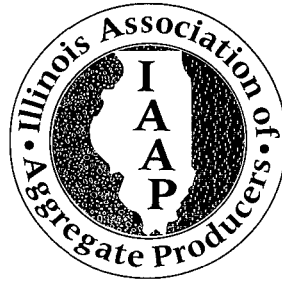


# Illinois Association of Aggregate Producers

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R03-9

P.C.# 5

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**RECEIVED**

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SEP 08 2003

STATE OF ILLINOIS  
*Pollution Control Board*

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601

Re: Proposed New and Updated Rules for Measurement and Numerical Sound Emission Standards / Amendments to 35 Ill. Adm. Code 901 and 910 / Docket R03-9  
Comments and Request for Hearing

Dear Ms. Gunn:

The following comments and request for hearing are submitted by the Illinois Association of Aggregate Producers (IAAP), the trade association representing companies that produce crushed stone, sand, gravel, silica sand and agricultural lime -- materials used for building and maintaining roads, constructing housing, offices and public buildings, manufacturing glass and as soil additives.

The IAAP's 110 producing members range in size from "mom and pop" operations that manufacture less than 100,000 tons of these products each year to companies that produce well over 20,000,000 tons annually. Our members currently operate in 80 out of 102 Illinois counties and are a mainstay of this State's economy.

IAAP members that produce crushed stone and silica sand use explosives in order to fracture the mineral deposit being mined. Crushed stone and silica sand cannot be processed into usable end products absent these blasting activities. Since 1995, blasting at these mines have been regulated by the Illinois Department of Natural Resources (IDNR) in accordance with the Section 6.5 of the Surface Mined-Land Conservation and Reclamation Act (215 ILCS 715/6.5). Among other requirements, blasting operations are subject to air blast or ground vibration monitoring, or both, as necessary to prevent property damage and protect public safety. Both IDNR and IAAP members employ highly trained personnel to conduct air blast and ground vibration monitoring required by State law.

Although aggregate blasting activities are highly regulated by IDNR, IAAP members must also comply with other applicable noise regulations. For that reason, IAAP members that conduct blasting activities have reviewed and wish to comment upon proposed new Part 910, measurement procedures for enforcing the Board's noise standards in Parts 900 and 901.

**Buy The Goods And Services Of Our Associate Members**

As outlined on page 4 of the “Proposal Overview” for this rulemaking, these “measurement procedures are applicable to any person conducting noise measurements to demonstrate compliance with Parts 900 and 901.” Although the procedures in proposed new Part 910 “are essentially based upon the Agency’s [IEPA] noise measurement protocols at 35 Ill. Code 951 . . . the Board has made a number of substantive changes to the Agency’s measurement protocols.”

Two of these changes are of concern to the aggregates industry.

First, new Part 910 does not require that non-agency personnel who conduct sound measurements be trained and experienced in sound measurement techniques and equipment. Section 951.101, rules containing the qualifications for IEPA personnel who conduct sound measurements, provides:

Agency personnel conducting sound measurements shall have been trained and experienced in the current techniques and principles of sound measurement and in the selection and operation of sound measuring instrumentation.

Although no State approved licensing or certification process exists for personnel who conduct sound measurements, Part 910 should incorporate the requirements of Section 951.101. Given that data gathered by non-agency personnel may serve as grounds for a nuisance noise action brought to the Board, such personnel should possess a basic level of training and experience. Absent some basic level of training and experience, sound measurements gathered by such individuals is of questionable validity and should not be considered by the Board.

Therefore, the IAAP submits that Part 910 be amended by adding new Section 910.101 stating:

Personnel who conduct sound measurements in order to show compliance with the Board’s noise standards in Part 900 and 901 must be trained and experienced in the current techniques and principles of sound measurement and in the selection and operation of sound measuring instrumentation.

Second, new Section 910.104, Measurement Techniques for 35 Ill. Adm. Code 900, states that while sound pressure level measurements are not required to establish a violation of the Board’s nuisance noise standard under 35 Ill. Adm. Code 900.102, these measurements may be used as corroborating evidence. Although Section 910.104 goes on to require that a person conducting sound pressure measurements comply with the instructions of the sound pressure measurement equipment manufacturer, the sound measurement techniques in Section 910.105 are considered only as a **guidance** for gathering such data. As stated on page 5 of the “Proposal Overview” for this rulemaking, “the proposed approach deviates from the detailed sound measurement requirements specified in Part 951”, rules that govern the IEPA’s enforcement activities for nuisance noise.

Proposed Section 910.104 compounds the problems created by the lack of a training and experience requirement for non-agency personnel who conduct sound measurements. Sound pressure measurements taken by persons with no training/experience are inherently unreliable. Of even less value are measurements taken by personnel who do not have to comply with either Section 910.105 or Section 951.104 (the sound measurement techniques used by the IEPA to establish a nuisance noise violation).

Therefore, the IAAP submits that Section 910.104 b amended to stated as follows:

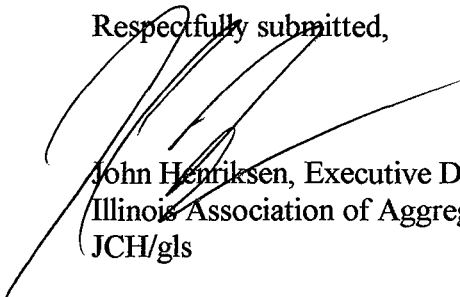
Sound pressure level measurements are not required to establish a violation of 35 Ill. Adm. Code 900.102 (nuisance noise). However, sound pressure level measurements may be introduced as corroborating evidence when alleging a violation of 35 Ill. Adm. Code 900.102. If sound pressure level measurements are collected, manufacturer's instructions must be followed for the equipment used ~~and 35 Ill. Adm. Code 910.105 may be used as guidance in gathering data.~~ In addition, sound measurements used to establish a violation of 35 Ill. Adm. Code 900.102 must be obtained in accordance with either:

a) 35 Ill. Adm. Code 910.105; or

b) 35 Ill., Adm. Code 951.104.

Pursuant to Section 5-40 of the Administrative Procedure Act (5 ILCS 100/5-40), the IAAP hereby requests a public hearing for the above-captioned rulemaking. Given that the Board has received no comments from the affected public or industry, held no economic impact hearings and received no economic impact study or information, the record supporting the rule changes, as currently proposed, is inadequate. On this basis, coupled with the concerns outlined above, a public hearing is warranted for the above-captioned rulemaking.

Respectfully submitted,



John Henriksen, Executive Director  
Illinois Association of Aggregate Producers  
JCH/gls