

4. Community service property used for human habitation.

"Sound level" means the sound pressure level measured in decibels with a sound level meter set for A-weighting; sound level is expressed in dBA.

"Sound pressure level" means the level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

"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".

Amended by R.2007 d.227, effective August 6, 2007.

See: 38 N.J.R. 2774(a), 39 N.J.R. 3372(a).

In definition "Authorized enforcement agency", inserted "pursuant to N.J.A.C. 7:29-2.11"; added definitions "A-weighted sound level" and "Maximum sound level"; in paragraph 9 of definition "Commercial facility", substituted a comma for "or" following "air conditioning" and inserted "or outdoor amplified sound system"; in definition "Emergency", inserted "or contractors working at the site of the emergency to address an emergency"; and deleted definition "Peak sound pressure level".

Amended by R.2012 d.127, effective July 2, 2012.

See: 42 N.J.R. 3024(a), 43 N.J.R. 3300(a), 44 N.J.R. 1881(a).

In definition "Community service facility", deleted "and" from the end of paragraph 4, substituted a semicolon for a period at the end of paragraph 5, and added paragraphs 6 and 7; added definition "Electricity generation"; rewrote definition "Industrial facility"; and deleted definition "Public service facility".

#### 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, or community service facilities

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

ity 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<br>Center Frequency<br>(Hz) | Octave Band Sound<br>Pressure Level<br>(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 maximum sound level in excess of 80 dBA.

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<br>Center Frequency<br>(Hz) | Octave Band Sound<br>Pressure Level<br>(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 maximum sound level in excess of 80 dBA 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, or community service facility that, when measured at the property line of any other

commercial 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<br>Center Frequency<br>(Hz) | Octave Band Sound<br>Pressure Level<br>(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 maximum sound level in excess of 80 dBA.

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.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.

Amended by R.2007 d.227, effective August 6, 2007.

See: 38 N.J.R. 2774(a), 39 N.J.R. 3372(a).

In (a)1iii and (a)2iii, substituted "maximum sound" for "peak sound pressure"; and in (a)1iii, (a)2iii and (b)3, substituted "80 dBA" for "80 decibels".

Amended by R.2012 d.127, effective July 2, 2012.

See: 42 N.J.R. 3024(a), 43 N.J.R. 3300(a), 44 N.J.R. 1881(a).

Section was "Industrial, commercial, public service, or community service facilities". In the introductory paragraph of (a), deleted "public service" preceding "or community service"; and in the introductory paragraph of (b), deleted "public service" preceding the first occurrence of "or community service", "industrial," preceding the second occurrence of "commercial" and "public service" preceding the second occurrence of "or community service".

#### Case Notes

As defendant failed to present evidence that a town's noise ordinance was not more stringent than the pertinent state regulation, N.J.A.C. 7:29-1.2(a), or that it had not been approved by the New Jersey Department of Environmental Protection, defendant was properly convicted of violating the ordinance. *State v. Krause*, 399 N.J. Super. 579, 945 A.2d 116, 2008 N.J. Super. LEXIS 88 (App.Div. 2008).

#### 7:29-1.3 Railroad noise—incorporation by reference

(a) Except as provided in (b) below, the following provisions of the Code of Federal Regulations, including all future amendments and supplements thereto, are hereby incorporated by reference: 40 CFR 201 – Noise Emission Standards

for Transportation Equipment; Interstate Rail Carriers, and 49 CFR 210 – Railroad Noise Emission Compliance Regulations. This incorporation by reference only pertains to the sound level standards and measurement of railroad noise generated by idling train locomotives and rail car coupling operations.

(b) The following provisions are not incorporated by reference under (a) above: 40 CFR 201.12 Standard for locomotive operation under moving conditions; 40 CFR 201.13 Standard for rail car operations; 40 CFR 201.14 Standard for retarders; 40 CFR 201.16 Standard for locomotive load cell test stands; 40 CFR 201.27 Procedures for (1) Determining applicability of the locomotive load cell test stand standard and switcher locomotive standard by noise measurement on a receiving property; (2) measurement of locomotive load cell test stands more than 120 meters (400 feet) on a receiving property; 40 CFR 201.28 Testing by a railroad to determine probable compliance with the standard; and 49 CFR 210.11 Waivers.

New Rule, R.2007 d.227, effective August 6, 2007.

See: 38 N.J.R. 2774(a), 39 N.J.R. 3372(a).

#### 7:29-1.4 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