

Title 20. Public Health and Welfare
Chapter I. Generally, Department of Health
Subchapter E. Environmental Health
Part 139. Rules Pertaining to Outdoor Bathing Places

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

"AUTHORITY

The following Rules 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 XI. SEVERABILITY

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

SECTION XII. REPEAL

All rules and parts of rules in conflict herewith are hereby repealed.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."

"CERTIFICATION

This will certify that the foregoing Rules 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, copy having been filed in my office, are hereby approved this 20th day of August, 1998.

Mike Huckabee Governor"

Subpart 1. Generally

20 CAR § 139-101. Purpose.

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

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-102. Definitions.

As used in this part:

(1) "Bathhouse" means a structure or enclosure provided to be used for changing to or from bathing suits or beachwear, to include all:

- (A) Plumbing;
- (B) Accessories; and
- (C) Appurtenances;

(2) "Department" means the Division of Environmental Health Protection of the Department of Health;

(3)(A) "Outdoor bathing places" means any bathing place, together with buildings and appurtenances, if any, and the water and land areas used in connection therewith, such as a natural pond, lake, stream, or other body of water which is:

- (i) Operated for a fee or any other compensation; or

(ii) Openly advertised as a place for bathing or swimming for the public.

(B) This definition does not apply to swimming pools; and

(4) "Person" means 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 Department of Health.

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-103. Compliance.

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

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-104. Safety.

(a) The responsible person at each outdoor bathing place shall take all necessary safety precautions.

(b) The following conditions will affect the safety of outdoor bathing places:

(1) Good water quality, to include:

(A) Bacteria count;

(B) Turbidity; and

(C) Other chemicals and materials that may be in the body of water;

(2) Minimum lifesaving and first-aid equipment should be provided and should be readily available for emergency use at each public bathing place;

(3) **Signs.** When no lifeguard is on duty at any outdoor bathing place, a sign or signs stating "No Lifeguard on Duty" shall be posted in clearly legible letters at least four inches (4") high; and

(4) **Communications.** A telephone or other means of communication, with numbers posted of nearest emergency services, should be provided.

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-105. Bacteriological water quality.

(a) When the E. coli density of any sample collected exceeds one hundred twenty-six (126) per one hundred milliliters (100 ml), daily samples shall immediately be collected and analyzed for E. coli for at least two (2) consecutive days.

(b) Swim areas remain closed until satisfactory conditions are verified by two (2) consecutive E. coli samples.

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-106. Bathhouse and toilet facilities.

(a)(1) Adequate and convenient toilet facilities shall be provided at all outdoor bathing places.

(2) These facilities shall meet the approval of the Division of Environmental Health Protection of the Department of Health.

(b) If a bathhouse is provided by the responsible person, plans and specifications shall be submitted to and approved by the division 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.

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-107. Sanitary survey.

(a) **Responsibility.** The sanitary survey shall be conducted by the Division of Environmental Health Protection of the Department of Health.

(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 20 CAR § 139-108(b)(4), shall be reviewed by the division.

(3) **Nature and sources of contamination.** The nature of potential sources of contamination, including but not limited to:

- (A) Streams;
- (B) Unsewered residential areas;
- (C) Wastewater treatment plants;
- (D) Combined sewer and storm drain outlets;
- (E) Industrial outlets;
- (F) Sanitary landfills;
- (G) Open dumps;
- (H) Animal enclosures; and
- (I) Potential high erosion areas.

(4) **Bather load.**

- (A) History of average and peak bather load.
- (B) On proposed beaches, anticipated bather load.

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-108. Submission of plans.

(a) **General.**

(1) All reports, final plans, and specifications should be submitted at least thirty (30) days prior to the date on which action by the Division of Environmental Health Protection of the Department of Health is desired.

(2) Preliminary plans should be submitted for review prior to the preparation of final plans.

(3) No approval for construction shall be issued until final, complete, detailed plans and specifications have been:

(A) Submitted to the division; and

(B) Found to be satisfactory.

(b) Documents submitted for formal approval shall contain sufficient information to demonstrate to the division that the proposed public bathing beach, or improvements thereto will meet the standards contained herein and shall include but not be limited to:

(1)(A) Detailed description of the watershed with location and identification of all potential sources of contamination including any anticipated future development.

(B) **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.

(C) **Plot maps.** A plot map drawn to scale, showing the bathing beach and any contaminating or potentially contaminating discharges.

(D) **Potential sources of contamination.** The potential sources of contamination include, but are not limited to, the following:

(i) Streams;

(ii) Unsewered residential areas;

(iii) Wastewater treatment plants;

(iv) Combined sewer and storm drain outlets;

(v) Industrial outlets;

(vi) Sanitary landfills;

(vii) Open dumps;

(viii) Animal enclosures; and

(ix) Potential high erosion areas.

(E) **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:

(A) Medical;

(B) Fire protection; and

(C) Communication;

(4) **Bathing beach water quality.** Information concerning the source, quality, and quantity of the water, and the results of at least one (1) 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 drop-offs.

(C) **Safety.** The physical condition and safety of construction of:

(i) Any floating platforms;

(ii) Diving towers or lifeguard towers located in the water;

(iii) The condition of the bathhouse; and

(iv) 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 the public bathing beach will be operated.

(B) Training, experience, and number of on-site management, supervisory, and lifeguard personnel; and

(7) **Prohibitions for establishing new bathing beaches.** New bathing beaches may be prohibited when:

(A) Contamination from sources outlined in subdivision (b)(1)(D) of this section, is likely; or

(B) Potential design problems as outlined in subdivision (b)(5) of this section are determined by the division.

Authority. Arkansas Code § 20-7-109.

Codification Notes. The phrase "General Layout" was originally present between subsection (b) and subdivision (b)(1)(A) of this section.

20 CAR § 139-109. Related rules.

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

(1) Department of Health Rules Pertaining to General Sanitation, 20 CAR pt. 131;

(2) The Arkansas Sewage Disposal Systems Act, Acts 1977, No. 402, and Rules Pertaining to Onsite Wastewater Systems, 14 CAR pt. 21;

(3) Rules Pertaining to Public Water Systems, 20 CAR pt. 140;

(4) Department Rules Pertaining to Retail Food Establishments, 20 CAR pt. 170; and

(5) The Arkansas Plumbing Code, 20 CAR pt. 65.

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-110. Access to bathing place — Place to be closed for violation of act.

(a) The Division of Environmental Health Protection of the Department of Health, at all reasonable times, shall have access to and is hereby empowered to:

(1) Enter upon any and all parts of the premises of any bathing place used and let for hire to the public or individuals; and

(2) Make such examinations and investigations as shall determine the sanitary conditions and all hazards and dangers and whether the provisions of this part and the rules of the division 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 this part, such bathing place forthwith shall be closed to all persons until:

(1) Provision is made to comply with this law; and

(2) Permission is given by the division to reopen the same.

Authority. Arkansas Code § 20-7-109.

20 CAR § 139-111. Penalty clause.

(a) Every firm, person, or corporation violating any provisions of this part 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) nor more than five hundred dollars (\$500), or by imprisonment not exceeding one (1) month or both and each day of violation shall constitute a separate offense.

(b)(1) See Arkansas Statutes § 82-121.

(2) Arkansas Code §§ 14-262-101 and 20-7-101.

Authority. Arkansas Code § 20-7-109.