

MEMORANDUM

To: Arkansas Pollution Control and Ecology Commission

From: Deborah Pitts, Attorney, Arkansas Department of Environmental Quality (ADEQ)

Date: August 13, 2009


RE: Compliance with Act 143 of 2007

A copy of the changes to Regulation Number 33 has been sent to the Arkansas Economic Development Commission (AEDC) as required under Act 143 of 2007. In accordance with Arkansas Code § 25-15-302(C), an Economic Impact Statement of the proposed regulation changes is not required under Act 143 because Act 1287 implicitly requires the Department to revise the existing motor vehicle racing facility regulations, and because it will substantially codify existing state law. Correspondence explaining the proposed changes was sent on August 12, 2009.

At such time as AEDC provides documentation of its review of the regulation changes, ADEQ will supplement this memorandum by filing the response from AEDC with the Commission's Administrative Hearing Officer and placing a scanned copy of the response on the Commission's website.

From: [Sartain, Elizabeth](#)
To: ["pbrown@arkansasedc.com"](mailto:pbrown@arkansasedc.com)
Cc: [Bates, Mike](#); [Spann, Jeremy](#)
Subject: Revision to the AR Pollution Control and Ecology Commission's Regulation Number 33
Date: Wednesday, August 12, 2009 8:46:53 AM
Attachments: [Act1287.pdf](#)
[Exhibit A Regulation 33 8-12-2009.doc](#)

Ms. Brown,

The Arkansas Department of Environmental Quality (ADEQ) proposes revisions to Regulation Number 33, Motor Vehicle Racing Facility Regulations. This regulation is applicable to motor vehicle racing facilities as defined in the regulation.

The proposed regulatory amendments involve incorporating changes made by Act 1287 of the 87th General Assembly of the Arkansas State Legislature into Chapter 3 Reg. 33.301(D) and Reg. 33.301(E), and making some minor editorial changes. These changes define the necessary requirements needed for racing facilities to apply for an initial annual permit from the ADEQ. These amendments to Regulation Number 33 ensure that the regulation is consistent with Arkansas statutory law, and incorporates the language of Act 1287 without substantive change.

The proposed amendments to Reg. 33.301(D) determine pre-permit requirements for facilities in certain municipalities. This section determines areas of the State in which facilities are exempt from Reg. 33.301(A)-(C). Changes made to Reg. 33.301(E) involve the minimum distance from the boundary of another county for permitted or constructed facilities. The minimum distance is changed from three miles to one mile from the boundary of another county.

This proposed regulation change is exempt from an Economic Impact Statement under Act 143 of 2007, in that the existing state statute implicitly directs the Department to revise these regulations, and that the proposed changes incorporate the language of Act 1287 without substantive change.

ADEQ plans to petition the Arkansas Pollution Control and Ecology Commission (APC&EC) to initiate rulemaking at the Commission's meeting on August 28, 2009. Pursuant to Act 143 of 2007, please find the attached mark-up copy of the ADEQ proposed revisions to Regulation Number 33 for your review. Thank you for your assistance on this matter.