Noise, Noise, Noise!

The Legal Racket Behind Noise Violations Before the Board

A BROWN BAG LUNCH PRESENTATION OF THE ILLINOIS POLLUTION CONTROL BOARD SEPTEMBER 19, 2024

Road Map

- Background on Board Regulations
- Types of Noise Complaints
- ▶ What is Noise Pollution?
- ▶ Numeric Noise Pollution Regulations
- ► Nuisance Noise Regulations
- ▶ Filing a Complaint
- ▶ Questions?



HISTORY

In 1970, the Illinois General Assembly adopted the Illinois Environmental Protection Act.

[415 ILCS 5]



The Act created both the **Board** and the **Illinois Environmental Protection Agency** (IEPA).



Regulations

- Illinois Environmental Protection Act authorizes the Board to adopt Regulations in furtherance of its duties.
- Title 35 of the Illinois Administrative Code: Environmental protection
- The Illinois Environmental Protection Act and the Board's Regulations are available on the Board's website:
 - https://pcb.illinois.gov/SLR/IPCBa ndIEPAEnvironmentalRegulationsT itle35

Home > Laws and Rules >

Title 35 Procedural and Environmental Rules

Title 35 of the Illinois Administrative Code: Environmental Protection

Recent Board Rulemaking Developments

Subtitle A: General Provisions

Chapter I Pollution Control Board

- 📬 📵 Part 101: General Rules
- 🦒 📵 Part 102: Regulatory and Informational Hearings and Proceedings
- 📵 Part 103: Enforcement
- 📬 📵 Part 104: Regulatory Relief Mechanisms
- 📬 📵 Part 105: Appeals of Final Decisions of State Agencies
- 📬 📵 Part 106: Proceedings Pursuant to Specific Rules or Statutory Provisions
- Part 107: Petition to Review Pollution Control Facility Siting Decisions

Part I The Board's Numeric Noise Pollution Regulations

MIKE MANKOWSKI

Noise Complaints

Two types:

- Violation of the Board's Numeric Noise Regulations
- Nuisance Noise Violations

"A complainant can establish a noise pollution violation in one of two ways. One, the complainant may present noise emission measurements that prove the alleged polluter has exceeded the specific numeric noise limits as prescribed in the Regulations. Two, the complainant may prove that the noise emissions from the alleged polluter are a nuisance in that they unreasonably interfere with the enjoyment of life."

Roti, et al. v. LTD Commodities, 355 III. App. 3d 1039, 1050 (2nd Dist. 2005)

What is Noise Pollution?

- ► The Board's regulations define Noise Pollution as the emission of sound that unreasonably interferes with the enjoyment of life or with any lawful business or activity.
- ▶ Noise pollution = unwanted or disturbing sound.
- Sound becomes unwanted when it either interferes with normal activities such as sleeping and conversation or disrupts or diminishes one's quality of life.



Effects of Noise Pollution?

The effects of noise on people can be broken down into two major categories:

- ▶ Physiological and
- ▶ Psychological.



Physiological Effects



Damage to the Ear



Temporary or permanent hearing loss

At sound pressure levels exceeding 120 dB, the ear can suffer physical damage, primarily in the area of the inner ear.

At noise levels lower than those causing physical damage, the ear can still suffer hearing loss.

Psychological Effects

Interference with speech and mental and motor performance of an individual

- ► Speech
 - ▶ to the listener
 - ▶ the relative sound level of the speech is reduced,
 - ▶ the speech sound may be distorted and become unrecognizable, or
 - ▶ the noise may distract the listener.
 - ▶ To the speaker,
 - ▶ the presence of noise may cause individual to raise their voice level

Annoyance = An unfavorable reaction to a stimulus

Especially important as it relates to interference with relaxation or sleep

Regulation of Noise Pollution in Illinois



Unlike many other forms of pollution, Noise Pollution is not currently regulated by the Illinois Environmental Protection Agency or the United States Environmental Protection Agency.



▶ Illinois EPA has not had a noise pollution control program since the retirement of their last noise pollution expert in 2001.

▶ In 1981, the U.S. EPA concluded that noise issues were best handled at the State and local level and eliminated its noise pollution control program.

Regulation of Noise Pollution in Illinois

- ► The Board is authorized by the Illinois Environmental Protection Act to regulate noise pollution and adopt regulations related to that authority.
- Because Illinois EPA and U.S. EPA no longer have noise control programs, Noise Pollution Complaints are typically enforced through citizen complaints filed before the Board.

Board Noise Complaints

- Any "person" can file a complaint for violations of the Environmental Protection Act and the Board's Regulations.
- ▶ Board can order respondent to:
 - Cease and desist from causing noise pollution;
 - ▶ Take actions to abate the noise; and/or
 - ▶ Pay civil penalties (maximum civil penalty of \$50,000 per violation and additional \$10,000 penalty per day the violation continues)

Numeric Noise Regulations

Illinois Environmental Protection Act (415 ILCS 5/24, 25)

Board Regulations (35 III. Adm. Code, Subtitle H)

Exceptions

Sec. 24 (415 ILCS 5/24)

"No person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act." (1970)

Sec. 25 (415 ILCS 5/25)

"The Board, pursuant to the procedures prescribed in Title VII of this Act, may adopt regulations prescribing limitations on noise emissions beyond the boundaries of the property of any person and prescribing requirements and standards for equipment and procedures for monitoring noise and the collection, reporting and retention of data resulting from such monitoring." (1970)

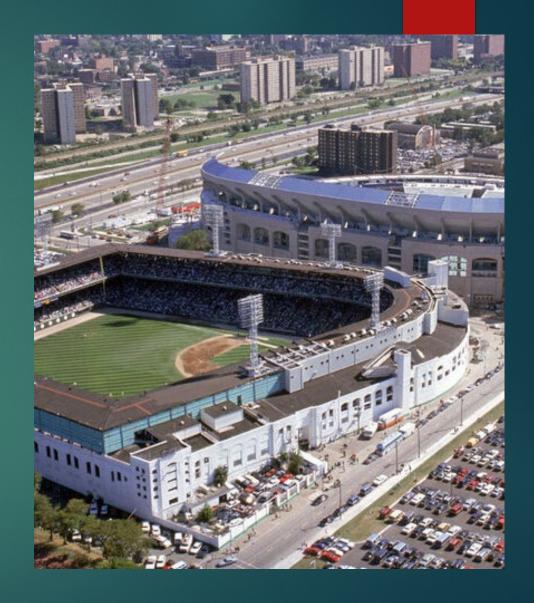
<u>Sec. 25</u> (415 ILCS 5/25)

- Since 1970, Section 25 has been amended multiple times.
- ▶ The Board is currently required to promulgate regulations to categorize the types and sources of noise emissions that unreasonably interfere with the enjoyment of life, or with any lawful business, or activity, and prescribe for each such category the maximum permissible limits on such noise emissions.
- Exceptions have also been added over the years.

Sec. 25 (415 ILCS 5/25) Exceptions

Except for very limited exceptions, the Board cannot set standards for monitoring noise or regulations prescribing limitations on noise emissions from any organized amateur or professional sporting activity.

- ▶ In a city with more than 1,000,000 inhabitants, in a stadium at which nighttime events were not played prior to July 1, 1982, professional baseball, football or soccer sporting events played during nighttime hours, the Board may establish nighttime noise emission standards. The following events are exempt from the Board's nighttime noise emission standards:
 - Baseball World Series games, league championship series games and other playoff games played after the conclusion of the regular season, and baseball All Star games; and
 - sporting events or other events held in a stadium which replaces a stadium not subject to such regulations and constructed within 1500 yards of the original stadium by the Illinois Sports Facilities Authority.



Illinois Pollution Control Board Noise Regulations

The Board's Noise Regulations are found in Subtitle H of the Board's Regulations, Parts 900, 901, 902, 903, 905 and 910

(35 III. Adm. Code 900, 901, 902, 903, 905 and 910)

Subtitle H: Noise

Chapter I Pollution Control Board



🎁 🍘 Part 901: Sound Emission Standards And Limitations For Property Line Noise Sources

📬 📵 Part 902: Sound Emission Standards And Limitations For Motor Vehicles

🎁 📵 Part 903: Rules And Regulations For The Control Of Noise From Motor Racing Facilities

📬 📵 Part 905: Sound Emission Standards And Limitations For Snowmobiles

📬 📵 Part 910: Measurement Procedures For The Enforcement Of 35 III. Adm. Code 900 & 901

Section 900.102 Prohibition of Noise Pollution (35 III. Adm. Code 900.102)

"A person must not cause or allow the emission of sound beyond the boundaries of that person's property, as defined in Section 25 of the Environmental Protection Act [415 ILCS 5/25], that causes noise pollution in Illinois or violates any provision of this Chapter."

Numeric Standards

- ► The Board's numeric noise standards are applied based on the class of receiving land and the class of the land upon which the property-line noise source is located.
 - ▶ "Property-line noise source" is defined as any equipment or facility, or a combination of equipment and facility, that operates within any land used as specified by 35 III. Adm. Code 901.101. The equipment or facility, or combination of equipment and facility, must be capable of emitting sound beyond the property line of the land on which it is operated. 35. III Adm. Code 900.101

Types of Land

- The Board Noise Regulations classify land according to use for applying the numeric noise standards.
 - ► Classification system is based on the Land-Based Classification Standards (LBCS) which designate land use functions by numeric codes. (35 III. Adm. Code 900.101 and 901.01(a))
 - ► The applicable LBCS are found in 35 III. Adm. Code 901.APPENDIX B.
 - ▶ They are divided into Classes A, B and C.
 - ► Lands that do not fall under Class A, B or C are designated as **Unclassified** or **U**
 - Note: Local land use zoning ordinances have no bearing on land classification under the Subpart H Noise regulations.

Class A Lands

Class A land includes all land used as specified by LBCS Codes 1000 through 1340, 2410 through 2455, 5200 through 5230, 5500, 6100 through 6145, 6222, 6510 through 6530, and 6568 through 6600.

35 III. Adm. Code 901.101(b)

Section 901.APPENDIX B Land-Based Classification Standards and Corresponding 35 Ill. Adm. Code 901 Land Classes

LBCS		CS		
	Main Category	Function Code	Description	35 IAC 901 Land Class

	1000	Residence or accommodation functions	A
ons	1100	Private household	
cti	1200	Housing services for the elderly	
fui	1210	Retirement housing services	
ion	1220	Congregate living services	
dat	1230	Assisted-living services	
Residence or accommodation functions	1240	Life care or continuing care services	
Son	1250	Skilled-nursing services	
ac	1300	Hotels, motels, or other accommodation services	
or	1310	Bed and breakfast inn	
nce	1320	Rooming and boarding	
side	1330	Hotel, motel, or tourist court	
Re	1340	Casino hotel	A

2400	Business, professional, scientific, and technical services	
2410	Professional services	A
2411	Legal services	
2412	Accounting, tax, bookkeeping, payroll services	
2413	Architectural, engineering, and related services	
2414	Graphic, industrial, interior design services	
2415	Consulting services (management, environmental, etc.)	
2416	Research and development services (scientific, etc.)	
2417	Advertising, media, and photography services	
2418	Veterinary services	
2420	Administrative services	
2421	Office and administrative services	
2422	Facilities support services	
2423		
2424	Business support services	
2425	Collection agency	
2430	Travel arrangement and reservation services	
2440	Investigation and security services	
2450	Services to buildings and dwellings	
2451	Extermination and pest control	
2452	Janitorial	
2453	Landscaping	
2454	Carpet and upholstery cleaning	
2455	Packing, crating, and convention and trade show services	A
5200	Manage de de la constitución de	
5200 5210	Museums and other special purpose recreational institutions Museum	A
5210	Museum Historical or archeological institution	П
5230	Zoos, botanical gardens, arboreta, etc.	A
3230	Zoos, obtainear gardens, arboreta, etc.	A

	5500	Natural and other recreational parks	A	
	6000 Education, public admin., health care, and other inst.			
and	6100	Educational services	-	
e, a	6110	Nursery and preschool	A	
health care,	6120	Grade schools		
llth	6121	Elementary	1	
hea				
in., nst.	6123	Senior		
c admin.	6124	Continuance		
ic a	6125	Alternate education services		
lldu	6126	Adult education services		
ı, p	6130	Colleges and universities		
tior	6140	Technical, trade, and other specialty schools		
Education, public admin., other inst.	6141	Beauty schools		
Ed	6142	Business management		
	6143	Computer training		

6500	Health and human services	
6510	Ambulatory or outpatient care services	A
6511	Clinics	
6512	Family planning and outpatient care centers	
6513	Medical and diagnostic laboratories	
6514	Blood and organ banks	
6520	Nursing, supervision, and other rehabilitative services	
6530	Hospital	A

Class B Lands

Class B land includes all land used as specified by LBCS Codes 2100 through 2336, 2500 through 2720, 3500 through 3600, 4220 through 4243, 5100 through 5160, 5300 through 5390, 5400, 6147, 6210 through 6221, 6300 through 6320, 6400 through 6430, 6560 through 6567, 6700 through 6830, and 7100 through 7380.

35 III. Adm. Code 901.101(c)

	2000	General sales or services	
	2100	Retail sales or service	В
	2110	2110 Automobile sales or service establishment	
	2111	Car dealer	
es	2112	Bus, truck, mobile homes, or large vehicles	
ryic	2113	Bicycle, motorcycle, ATV, etc.	
Sel	2114	Boat or marine craft dealer	
General sales or services	2115	Parts, accessories, or tires	
sale	2116	Gasoline service	
als	2120	Heavy consumer goods sales or service	
neı	2121	Furniture or home furnishings	
Ğ	2122	Hardware, home centers, etc.	
	2123	Lawn and garden supplies	
	2124	Department store, warehouse club or superstore	
	2125	Electronics and Appliances	
	2126	Lumber yard and building materials	

Description 35 IAC 901 Land Class	LBCS			Т
Durable consumer goods sales and service Computer and software Camera and photographic supplies Clothing, jewelry, luggage, shoes, etc. Sporting goods, toy and hobby, and musical instruments Books, magazines, music, stationery Consumer goods, other Consumer goods, toy and hobby, and musical instruments Consumer goods, toy and musics tatloins, etc. Consumer goods, tog and susteries, etc. Consumer goods, together goods, etc. Consum			Description	901 Land
Camera and photographic supplies Camera and photographic supplies Clothing, jewelry, luggage, shoes, etc. Sporting goods, toy and hobby, and musical instruments Books, magazines, music, stationery Consumer goods, other C		2127	Heating and plumbing equipment	
Camera and photographic supplies		2130	Durable consumer goods sales and service	
2133 Clothing, jewelry, luggage, shoes, etc. 2134 Sporting goods, toy and hobby, and musical instruments 2135 Books, magazines, music, stationery 2140 Consumer goods, other 2141 Florist 2142 Art dealers, supplies, sales and service 2143 Tobacco or tobacconist establishment 2144 Mail order or direct selling establishment 2145 Antique shops, flea markets, etc. 2150 Grocery, food, beverage, dairy, etc. 2151 Grocery store, supermarket, or bakery 2152 Convenience store 2153 Specialty food store 2154 Fruit and vegetable store 2155 Beer, wine, and liquor store 2160 Health and personal care 2161 Pharmacy or drug store 2162 Cosmetic and beauty supplies 2163 Optical 2200 Finance and Insurance 2210 Bank, credit union, or savings institution 2220 Credit and finance establishment 2230 Investment banking, securities, and brokerages 2240 Insurance-related establishment 2250 Fund, trust, or other financial establishment 2260 Real estate, and rental and leasing 2310 Real estate services 2321 Commercial property-related 2322 Rental housing-related 2330 Rental and leasing 2331 Cars		2131	Computer and software	
Sporting goods, toy and hobby, and musical instruments Books, magazines, music, stationery Consumer goods, other Florist Consumer goods, other Tobacco or tobacconist establishment Consumer goods, and markets, etc. Consumer goods, flea markets, etc. Consumer goods, etc. Consum		2132	Camera and photographic supplies	
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2322 Rental housing-related 2330 Rental and leasing 2331 Cars		2320	Property management services	
2330 Rental and leasing 2331 Cars		2321	Commercial property-related	
2331 Cars		2322	Rental housing-related	
		2330	Rental and leasing	
2332 Leasing trucks, trailers, RVs, etc.		2331	Cars	
		2332	Leasing trucks, trailers, RVs, etc.	

2333	Recreational goods rental		
2334	Leasing commercial, industrial machinery, and equipment		
2335	Consumer goods rental		
2336	Intellectual property rental (video, music, software, etc.)	В	
2500	Food services	В	
2510	Full-service restaurant		
2520	Cafeteria or limited service restaurant		
2530	Snack or nonalcoholic bar		
2540	Bar or drinking place		
2550	Mobile food services		
2560	Caterer		
2570	Food service contractor		
2580	Vending machine operator		
		对政治学可	
4220	Motion pictures and sound recording	В	П
4221	Motion picture and video production, publishing, and		Ш
	distribution		Ш
4222	Motion picture viewing and exhibition services		Ш
4223	Sound recording, production, publishing, and distribution		Ш
4230	Telecommunications and broadcasting		Ш
4231	Radio and television broadcasting		Ш
4232	Cable networks and distribution		Ш
4233	Wireless telecommunications		Ш
4234	Telephone and other wired telecommunications		Ш
4240	Information services and data processing industries		
4241	Online information services		
4242	Libraries and archives		
4243	News syndicate	В	
E 17 A 18		1,001.853.60	
5300	Amusement, sports, or recreation establishment	В	1
5310	Amusement or theme park establishment		
5320	Games arcade establishment		
5330	Casino or gambling establishment		
5340	Miniature golf establishment		
5350	Skiing		
5360	Marina or yachting club facility operators		
5370	Fitness, recreational sports, gym, or athletic club,		
5380	Bowling, billiards, pool, etc.		
5390	Skating rinks, roller skates, etc.		
5400	Camps, camping, and related establishments	В	- [

Class C Lands

Class C land includes all land used as specified by LBCS Codes 3100 through 3440, 4120 through 4180, 4210 through 4212, 4300 through 4347, 7400 through 7450, 8000 through 8500, and 9100 through 9520.

35 III. Adm. Code 901.101(d)

3000	Manufacturing and wholesale trade	
3100	Food, textiles, and related products	C
		•
3110		
3120	9	
3130		
3140	Leather and allied products	
3200	Wood, paper, and printing products	
3210	Wood products establishment	
3220	Paper and printing materials	
<u>s</u> 3230	Furniture and related products	
3300	Chemicals, and metals, machinery, and electronics	
a E	manufacturing	
<u>8</u> 3310	Petroleum and coal products	
골 3320	Chemicals, plastics, and rubber products	
3330	Nonmetallic mineral products	
3340	Primary metal manufacturing	
· E 3350	Machinery manufacturing	
3360	Electrical equipment, appliance, and components	
nta	manufacturing	
3300 3300 3300 3310 3320 3330 3340 3350 3360 3370 3370	Transportation equipment, automobiles, etc.	
≥ 3400	Miscellaneous manufacturing	
3410	Jewelry and silverware	
3420		
3430		
3440	Signs	C

4120	Rail transportation	C
4121	Rail passenger transportation	
4122	Rail freight transportation	
4123	Rail transportation support establishment	
4130	Road, ground passenger, and transit transportation	
4131	Local transit systems-mixed mode	
4132	Local transit systems-commuter rail	
4133	Local transit systems-bus, special needs, and other motor vehicles	
4134	Interurban, charter bus, and other similar establishments	
4135	School and employee bus transportation	
4136	Special purpose transit transportation (including scenic,	
	sightseeing, etc.)	
4137	Taxi and limousine service	
4138	Towing and other road and ground services	
4140	Truck and freight transportation services	
4141	General freight trucking, local	
4142	General freight trucking, long-distance	
4143	Freight trucking, specialized (used household and office goods)	
4144	Freight trucking, specialized (except used goods)	
4150	Marine and water transportation	
4151	Marine passenger transportation	
4152	Marine freight transportation	
4153	Marine port and harbor operations	
4154	Marine cargo handling and dry dock services	
4155	Marine navigational and other services	
4160	Courier and messenger services	
4170	Postal services	
4180	Pipeline transportation	C
4200	Communications and information	
4210	Publishing	C
4211	Newspapers, books, periodicals, etc.	C

8500 9100 9110 9111 9112 9113 9114 9115 9120 9130	Quarrying and stone cutting establishment Agriculture, forestry, fishing and hunting Crop production Grain and oilseed Wheat Com Rice Soybean and oilseed Dry pea and bean	35 IAC 901 Land Class
9100 9110 9111 9112 9113 9114 9115 9120	Agriculture, forestry, fishing and hunting Crop production Grain and oilseed Wheat Com Rice Soybean and oilseed	С
9100 9110 9111 9112 9113 9114 9115 9120	Crop production Grain and oilseed Wheat Corn Rice Soybean and oilseed	
9110 9111 9112 9113 9114 9115 9120	Grain and oilseed Wheat Corn Rice Soybean and oilseed	
9111 9112 9113 9114 9115 9120	Wheat Com Rice Soybean and oilseed	
9112 9113 9114 9115 9120	Com Rice Soybean and oilseed	
9113 9114 9115 9120	Rice Soybean and oilseed	
9114 9115 9120	Soybean and oilseed	
9115 9120	•	_
9120	Dry pea and bean	
,		
9130	Vegetable farming or growing services	
	Fruits and trees	
9140	Greenhouse, nursery, and floriculture	
9141	Food crops grown under cover	
9142	Nursery and tree production	
9143	Floriculture production	
9150	All other crops	
9151	Tobacco crop	
9152	Cotton crop	
9153	Sugarcane crop	
9154		
9155	•	
9200	<u> </u>	
9210		
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9240		
9300	0 0 0	
9310		
9311	Beef cattle ranch establishments	
9312		
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	, ,	
	9153 9154 9155 9200 9210 9220 9230 9240 9310 9311	9153 Sugarcane crop 9154 Hay 9155 Peanut crop 9200 Support functions for agriculture 9210 Farm and farm labor management services 9220 Spraying, dusting, and other related services 9230 Crop harvesting and post harvest crop activities (including drying, siloing, etc.) 9240 Cotton ginning, grist milling, etc. 9300 Animal production including slaughter 9310 Cattle ranch and crops 9311 Beef cattle ranch establishments 9312 Cattle feedlot establishment 9320 Dairy cattle and milk production 9330 Hog and pig farm 9340 Poultry and egg production and hatcheries 9350 Sheep and goat farming establishments 9360 Fish hatcheries, fisheries, and aquaculture

Unclassified Lands

<u>a</u> <u>a</u> 4000	Transportation, communication, information, and utilities		
tg ff f 4100	Transportation services		_
다 ⁵ 4110	Air transportation	U	

LBCS			
Main Category	Function Code	Description	35 IAC 901 Land Class
	4111	Air passenger transportation	
	4112	Air freight transportation	
	4113	Airport and support establishment	
	4114	Aircraft and accessories	
	4115	Other air transportation (including scenic, balloon, etc.)	U
	6146	Flight training	U

Time of Day Matters

- The Board has numeric sound limits for daytime hours and for nighttime hours for sound emissions from any property line noise sources located on any Class A, B or C land to any receiving Class A land. 35 Ill Adm Code 901.102.
 - Daytime hours are 7:00am to 10:00pm local time.
 - Nighttime hours are 10:00pm to 7:00am local time.
- The numeric limits for daytime hours are less stringent than for nighttime hours. 35 III Adm. Code 901.102(a) and (b).



Sound Measurements

- The Board Noise Standards are based on the allowable octave band sound pressure level specified in the regulations.
 - "Octave band sound pressure level" is defined as the sound pressure level for the measured sound contained within the specified octave band. The reference pressure is 20 micronewtons per square meter (μN/m²2) or 20 micropascals (μPa). 35 Ill. Adm. Code 900.101.
 - ► The octave band is separated into 9 frequency bands measured in Hertz:
 - ▶ 0-31.5, 31.5-63, 63-125, 125-250, 250-500, 500-1000, 2000-4000, 4000-8000, >8000. 35 III. Adm. Code 901.102 and 901.103

Sound Emitted to Class A Land During Daytime Hours (7:00 am to 10:00 pm, local time)

Generally, a person must not cause or allow the emission of sound during daytime hours from any property-line noise source located on any Class A, B or C land to any receiving Class A land that exceeds any allowable octave band sound pressure level specified in the following table, when measured at any point within the receiving Class A land. Sound pressure levels must be measured at least 25 feet from the property-line noise source. 35 III. Adm. Code 901.102(a)

Octave Band Center Frequency (Hertz)		Allowable Octave Band Sound Pressure Levels (dB) o Sound Emitted to any Receiving Class A Land from			
		Class C Land	Class B Land	Class A Land	
	31.5	75	72	72	
	63	74	71	71	
	125	69	65	65	
	250	64	57	57	
	500	58	51	51	
	1000	52	45	45	
	2000	47	39	39	
	4000	43	34	34	
	8000	40	32	32	

Sound Emitted to Class A Land During Nighttime Hours (10:00 pm to 7:00 am, local time)

Generally, a person must not cause or allow the emission of sound during **nighttime hours** from any property-line noise source located on any Class A, B or C land to any receiving Class A land that exceeds any allowable octave band sound pressure level specified in the following table, when measured at any point within the receiving Class A land. Sound pressure levels must be measured at least 25 feet from the property-line noise source. 35 III. Adm. Code 901.102(b)

Octave Band Center Frequency (Hertz)	Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Receiving Class A Land from				
	Class C Land	Class B Land	Class A Land		
31.5	69	63	63		
63	67	61	61		
125	62	55	55		
250	54	47	47		
500	47	40	40		
1000	41	35	35		
2000	36	30	30		
4000	32	25	25		
8000	32	25	25		

Sound Emitted to Class A Land (cont.)

Daytime

Octave Band Center Frequency (Hertz)	Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Receiving Class A Land from				
	Class C Land	Class B Land	Class A Land		
31.5	75	72	72		
63	74	71	71		
125	69	65	65		

Nighttime

Octave Band Center	Allowable Octave Band Sound Pressure Levels (dB) of					
Frequency (Hertz)	Sound Emitted to any Receiving Class A Land from					
	Class C Land	Class B Land	Class A Land			
31.5	69	63	63			
63	67	61	61			
125	62	55	55			
250	54	47	47			
500	47	40	40			
1000	41	35	35			
2000	36	30	30			
4000	32	25	25			
8000	32	25	25			

Sound Emitted to Class B Land

- There are no daytime/nighttime restrictions for sound emitted to a Class B Land.
- ▶ Generally, a person must not cause or allow the emission of sound from any property-line noise source located on any Class A, B or C land to any receiving Class B land that exceeds any allowable octave band sound pressure level specified in the following table, when measured at any point within the receiving Class B land. Sound pressure levels must be measured at least 25 feet from the property-line noise source. 35 Ill. Adm. Code 901.103

Octave Band Center Frequency (Hertz)			Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Receiving Class B Land from			
		Class C Land	Class B Land	Class A Land		
31.	.5	80	79	72		
63	3	79	78	71		
12	5	74	72	65		
25	0	69	64	57		
50	0	63	58	51		
100	00	57	52	45		
200	00	52	46	39		
400	00	48	41	34		
800	00	45	39	32		

Example

Apartment is located above a bar.

	LBCS		
Main	Category Function Code	Description	35 IAC 901 Land Class
tions	1000 1100	Residence or accommodation functions Private household	A
	2500	Food services	В
	2510	Full-service restaurant	
	2520	Cafeteria or limited service restaurant	
	2530	Snack or nonalcoholic bar	
	2540	Bar or drinking place	

Octave Band Cent Frequency (Hertz)		tave Band Sound Pr d to any Receiving (Octave Band Center Frequency (Hertz)		Band Sound Pressu any Receiving Class	, ,
	Class C Land	Class B Land	Class A Land		Class C Land	Class B Land	Class A Land
31.5	75	72	72	31.5	69	63	63
63	74	71	71	63	67	61	61
125	69	65	65	125	62	<u>55</u>	55
250	64	57	57	250	54	47	47
500	58	51	51	500	47	40	40
1000	52	45	45	1000	41	35	35
2000	47	39	39	2000	36	30	30
4000	43	34	34	4000	32	25	25
8000	40	32	32	8000	32	25	25

Highly Impulsive Sound

- A single pressure peak or a single burst (multiple pressure peaks) for a duration usually less than one second. Examples of highly impulsive sound sources are drop forge hammer and explosive blasting. 35 III.
 Ad. Code 900.101
- ▶ Generally, a person must not cause or allow the emission of highly impulsive sound from any property-line noise source located on any Class A, B or C land to any receiving Class A or B land that exceeds the allowable A-weighted sound levels, measured with fast dynamic characteristic, specified in the following table, when measured in compliance with the procedure of 35 III. Adm. Code 900.103 at any point within the receiving Class A or B land. Sound pressure levels must be measured at least 25 feet from the property-line noise source. 35 III. Adm. Code 901.103
- "A-weighted sound level" is defined as 10 times the logarithm to the base 10 of the square of the ratio of the A-weighted (and time-averaged) sound pressure, to the reference sound pressure of 20 micropascals. The frequency and time weighting must be specified in compliance with ANSI/ASA S1.4-2014/Part 1/IEC 61672:1-2013 "American National Standard Electroacoustics Sound Level Meters-Part 1: Specifications (a nationally adopted international standard", incorporated by reference at Section 900.106. The unit of sound level is the decibel (dB) with the letter (A) appended to the decibel unit symbol to indicate the frequency weighting and written as dB(A). 35 III. Adm. Code 900.101

Highly Impulsive Sound

"Except as provided elsewhere in this Part, a person must not cause or allow the emission of highly impulsive sound from any property-liné noise source located on any Class A, B or C land to any receiving Class A or B land that exceeds the allowable A-weighted sound levels, measured with fast dynamic characteristic, specified in the following table, when measured in compliance with the procedure of 35 III. Adm. Code 900.103 at any point within the receiving Class A or B land. Sound pressure levels must be measured at least 25 feet from the property-line noise source." 35 III.

Adm. 901.104

Classification of Land on which Property-Line Noise Source is Located Allowable A-weighted Sound Levels in Decibels of Highly Impulsive Sound Emitted to Receiving Class A or B Land

	Class B Land	Class A Land		
		Daytime	Nighttime	
Class A Land	47	47	37	
Class B Land	54	47	37	
Class C Land	58	53	43	

Other Standards

Part 901 of the Board's Noise Regulations also includes specific standards for impact forging operations, prominent discrete tones and highly-impulsive sound from explosive blasting.

Exceptions

Section 901.107 of the Board's Noise Regulations includes exceptions for various noise emissions such as:

- Sections 901.102 through 901.106 do not apply to the following sound emissions from:
 - ▶ Land used as specified in LBS Codes 1100 (private households), 5500 (natural and other recreational parks) and 6600 religious institutions
 - Emergency warning devices and unregulated safety relief valves
 - Lawn care maintenance equipment and agricultural field machinery used during daytime hours. (Note: grain dryers operated off the farm are not considered agricultural field machinery)
 - ▶ Equipment being used for construction.
 - Any vehicle registered for highway use while the vehicle is being operated within any land used as specified by Section 901.101 during ingress to or egress from a highway.
 - Snowmobiles
 - Certain properties used for automobile and motorcycle racing with some exceptions.
- ▶ Sections 901.114 through 901.122 include site specific operational levels and noise emission limitations.



Measurement Procedures

- Measurement procedures are controlled by Section 900.103 of the Board's Noise Pollution Regulations
- ▶ **Section 900.103(b)** requires that all sound measurements and all measurement procedures used to determine compliance with numeric limits of 35 Ill. Adm. Code 901, except for measurements to determine compliance with 35 Ill. Adm. Code 901.109 and steady state sound under Section 900.103(b)(1)(B), must be based on L_{eq} averaging, as defined in Section 900.101, using a reference time of at least 1 hour. 35 Ill Adm Code 900.103.
 - ► "L_{eq}" means "equivalent continuous sound pressure level in decibels: 10 times the logarithm to the base 10 of the ratio of a time mean square sound pressure, during the specified time period, to the square of reference sound pressure. The reference sound pressure is 20 micronewtons per square meter or equivalent continuous frequency-weighted sound pressure." 35 Ill. Adm. Code 900.101.
- ▶ Section 900.103(b)(2) requires all sound measurements used to determine compliance with numeric limits of 35 Ill. Adm. Code 901 to be corrected for the presence of ambient or background noise in compliance with the procedures in Part 910 of the Board's Noise Regulations.
- Part 910 details the measurement procedures that must be used for the enforcement of Parts 900 and 901 including proper instrumentation, measurement techniques, and protocols for determining sound levels.

Measurement Procedures

- The most important thing to consider regarding sound measurement is that the Board requires **strict adherence** to applicable measuring procedures. In numerous complaints, the Board has held against complainants because the proper measurement or analysis procedures were not followed.
 - Manarchy, et al. v. The Gotham NightClub, PCB 95-73 (July 18, 1996), slip op. at 23-24. PCB 90-146 (Feb. 25, 1993), Board held complainant failed to establish a violation of the numeric standards because the consultant did not perform the required corrections to account for reflective sound.
 - Charter Hall Homeowner's Association and Jeff Cohen v. Overland Transportation System, Inc. and D.P. Cartage, Inc. PCB 98-81 (Oct. 1, 1998), slip. op. at 43-44. Board held that complainant tailed to establish a violation of numeric standards because the consultant left the site, thereby failing to comply with the required measurement procedures.
 - **Roti, et al. v. LTD Commodities**, PCB 99-19 (February 15, 2001), slip. op. at 46-52, Board held that complainant tailed to establish a violation of numeric standards because the consultant used a 54-minute L_{eq} averaging instead of the required one-hour L_{eq} averaging method. Upheld in Roti, et al. v. LTD Commodities, 355 III. App. 3d 1039 (2nd Dist. 2005)

Measurement Procedures





STRICT

ADHERENCE

Part II The Board's Nuisance Noise Regulations

JENNIFER A. VAN WIE

The Environmental Protection Act

Sec. 23 (425 ILCS 5/23)

"The General Assembly finds that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, increases construction costs, depresses property values, offends the senses, creates public nuisances, and in other respects reduces the quality of our environment.

It is the purpose of this Title to prevent noise which creates a public nuisance."

The Environmental Protection Act

Sec. 24 (415 ILCS 5/24)

"No person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act."

Board Regulations

Section 900.102 Prohibition of Noise Pollution (35 III. Adm. Code 900.102)

"A person must not cause or allow the emission of sound beyond the boundaries of that person's property, as defined in Section 25 of the Environmental Protection Act [415 ILCS 5/25], that causes noise pollution in Illinois or violates any provision of this Chapter."

Noise Pollution, defined

Section 900.101 defines "noise pollution" as "the emission of sound that unreasonably interferes with the enjoyment of life or with any lawful business or activity."

Charter Hall Homeowner's Association and Jeff Cohen v. Overland Transportation System, Inc. and D.P. Cartage, Inc.

PCB 98-81 (Oct. 1, 1998), slip. op. at 19-21.

- ► This citizens' enforcement action concerns a trucking terminal in Palatine, Illinois.
- Respondent Overland Transportation System, Inc. leases the trucking terminal to respondent, D P. Cartage, Inc., which operates the facility.
- Complainants, Charter Hall Homeowner's Association and Jeff Cohen, allege that noise from the trucking terminal exceeds Illinois' numeric sound limits and unreasonably interferes with the lives of residents living immediately east of the trucking terminal.



Charter Hall, cont.

- Overland operates the facility as a motor freight terminal for the loading and unloading of trailer trucks.
- Work began as early as 2 a.m. and ended as late as midnight.
- Complainants' witnesses complained primarily about three types of noise from Overland.
 - they hear a bang sound caused by the hitching of trailers to the trucks or to the yard spotter;
 - complainants' witnesses hear bang sounds that forklifts cause When they load and unload trailers; and
 - 3) complainants' witnesses hear the sound of metal dragging on asphalt when the truck or yard spotter pulls a trailer that has not been properly hitched.
- ▶ Interestingly, the property had previously been operated as a trucking terminal by Yellow Freight, but the noise it generated either did not disturb complainants' witnesses or disturbed them much less frequently.

Charter Hall, cont.

The Board follows a **two-step** inquiry to determine whether noise emissions rise to the level of a nuisance noise pollution violation:

whether the noise constitutes an interference in the enjoyment of complainant's life; and

whether the interference is unreasonable considering the factors outlined in Section 33(c) of the Act.

1) whether the noise constitutes an interference in the enjoyment of complainant's life

Sounds from a source must objectively affect enjoyment of life to constitute an interference.

See <u>Hoffman v. City of Columbia</u>, PCB 94-146 (October 17, 1996), slip op. at 16; <u>Zivoli v. Prospect Dive and Sport Shop, Ltd.</u>, PCB 89-205 (March 14, 1991), slip op. at 9.

So, what is Interference?

Charter Hall - The Board finds that noise from Overland's facility has interfered with the residents' enjoyment of life. The noise has disrupted their sleep and restricted their ability to use their patios or backyards. It requires them to close their windows and disrupts television watching and normal conversations. It also limits the residents' ability to entertain guests.

Interference, continued...

Manarchy v. JJJ Assoc., Inc., PCB 95-73 (July 18, 1996), slip op. at 10-11 (sleeplessness from nightclub noise is interference);

Hoffman v. Columbia, PCB 94-146 (Oct. 17, 1996), slip op. at 5-6, 17 (noise interfering with sleep and use of yard);

<u>Thomas v. Carry Companies of Illinois</u>, PCB 91-195 (August 5, 1993), slip op. at 13-15 (**trucking operation noise impacts sleeping, watching television, and conversing**).

James Fiser v. James Meador and Henry's Double K, LLC, PCB 18-84 (Jan. 21, 2021), slip. op. at 7 (noise from live music venue interfered with sleep)

2) whether the interference is **unreasonable** considering the factors outlined in Section 33(c) of the Act.

The Board considers Section 33(c) of the Act to determine if noise rises to the level of a nuisance, i.e., the unreasonable interference with the enjoyment of life.

See <u>Hoffman v. City of Columbia</u> PCB 94-146 (October 17, 1996), slip op. at 2.

33(c) Factors

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

- The character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
- The social and economic values of the pollution source;
- 3. The suitability or unsuitability of the pollution source in the area in which it is located, including the question of priority of location in the area involved;
- 4. The technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
- 5. Any subsequent compliance.

33(c) Factors The Board need not find against respondent on each factor to find a violation.

See Wells Manufacturing Company v. Pollution Control Board, 73 III. 2d 226, 233, 383 N.E.2d 148, 151 (1978) (Wells Manufacturing).

"The character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people"

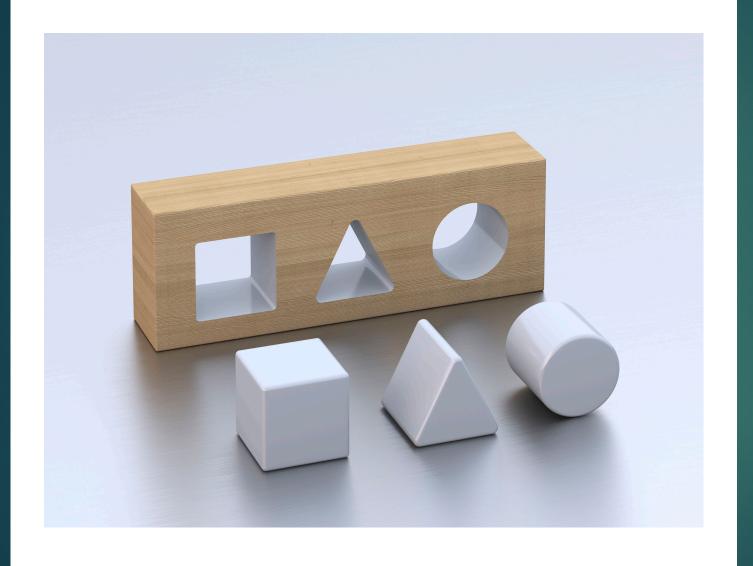
In considering the character and degree of interference that the noise caused, we ask <u>whether</u> the noise interferes with the complainant's enjoyment of life "substantially and frequently . . . beyond minor or trifling annoyance or discomfort."

Charter Hall, slip op. at 21, citing <u>Kvatsak v. St. Michael's Lutheran Church</u>, PCB 89-182 (August 30, 1990), slip op. at 9.

Social or Economic Value of the Source

In assessing this factor – when the respondent is a business - the Illinois Supreme Court has looked to the number of persons that the respondent employed and whether respondent is an important supplier to a particular market. Wells Manufacturing, 73 Ill. 2d at 235-36.

The Board has similarly looked to such factors as the number of employees at a facility and the total wages and taxes that a respondent paid. Charter Hall, slip. op. at 23-24.



REMEDIES

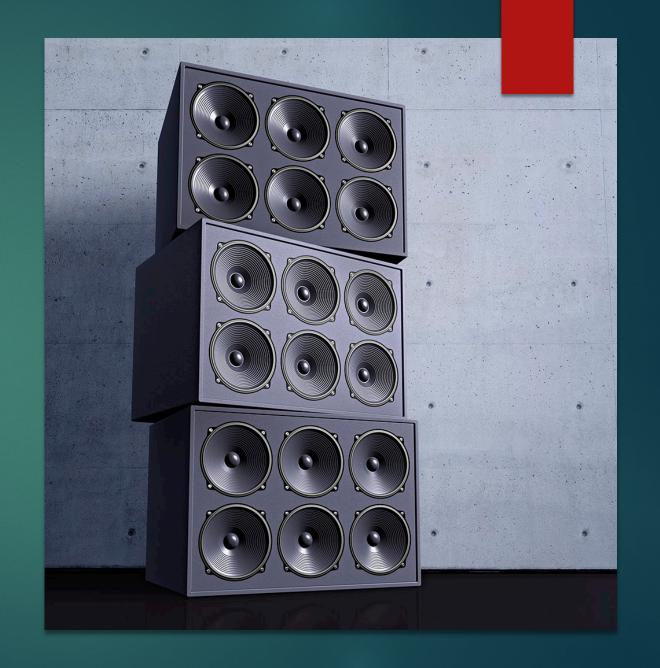
42(h) Factors

In determining the appropriate civil penalty to be imposed . . . the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including, but not limited to, the following factors:

- 1. the duration and gravity of the violation;
- the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
- any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
- 4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
- the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
- whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency;
- whether the respondent has agreed to undertake a "supplemental environmental project", which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
- 8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

The Board has crafted various remedies to address nuisance violations:

- Young and Young v. Gilster-Mary Lee Corp., PCB 00-90 interim opinion (September 6, 2001) at 19 Board directed respondent to file a report detailing a plan for reducing the noise emissions reaching the complainants' residence
- Pawlowski v. Benchwarmer's Pub, PCB 99-82 (September 21, 2000) slip op. at 3 Board prohibited using a jukebox and speakers in bar next to complainant





Village of Matteson v. Discovery South Group, Ltd., Music Center Associates Limited Partnership and Tinley Park Jam Corp.

<u>Corp.</u> PCB 90-146 (Feb. 25, 1993)

- Petitioner village filed an administrative complaint against respondent amphitheater for violating the Illinois Environmental Protection Act with noise pollution.
- Board ordered respondent amphitheater to conduct sound monitoring for three years and maintain specific sound levels.



▶ On appeal, Respondent amphitheater sought review of Pollution Control Board Order. The court affirmed the board's order in favor of petitioner village and upheld Board's required sound monitoring. The court held that respondent emitted sound that unreasonably interfered with the enjoyment of life of many of petitioner's residents.

<u>Discovery S. Group v. Illinois Pollution Control Bd.</u>, 275 Ill. App. 3d 547 (1st Dist. 1995)

Roti, et al. v. LTF Commodities, PCB 99-19 (July 24, 2003)

- ▶ The company ran a warehouse operation at its site before the residents built and moved into their homes, but the company subsequently increased its operations and noise level. The noises coming from the company's warehouse operation consisted of tractor-trailer noises and a back-up beeper on a yard tractor used at the site. The residents contended that the company's noise level was more disturbing than that of a nearby toll road or a corporate office park.
- ▶ The Board directed respondent to **cease and desist noise violations** (including ceasing nighttime
 trucking operations, using backup warning
 beepers at the Bannockburn facility, and idling
 trucks OR by building a noise wall if it continues
 night-trucking operations) and issued a \$15,000
 civil penalty.



On appeal, the court found that:

- ▶ Sec. 24 of the Illinois Environmental Protection Act and Sec. 900.102 of the IPCB regulations provided the residents with an independent cause of action;
- the Board did not err in finding that the company's operations were a noise nuisance;
- the Board did not err in ordering the company to shut down its nighttime operations;
- the Board did not err in ordering the company to disconnect the back-up beeper on the yard tractor and have an employee oversee the operations of the tractor;
- the Board did not err in ordering the company to consider building a noise wall; and
- ▶ the Board did not err in fining the company.



Recent Cases...

<u>James Fiser v. James Meador and Henry's Double K, LLC</u>, PCB 18-84 – Noise from live music venue. Resolved in 2021 with filing of joint motion for voluntary dismissal.

<u>Doug and Geri Boyer v. MRB Development, LLC d/b/a Copper Fire; Renae Eichholz;</u> and Mark Eichholz, PCB 22-09 – Noise from restaurant and live music venue. On August 8, 2024, summary judgment granted to respondents on sound emission standard violation claim. But, summary judgment denied on nuisance noise pollution claim, and Board directed hearing officer to proceed to hearing on that issue.

<u>Philip Carper v. Topflight Grain Cooperative, Inc.</u>, PCB 22-12 – Noise related to operation of grain elevator conveyors, fans and motors. Matter still pending.

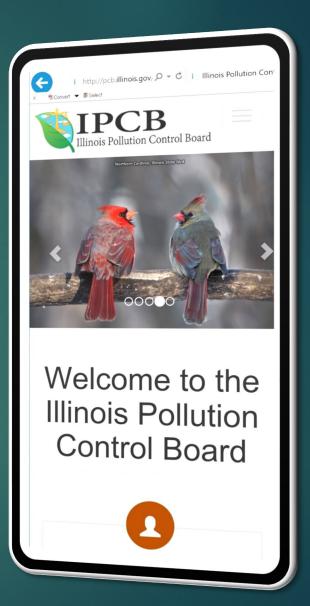
<u>People of the State of Illinois (ex. rel. State's Attorney for Lake County, Illinois) v.</u>

<u>Department of Transportation of the State of Illinois</u>, PCB 23-108 – Noise related to installation of Transverse Rumble Strips on U.S. 41 in Lake County. Matter still pending.



WEBSITE

- http://pcb.lllinois.gov
- COOL (Clerk's Office OnLine)
- Board's Rules
- Environmental Protection Act
- Docketing Information
- Decisions of the Board
- Hearing Transcripts
- Public Comments



Complaint Form

https://pcb.illinois.gov/Resources/ComplaintForms

FORMAL COMPLAINT

Before the Illinois Pollution Control Board

Note to the Complainant: If you do not use this Formal Complaint form and instead draft and type your own, it must contain all of the information requested by this form. All items must be completed. If there is insufficient space to complete any item, you may attach additional sheets, specifying the number of the item you are completing. Once you have completed the Formal Complaint, the Notice of Filing, and the Documentation of Service, you must 'file' these three documents with the Clerk of the Board and "serve" a copy of each document on each respondent. Specific requirements for the filing, service, and contents of these documents are set forth in the Board's procedural rules (35 III. Adm. Code 101, 103) and addressed in the explanatory materials accompanying this form.

1.	Your Contact Information	
	Name: Street Address:	
	County: State: Phone Number:	() -
2.	Place where you can be contacted during normal business hours (if different from above)	
	Name: Street Address:	
	County: State: Phone Number:	() -
3.	Name and address of the respondent (alleged polluter)	
	Name: Street Address:	
	County: State: Phone Number:	() -
4.	Describe the type of business or activity that you allege is causing o allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.	



THANK YOU

Illinois Pollution Control Board

pcb.lllinois.gov

Clerk's Office:
Don.Brown@illinois.gov

60 E. Van Buren St. Suite 630 Chicago, Illinois 60605 312-814-3620

1021 N. Grand Avenue East Springfield, Illinois 62702 217-524-8500



QUESTIONS?

Jennifer A. Van Wie, Board Member

Michael Mankowski, Board Member







CREDITS

SLIDE 8: "GRINCH - NOISE NOISE NOISE NOISE!" YOUTUBE, UPLOADED BY JAY CHOW, JANUARY 31, 2014,

HTTPS://WWW.YOUTUBE.COM/WATCH?V=KUG5UTC3X3A, FROM "HOW THE GRINCH STOLE CHRISTMAS," CHUCK JONES, THE CAT IN THE HAT PRODUCTIONS, MGM ANIMATION/VISUAL ARTS, MGM TELEVISION, DECEMBER 18, 1966.

SLIDE 41:

SCREAMING DRILL SERGEANT, AUSTIN 360, "FROM TAKE A TIP FROM AN ARMY DRILL SERGEANT TO GET IN SHAPE", PAM LEBLANC, "AUSTIN AMERICAN-STATESMAN", OCTOBER 17, 2016

HTTPS://WWW.STATESMAN.COM/STORY/LIFESTYLE/2016/10/17/TAKE-A-TIP-FROM-AN-ARMY-DRILL-SERGEANT-TO-GET-IN-SHAPE/10230212007/

ACCESSED SEPTEMBER 18, 2024.

KRAZY GLUE GIRDER HELMET, <u>HTTPS://WWW.FILMS.COM/ID/18359</u>, ACCESSED SEPTEMBER 18, 2024.