

ILLINOIS POLLUTION CONTROL BOARD
March 22, 2018

IN THE MATTER OF:)
)
NOISE RULE UPDATE: AMENDMENTS) R18-19
TO 35 ILL. ADM. CODE PARTS 900, 901,) (Rulemaking - Noise)
902, AND 910)

Proposed Rule. First Notice.

OPINION AND ORDER OF THE BOARD (by K. Papadimitriou):

The Board opened this docket under Part 102 of the Board’s procedural rules (35 Ill. Adm. Code 102.Subpart B) and Sections 27 and 28 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/27, 28 (2016)) to amend the Board’s noise rules. Today, the Board adopts a proposal for first notice. The proposed amendments are part of the Board’s broader review of its rules started in the summer of 2016. The amendments will streamline, update, and overhaul rules that are no longer current due to changing technology and the passage of time. They are also consistent with Governor Rauner’s Executive Order 2016-13, which directs State agencies to review and update their administrative rules as part of the “Cutting the Red Tape Initiative.”

In this opinion, the Board first discusses the amendments being proposed. The Board then addresses hearings and public comment. The proposed amendments appear in an addendum to this order.

PROPOSED AMENDMENTS

The noise rules affected are located at 35 Ill. Adm. Code 900, 901, 902, and 910. These are general provisions addressing the definitions of acoustical terminology, property-line-noise-sources and motor vehicles noise emissions standards, and sound measurement procedures; they also include site-specific provisions. The proposed changes involve updating definitions, references, and sound measurement procedures, last updated in 2003 and 2006. The bases for some changes are the American National Standards Institute’s (ANSI) updates from the years 2001-2016 and the Society of Automotive Engineers’ (SAE) updates from 2004-2015. The proposed amendments also clarify language in some sections and remove provisions that are no longer applicable or necessary.

Specifically, in Part 900, the Board updates definitions, the ANSI and SAE references, adds references to the Code of Federal Regulations, clarifies language, and removes obsolete provisions. The Board repeals Section 900.104 because its provisions are covered by general requirements of civil and administrative procedure.

In Part 901, the Board clarifies language and removes obsolete provisions. The Board also repeals site-specific provisions for facilities that, based on the information available to the Board, no longer operate: Amforge Division of Rockwell International located at 119th Street,

Chicago; Modern Drop Forge Company located at 139th Street and Western Avenue in Blue Island; and Wyman-Gordon Company located at 147th Street and Wood Street in Harvey.

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.

In Part 910, the Board updates the references and clarifies language.

The amended rules proposed for first notice are provided in the addendum to this order. Because the Board received no comments on the proposed language, the addendum incorporates the same rule text that the Board adopted for public comment on October 5, 2017, with one minor modification. *See Noise Rule Update: Amendments to 35 Ill. Adm. Code Parts 900, 901, 902, and 910, R18-19, Addendum (Oct. 5, 2017).* The Board eliminates legalese and clarifies the definition of “prominent discrete tone” in Section 900.101 and adds an example by way of a Board note:

“Prominent discrete tone”; means sound; having a one-third octave band sound pressure level that which, when measured ~~in a one-third octave band~~ at a the preferred frequency frequencies, exceeds, by any of the following values, the arithmetic average of the sound pressure levels of ~~the two~~ both adjacent one-third octave bands ~~on either side of such one-third octave band~~ by:

A value of 5 dB or more for a such one-third octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive, but only if that. ~~Provided: such~~ one-third octave band sound pressure level also exceeds the sound pressure level of each adjacent one-third octave band; ~~or;~~

A value of 8 dB or more for a such one-third octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive, but only if that. ~~Provided: such~~ one-third octave band sound pressure level also exceeds the sound pressure level of each adjacent one-third octave band; ~~or;~~

A value of 15 dB or more for a such one-third octave band with a center frequency from 25 Hertz to 125 Hertz, inclusive, but only if that. ~~Provided: such~~ one-third octave band sound pressure level also exceeds the sound pressure level of each adjacent one-third octave band.

BOARD NOTE: A sound measured at a preferred frequency of 400 Hz, for example, would be a prominent discrete tone only if its one-third octave band sound pressure level (1) exceeds the one-third octave band sound pressure level of 315 Hz; (2) exceeds the one-third octave band sound pressure level of 500 Hz; and (3) exceeds by 8 dB or more the arithmetic average of the one-third octave band sound pressure levels of 315 Hz and 500 Hz.

HEARINGS AND PUBLIC COMMENTS

The Board adopted this proposal for public comment on October 5, 2017. The hearing officer scheduled two hearings, for January 24 and February 21, 2018, by videoconference between Board's Chicago and Springfield offices. *See* 35 Ill. Adm. Code 101.600(b), 102.114. The hearing officer invited interested persons to submit their comments and pre-file their testimony. Persons interested in testifying were directed to pre-file their testimony and any related exhibits by December 22, 2017 for the first hearing, and by February 9, 2018 for the second hearing. The hearings were dedicated to testimony, questions, or comments on the merits of the amendments and their economic impact, compliant with Section 27(b) of the Act (415 ILCS 5/27(b) (2016)). Section 27(b) requires that the Board request the Department of Commerce and Economic Opportunity (DCEO) to conduct a study of the economic impact of certain proposed rules prior to their adoption. DCEO has 30 to 45 days from the date of the request to produce the study, should it choose to conduct one. The Board sent the request to DCEO on October 25, 2017. The Board received no reply from DCEO.

The Board held the hearings as scheduled. Transcripts of the hearings (Tr.) are posted on the Board's website. The Board received no pre-filed testimony. No one testified at the hearings and no public comments were provided. After the hearings, the hearing officer directed interested persons to submit their comments by March 16, 2018. The Board received no public comments.

For first notice under the Illinois Administrative Procedure Act (IAPA) (5 ILCS 100/5-40(b) (2016)), the Board proposes the rule amendments in the addendum to this order. First-notice publication of the proposed amendments in the *Illinois Register* will start the first-notice public comment period of 45 days. *See* 35 Ill. Adm. Code 102.604. During that period, anyone may file a public comment on the proposal with the Clerk's Office. Public comments must be filed with the Clerk's Office electronically through the "Clerk's Office On-Line" or "COOL" (www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 101.302(h), 101.1000, and 102.108(c). Any person unable to file comments through COOL, can contact the Clerk's Office at (312) 814-3461 for assistance or permission to file in paper. *See* 35 Ill. Adm. Code 101.302(h) and 101.1000(c).

Because the Board already held two hearings on this proposal, no additional hearings will be scheduled unless requested by any interested person in compliance with the IAPA or the Board's procedural rules. *See* 5 ILCS 100/5-40(b) (2016); 35 Ill. Adm. Code 102.412(b).

ORDER

The Board directs the Clerk to cause first-notice publication in the *Illinois Register* of the proposed rule amendments in the addendum to this order.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 22, 2018, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, looped initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board