

Clerk of the Board
Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

RE: Rulemaking – Noise R18-19.
Proposed Amendments to 35 Ill. Adm. Code Parts 900, 901, 902 & 910
Comment from Department of Defense Region 5 Environmental Coordinator

To: Clerk of the Board

These comments are submitted in the capacity of the Department of Defense (“DOD”) Regional Environmental Coordinator for Region 5 on behalf of all the military services. DOD appreciates the opportunity as part of the regulated community to comment on the proposed amendments to 35 Ill. Adm. Code Parts 900, 901, 902 and 910.

Currently, 35 Ill. Adm. Code, Part 902, *Sound Emission Standards and Limitation for Motor Vehicles*, exempts “tactical military vehicles” from the operational standards contained in Part 902. However, the proposed amendments published on April 6, 2018 in the Illinois Register eliminate the exemption for tactical military vehicles. 35 Admin Code §902.140 Exceptions, letter (c) currently states:

(c) The operational standards contained in Sections 902.120 through 902.123 inclusive shall not apply to warning devices, such as horns and sirens; or to emergency equipment and vehicles such as fire engines, ambulances, police vans, and rescue vans, when respond to emergency calls; to snow plows when in operation; **or to tactical military vehicles. [Emphasis added.]**

The proposed amendments to the §902.140 deletes the text enumerating examples of emergency equipment and vehicles and instead incorporates by reference the federal provision 40 CFR 202.12(e). The proposed deletion is consistent with the stated intent of the proposed amendments: “In Part 902, the Board clarifies language, removes obsolete provisions, and replaces language that duplicates federal rules with references to the Code of Federal Regulations.”¹ However, while 40 CFR 202.12(e) lists the emergency vehicles currently listed in §901.140, it does not include “tactical military vehicles”.

The proposed amendments for 35 Admin Code §901.140 are as follows:

c) The operational standards contained in this Part do Sections 902.120 through 902.123 inclusive shall not apply to warning devices, ~~such as horns and sirens~~; or to emergency equipment and vehicles described in 40 CFR 202.12(e), incorporated by reference at 35 Ill. Adm. Code 900.106. ~~such as fire engines, ambulances, police vans, and rescue vans, when respond to emergency calls; to~~

¹ Opinion and Order of the Illinois Pollution Control Board; R18-19, March 22, 2018. Proposed Rule. First Notice.

~~snow plows when in operation; or to tactical military vehicles.~~ [Emphasis added.]

Therefore, the proposed amendments eliminate the exception for tactical military vehicles from the operational standards of Part 902.

It appears that the elimination of the exception for tactical military vehicles may have been unintentional because the current regulations contain a definition of “tactical military vehicles”, 35 Ill. Admin. Code 900.101 *Definitions*, and the proposed amendments do not eliminate or change the definition.² This term, “tactical military vehicles”, is not used anywhere else in Illinois noise regulations or the underlying noise statute. Therefore, the proposed amendment to §902.140 deletes the defined term, but leaves in the definition making it appear that the elimination of the exemption for tactical military vehicles was not intended. In addition, the Board Opinion describing the intent of the proposed amendments does not indicate that a substantive change is intended.

The DOD takes its role of protecting the environment seriously, however, the DOD reminds the state that the military must “train as they fight” in order to achieve their mission of national security and cannot be hindered by state level noise controls on an installation that has active training with tactical vehicles and equipment. Accordingly, the DOD requests that the language “; or to tactical military vehicles” not be deleted from the §902.140 regulations.

The DOD appreciates the opportunity to submit comments for consideration as part of Illinois’ regulatory amendment process. If you have any questions about these comments or would like to discuss the matter further please do not hesitate to contact me at (410) 278-6991.

Very Respectfully,

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Department of Defense Region 5 Environmental Coordinator

Copy:

Sharon Baumann, Navy, Regional Environmental Coordinator, Region 5
Robert Dalzell, Air Force Regional Environmental Coordinator, Region 5

² Note that while the proposed amendments would not change the substance of the definition, it does propose adding stylistic parentheticals to each word defined in 900.101, including the term “tactical military vehicles”.