

3. Emergency energy release devices;

4. When public health or safety is involved, emergency work to provide electricity, water or other public utilities, to make emergency repairs to public roadways or bridges, or upon written approval of the authorized enforcement agency, to utilize sound producing devices to relocate wildlife;

5. Motor vehicle racetracks;

6. National Warning System (NAWAS): Systems used to warn the community of attack or imminent public danger such as flooding or explosion. These systems are controlled by the New Jersey Office of Emergency or Hazardous Spill Management, Division of State Police;

7. Noise of aircraft flight operations;

8. Public celebrations;

9. Public roadways;

10. Surface carriers engaged in commerce by railroad;

11. The unamplified human voice;

12. Use of explosive devices: These are regulated by the New Jersey Department of Labor under the 1960 Explosive Act (N.J.S.A. 21:1A-1 to 21:1A-144); or

13. Normal operation of a handgun, rifle, shotgun, skeet shooting or trapshooting range which has been maintained continuously in the same location since January 24, 1972.

Amended by R.1985 d.129, effective March 18, 1985.

See: 16 N.J.R. 1682(a), 17 N.J.R. 699(b).

Substantially amended.

Petition for Rulemaking: Regulations governing noise control pertaining to motor vehicle race tracks.

See: 23 N.J.R. 3535(a).

Petition for Rulemaking: Noise control for racetracks; public hearing.

See: 24 N.J.R. 2299(a), 24 N.J.R. 3440(d).

Amended by R.1995 d.302, effective June 19, 1995.

See: 27 N.J.R. 1091(a), 27 N.J.R. 2390(c).

In (a) added 13.

Public Notice: Notice of Receipt of and Action on a Petition for Rulemaking.

See: 29 N.J.R. 4718(c), 29 N.J.R. 5334(a).

Petition for Rulemaking.

See: 32 N.J.R. 1873(a), 32 N.J.R. 2132(a), 32 N.J.R. 4144(a).

Amended by R.2000 d.247, effective June 19, 2000.

See: 32 N.J.R. 1115(a), 32 N.J.R. 2230(b).

Rewrote (a)4.

Petition for Rulemaking: Exception for surface carriers engaging in commerce by railroad: noise control.

See: 38 N.J.R. 1245(a).

7:29-1.5 Performance test principle

For the purposes of measuring sound in accordance with the applicable provisions of these regulations, test equipment methods and procedures shall conform to the provisions of N.J.A.C. 7:29-2.

Amended by R.1985 d.129, effective March 18, 1985.

See: 16 N.J.R. 1682(a), 17 N.J.R. 699(b).

Deleted "standards as published by the Department or its approved equivalent" and substituted "the provisions of N.J.A.C. 7:29-2."

Amended by R.1995 d.302, effective June 19, 1995.

See: 27 N.J.R. 1091(a), 27 N.J.R. 2390(c).

Substituted "7:29-2" for "7:29B-1".

7:29-1.6 Enforcement

(a) This section governs the initiation of enforcement actions and the imposition of civil penalties for violations of the Noise Control Act, N.J.S.A. 13:1G-1 et seq., and these rules.

(b) If any person violates any provision of the Noise Control Act, N.J.S.A. 13:1G-1 et seq., these rules, or an order issued pursuant thereto, the authorized enforcement agency may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

(c) Any person who violates any provision of the Noise Control Act, N.J.S.A. 13:1G-1 et seq., these rules, or an order issued pursuant thereto shall be subject, upon order of a court, to a civil penalty of not more than \$3,000 for each offense and each day during which the violation continues shall constitute an additional, separate and distinct offense.

(d) Upon identification of a violation of the Noise Control Act, N.J.S.A. 13:1G-1 et seq., these rules, or an order issued pursuant thereto, the authorized enforcement agency shall issue an enforcement document to the violator. The enforcement document may be sent to the violator by certified mail, return receipt requested. The enforcement document shall:

1. Identify the condition or activity that constitutes the violation and the specific provision of the Act, rule or order that has been violated;

2. Indicate whether the violator has a period of time to correct the violation before a penalty is sought, as follows:

i. If the violation is deemed by the authorized enforcement agency to be a minor violation pursuant to (f) below, notify the violator that the activity or condition which constitutes the violation must be corrected and compliance achieved within 30 days or, at the discretion of the authorized enforcement agency, any other reasonable period of time, not to exceed 180 days, to be determined based upon the nature and extent of the violation and a reasonable estimate of the time needed to correct the violation. The violator may request, from the authorized enforcement agency, an extension of the compliance deadline in the enforcement action and the authorized enforcement agency shall approve any reasonable request for an extension if the violator can demonstrate that a good faith effort has been made to achieve compliance;

ii. If the violation is not deemed by the authorized enforcement agency to be a minor violation pursuant to (f) below, notify the violator that he or she will not be

allowed a period of time to correct the violation before a penalty is sought.

3. Notify the violator that he or she may be liable to a civil penalty of no more than \$3,000 for the violation that is the subject of the enforcement document; and

4. If the violation is deemed by the authorized enforcement agency to be a minor violation pursuant to (f) below, notify the violator that if he or she achieves compliance within the period of time specified in the enforcement document, the authorized enforcement agency shall not seek to collect a civil penalty from the violator for that violation.

(e) The authorized enforcement agency may seek injunctive relief and/or a penalty for a violation of the Act, these rules, or an order issued pursuant thereto:

1. If the violator does not correct the minor violation within the period of time specified in the enforcement document initiated pursuant to (d) above; or

2. If the violation is not considered a minor violation pursuant to (f) below.

(f) A violation shall be considered a minor violation if:

1. The violation is not the result of the purposeful, reckless or criminally negligent conduct of the violator; and

2. The activity or condition constituting the violation has not been the subject of an enforcement action by the authorized enforcement agency against the violator within the immediately preceding 12 months.

(g) Any claim for a civil penalty may be compromised and settled based on the following factors:

1. Mitigating or any other extenuating circumstances;
2. The timely implementation by the violator of measures which lead to compliance;
3. The conduct of the violator; and
4. The compliance history of the violator.

Amended by R.1995 d.302, effective June 19, 1995.
See: 27 N.J.R. 1091(a), 27 N.J.R. 2390(c).

7:29-1.7 County and municipal ordinances to regulate noise

(a) A governing body of a municipality or county or board of health may adopt a noise control ordinance in accordance with the Noise Control Act of 1971, at N.J.S.A. 13:1G-21, provided that the ordinance shall be more stringent than the Noise Control Act or the regulations promulgated pursuant thereto, must be otherwise consistent with the Statewide scheme of noise control, and meets with the written approval of the Department.

(b) Enforcement of a noise control ordinance is limited to the authorized enforcement agency as specified in the ordinance and enforcement actions shall be conducted in accordance with N.J.A.C. 7:29-1.6.

New Rule, R.2000 d.247, effective June 19, 2000.
See: 32 N.J.R. 1115(a), 32 N.J.R. 2230(b).

SUBCHAPTER 2. PROCEDURES FOR THE DETERMINATION OF NOISE FROM STATIONARY SOURCES

7:29-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the text clearly indicates otherwise. Terms not defined in this section are intended to be used as defined in the New Jersey Control Act, N.J.S.A. 13:1G-1 et seq., and in this chapter, or are used in their common or engineering sense.

“A-weighted sound level” means the sound level in decibels, reported as measured by a sound level measuring instrument having an “A”-weighting network which discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear. The level so read is designated dBA.

“Department” means the Department of Environmental Protection.

“Duty cycle” means the period of time for one operating cycle for equipment which cycles periodically at a regular rate; e.g., five minutes on, 10 minutes off equals a 15 minute duty cycle.

“Extraneous sound” means a sound which is neither part of the neighborhood residual sound nor comes from the source under investigation.

“Facility” means land and/or buildings used for commercial or industrial operations which produce the sound under investigation.

“Neighborhood residual sound level” means that measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous and transient sounds and the sound from the source of interest.

“Noise” means, for purposes of this procedure, any sound which is not in conformance with the provisions of this chapter.

“Octave” means any two frequencies whose ratio is exactly two to one.