

ILLINOIS POLLUTION CONTROL BOARD

November 1, 2018

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

Adopted Rule. Final Order.

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

The Board today adopts a rule to amend the Board’s noise regulations at 35 Ill. Adm. Code 900, 901, 902, and 910. The Board opened this docket under Part 102 of its 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)). The adopted amendments update definitions, references, and sound measurement procedures, as well as clarify language, reduce wordiness, and remove obsolete provisions. This review continues 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 The amendments will streamline, update, and overhaul rules that are no longer current due to changing technology and the passage of time.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 rules as part of the “Cutting the Red Tape Initiative.”

In this opinion, the Board first discusses this rulemaking’s procedural history. The Board then addresses additional comments received from the Joint Committee on Administrative Rules (JCAR) during the second notice period. The proposed amendments appear in an addendum to this order.

PROCEDURAL HISTORY

The Board adopted a proposal for public comment on October 5, 2017. The Board held two public hearings, on January 24 and February 21, 2018, by videoconference between Board’s Chicago and Springfield offices. No testimony or comments were pre-filed for the hearings and none were provided at the hearings. Transcripts of the hearings (Tr.) are posted on the Board’s website (<https://pcb.illinois.gov>). The hearings were dedicated to the merits of the proposed amendments and their economic impact, compliant with Section 27(b) of the Act (415 ILCS 5/27(b) (2016)). The Board sent a letter to the Department of Commerce and Economic Opportunity (DCEO) on October 25, 2017, requesting that DCEO conduct an economic impact study of the proposal, but the Board received no reply from DCEO.

The Board adopted a first-notice proposal on March 22, 2018. The first-notice amendments were published in the *Illinois Register* on April 6, 2018 (42 Ill. Reg. 5946, 5967, 5988, 6001), which continued the public comment period for at least 45 days. During the first-

notice period the Board received public comments from the Department of Defense (DOD) and JCAR, which the Board incorporated in its second-notice opinion and order.

The Board adopted the proposal for second notice review by JCAR on August 23, 2018. JCAR considered this proposal at its meeting on September 18, 2018, where it issued a Certificate of No Objection subject to non-substantive amendments.

SECOND NOTICE AMENDMENTS

The Board provided a detailed description of the proposed amendments in the first-notice opinion. *See* Noise Rule Update: Amendments to 35 Ill. Adm. Code Parts 900, 901, 902, and 910, R18-19, slip op. at 1-2 (Mar. 22, 2018). During the first-notice period, the Board further reviewed its proposal and incorporated changes proposed in DOD's and JCAR's public comments, as discussed in Board's second-notice opinion. *See* Noise Rule Update: Amendments to 35 Ill. Adm. Code Parts 900, 901, 902, and 910, R18-19, slip op. at 2-3 (Aug. 23, 2018).

During the second-notice review, JCAR requested several further non-substantive changes, which the Board accepted. The amendments include, among others, punctuation changes, replacing capital letters with lower case letters, and removing dashes in "highly impulsive" and in "property-line-noise-sources" after "line". The proposal also updates the definition of "dB(A)" in Section 900.101 with the following: "'dB(A)': A-weighted decibels (see the definition of "A-weighted sound level in decibels:").".

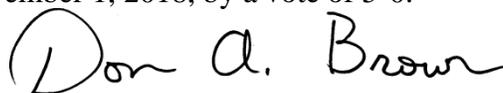
ORDER

The Board adopts the proposed rule as a final rule and directs the Clerk to submit the adopted rule to the Secretary of State for publication in the *Illinois Register*. The adopted rule text follows in the addendum to this order with additions underlined.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2016); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 1, 2018, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board