

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Amendment to DNR Snowmobile Rules.

NR 57(e)(4)(bb) No snowmobile manufactured on or after July 1, ~~1976~~, 1977, for sale in Minnesota, except in a snowmobile designed for competition purposes only, shall be sold, or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

APPROVED AS TO FORM AND LEGALITY
JUL 22 1976 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 22 1976 - 9:15 am
Joan Anderson Growe
Secretary of State

OFFICE OF THE
STATE REGISTER
JUL 22 1976
RECEIVED
10:31 AM

Exh 2

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF NATURAL RESOURCES, ROBERT L. HERBST, COMMISSIONER

In the Matter of the Proposed Amendment of Minnesota Regulation NR 57 a Rule of the Commissioner of Natural Resources relating to Snowmobile Noise Emissions, as Provided by Minnesota Statutes 1974, Section 84.86.

ORDER FOR HEARING

WHEREAS, the above-entitled regulation requires that snowmobiles manufactured after July 1, 1976, for sale in Minnesota meet a noise emission standard of 73 dB(A) as measured by testing procedure SAE J192; and

WHEREAS, representatives of the snowmobile manufacturing industry advise the Commissioner of Natural Resources that the industry will not be able to produce conforming machines as of July 1;

NOW, THEREFORE, IT IS ORDERED, that a public hearing be held pursuant to the rules-making provisions of Minn. Stats. Chapter 15, to consider amending the date in Minn. Regs NR 57(e)(4)(bb) from July 1, 1976 to July 1, 1977;

IT IS FURTHER ORDERED THAT the hearing be held in the auditorium of the State Office Building in the capitol complex, St. Paul, Minnesota, on Tuesday, May 18, beginning at 9:30 a.m. A copy of the notice of hearing shall be mailed to all persons who have registered with the Secretary of State for that purpose.

IT IS FURTHER ORDERED THAT at the close of this hearing, a public meeting be immediately convened to gather any available information relating to proposals to change the testing procedure used to measure snowmobile noise emissions from the present SAE recommended test practice J192.

Dated April ___, 1976.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
ROBERT L. HERBST, COMMISSIONER

By C B Buckman
C. B. BUCKMAN
Deputy Commissioner

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF NATURAL RESOURCES, ROBERT L. HERBST, COMMISSIONER

In the Matter of the Proposed Amendment of Minnesota Regulation NR 57, a Rule of the Commissioner of Natural Resources relating to Snowmobile Noise Emissions, as Provided by Minnesota Statutes 1974, Section 84.86.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held pursuant to Minnesota Statutes 1974, Section 15.0412, Subdivision 4, in the above-entitled matter in the auditorium of the State Office Building in the capitol complex at Saint Paul, Minnesota, at 9:30 a.m., Tuesday, May 18, 1976, and continuing until all representatives of associations and other interested or affected persons or groups have had an opportunity to be heard concerning adoption of the proposal described below by submitting oral or written data, statements, or arguments.

Minnesota Regulation NR 57(e) requires that snowmobiles for sale in Minnesota which were manufactured after April 1, 1975, emit no more than 78 decibels of noise, and those which are manufactured after July 1, 1976, emit no more than 73 decibels. The noise emission level is measured on the A scale, at 50 feet, on grass, while the machine is at maximum acceleration pursuant to SAE recommended test practice J192. The 73 decibel goal has been in the rule since December 22, 1971. The original effective date for that noise emission level was February 1, 1974. That effective date was

postponed to July 1, 1976, by an amendment to the rule made after public hearing and effective March 15, 1974.

Representatives of the snowmobile manufacturing industry report that snowmobiles made after July 1 of this year will not meet the required 73 dbA standard, and propose that some relief from that requirement be granted.

Under the authority granted him by Minnesota Statutes 1974, Sections 84.81 to 84.90, the Commissioner of Natural Resources therefore proposes to further postpone the effective date of the 73 dbA limit to July, 1977.

Under Minnesota Statutes 1974, Section 10A.01, Subdivision 11, any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

The hearing record will be kept open to receive written statements through Monday, June 7, 1976. They may be mailed to Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104.

At the close of this hearing, a public meeting will be immediately convened to gather any available information relating to proposals to change the testing procedure used to measure snowmobile noise emissions from the present SAE recommended test practice J192.

The Commissioner of Natural Resources is not presently possessed of enough technical background of information to propose any specific change. However, if enough information is presented to suggest, after a review by the Commissioner of Natural Resources, that such a change should be considered, then subsequent public hearing will be held respecting a particular proposal to change the existing snowmobile noise emissions testing procedure.

Dated April 14, 1976.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
ROBERT L. HERBST, COMMISSIONER

By C B Buckman
C. B. BUCKMAN
Deputy Commissioner

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

In the Matter of Ammending
Minnesota Regulations
NR 57 (e)(4)(bb) Regarding
Snowmobile Noise Emissions.

CERTIFICATE

I hereby certify that the attached 480 labels and one sheet constitute the complete list of persons, associations, and other interested groups who as of 3:00 o'clock P .m., this 15th day of April, 1976, have requested pursuant to Minn. Stat. 1974, Section 15.0412, Subd. 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearings on proposed rules on subjects captioned above.

Joan Anderson Growe
SECRETARY OF STATE
JOAN GROWE

By Cecil Dorn

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

BEFORE ROBERT L. HERBST
COMMISSIONER OF THE
DEPARTMENT OF NATURAL
RESOURCES

RECEIVED
APR 23 1976
Office OF HEARING
EXAMINERS

In the Matter of Amending
Minnesota Regulations
NR 57 (e)(4)(bb) Regarding
Snowmobile Noise Emissions.

AFFIDAVIT
OF
MAILING

Gordon M. Hale, being first duly sworn, deposes and says:

That on the 15th day of April, 1976, at the City of Saint Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of Saint Paul, a true and correct copy thereof, properly enveloped, and with postage prepaid, to all persons and associations at the addresses on the attached list.

Gordon M. Hale

Subscribed and sworn to before
me this 16th day of April, 1976.

Helen A. Hamauer

Notary Public

HELEN A. HAMAUER
Notary Public, Ramsey Co., Minn.
MY COMMISSION EXPIRES
Sept. 12, 1979

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF NATURAL RESOURCES, ROBERT L. HERBST, COMMISSIONER

In the Matter of the Proposed Amendment of Minnesota Regulation NR 57, a Rule of the Commissioner of Natural Resources relating to Snowmobile Noise Emissions, as Provided by Minnesota Statutes 1974, Section 84.86.

STATEMENT OF NEED

Minnesota Regulations NR 57(e)(4)(bb) states:

> No snowmobile manufactured on or after July 1, 1976, for sale in Minnesota, except a snowmobile designed for competition purposes only, shall be sold, or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

Minnesota Regulation NR 57(e)(5) states:

> Noise levels established herein shall be determined according to SAE Recommended Practice J 192 entitled "Exterior Sound Levels for Snowmobiles."

The International Snowmobile Industry Association has informed the Department that snowmobiles manufactured by its members after July 1, 1976, will not meet the 73 decibel standard and proposes that some relief from that requirement be granted.

Under the authority granted him by Minnesota Statutes 1974, Sections 84.81 to 84.90, the Commissioner of Natural Resources therefore proposes to further postpone the effective date of the 73 dBA limit to July, 1977.

The one-year extension is in the best interests of the public and of snowmobile operators. The newest machines are presumably safer and quieter than older models, so that it is better that they be available for purchase while the industry brings itself into compliance with the 73 decibel standard.

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF NATURAL RESOURCES, ROBERT L. HERBST, COMMISSIONER

In the Matter of the Proposed Amendment of Minnesota Regulation NR 57, a Rule of the Commissioner of Natural Resources relating to Snowmobile Noise Emissions, as Provided by Minnesota Statutes 1974, Section 84.86.

STATEMENT OF EVIDENCE

The Department will cite the transcript of its public hearing concerning snowmobile regulation held December 27, 1973, and Report No. 2381, Noise Regulations for Snowmobiles, dated August, 1972, prepared by Bolt, Beramk and Newman, Inc., as consultants to the Department of Natural Resources. These documents indicate that in 1973 the industry intended to achieve the 73 decibel goal under the SAE J 192 test by April, 1978, that it was technically capable of meeting it by February, 1974, and that the planning and tooling for a new model required a two year lead time.

The Department will refer to its snowmobile regulation NR 57(e) effective December 22, 1971, and to an amendment to that regulation effective March 15, 1974, to show that the industry has been on notice of the 73 decibel goal since 1971, and was given a two-year extension in 1974.

The Department will cite a letter to it from the International Snowmobile Industry Association dated April 15, in which the Association states machines made after July 1, 1976, will not meet the 73 dBA goal.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

BEFORE THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Amendment of Minnesota Regulation N.R. 57 a Rule of the Commissioner of Natural Resources relating to Snowmobile Noise Emissions, as Provided by Minnesota Statutes 1974, Section 84.86	))))))	FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

The hearing in the above-entitled matter was convened by Hearing Examiner William Seltzer of the Minnesota Office of Hearing Examiners on May 18, 1976, commencing at approximately 9:45 a.m., in the auditorium of the State Office Building, in the City of Saint Paul, County of Ramsey, State of Minnesota. All interested persons, representatives of individuals or associations, and other interested groups present at the hearing had an opportunity to present evidence and questions witnesses.

The Hearing Examiner, upon all records, files, evidence, arguments of counsel, and written comments, hereby makes and issues the following Findings of Fact, Conclusions, and Recommendations:

FINDINGS OF FACT

1. That the Order for Hearing issued April 14, 1976, was in all respects proper in form, contents, execution and filing.

2. That due timely and adequate Notice of Hearing was ordered by the Agency and was properly served and filed with the Hearing Examiner on April 23, 1976. All other relevant substantive and procedural requirements of statute or rule have been complied with.

3. That the Minnesota Department of Natural Resources proposes an amendment to Minn. Reg. NR 57(e)(4)(bb) which would extend the date of July 1, 1976 to July 1, 1977 for compliance with the 73 dB(A) maximum sound level limit as measured in accordance with SAE J 192.

4. That the Agency's authority to promulgate the above-entitled proposed rules amendment is contained in Minn. Stat. (1974) § 84.86.

5. That the Minnesota Department of Natural Resources concludes that the Department has observed a downward progression of snowmobile

noise (Tr. 13).

6. That the Minnesota Department of Natural Resources concludes that the 73 dB(A) limit would not be met by the snowmobile industry in time to meet the July 1, 1976 deadline (Tr. 14).

7. That the snowmobile industry has been on notice of the 73 dB(A) maximum sound level limit in this State since December of 1971. Originally, the 73 dB(A) sound level limit was to become effective in February of 1974. By subsequent rules amendment, the effective date of the 73 dB(A) sound level limit was postponed to July of 1976.

8. That the current maximum permissible sound pressure level in accordance with Minnesota Regulation N.R. is 78 dB(A).

9. That decibels are measured on a logarithmic scale rather than a linear scale. Therefore, a doubling of the sound pressure level will produce an increase of 3 decibels. Accordingly, when the 73 dB(A) maximum snowmobile sound level limit becomes operable, a doubling of that sound pressure level would produce 76 dB(A).

10. That it is technically feasible to produce a snowmobile which meets the 73 dB(A) criteria with a 2 dB(A) tolerance (Tr. 28). There is no evidence in the record as to whether or not this technically feasible sound level limit can and should be further reduced.

11. That one major snowmobile manufacturer, Outboard Marine Corporation, marketed a snowmobile in model years 1973 and 1974 which complied with the 73 dB(A) criteria. Subsequently, that manufacturer ceased producing snowmobiles. The cessation of snowmobile manufacturing was attributed, in part, to the vehicles quieter noise emissions because of research expenditures, increased costs to the consumer and lower performance standards of those snowmobiles; thereby adversely effecting the marketability of that snowmobile.

12. That after the experience of Outboard Marine Corporation in producing a "quiet" snowmobile, that corporation could not testify as to whether or not there is some sound level between 78 and 73 dB(A) which could be established as a criteria for snowmobiles without adversely effecting its marketability in the current competitive market.

13. That the position of the snowmobile industry is that mass production of snowmobiles capable of meeting the 73 dB(A) would have extreme adverse economic impact on the industry by substantially reducing the marketability of snowmobiles meeting the 73 dB(A) criteria.

14. That in addition to environmental and safety considerations in evaluating the proposed amendment, the economic impact on the snowmobile industry and the Minnesota economy was raised as a substantial issue.

Unchallenged testimony indicated that the estimated annual payroll for the snowmobile industry in the State of Minnesota is $126 million, although the figures were not presented along with supportive data or reference years (Tr. 55).

That the industry ascerts that taking into consideration annual sales of new and used snowmobiles and snowmobile trailers, annual value of accessories purchased and snowmobile repairs, annual expenditures for gas and oil, registration fees, expenditures on trip and outings and insurance expenditures produce an excess of $160 million into the Minnesota economy and an excess of $9 million as state sales tax. Again, no base year is given for these figures. (See ISIA Exhibit No. 2)

15. That there is evidence in the record indicating a substantial reduction in citizen complaints against snowmobile noise. Mr. Joseph Alexander, Assistant Commissioner of the Department of Natural Resources, testified that:

> "the industry's response to producing safer, quieter machines indicates a growing up of a new sport. The result if (sic) fewer complaints about all aspects of the sport and the elimination of emotional judgments. To be sure, we have isolated areas of concern and complaints." (Tr. 14)

Mr. Mortimer Doyle, President and Chief Executive Officer of the International Snowmobile Industry Association, testified that:

> "...the best test of whether snowmobiles are causing problems in Minnesota, because of their present sound levels, is whether Minnesotans are complaining about snowmobile sound emissions. Based upon information furnished to ISIA by both the Minnesota Department of Natural Resources and the Minnesota Pollution Control

Agency, Minnesotans apparently no longer regard snowmobiles as presenting sound level problems.

With an estimated 320,000 snowmobiles in use by nearly one million Minnesotans, if sound levels of snowmobiles were a present problem, it is reasonable to expect that one or both of these state agencies would have received hundreds or thousands of citizen complaints.

As we understand it, they have no record of any complaints, according to statements made to us by officials of these agencies." (Tr. 59-60)

16. Mr. Michale S. Erlich, a graduate mechanical engineer working with an independent consulting firm and testifying on behalf of ISIA, supervised a sound level measurement survey of twelve 1976 model snowmobiles near Brainerd, Minnesota for the Minnesota Department of Natural Resources and the U.S. Environmental Protection Agency. Sound level measurements were conducted in accordance with SAE J 192a. The resulting sound level measurements for the twelve snowmobiles ranged from 76 to 80 dB(A). Older model snowmobiles were also tested in accordance with SAE J 192a. These older snowmobiles produced a higher sound level than the 1976 models. However, it is not known what degree or degradation, if any, had occurred to the noise characteristics of such older snowmobiles.

17. That the current permissible maximum sound level emission of 78 dB(A) represents a substantial reduction by the industry in snowmobile noise emissions as compared with snowmobiles manufactured 5 to 15 years previously.

18. That during the public hearing held May 18, 1976, there was no direct testimony offered in opposition to the Agency's proposal.

19. That before the close of the record on June 7, 1976, approximately 11 individual submissions were made to the Hearing Examiner for the record. These submissions were in the form of letters objecting to the delay of the more stringent 73 dB(A) sound level.

20. That throughout its testimony, the snowmobile industry challenged the need, from an environmental viewpoint, for a 73 dB(A) maximum sound level limit standard.

21. That the snowmobile industry is not currently geared to mass producing snowmobiles which meet the 73 dB(A) criteria.

CONCLUSIONS

1. That the Minnesota Department of Natural Resources duly acquired and now has jurisdiction over the within proceeding.

2. That all relevant legal and procedural requirements of statute and regulation have been properly complied with.

3. That the snowmobile industry is not able to mass produce snowmobiles capable of meeting the 73 dB(A) maximum sound level limit by July of 1976. However, it is specifically not determined herein whether or not the snowmobile industry did not meet the 73 dB(A) criteria by July of 1976 due to technical, economic, performance, marketability, out-of-state competition or other factors.

4. That there has been substantial sound reduction in new snowmobiles manufactured during the last 15 years and that citizen complaints against snowmobile noise has reduced appreciably.

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED: That the Minnesota Department of Natural Resources extend the effective date of the 73 dB(A) maximum sound level limit to July 1, 1977.

IT IS FURTHER RECOMMENDED: That the Minnesota Department of Natural Resources select an early date for additional public hearings to determine the need for a 73 dB(A) maximum sound level limit in light of current developments in the industry and the reduction of citizen complaints about snowmobile noise. Additionally, such hearings should examine the merit, if any, of establishing a maximum sound level limit for snowmobiles somewhere between 78 and 73 dB(A). Such public hearings should include an independent analysis on behalf of the Minnesota Department of Natural Resources as to the technical feasibility, economic reasonableness and the environmental need for reducing snowmobile noise to the chosen maximum permissible sound level limit.

DATED: June 15, 1976.

WILLIAM SELTZER
Hearing Examiner

STATE OF MINNESOTA

OFFICE OF HEARING EXAMINER

FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Amendment of Minnesota Regulation NR 57, a Rule of the Commissioner of Natural Resources relating to Snowmobile Noise Emissions, as Provided by Minnesota Statutes 1974, Section 84.86.

REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, public hearings on the above-captioned matter have been held in the manner prescribed by law before a hearing examiner assigned by the Chief Hearing Examiner; and

WHEREAS, the hearing examiner, upon review of the record, has found that the agency has statutory authority to take the proposed action, and that it has fulfilled all relevant requirements of law and that it has, by affirmative presentation of facts, demonstrated that the proposed action is reasonable and needed, and has recommended that the agency proceed with the action as proposed; and

WHEREAS, the commissioner of natural resources has accepted the hearing examiner's findings and recommendations, and his final proposed rule amendment is identical to the one proposed at the hearing;

NOW THEREFORE, I conclude that the agency has met the requirements of the law and of the rules of the Office

of Hearing Examiners, and that the commissioner of natural resources may adopt the attached proposed final rule without further hearing.

Dated: June 25, 1976.

DUANE R. HARVES
Chief Hearing Examiner

Amendment to DNR Snowmobile Rules.

NR 57(e)(4)(bb) No snowmobile manufactured on or after July 1, ~~1976~~, 1977, for sale in Minnesota, except in a snowmobile designed for competition purposes only, shall be sold, or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF NATURAL RESOURCES, ROBERT L. HERBST, COMMISSIONER

In the matter of the Proposed Amendment of Minnesota Regulation NR 57, a Rule of the Commissioner of Natural Resources relating to Snowmobile Noise Emissions, as Provided by Minnesota Statutes 1974, Section 84.86.

FINDINGS AND ORDER

The Hearing Examiner has found that the proposed amendment to the snowmobile regulations is supported by the hearing record, and recommends adoption of the amendment. I adopt the Findings of Fact of the hearing examiner as mine.

NOW, THEREFORE, I, Robert L. Herbst, Commissioner of the Department of Natural Resources, order that Minn. Regs. NR 57(e)(4)(bb) be amended to change the effective date of the 73 decibel noise emission limit from July 1, 1976 to July 1, 1977. The amendment is attached.

Dated June 25, 1976.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

ROBERT L. HERBST
Commissioner

Amendment to DNR Snowmobile Rules.

NR 57(e)(4)(bb) No snowmobile manufactured on or after July 1, ~~1976~~, 1977, for sale in Minnesota, except in a snowmobile designed for competition purposes only, shall be sold, or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF NATURAL RESOURCES, ROBERT L. HERBST, COMMISSIONER

In the Matter of the Proposed Amendment of Minnesota Regulation NR 57, a Rule of the Commissioner of Natural Resources relating to Snowmobile Noise Emissions, as Provided by Minnesota Statutes 1974, Sections 84.86.

STATEMENT OF COMPLIANCE

I , Special Assistant Attorney General A. W. Clapp III, have examined the proposed rule amendment and all related documents. Based on that and my familiarity with applicable statutes and regulations, I declare that all required procedures have been followed.

Dated: June 2 1976

A. W. Clapp III

Special Assistant Attorney General

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A. W. Clapp, III
Special Assistant
Attorney General

July 26, 1976

- NR57(e)(4)(bb)

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL
NATURAL RESOURCES

Office Memorandum

TO : Mike Miller
Spec. Asst. Attorney General
Administration

DATE: 6/29/76

FROM : Bill Clapp
Spec. Asst. Attorney General
Natural Resources

SUBJECT: Amendment to Snowmobile Rules

Here for your review as to form and legality is an amendment to DNR's snowmobile regulations.

The hearing record is in the brown manilla container. The required legal documents are in 3 sets, the first set being originals and sets 2 and 3 being copies. The amendment, which as finally adopted is identical to the amendment proposed in the notice of hearing, is found on the next-to-last page of each of the sets of legal documents.

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