

Title 8. Environmental Law

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

Subchapter B. Administration

Part 13. Motor Vehicle Racing Facility Rules

Subpart 1. General Provisions

8 CAR § 13-101. Title.

The following part, adopted by authority of and in accordance with the provisions of Arkansas Code §§ 8-1-203, 8-10-303(a)(3)(E), and 8-10-304(b)(6), shall be known as the "Motor Vehicle Racing Facility Rules", hereinafter referred to as 8 CAR pt. 13.

8 CAR § 13-102. Purpose.

The purpose of this part is to implement the provisions of Arkansas Code §§ 8-10-302, 8-10-303, and 8-10-304.

8 CAR § 13-103. Applicability.

(a) This part shall apply to all motor vehicle racing facilities constructed on or after January 1, 1995.

(b) All permits previously issued to motor vehicle racing facilities shall remain in effect for the full period of time for which they were issued.

(c) Subsequent applications for permit renewal shall comply with the requirements of this part.

8 CAR § 13-104. Definitions.

(a) All words, terms, and phrases used in this part, unless the context otherwise requires, shall have their usual meaning.

(b) In addition, for purposes of this part, the following definitions apply:

(1) "Annual permit" means the permit issued to a motor vehicle racing facility on an annual basis after the issuance of the initial permit;

(2) "Automobiles or trucks modified for racing" means any vehicle designed to be operated with at least four (4) wheels in contact with the ground and a gross dry weight, excluding the driver, of more than one thousand pounds (1,000 lbs.) which is used in competitive racing or public racing demonstrations at a motor vehicle racing facility in Arkansas;

(3) "Begin construction" means the initiation of physical on-site construction activities on a motor vehicle racing facility which are of a permanent nature;

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

(5) "Competitive racing of automobiles or trucks that are modified for racing" means any event:

(A) In which it is possible to compare the performance of the participants, even if such comparison is not actually done; or

(B) Designed as an exhibition of driving skill;

(6) "Constructed" means the completion of physical on-site activities so that a motor vehicle racing facility is capable of hosting competitive racing events;

(7) "Designed and used for competitive racing" means any motor vehicle racing facility capable of hosting competitive racing;

(8)(A) "Division" means the Division of Environmental Quality, or its successor.

(B) When reference is made in this part to actions taken by or with reference to the Division of Environmental Quality, the reference is to the staff of the Division of Environmental Quality acting at the direction of the Director of the Division of Environmental Quality;

(9) "Initial annual permit" means the first permit issued to a motor vehicle racing facility;

(10) "Material change" or "materially different" means:

(A) The addition of a new racing venue; or

(B) Other substantial and significant modification to the way the facility is operated; and

(11) "Motor vehicle racing facility" means any outdoor facility used for

competitive racing by automobiles or trucks that are modified for racing.

8 CAR § 13-105. Severability.

If any provision of this part, or the application of such provision to any person or circumstance, is held invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Subpart 2. Permit Requirements

8 CAR § 13-301. Effective date.

This part is effective ten (10) days after filing with the:

- (1) Secretary of State;
- (2) State Library; and
- (3) Bureau of Legislative Research.

8 CAR § 13-202. Initial annual permit application requirements.

(a) All motor vehicle racing facilities constructed after January 1, 1995, shall obtain a permit in accordance with this part.

(b)(1) Except as provided in 8 CAR § 13-201(d), all initial annual permit applications for a motor vehicle racing facility shall meet the requirements of 8 CAR § 13-201(a) – (c).

(2) The party must provide the clerk's certification of the signatures on the petition with the motor vehicle racing facility permit application.

(c) Applications shall include a written proposal for the motor vehicle racing facility containing the substance of the proposed motor vehicle racing facility, including:

- (1) A description of the types of motor vehicles proposed for racing at the motor vehicle racing facility;
- (2) The maximum projected noise level of the racing vehicles;
- (3) A description of the kinds of races and the types of buildings, stands,

parking areas, or other physical plants proposed for the motor vehicle racing facility;

(4) Estimates of traffic counts and numbers of spectators;

(5) A traffic control plan;

(6) A copy of the city or county clerk's certification of the signatures on the petition as required by 8 CAR § 13-201(c);

(7) A sample copy of the petition;

(8) A disclosure statement in accordance with Administrative Procedures, 8 CAR pt. 11; and

(9) Any other relevant permit information as may be determined necessary for the permit application by the Division of Environmental Quality.

(d) All permit applications for a motor vehicle racing facility shall be on such forms and contain such information as the division may reasonably require.

(e) If, while processing an application that has been determined to be complete, the division determines that additional information is necessary to evaluate or take final action on that application, the division may request such information in writing and set a reasonable deadline for a response.

(f)(1) Any applicant who fails to submit any relevant facts or who has submitted incorrect information shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

(2) In addition, an applicant shall provide additional information as necessary to address any relevant requirements that become applicable before final action is taken on its application.

8 CAR § 13-203. Public participation.

(a)(1) For the initial annual permit application, the Division of Environmental Quality shall conduct a public hearing on the proposed motor vehicle racing facility.

(2) The division shall set a date for the public hearing to be held on the proposed motor vehicle racing facility annual initial permit decision which shall not be less than thirty (30) days after the filing of the initial annual permit application.

(3) The hearing may be adjourned and continued if necessary.

(4) Any interested persons may appear and contest the granting of the approval or renewal of the motor vehicle racing facility permit.

(5) Affidavits in support of or against the proposed motor vehicle racing facility or a permit renewal, which may be prepared and submitted, shall be examined by the division.

(b)(1) Public notice of an initial permit application and notice of public hearing shall be published in a newspaper of general circulation in the county in which the motor vehicle racing facility is proposed to be located.

(2) The division shall provide or approve the format of the notice.

(3) The notice shall include:

(A) The motor vehicle racing facility name and business address or legal description of the property;

(B) The type of permit for which the application has been made;

(C) The date the application was deemed administratively complete;

(D) Notice of the division's proposed decision;

(E) The date, time, and place of the public hearing; and

(F) A statement that oral public comments will be accepted at the public hearing.

(4)(A) To ensure comments are accurately recorded, the division prefers written comments.

(B) The period for written public comments shall extend from the date of the public notice to the date of the public hearing.

(C) Comments must be received by the close of the public hearing.

(c) Those sections of 8 CAR pt. 11 dealing with public notice of permit application (8 CAR § 11-205), request for public hearing on application for permit (8 CAR § 11-206), public notice of draft permitting decision (8 CAR § 11-207), public comment on draft permitting decision (8 CAR § 11-208), public hearings (8 CAR § 11-209), public meetings (8 CAR § 11-210), and the second paragraph under "Director of the Division of Environmental Quality's decision", final permitting decision (8 CAR § 11-211(a)(2)) do not apply to initial annual permits issued under this section.

8 CAR § 13-204. Final action on permit.

(a) After the hearing for the initial permit or upon application for the renewal of its annual permit, if the Division of Environmental Quality shall be satisfied that the benefits of the motor vehicle racing facility are sustained by proof and outweigh its impact by the noise, air pollution, and traffic congestion caused by motor vehicle racing facilities, then the division shall grant the initial permit approving the proposed motor vehicle racing facility or shall renew approval to the permitted or existing motor vehicle racing facility.

(b) The division may impose special conditions upon the issuance of the permit.

(c) The division shall notify in writing the owner/operator and any person that submitted public comments on the record of its final permitting decision.

(d) The division's final decision shall include a response to each issue raised, if any, during the public comment period.

(e) No permit shall be issued unless the applicant has paid all fees assessed.

(f) The Director of the Division of Environmental Quality's final permit decision is subject to review pursuant to Administrative Procedures, 8 CAR pt. 11.

8 CAR § 13-205. Transfer of permits.

(a) Permits issued under this part shall remain freely transferable provided:

(1) The applicant for the transfer notifies the Director of the Division of Environmental Quality at least thirty (30) days in advance of the proposed transfer date on such forms as the director may reasonably require; and

(2) Submits a disclosure statement or other such documents as required.

(b) The director may deny the issuance or transfer of any permit, license, certification, or operational authority if he or she finds, based upon the disclosure statement and other investigation which he or she deems appropriate, that:

(1) The applicant has a history of noncompliance with the environmental laws or rules of this state or any other jurisdiction;

(2) An applicant which owns or operates other facilities in the state is not in

substantial compliance with, or on a legally enforceable schedule that will result in compliance with, the environmental laws or rules of this state; or

(3) A person with a history of noncompliance with environmental laws or rules of this state or any other jurisdiction is affiliated with the applicant to the extent of being capable of significantly influencing the practices or operations of the applicant which could have an impact upon the environment.

(c) Public notice requirements shall not apply to changes in ownership.

8 CAR § 13-206. Permit renewals.

(a)(1) Applications for an annual permit shall contain a description of any changes to the motor vehicle racing facility since the last permit issuance or a statement that no changes have occurred.

(2) In the event there have been no changes to the motor vehicle racing facility, the Division of Environmental Quality may issue the annual permit without notice to the public.

(3) If any material changes are made to the motor vehicle racing facility:

(A) The permit shall be amended accordingly;

(B) The division shall provide notice to the public in accordance with the procedures contained in public notice of draft permitting decision (8 CAR § 11-207), of Administrative Procedures, 8 CAR pt. 11; and

(C) The division may reconsider the approval of the permit.

(4) Renewal of an annual permit may also be denied if:

(A) The racing facility is determined to be in violation of any standards under which the permit was issued;

(B) The racing facility is constructed or is being operated in a manner that is materially different than was represented during the petition process; or

(C) Fraud, misrepresentation, or false statement of facts was used to obtain signatures for the petition process.

(b) The requirements of 8 CAR § 13-202(c)(8) – (9), (d), (e), and (f) shall apply to permit renewals.

(c) In its discretion, the division may hold public hearings for the renewal of any permits as is necessary.

8 CAR § 13-207. Permit fees.

(a) Each initial annual permit shall be subject to a fee of five hundred dollars (\$500).

(b) Each annual permit shall be subject to a fee of two hundred dollars (\$200).

(c) The requirements of 8 CAR § 12-201 et seq. shall apply to fees collected under this part.