

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to
Initiate Rulemaking –
Regulation No. 33
DOCKET NO. 09- -R**

MINUTE ORDER NO. 09-

PAGE 1 OF 3

On August 14, 2009, the Arkansas Department of Environmental Quality (“Department” or “ADEQ”) filed a Petition to Amend Regulation No. 33, Motor Vehicle Racing Facility Regulations, (“Petition”). The Petition has been designated as Docket No. 09-____-R.

The Commission’s Regulations Committee met on August 28, 2009, to review the Petition. Having considered the Petition, the Regulations Committee recommends the Commission institute a rulemaking proceeding to consider adopting the proposed revisions to Regulation No. 33.

1. The Department shall file an original and two (2) copies and a computer disk in Word of all materials required under this Minute Order.
2. Persons submitting written public comments shall submit their written comments to the Department. Within ten (10) business days following the adoption or denial of the proposed rule, the Department shall deliver the originals of all comments to the Commission Secretary.
3. A public hearing shall be conducted on October 8, 2009, beginning at 2:00 p.m. in the ADEQ Commission Room, 5301 Northshore Drive, North Little Rock, AR, 72118-5317.
4. The period for receiving all written comments shall conclude ten (10) business days after the date of the public hearing pursuant to Reg.8.806 of Regulation No. 8, unless an extension of time is granted.
5. The Department shall file, not later than 14 days before the Commission meets to consider adoption of the proposed rule, a Statement of Basis and Purpose as required by Reg.8.808 and Reg.8.815 of Regulation No. 8.
6. The Department shall file, not later than 14 days before the Commission meets to consider adoption of the proposed rule, a proposed Minute Order deciding this matter.
7. The Department shall seek review of the proposed rule from the Joint Interim Committee on Public Health and Welfare and/or from the Joint Interim Committee on Administrative Rules and Regulations.

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PAGE 2 OF 3

8. The Regulations Committee may consider this matter at its February 2010 meeting. In the event that the appropriate legislative committees do not complete review of the proposed rule by the above date, the Regulations Committee and the Commission will consider the proposed amendments to the regulation after review by the appropriate legislative committee. Members of the Regulations Committee may ask questions of the Department and any person that made oral or written comments. The Regulations Committee will make a recommendation to the Commission.

9. At the Commission's regularly scheduled January 2010 meeting, the presentation of oral statements and legal arguments shall be regulated as follows:

a. The Chair of the Commission will permit members of the public to make a statement to the Commission. No more than three (3) minutes will be allowed for each statement. The period for statements will close at the end of one (1) hour, or sooner if all interested persons have completed their statements. The Chair, in his discretion, may extend the one (1) hour public comment period.

b. At the discretion of the Chair, an attorney representing one or more individuals, a corporation or other legal entity may be permitted five (5) minutes in which to address the Commission.

c. Department legal counsel or other designated Department employee will be permitted ten (10) minutes in which to address the Commission.

d. At the conclusion of all comments, the Chairman will call on each Commissioner for the purpose of asking the attorneys or persons sponsoring comments who are present, any questions they may have. Attorneys will not be permitted to respond or ask follow-up questions of any person questioned by a Commissioner.

After each Commissioner has had an opportunity to ask questions, the Chair will entertain a motion on the matter, allow discussion, and call for a vote of the Commission members.

10. The Commission finds the proposed regulation is exempt from Act 143 of 2007 because the proposed rule codifies existing state law.

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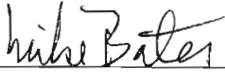
PAGE 3 OF 3

The Commission accepts the recommendation of the Regulations Committee and initiates the rulemaking proceeding in this docket. The Commission adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS:

____ L. Bengal
____ J. Chamberlin
____ S. Henderson
____ D. Hendrix
____ C. McGrew
____ D. Samples

____ L. Sickel
____ J. Shannon
____ W. Thompson
____ E. Valdez
____ B. White
____ R. Young



Submitted by: Mike Bates

DATE PASSED

Chair, J. Simpson