

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY  
COMMISSION

IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 33, MOTOR VEHICLE) DOCKET NO. 09-\_\_\_\_-R  
RACING FACILITY REGULATIONS )

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION  
NUMBER 33, MOTOR VEHICLE RACING FACILITY REGULATIONS

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “the Department”), for its Petition to Initiate Rulemaking to Amend Regulation Number 33, Motor Vehicle Racing Facility Regulations, states:

1. The Department requests that the Commission Initiate Rulemaking to amend Regulation Number 33, Motor Vehicle Racing Facility Regulations. Regulation 33 is applicable to outdoor facilities used for competitive racing by automobiles or trucks that are modified for racing. The Department proposes this rulemaking to make the provisions of Regulation Number 33 conform to the statutory language affected by Act 1287 of the 87th General Assembly of the Arkansas State Legislature. Act 1287 amends the necessary requirements needed for racing facilities to apply for a permit from the ADEQ and the minimum distance from the county boundary for permitted or constructed facilities.
2. The proposed regulatory amendments precipitated by the above-referenced Act involve the following:

- (a) Changes made to Reg.33.301(D). The changes made to this section determine pre-permit requirements for facilities in certain counties. This section determines areas of the state in which facilities are exempt from Reg.33.301(A)-(C). The changes to this section also

include changes for motor vehicle racing facilities located in a county having a population between eighty thousand (80,000) and ninety thousand (90,000) according to the 1990 Federal Decennial Census. The regulation is changed from north to south of a navigable waterway that traverses the state or more than two (2) miles from an interstate highway, public or private school, or church facility in place at the time of the original permit application.

- (b) Changes made to Reg.33.301(E). The changes to this section 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. The changes to this section also include changes for motor vehicle racing facilities located in a county having a population between eighty thousand (80,000) and ninety thousand (90,000) according to the 1990 Federal Decennial Census. The regulation is changed from north to south of a navigable waterway that traverses the state or more than two (2) miles from an interstate highway, public or private school, or church facility in place at the time of the original permit application.
- (c) Updating formatting, correcting typographical errors and inconsistencies in the regulation.

3. In accordance with Reg.8.812(A)(2) and (4), the proposed changes to Regulation Number 33 do not require an economic impact/environmental analysis because the proposed changes incorporate language of an Arkansas statute

without substantive change and make De Minimis changes.

4. 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 has been sent to the AEDC. A memorandum dated August 12, 2009, regarding compliance with Act 143 of 2007 is attached as Exhibit “D”.

5. Mike Bates or other Air Division staff from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit “A” and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit “B”, and a copy of a Financial Impact Statement for the proposed revision is attached as Exhibit “C”, both of which are incorporated by reference. A memo regarding compliance with Act 143 of 2007 is attached as Exhibit “D”, and hereby incorporated by reference. A proposed minute order is attached as Exhibit “E” and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation Number 33.

Respectfully Submitted,  
ARKANSAS DEPARTMENT OF  
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