

**Title 8. Environmental Law**

**Chapter I. Arkansas Pollution Control and Ecology Commission, Department of Energy and Environment**

**Subchapter C. Water Quality**

**Part 23. Rule to Require a Disposal Permit for Real Estate Subdivisions in Proximity to Lakes and Streams**

**Subpart 1. Generally**

**8 CAR § 23-101. Purpose.**

Pursuant to the provisions of Section 3 of Title I of the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., hereinafter referred to as the "Act", (Acts 1949, No. 472, as amended; Ark. Stats., 82-1904), the Arkansas Commission on Pollution Control and Ecology hereby promulgates this part requiring a disposal permit for real estate subdivisions in proximity to certain lakes and streams.

**Authority.** Arkansas Code § 8-4-202.

**8 CAR § 23-102. Definitions.**

(a) When used in this part:

(1) "Commission" means the Arkansas Pollution Control and Ecology Commission;

(2) "Division" means the Division of Environmental Quality;

(3)(A) "Lake" means any lake, whether natural, artificial, or a combination thereof, with a surface area of five hundred (500) acres or more measured at the ordinary high-water mark;

(B) "Stream" means a stream listed in 8 CAR § 23-104; and

(4) "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) Words and phrases defined in the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., but not defined herein, shall have the same meaning when used herein.

**Authority.** Arkansas Code § 8-4-202.

**8 CAR § 23-103. Permit and disposal system approval required.**

(a) From and after the effective date of this part, no real estate developer shall cause any new subdivision to be created or platted, containing in the aggregate fifty (50) or more lots, any part of which subdivision is located within two thousand six hundred forty feet (2,640') 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 of Environmental Quality 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)(1) 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 part, and the developer shall obtain a disposal permit as required by subsection (a) of this section, 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 part so long as said developer or developers own fifty (50) or more lots in said development, as of the effective date of this part, which are predominately contiguous to each other, any of which are located within two thousand six hundred forty feet (2,640') of any lake or

stream, and are not connected to a public sanitary sewer collection and treatment system.

(2) A permit for developments covered by this subsection (b) shall be filed with the division within sixty (60) days after the effective date of this part.

**Authority.** Arkansas Code § 8-4-202.

**8 CAR § 23-104. Minimum lots exception.**

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 Arkansas Pollution Control and Ecology Commission to have been adopted for the purpose of evasion of this part.

**Authority.** Arkansas Code § 8-4-202.

**8 CAR § 23-105. Effective date.**

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

**Authority.** Arkansas Code § 8-4-202.

**8 CAR § 23-106. Streams covered by this part.**

Streams covered by this part:

- (1) Arkansas River Basin:
  - (A) Arkansas River;
  - (B) Big Bayou Meto;
  - (C) Big Maumelle River;
  - (D) Big Piney Creek;
  - (E) Cadron Creek;
  - (F) Fourche La Fave River;
  - (G) Frog Bayou;

- (H) Illinois Bayou, including:
  - (i) East Fork;
  - (ii) Middle Fork; and
  - (iii) North Fork;
- (I) Illinois River;
- (J) Lee Creek;
- (K) Little Sugar Creek;
- (L) Mulberry River;
- (M) Petit Jean River;
- (N) Point Remove Creek;
- (O) Poteau River;
- (P) South Fourche La Fave River; and
- (Q) Spavinaw Creek;

(2) White River Basin:

- (A) Bayou Des Arc;
- (B) Bayou DeView;
- (C) Bayou LaGrue;
- (D) Black River;
- (E) Buffalo River;
- (F) Cache River;
- (G) Crooked Creek;
- (H) Current River;
- (I) Eleven Point River;
- (J) Kings River;
- (K) Little Red River;
- (L) Norfork River;
- (M) North Sylamore Creek;
- (N) Salado Creek;
- (O) Spring River;
- (P) South Fork Spring River;

- (Q) South Sylamore Creek;
  - (R) Strawberry River;
  - (S) Village Creek;
  - (T) War Eagle Creek; and
  - (U) White River, including West Fork and Middle Fork;
- (3) St. Francis River Basin:
- (A) L'Anguille River;
  - (B) Little River;
  - (C) St. Francis River; and
  - (D) Tyronza River;
- (4) Ouachita River Basin:
- (A) Antoine River;
  - (B) Bayou Bartholomew;
  - (C) Caddo River;
  - (D) Little Missouri River;
  - (E) Moro Creek; and
  - (F) Ouachita River, including South Fork and Irons Fork Saline River, including North, Alum, Middle, and South Fork; and
- (5) Red River Basin:
- (A) Cossatot River;
  - (B) Little River;
  - (C) Mountain Fork Little River;
  - (D) Red River;
  - (E) Rolling Fork Little River;
  - (F) Saline River; and
  - (G) Sulfur River.

**Authority.** Arkansas Code § 8-4-202.