permit if efforts to collect either the application or annual fees fail.

(e) Installation and maintenance of flow measurement devices shall be paid by the permittee.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205, 15-22-301.

**15 CAR § 20-603. Commission notification.**

Upon receiving an application containing the information listed in 15 CAR § 20-601, the Director of the Arkansas Natural Resources Commission shall notify the Arkansas Natural Resources Commission at its next regular meeting.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205, 15-22-301.

**15 CAR § 20-604. Notice and hearing.**

(a) The Arkansas Natural Resources Commission shall schedule a public hearing on the request as soon as reasonably possible.

(b) Notice of the hearing shall be published at least once a week for two (2) consecutive weeks in the newspaper having the greatest circulation in each of the counties involved.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205, 15-22-301.

**15 CAR § 20-605. Commission determination.**

(a) Within one hundred twenty (120) days after the hearing the Arkansas Natural Resources Commission must determine whether the out-of-state water transfer would be in the public interest of the citizens of Arkansas.

(b) In reaching that decision, the commission must consider the following factors:

- (1) The supply of water available in Arkansas;
- (2) The present and future water demands of water users in Arkansas;
- (3) Whether there are water shortages in Arkansas;
- (4) Whether the water to be transported could feasibly be transported to alleviate water shortages within Arkansas;
- (5) The supply and source of water available to the applicant in the state of intended use; and
- (6) The demands placed upon the applicant's supply in the state of intended use.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205, 15-22-301.

**15 CAR § 20-606. Report and recommendation.**

(a) The Arkansas Natural Resources Commission shall submit its report and recommendations to the next regular session of the General Assembly.

(b) If the commission recommends the interstate transfer of water, it shall recommend:

(1) The price to be paid to the State of Arkansas for all water transferred; and

(2) How allocation procedures will apply during times of water shortage.

(c) If approved by the General Assembly, a compact should be negotiated with the state of intended use and any other state through which the water would be transported.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205, 15-22-301.

**Subpart 7. Allocation of Surface Water During Periods of Water Shortage**

**15 CAR § 20-701. Allocation during shortages.**

Whenever a shortage of water in any stream exists, the Arkansas Natural Resources Commission may on its own initiative or on the petition of any person claiming to be affected by such shortage of water, after notice and hearing, allocate the available water among the uses affected by the shortage of water in a manner that each may obtain an equitable portion of the available water.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-702. Water usable without allocation.**

The following water is usable without allocation:

(1) Diversions by any persons of less than three hundred twenty-five thousand nine hundred gallons (325,900 gals.) (one (1) acre-foot) of water in any water year;

(2) Water captured by tailwater recovery systems;

(3) Water diverted from lakes, ponds, reservoirs, or springs in the exclusive ownership of one (1) person;

- (4) Water previously captured whether transmitted by:
  - (A) Ditch;
  - (B) Channel; or
  - (C) Pipe;
- (5) Water diverted from intermittent streams;
- (6) Diffused surface water;
- (7) Water captured by instream pit reservoirs, dams constructed pursuant to a lawful permit, or low water weirs and water stored in federal impoundments; and
- (8) Nonconsumptive usage.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-703. Reserved water.**

The following uses and needs shall have a reserved water right, prior to allocations for other uses and needs:

- (1) Domestic and municipal domestic;
- (2) Minimum streamflow; and
- (3) Federal water rights.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-704. Criteria for allocation.**

(a) All allocations shall give reasonable preference:

- (1) First to sustaining life;
- (2) Then to maintaining health; and
- (3) Finally to increasing wealth.

(b) The allocations shall reserve the water required for domestic and municipal-domestic use, federal water rights, and for minimum streamflow and shall then give preference in the following order for water uses and for types of water diversions:

- (1) Priority of water use:
  - (A) Agriculture;
  - (B) Industry;

- (C) Hydropower; and
- (D) Recreation; and
- (2) Priority of water diversions:
  - (A) Riparian;
  - (B) Nonriparian intrabasin transfer;
  - (C) Nonriparian interbasin transfer; and
  - (D) Out-of-state transfer.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-705. Reserved water — Public systems.**

Public water systems historically dependent upon the affected stream shall receive a reserved water right for municipal domestic water use prior to allocations for other uses.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-706. Reserved water — Minimum streamflows.**

Minimum streamflows as established pursuant 15 CAR § 20-301 et seq., shall receive a reserved water right prior to allocations for other uses.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-707. Reserved water — Federal water rights.**

There may be some water over which the United States has a preemptive right that is superior to rights of others.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-708. Registered riparian user.**

Any riparian landowner who has properly registered a water diversion with the Arkansas Natural Resources Commission in compliance with Arkansas Code § 15-22-215 and the rules of the commission shall be granted an allocation of water.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-709. Unregistered riparian user.**

Any riparian landowner who has not previously diverted water nor timely registered any previous water diversions with the Arkansas Natural Resources Commission may not be granted any allocation of water during times of shortage above that required for domestic use.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-710. Permitted nonriparian user.**

Nonriparian uses, including intrabasin, interbasin, and interstate transfers, previously authorized by the Arkansas Natural Resources Commission that are beneficial and that do not interfere with the uses enumerated herein in 15 CAR §§ 20-705 – 20-709 may be granted an allocation.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**Subpart 8. Procedure for Allocation of Surface Water During Periods of Shortage**

**15 CAR § 20-801. Information required in the petition.**

The following information must be included in any petition for allocation:

- (1) Name, address, and telephone number of petitioner;
- (2) Water diversion registration certificate numbers of petitioner from previous years, if any;
- (3) Current water permit number, if applicable;

(4) Name of stream from which diversion is being made or from which diversion is sought;

(5) Legal description of petitioner's land for water diversion to include:

(A) County;

(B) Section;

(C) Township; and

(D) Range;

(6)(A) Petitioner's requirements for use of water.

(B) If for irrigation of farm crops, type of crop (soybeans, rice, etc.) and acreages of each type;

(7) Name and address of any person allegedly depriving the petitioner of his or her lawful water right and a full explanation of that water use; and

(8) Vicinity details on topographic or other appropriate map, with outline of irrigated acres and points of diversions.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-802. Notice of petition and informal resolution.**

(a) Within five (5) working days after receipt of a petition from a person the Director of the Arkansas Natural Resources Commission finds eligible to receive an allocation of water, the director shall notify the affected persons by certified mail that a petition has been received by the Arkansas Natural Resources Commission requesting an allocation of water.

(b) This notice will advise the affected persons of the following:

(1) Name of petitioner and substance of the petition; and

(2) The affected person's right to discuss the matter with the petitioner and the commission staff as an alternative to a hearing on mandatory allocation by the commission.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-803. Informal resolution — Failure to resolve.**

If an affected person fails to either respond to the Director of the Arkansas Natural Resources Commission's invitation to discuss the complaint or does not agree to voluntarily

share the available water supplies within a period of seven (7) days after receipt of the director's letter of notification, the Arkansas Natural Resources Commission will then proceed to initiate the process of allocation if the commission finds a water shortage exists or is imminent.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

## **Subpart 9. Formal Allocation of Surface Water During Period of Water Shortage**

### **15 CAR § 20-901. Hearing date and location.**

(a) The Director of the Arkansas Natural Resources Commission shall establish a date for a public hearing on the matter.

(b) If matters to be considered at the hearing are of general application throughout the state, the hearing shall be held in the City of Little Rock, and notice with respect thereto shall be published in a newspaper of general circulation throughout the state.

(c) If the purpose of the hearing relates only to surface water within one (1) county, that hearing shall be held in the county involved, and notice of the hearing shall be published in the newspaper having the greatest circulation in that county.

(d) If the purpose of the hearing is with respect to surface water in more than one (1) county, the hearing shall be held in one (1) of those counties, and notice shall be published in one (1) or more newspapers which together have the greatest circulation in all of the counties involved.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

### **15 CAR § 20-902. Hearing notice.**

A notice of this hearing will be sent by certified mail to the petitioner and all affected persons.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-903. Hearing officer.**

The hearing will be chaired by:

- (1) A commissioner;
- (2) The Director of the Arkansas Natural Resources Commission; or
- (3) A member of the Arkansas Natural Resources Commission's staff designated by the director.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-904. Prehearing staff review.**

Prior to the public hearing, the Arkansas Natural Resources Commission staff, in conjunction with other interested federal or state agencies, will make an investigation of the alleged water shortage, which shall include the following information:

- (1) Verification of information submitted by petitioner;
- (2) Water use requirements of all persons lawfully taking water from the stream;
- (3) Classification of diversions as either riparian or nonriparian;
- (4) Quantity of water in stream under varying flow levels;
- (5) Determination of in-stream beneficial uses and quantity of water required therefor;
- (6) Quantity of water available for diversion under varying flow levels; and
- (7) Quantity allowable to each diverter on a daily basis.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-905. Notice of director's recommendation.**

Prior to the public hearing, the other affected persons will be advised:

- (1) Of the Director of the Arkansas Natural Resources Commission's findings of their water use requirements; and
- (2) That the Arkansas Natural Resources Commission will ask for verification during the public hearing.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-906. Commission decision.**

(a) All information gathered by the Arkansas Natural Resources Commission staff and presented at the hearing shall be analyzed and considered by the commission before making allocations.

(b) Within ten (10) working days after the public hearing, the commission will:

- (1) Make a determination concerning the alleged water shortage; and
- (2) Issue the appropriate orders to the affected persons.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-907. Notice of decision.**

The petitioner and all affected persons will be notified of the Arkansas Natural Resources Commission's determination by certified mail.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-908. Appeals.**

(a) The petitioner or any affected person shall have the right to appeal decisions under this subpart.

(b) Appeals procedure is set out in 15 CAR § 1-501 et seq.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-909. Commission-initiated allocation.**

(a) If the Arkansas Natural Resources Commission determines that a shortage exists and decides that allocation of available water is necessary, the Director of the Arkansas Natural Resources Commission shall notify all registered and permitted diverters that the conditional allocation orders previously assigned are in effect.

(b) If conditional allocation orders have not been issued, hearing procedures shall be initiated as provided herein in this subpart.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

## **Subpart 10. Implementation of Allocation Plan**

### **15 CAR § 20-1001. Allocation plan — In general.**

(a) Allocations will be expressed as a percentage of available water in the stream under varying levels of flow on a daily basis.

(b) Percentages will vary from zero percent (0%) (the level of minimum streamflow) to one hundred percent (100%).

(c) Each diverter who is assigned a water allocation will be provided a chart containing allowable daily pumping allocations expressed both as a percentage and as a quantitative measure.

(d) If a staff gauge is determined by the Director of the Arkansas Natural Resources Commission to be necessary, the charts shall also contain the corresponding applicable staff gauge reading.

(e) Such streamflow staff gauge at the point of diversion will have markings relevant to the chart, and diversions are permitted when the streamflow is in the yellow zone on the gauge as defined in 15 CAR § 20-415.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

### **15 CAR § 20-1002. Conservation plan.**

(a) As a part of the allocation plan, the Arkansas Natural Resources Commission shall require the development and implementation of a conservation plan by any and all diverters.

(b) The conservation plan may be required with or without a reduction in a diverter's withdrawals.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

### **15 CAR § 20-1003. Installation of monitoring devices.**

(a) Unless installed by the Arkansas Natural Resources Commission, diverters assigned a water allocation will be responsible for the installation and maintenance of such water level gauges at diversion points as the commission may direct.

(b) Assistance in installation and maintenance of gauges may be provided by the commission.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1004. Allocation level.**

If the stream flow reaches the allocation level (yellow zone on staff gauge), whether allocations have been implemented by the Arkansas Natural Resources Commission or not, the diverter shall comply with the allocation assigned him or her.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1005. Nondiversion level.**

If the streamflow reaches the minimum streamflow (red zone on staff gauge), whether allocations have been implemented by the Arkansas Natural Resources Commission or not, all diverters must stop all pumping immediately except for water withdrawn for domestic and municipal-domestic use.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1006. Water level monitoring.**

When an allocation has been implemented, it will be the responsibility of the diverter to read the gauge nearest his or her point of diversion on a frequency to be determined by the Director of the Arkansas Natural Resources Commission.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1007. No time or rate restrictions provided daily allocations not exceeded.**

There will be no restriction on the time or rate of pumping when the level of flow is above the diverters' designated minimum staff gauge reading, provided daily pumping allocations are not exceeded.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1008. Cease allocation.**

When the Director of the Arkansas Natural Resources Commission determines that sufficient water exists in a stream to meet the requirements of all diverters, at or above green zone on staff gauge, the allocations will cease to be applicable and all diverters will be notified by the director.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**Subpart 11. Penalties**

**15 CAR § 20-1101. Loss of allocation.**

Failure to comply with the provisions of this part will invalidate any allocation previously granted by the Arkansas Natural Resources Commission, and willful violations may prejudice their future applications for permits or allocations.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1102. Additional penalties.**

(a) In addition to other penalties authorized by this part, the Arkansas Natural Resources Commission may invoke penalties as provided in Arkansas Code § 15-22-204.

(b) All penalties received shall go to the Arkansas Water Development Fund.

**Authority.** Arkansas Code §§ 15-20-206, 15-20-209, 15-22-205.

## **Subpart 12. Emergency Allocations**

### **15 CAR § 20-1201. Time frame compression.**

When the Arkansas Natural Resources Commission either receives a petition for allocation or determines that a shortage exists that in the opinion of the commission requires an immediate determination of the need for allocation:

- (1) An emergency may be declared by the commission; and
- (2) The time frames for actions set forth in this part may be shortened to whatever extent the commission deems necessary.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

### **15 CAR § 20-1202. Modifications for public health, safety, or welfare.**

When the Arkansas Natural Resources Commission determines that the shortage of water is so severe that an allocation or minimum streamflow is insufficient such that public health, safety, or welfare is significantly affected, it may declare an emergency and modify any allocation or minimum streamflow developed under this part such that the effects upon the public health, safety, or welfare is minimized.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

## **Subpart 13. White River Minimum Streamflow Levels**

### **15 CAR § 20-1301. When rules become operative.**

(a) When the registered level of water withdrawn for riparian use exceeds three hundred cubic feet per second (300 cfs) from the main stem of the White River, this subpart shall become operative for riparian withdrawals.

(b) When the registered level of water withdrawn for nonriparian use exceeds three hundred cubic feet per second (300 cfs) from the main stem of the White River, this subpart shall become operative for nonriparian withdrawals.

(c) Once this subpart becomes operative for either class, riparian or nonriparian, this subpart will remain in effect until the Arkansas Natural Resources Commission notifies all registered users of the affected class otherwise.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1302. Applicability, reaches, and seasons.**

(a)(1) This subpart applies to the main stem of the White River in Arkansas from below Bull Shoals Dam to its confluence with the Mississippi River.

(2) See Appendix A-2, Map of White River Reaches and Gauges.

(b) For the purposes of this subpart the White River is divided into three (3) reaches:

(1) Bull Shoals Dam to the Calico Rock gauge;

(2) Calico Rock gauge to the Newport gauge; and

(3) Newport gauge to the confluence with the Mississippi River.

(c)(1) Streamflow data for each reach will be collected from gauges operated by the United States Army Corps of Engineers or United States Geological Survey and identified in A-2 of the Appendix.

(2) When the volume of water crossing the location of each gauge falls to the gauge levels identified in 15 CAR §§ 20-1303 – 20-1305, users must cease withdrawals.

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1303. Reach 1 — Bull Shoals to Calico Rock.**

When this subpart is operative and gauge levels drop to or below levels indicated for a particular class of use, all out-of-stream withdrawals for that class of use must cease.

	Registered Riparian Use		Non-Riparian Permit Holders	
	Calico Rock Gauge Level	Flow in Cubic Feet per Second (cfs)	Calico Rock Gauge Level	Flow (cfs)
January	2.4	2,000	3.0	2,880
February	2.4	2,000	3.0	2,880
March	2.4	2,000	3.0	2,880
April	2.4	2,000	3.0	2,880
May	2.4	2,000	3.0	2,880
June	2.4	2,000	3.0	2,880
July	2.4	2,000	3.0	2,880
August	2.4	2,000	3.0	2,880
September	2.4	2,000	3.0	2,880
October	2.4	2,000	3.0	2,880
November	2.4	2,000	3.0	2,880
December	2.4	2,000	3.0	2,880

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1304. Reach 2 — Calico Rock to Newport.**

When this subpart is operative and gauge levels drop to or below levels indicated for a particular class of use, all out-of-stream withdrawals for that class of use must cease.

	Registered Riparian Use		Non-Riparian Permit Holders	
	Newport Gauge Level	Flow (cfs)	Newport Gauge Level	Flow (cfs)
January	1.0	6,400	2.0	7,740
February	1.0	6,400	2.0	7,740
March	3.0	9,170	4.0	10,700
April	3.0	9,170	4.0	10,700
May	3.0	9,170	4.0	10,700
June	1.0	6,400	2.0	7,740
July	-1.0	4,030	1.0	6,400
August	-1.0	4,030	1.0	6,400
September	-1.0	4,030	1.0	6,400
October	-1.0	4,030	1.0	6,440
November	0.0	5,160	1.0	6,440
December	1.0	6,400	2.0	7,740

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

**15 CAR § 20-1305. Reach 3 — Newport to mouth of Mississippi.**

When this subpart is operative and gauge levels drop to or below levels indicated for a particular class of use, all out-of-stream withdrawals for that class of use must cease.

	Registered Riparian Use		Non-Riparian Permit Holders	
	Clarendon Gauge Level	Flow (cfs)	Clarendon Gauge Level	Flow (cfs)
January	15.0	15,900	17.2	19,610
February	15.0	15,900	18.7	22,700
March	16.1	17,590	21.0	27,610
April	16.1	17,590	24.2	36,940
May	16.1	17,590	24.1	36,640
June	9.0	7,125	18.0	21,220
July	9.0	7,125	11.5	10,670
August	9.0	7,125	10.8	9,650
September	9.0	7,125	10.8	9,650
October	9.0	7,125	10.8	9,650
November	10.8	9,650	11.8	11,050
December	15.0	15,900	16.1	17,590

**Authority.** Arkansas Code §§ 15-20-206, 15-22-205.

### Appendix A. River Basins of Arkansas

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/56/15CARpt.20Appendix.pdf>