

ILLINOIS POLLUTION CONTROL BOARD
May 26, 1977

IN THE MATTER OF:)
) R74-10
MOTOR VEHICLE NOISE REGULATIONS)

DISSENTING OPINION (by Mr. Young):

Although there is expressed authority for the Board to adopt sound emission limitations or operational noise standards delegated to the Board in Section 25 of the Environmental Protection Act, there is no authority in that Section or elsewhere in the Act for the promulgation of equipment standards as the Board has enacted in Rules 301, 302 and 313(b) of Chapter 8 as a result of the proceedings on regulatory proposal R74-10.

When the first sentence of Section 25 is compared to Sections 10(g), 13(a)(9) and 22(d), the language is virtually identical; when that language is contrasted with Section 10(d), it is readily apparent that the Board may not prescribe standards for any equipment under Section 25 except for equipment used for monitoring noise. The authority of the Board under Section 25 is restricted to establishment of limitations on noise emissions which unreasonably interfere with the enjoyment of life, or with any lawful business, or activity.

Nowhere in the record of R74-10 is the authority of the Board to adopt regulations establishing equipment standards questioned nor is there any indication that the question of authority was addressed at all.

It is my opinion that the General Assembly has established motor vehicle equipment standards in Chapter 95 1/2 of the Illinois Revised Statutes (Motor Vehicle Code), specifically by Section 12-602 of the Illinois Vehicle Equipment Law in regard to mufflers and 12-401 regarding tires. The Board is given no authority in Chapter 95 1/2 to establish any rules, regulations or criteria for motor vehicle equipment; that authority is given to the Department of Transportation by the Motor Vehicle Code.


1. See Currie, D.P., Pollution, Cases and Materials, West Publishing Company (1975), p. 123, 124.

Since the General Assembly specifically delegated such authority to regulate motor vehicle equipment to others, Board authority may not be inferred by interpretation of any broad grant under the Environmental Protection Act even if such a broad grant existed. Similarly, penalties for violations of the Motor Vehicle Code are established by that statute. The Board may not enlarge its jurisdiction by reenacting a section of the Motor Vehicle Code as a Board regulation, a violation of which is subject to prosecution before the Board, unless there is specific statutory authority to do so and no such authority now exists. Village of Lombard v. Illinois Pollution Control Board, Ill. Sup. Ct. Docket 48501 (May, 1977).

Rule 314 establishes operational limitations upon horns and other warning devices over and above those set forth in Section 12-601(a) and (b) of the Illinois Vehicle Equipment Law and for the reasons set forth above, this rule is questionable.

Rule 315 would make illegal the operation of a motor vehicle if done in such a manner to cause squealing, screeching or other noise from tires. Chapter 11 (Rules of the Road) of the Motor Vehicle Code governs the operation of motor vehicles on the highways of the State and in my opinion precludes Board regulation under Rule 315.

I do concur in the general proposition to impose sound emission limitation provisions established by Rules 310 through 313 as they relate to operational standards and I believe the Board has full statutory authority to adopt such limitations. However, because of the clear invalidity of Rules 301, 302 and 313(b) and the doubtful character of Rules 314 and 315, I would not have adopted these regulations until those rules were stricken.


James L. Young

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted to me on the 8th day of June, 1977.


Christan L. Moffett, Clerk
Illinois Pollution Control Board