

“Stationary emergency signaling device” means any device, excluding those attached to motor vehicles, used to alert local persons engaged in local emergency operations. These include, but are not limited to, fire-fighters, first aid squad members, and law enforcement officers, whether paid or volunteer.

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.

Amended by R.1993 d.301, effective June 21, 1993.

See: 25 N.J.R. 1040(a), 25 N.J.R. 2721(a).

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

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

Added definitions of “Agricultural activities”, “Authorized enforcement agency”, “Emergency”, “Emergency services personnel”, and deleted “outdoor venue”.

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

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

Inserted “Affected person”; in “Commercial facility”, added 9; in “Community service facility”, inserted a reference to public schools in 4, and added 5; rewrote “Continuous airborne sound” and “Person”; in “Public service facility”, deleted a former 3, and recodified former 4 through 6 as 3 through 5; in “Residential property”, inserted “, unless the habitation is a condition of employment,” in the introductory paragraph; and deleted “Sound level meter”.

Case Notes

Since the Department of Environmental Protection has not adopted regulations specifying or limiting the volume of sound to be emitted by fire sirens, or their location, these areas are not preempted from local regulation. *Malhame v. Boro. of Demarest*, 162 N.J.Super. 248, 392 A.2d 652 (Law Div.1978) appeal dismissed 174 N.J.Super. 28, 415 A.2d 358.

7:29-1.2 Industrial, commercial, public service, or community service facilities

(a) No person shall cause, suffer, allow, or permit sound from any industrial, commercial, public service or community service facility that, when measured at any residential property line of any affected person, is in excess of any of the following:

1. From 7:00 A.M. to 10:00 P.M.:

i. Continuous airborne sound which has a sound level in excess of 65 dBA; or

ii. Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the values listed below in one or more octave bands:

Octave Band Center Frequency (Hz)	Octave Band Sound Pressure Level (dB)
31.5	96
63	82
125	74
250	67
500	63
1000	60
2000	57
4000	55
8000	53

or,

iii. Impulsive sound in air which has a peak sound pressure level in excess of 80 decibels.

2. From 10:00 P.M. to 7:00 A.M.

i. Continuous airborne sound which has a sound level in excess of 50 dBA; or

ii. Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the value listed below in one or more octave bands:

Octave Band Center Frequency (Hz)	Octave Band Sound Pressure Level (dB)
31.5	86
63	71
125	61
250	53
500	48
1000	45
2000	42
4000	40
8000	38

or

iii. Impulsive sound in air which has a peak sound pressure level in excess of 80 decibels and such impulse sound shall not be repeated more than four times in any hour. Impulsive sound which repeats more than four times in any hour shall not exceed 50 dBA.

(b) No person shall cause, suffer, allow, or permit sound from any industrial, commercial, public service or community service facility that, when measured at the property line of any other industrial, commercial, public service or community service facility of any affected person, is in excess of any of the following:

1. Continuous airborne sound which has a sound level in excess of 65 dBA; or

2. Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the values listed below in one or more octave bands:

Octave Band Center Frequency (Hz)	Octave Band Sound Pressure Level (dB)
31.5	96
63	82
125	74
250	67
500	63
1000	60
2000	57
4000	55
8000	53

or

3. Impulsive sound in air which has a peak sound pressure level in excess of 80 decibels.

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.

Amended by R.1993 d.301, effective June 21, 1993.

See: 25 N.J.R. 1040(a), 25 N.J.R. 2721(a).

Petition for Rulemaking.

See: 32 N.J.R. 1873(a).

Petition for Rulemaking.

See: 32 N.J.R. 2132(a).

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

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

In (a), inserted "of any affected person" following "line" in the introductory paragraph, and rewrote 2iii; and in (b), rewrote the introductory paragraph.

7:29-1.3 Stationary emergency signaling devices

(a) Testing of only the electromechanical functioning of a stationary emergency signaling device shall occur at the same time each day that a test is performed, but not before 8:00 A.M. or after 8:00 P.M. Any such testing shall only use the minimum cycle test time. Except as provided for in (b) below, such test time shall not exceed ten seconds.

(b) Testing of the complete emergency signaling system including the electromechanical functioning of the signaling device and the personnel response to the signal shall not occur more than once in each calendar month. Such testing shall not occur before 8:00 A.M. or after 8:00 P.M. The ten second time limit on the electromechanical functioning of the signaling device shall not apply to such system testing.

(c) Stationary emergency signaling devices shall be used only for testing in compliance with applicable provisions of these regulations and for emergency purposes where personnel and equipment are mobilized. Since personnel and equipment are mobilized during a weather emergency, emergency signaling devices may be utilized to announce a school closing resulting from a weather emergency.

(d) A stationary emergency signaling device used to alert firefighters, or other emergency services personnel of a fire or other emergency shall be located no closer than 250 feet from any elementary school or adjacent school yard or playground, except that this restriction shall not apply to any stationary emergency signaling device that is located on the premises of a fire station or other facility operated by a local fire department or force or first aid, rescue or emergency squad.

(e) The requirement of (d) above shall not apply to stationary emergency signaling devices placed in service before July 16, 1992 and located in municipalities with a population of less than 25,000 persons and with a population density of more than 2,500 persons per square mile, according to the latest Federal decennial census.

(f) Nothing in this section shall have the effect of restricting the use of a stationary emergency signaling device to alert the public of an emergency pursuant to the provisions of the emergency management act, P.L. 1942, c.251 (N.J.S.A. App. A:9-33 et seq.), or any applicable Federal laws or regulations pertaining to emergency planning and preparedness. The requirements of this section do not apply to the use of stationary emergency signaling devices to warn the public or emergency personnel of a national or State emergency pursuant to the provisions of the emergency management act. This section only pertains to the use of stationary emergency signaling devices to alert local emergency services personnel and/or local citizens of a local emergency such as a fire. This section also does not apply when stationary emergency signaling devices are used or tested as part of the operations of the National Warning System, pursuant to the Federal Emergency Management Agency's Civil Preparedness Guide 1-16, or pursuant to the Federal Emergency Management Agency's Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants, FEMA Rep. 10.

(g) A dual-purpose stationary emergency signaling device which is used to alert the public of a national or State emergency and which is also used to alert local emergency services personnel of local emergencies shall not be required to comply with N.J.A.C. 7:29-1.3(d), (e) and (f). If a dual purpose stationary emergency signaling device is used for local purposes, the device shall comply with all other provisions of this section.

(h) When operated or tested in accordance with the requirements of this section, stationary emergency signaling devices are not required to comply with the operational performance standards established at N.J.A.C. 7:29-1.2.

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.

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

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

In (c) added the last sentence, and added (d) to (h).

Case Notes

Since the department has not adopted regulations specifying or limiting the volume of sound to be emitted by fire sirens, or their location, these areas are not preempted from local regulation. *Malhame v. Boro. of Demarest*, 162 N.J.Super. 248, 392 A.2d 652 (Law Div.1978) appeal dismissed 174 N.J.Super. 28, 415 A.2d 358.

7:29-1.4 Exceptions

(a) The operational performance standards established at N.J.A.C. 7:29-1.2 shall not apply to any of the following noise services:

1. Agricultural activities;
2. Bells, chimes or carillons while being used in conjunction with religious services;

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).

Petition for Rulemaking.

See: 32 N.J.R. 2132(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.

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.