

ILLINOIS POLLUTION CONTROL BOARD
April 15, 1982

IN THE MATTER OF:)
)
CHAPTER 8: NOISE REGULATIONS) R79-10
PROPOSED NEW PART 6 TO REGULATE)
SNOWMOBILE NOISE AND AMENDMENTS OF)
RULES 101, 103 AND 208)

ADOPTED RULE. FINAL OPINION.

FINAL OPINION OF THE BOARD (by J. Anderson):

This Opinion is written in support of the rules adopted by the Board in its Order of July 23, 1981. The rules were effective upon their filing with the Secretary of State August 10, 1981, but pursuant to Rule 605 compliance has not been required until on and after November 8, 1981.

On June 25, 1979 the Environmental Protection Agency proposed that the Board amend Chapter 8: Noise Regulations (Chapter 8) to include certification standards for new snowmobiles and specific in-use sound emission standards for all machines manufactured after April 1, 1979. This proposal was published in the Board's Environmental Register #196, June 28, 1979. On September 4, 1979 the Agency filed an amendment to this proposal which changed the language but not the substance of the original submittal. Hearings were held on the merits of this proposal on October 2, 1979 in Rockford, and on October 10, 1979 in Springfield.

On May 13, 1980 the Illinois Institute of Natural Resources (since retitled the Department of Energy and Natural Resources) filed with the Board its assessment of the economic impact of the proposed regulatory change entitled "Economic Impact of Proposed Amendments to Snowmobile Noise Regulations" (Doc. No. 80/08) (EcIS). Economic impact hearings were held on September 23, 1980 in Chicago, and on September 29, 1980 in Springfield. The Agency filed a final amendment to its proposal on December 18, 1980.

The Board initiated the Administrative Procedures Act first notice of the proposed rules as modified by the Board by its Order of January 28, 1981, which notice was published in the Illinois Register of January 22, 1981. During the course of the second notice period initiated by the Board's Order of May 28, 1981, the Joint Committee on Administrative Rules determined that it had no objection to the rules. The rules as adopted by the Board on July 23, 1981 were published in the Illinois Register August 21, 1981.

The Snowmobile Registration and Safety Act (Snowmobile Act) Ill. Rev. Stat. Ch. 95½, §603-1 et. seq. requires that no snowmobile subject to that act operate within the state or be sold unless "it is equipped with sound suppression devices that limit total machine noise in accordance with noise pollution standards established pursuant to the Environmental Protection Act (§604-1E). The Snowmobile Act establishes a registration and identification number requirement which is administered by the Department of Conservation (Department) (§603-1 to §603-11). The Department is empowered to adopt regulations to enforce the Act (§604-2), and is also empowered to "stop and inspect any snowmobile at any time for the purpose of determining if the provisions of the Act are being complied with" (§602-2).

At the 1979 merit hearings, testimony was presented by William Brey, Chief of the Department's Division of Law Enforcement. Noting that his Department has been legislatively "charged with primary responsibility for active enforcement of the Snowmobile Act", the Department has worked "closely with the EPA in an attempt to find some reasonable compromise in noise regulations" (R. 120, 129).

The noise limitations contained in Rules 202-204 were viewed as inappropriate for several reasons. First, the allowable emissions pursuant to the rules are dependent on the noise source proximity to the receiving land; this of course constantly changes when a mobile source is involved. Second, the rules' octave band and one-third octave band sound level measurement requirements are difficult to perform when moving sources are involved. Third, the rules' inter-connection with Rule 201 land classifications would not allow for limitation of noise on unclassified lands such as frozen rivers and undeveloped land where snowmobiles are frequently used.

The "reasonable compromise in noise regulations" presented by the Agency and the Department is a new Part 6, containing sound emission standards and limitations specifically for snowmobiles, and an addition to Rule 208 specifying two alternative measurement procedures. In brief this new part, as modified by the Board for clarity, provides:

a) that exhaust systems be maintained and not be modified to create additional noise (Rule 601),

b) that snowmobiles be operated to generate no noise sound louder than 78 or 73 decibels (dB) measured on the A-scale at 50 feet, depending on which of the two alternative measurement procedures is employed (Rule 602),

c) that the application for registration of a new snowmobile sent to the Department be accompanied by the selling dealers' certification that the above sound levels will be met, certification by the Snowmobile Safety and Certification Committee constituting a prima facie proof of compliance (Rule 603),

d) exemptions for snowmobiles lawfully used in racing and for certain other snowmobiles exempt from the numbering provisions of the Snowmobile Act (Rule 604), and

e) the compliance dates as mandated in the Snowmobile Act (Rule 605).

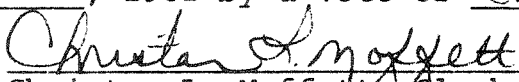
The Agency explained that the snowmobile industry itself has actively pursued development of quieter snowmobiles, with the result that noise dB(A) in new machines as manufactured has been reduced from 95 dB(A) in 1967 to 78 dB(A) in 1979 (Gr. Ex. 1). The Snowmobile Safety and Certification Committee (SSCC), a not-for-profit organization formed in 1974, has encouraged this trend. Among its other functions, the SSCC provides for third-party certification, pursuant to independent testing done by the U.S. Testing Co., to manufacturers whose machines comply with both SSCC noise and safety standards (R. 88-89 Gr. Ex. 3).

In 1979, the SSCC sound level for certification was 78 dB(A). The Agency proposed that the Board adopt this level as the standard because in the Agency's view it is the most economically and technically feasible sound level, despite the fact that a lesser level would of course serve better to protect the public from annoyance and speech or sleep interference (R. 14-15). Given that all North American, European and Japanese snowmobile manufacturers are SSCC members, adoption of the 78 dB(A) sound level and acceptance of the SSCC compliance label as prima facie proof of compliance was believed to lead to a fair and enforceable regulation (R. 27). As of 1979, 11 states as well as Canada had accepted the SSCC compliance label in the manner proposed (R. 92).

This rulemaking, in the opinion of EcIS author Dr. Donald Bumpass, imposes minimal costs on all concerned. The snowmobile owner might incur, every other year, a \$10 cost for a replacement muffler (EcIS 5). No additional costs are being placed on industry (EcIS 9). Enforcement costs to the Department cannot be quantified, but are expected to be low, based on the Department's own estimates and on the enforcement experience of a similar Wisconsin agency (EcIS 6-7).

The only opposition to the rules as proposed by the Agency, voiced at hearing by snowmobile association representatives, was the proposal's failure to closely track the Snowmobile Act's numbering exemption provision. The rules as adopted by the Board have eliminated this possible source of confusion. Based on the record before the Board, the Board believes the adopted rules will provide relief from annoying snowmobile noise in an enforceable, economically reasonable manner.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion was adopted on the 15th day of April, 1982 by a vote of 5-0.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board