

**BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
COMMISSION**

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 33, MOTOR VEHICLE)
RACING FACILITY REGULATIONS)**

DOCKET NO. 09-002-R

**STATEMENT OF BASIS AND PURPOSE
FOR REGULATION NO. 33, MOTOR VEHICLE RACING FACILITY
REGULATIONS**

The Arkansas Pollution Control and Ecology Commission (the "Commission") is given the power and responsibility to promulgate rules and regulations. Pursuant to Ark. Code Ann. § 8-1-203(b)(1), the Commission is granted the power and responsibility to promulgate rules and regulations implementing the substantive statutes which are administered by the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "Department").

On August 14, 2009, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 33, Motor Vehicle Racing Facility Regulations. The revisions to the Motor Vehicle Racing Facility Regulations are the result of state legislative changes enacted in 2009. The proposed amendments to Regulation No. 33 were precipitated by the following:

Arkansas General Assembly Act 1287 of 2009.

Amendment of Regulation No. 33 is necessary in order to make the regulation conform with statutory language affected by the above-referenced Act.

The areas addressed by the amendments proposed to the Commission are:

1. Legislative Changes.

(A) Arkansas Code § 8-10-304(a), concerning exemptions for certain motor vehicle racing facility construction and operation, is amended so that § 8-10-302 and § 8-10-303 do not apply to 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, and that are 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) Arkansas Code § 8-10-304(e) is amended to not allow permitting or construction of motor vehicle racing facilities under § 8-10-304(e) within one (1) mile of the boundary of another county.

2. Changes proposed by the Department.

(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

The Commission finds that the proposed revisions to Regulation No. 33 facilitate implementation of the substantive statutes administered by the Department, concerning motor vehicle racing facilities. These rules are in the public interest, and are necessary to ensure compliance with state law.

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