

**A Guide to the
Noise Pollution
Control Rules 2001**



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NOISE VARIATION REGISTER

Will the public have a chance to get information on applications?

The Rules require that the EMA establish a Noise Variation Register, which shall be accessible to the public for inspection. The Register will contain information on every application for a Variation. Information on the Variations issued, including mitigation measures, terms and conditions included therein, and Transfers approved by the EMA will be entered in the Register. Refusals to issue Variations and grant Transfers will be included in the Register, as well as Refusals of Noise Variation applications, including reasons.

The Register can be viewed at the EMA's Port-of-Spain Office during working hours.



INTRODUCTION

This guide is intended to answer some basic questions about the Noise Pollution Control Rules 2001. It is not meant to be the sole source of information on the Rules, but rather to facilitate understanding of the Rules.

What is presented in these guidelines is the rationale behind the system, an explanation of terms and a summary of the application procedure. It cannot be emphasised enough that more detailed comprehension of the system can only be gained by reference to the Rules, which remain the ultimate source of information on the regulation of Noise Pollution through the Rules.



THE RULES

What are the Noise Pollution Control Rules 2001?

The Noise Pollution Control Rules, 2001 is legislation made by the Minister of the Environment under provisions of the Environmental Management Act 2000. The Rules were laid in the House of Representatives on March 9th 2001 and in the senate on March 13th, 2001 for negative resolution. These rules are now law in Trinidad and Tobago.

What is the purpose of the Rules?

The Rules are a tool which, by setting prescribed standards for noise, regulate the emission of sounds in the environment that can be considered to be noise pollution.

The Environmental Commission may be contacted at:

Telly Paul Building
Corner St. Vincent and New Streets
Port-of-Spain
625-7353

Are there provisions for changes after grant of a Variation and application for Transfer or Renewal of Variations?

An application should be made on a prescribed form and submitted in duplicate to the EMA. The relevant forms are available at the EMA's Office. The relevant fee must be paid as outlined above and the original receipt should accompany the form while the applicant keeps a copy.

- **Changes after grant of a Variation** will apply where a grantee dies, becomes bankrupt, transfers ownership of the facility, event or activity, goes into liquidation or receivership or becomes party to an amalgamation. The application should be made within twenty (20) working days of the occurrence.
- An application can be made to **transfer a Variation** to another person or a company, that is, a legal entity covered by the Companies Act. Where the transferee is a company, the application should be accompanied by a Registrar's certificate furnished by the Registrar of Companies stating that the company is on the Companies Register.
- An application for renewal of a Variation must be made at least thirty (30) working days before the expiration date of the variation.



APPEALS

Does the applicant have any recourse for appeal?

An Applicant has the right to appeal the decision of a Refusal to grant a Variation or the decision to grant a Variation with conditions. This appeal shall be instituted by filing a notice of appeal with the Registrar of the Environmental Commission and serving a copy thereof to the Secretary of the Authority or other respondent. The notice of appeal shall describe the specific dispute and specify the grounds of appeal and shall be in such a form as may be prescribed by rules of the Commission.

The onus of proving that the decision complained of is excessive or wrong is on the Appellant. The Environmental Commission may after review of all submissions dispose of an appeal by:

- Dismissing it;
- Allowing the appeal;
- Allowing the appeal and modifying the decision or action of the Authority; or
- Allowing the appeal and referring the decision or action back to the Authority for reconsideration.

The decision of the Commission is final on a question of fact and the amount of any administrative civil assessment under Section 66 of the Environmental Management Act 2000. However, an appeal shall lie on any question of law to the Court of Appeal upon entry of a final judgement by the Commission. For complete information, please refer to the Environmental Management Act 2000, Sections 85 – 90.



THE STANDARDS

What are the prescribed standards?

The prescribed standards are as follows:

Zone 1 or Industrial Areas: At any time, the sound pressure level shall not exceed a continuous sound pressure of 75 dBA or an instantaneous sound pressure of 130 dB.

Zone 2 or Environmentally Sensitive Areas: Daytime and night time limits exist.

During the daytime (8am to 8pm), the continuous sound pressure level should not exceed 3 dBA above the background level, and the instantaneous unweighted peak sound pressure level should not exceed 120 dB.

During the night-time (8pm to 8am), the continuous sound pressure level should not exceed 3 dBA above the background level, and the instantaneous unweighted peak sound pressure level should not exceed 115 dB.

Notwithstanding the above, the continuous sound pressure level should not exceed 60 dBA.

Zone 3 or General Areas:

During the daytime (8am to 8pm), the continuous sound pressure level should not exceed 5 dBA above the background level, and the instantaneous unweighted peak sound pressure level should not exceed 120 dB.

During the night-time (8pm to 8am), the continuous sound pressure level should not exceed 5 dBA above the background level, and the instantaneous unweighted peak sound pressure level should not exceed 115 dB.

Notwithstanding the above, the continuous sound pressure level should not exceed 80 dBA during the daytime and 65 dBA during the night-time.

How does one know if one is exceeding the standard?

Measurements must be taken using sound level meters to determine the sound pressure level (SPL). SPL is recorded in decibels (dB) and one can then compare the readings with the standard set in the Rules.

Measurements must be taken at the boundary of the property where the sound is generated or at the boundary of the property of a person impacted by the sound.

Will the EMA conduct a measurement exercise for individuals requesting this service?

It is not the responsibility of the EMA to take measurements for people inquiring whether or not they are above the limit. Just as a person is responsible to ensure that one keeps within the speed limit while driving on the nation's roads, it is the responsibility of that individual to use the sound level meter to check the levels of sound being emitted by an activity or event.

If a Variation is granted by the EMA, can the Variation be revoked at any time?

Where a Variation is granted by the EMA and in force, the EMA has the authority to revoke the Variation if it appears that:

- the Grantee persistently breached environmental requirements,
- the continued noise emission can cause serious harm to the environment or human health,
- the Grantee made a willful omission or deliberately misled in obtaining the Variation,
- there has been violations of the conditions stipulated in the Variation,
- there has been a change in circumstances relating to the Variation that requires a permanent reduction in the emission.

The EMA will give the Grantee written notice with reasons for the Revocation of the Variation. The Grantee will have an opportunity to make a submission in relation to the Revocation within five (5) working days of service of the Notice by the EMA.

(c) If an application **requires further information** (oral or written), the EMA will request the required information from the Applicant or the person directly affected by the application or a government entity or any other source that the EMA considers to be appropriate. Once the information is received, the EMA will forward copies of the information to the Applicant and request that a response be submitted within a specified timeframe. Upon receipt of the information, the EMA will determine whether a Variation will be granted or refused within six (6) weeks for a facility and within ten (10) days for an event/activity.

The EMA can refuse to grant a Variation if it does not receive the requested information from the applicant within the specified time.

During the determination of an application by the EMA, what can an Applicant do if he/she realizes that relevant information was not submitted, or that the information submitted was incorrect or may no longer be valid?

The Applicant has the opportunity to notify the EMA and submit the relevant facts and correct information in writing within five (5) working days.

If a Variation is granted, will special conditions apply?

The EMA will attach conditions to each Variation granted. The terms and conditions of the Variation will take into consideration the information submitted when the application was made. For further details on the conditions that may apply, please refer to Rule16 of the Noise Pollution Control Regulation, 2001.

Are there any exemptions to the standards?

Yes. The Noise Pollution Rules 2001 do not apply to sounds from the following activities.

- Religious events and activities without the use of sound amplifying equipment when conducted between 6:00 a.m. and 11:00 p.m. of the same day and for no more than five (5) hours.
- Sporting events and activities without the use of sound amplifying equipment when conducted between 8:00 a.m. and 9:00 p.m. of the same day and for no more than five (5) hours.
- Educational instruction, educational classes and recreation in schools or other educational institutions being a school within the meaning of section 2 of the Education Act (Chap. 39:01), when between 7:00 a.m. and 9:00 p.m. of the same day.
- Public march, meeting, procession and gatherings if approved in accordance with the Summary Offences Act (Chap. 11:02).
- Any alarm or emergency device, apparatus or equipment when triggered in event of an emergency for a continuous period of not more than eight (8) hours.
- Sound associated with the installation, repair or replacement of public utilities in a public place between the hours of 7:00 a.m. and 11:00 p.m. of the same day.
- Emergency work required to be performed either before or after a period of public emergency, to protect persons or property from exposure to danger or hazards, including the restoration of public utilities or other public services following a storm, earthquake, accident or other like occurrence.
- Warning devices for the protection of the public, including police, fire, ambulance, automobile horns, and vehicle alarm devices when used for the purpose of warning.
- Activities of the armed forces conducted in the course of duty.



DETERMINATION OF AN APPLICATION

- The use of motor-operated garden equipment such as lawn mowers, brush cutters, edge trimmers, mist-blowers, leaf-blowers and power tools (whether electrically, pneumatically or other non-manually operated) for the general repair and maintenance of property which require the constant presence of an operator for normal use, where such use is conducted between the hours of 7:00 a.m. and 7:00 p.m. of the same day, manually operated grass cutters which can be operated from 4:30 a.m. to 7:00 p.m. on the same day.
- Construction activity when conducted on a construction site between the hours of 7:00 a.m. and 7:00 p.m. of the same day.
- Use of agricultural machinery and equipment on agricultural lands between the hours of 4:30 a.m. and 7:00 p.m. of the same day.
- Testing of emergency alarms, devices, and equipment when conducted between the hours of 8:00 a.m. and 4:00 p.m. of the same day and for a continuous period of not more than five (5) minutes.

What happens after an application is submitted?

Once the application has been submitted, the EMA will screen the application to determine whether it is:

- complete,
- incomplete, or
- requires further information.

(a) Complete applications require no further information and so the EMA will proceed to process the application and determine whether a Variation or Refusal will be issued. Determination of the application will be made within ten (10) days of receipt of a completed application.

(b) Where the EMA considers an application to be **incomplete**, meaning that the applicant is deficient of any of the information required, the applicant will be notified in writing of the omission within ten working days of receipt of the application and asked to submit the omitted information within a specified time. Once the information is submitted within the specified timeframe, the EMA will determine whether a variation for a facility will be granted or refused within six (6) weeks of receipt of such information. A determination for a variation with respect to an event/activity will be made within ten (10) days of receipt of the information.

The EMA can refuse to grant a variation if it does not receive the requested information from the applicant within the specified time.



VARIATIONS

Are there provisions to exceed the prescribed standard?

The Rules refer to a “Variation” which means variation from the prescribed standard.

Who needs to apply for a Variation?

- (a) Any person who proposes to conduct an activity or an event that will cause sound in excess of the prescribed standards.
- (b) The Owner or Manager of a facility that causes sound in excess of the prescribed standards by the nature of its routine operations and is notified by the EMA to apply for a variation
- (c) The Operator of a facility who wishes to permit a person to conduct, at that facility, an event or an activity that will cause sound in excess of the prescribed standards
- (d) A person that emits a sound in a noise zone within the prescribed standards for that noise zone but which results in the creation of a sound in excess of the prescribed standards in an adjoining noise zone. The EMA may notify that person to submit an application for a variation.



Step 3: Submission of the application

Applications for a variation with respect to an event or activity or facility must be submitted to the EMA on two (2) copies (in duplicate) of the form, which is available from the EMA's Port-of-Spain and South Offices, together with proof of payment of the prescribed fee. The Applicant can visit, call or write to the EMA to make a request for the relevant form.

The application should be completed in block capitals and signed by the Applicant, the Applicant's Agent or Attorney. If the Applicant is a Company, the form should also bear the Company Stamp.

An application for a Variation with respect to an event or activity must be submitted at least four (4) weeks before the date of the event or activity.

An application for a Variation with respect to a facility must be submitted within ten (10) working days of the owner or operator receiving notice from the EMA.



FEES

Is there a charge or fee?

There is a cost associated with the process and the Noise Pollution Control (Fees) Regulations, 2001 outlines the following:

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|--|-----------|-----------------------|
| Annual Fee for a Variation in excess of 1 yr | \$2500.00 | per |
| | | annum or part thereof |
- | | |
|--|------------|
| Application for a Single Event Variation | \$ 250.00 |
| Multiple Event Variation | \$1,000.00 |
- | | |
|--|-----------|
| Application for Changes after grant of Variation | \$ 250.00 |
| | \$ 250.00 |
- Application for Transfer of Variation \$ 250.00
- Application for Renewal of Variation \$2,000.00
- | | |
|--|-----------------------|
| Annual Variation Fee for Renewed Variation | \$5,000.00 per |
| for a period in excess of 1 yr | annum or part thereof |
- | | |
|--|-----------|
| Application that Information Supplied be omitted from the Noise Variation Register from the Noise Variation register | \$ 250.00 |
|--|-----------|



APPLICATION PROCESS

What is the application procedure?

Step 1: Notice in a daily newspaper



The applicant must place a Notice in one daily newspaper in a form prescribed by the EMA for a period of at least two **(2) consecutive days** and at least one calendar week before the submission of the application for a Variation. The Notice must appear with the same font size and type as supplied by the EMA. Permission must be sought and obtained from the EMA if the Applicant wishes to change the format of the prescribed Notice.

Step 2: Pay the prescribed fee



The prescribed fee must be paid to the EMA through any branch of First Citizens Bank Limited, Account # 1183848. Please ask for your receipt – a copy of the receipt identifying the bank teller, must be attached to the application form and a copy kept by the applicant.