NEW JERSEY NOISE CONTROL COUNCIL MEETING
APRIL 12, 2011,
MINUTES

NCC ATTENDEES: J. Lepis (Chairman, Civil Engineer), A. Schmidt (Vice Chairman, Public Member-Registered Environmental Health Specialist), J. Feder (Secretary, Public Member-pending confirmation), R. Hauser (DOL, Member), I. Udasin (Public Member-Medical Doctor), J. Kapferer (Public Member), C. Accettola (Public Member-pending confirmation), T. Pitcherello (Member-NJDCA), N. Dotti (Public Member), Eric Zwerling (RNTAC), D. Triggs (NJDEP).

I. ADMINISTRATIVE

Minutes of the February 8, 2011 meeting were approved with minor corrections.

There was discussion of the difficulty of achieving a quorum at some meetings due to the lack of formal appointments of a number of members, some of whom have been regularly participating in NCC meetings for as long as three years without formal appointment. The quorum difficulty is aggravated by staff cutbacks in some participating organizations, which has made it difficult to send members. As a result, special effort is needed to ensure that a quorum is present when an important vote is due. There was discussion regarding the extent to which the quorum issue could be addressed by a change in NCC Bylaws, which currently define seven formally appointed members a quorum. It was pointed out that some NCC requirements are legislatively dictated, such as the specification as having 13 members. Others, such as the definition of a quorum as 7 members and requirement of 2/3 of the total council, are defined by the Bylaws. Currently, 9 members are required for a Bylaws change. Copies of the Bylaws were distributed. Possible revisions to facilitate the achievement of a quorum will be discussed at a future meeting.

II. N.J.A.C. 7:29 REFERENCE TO INDUSTRIAL, PUBLIC, AND COMMUNITY SERVICE SITES AS A "RECEPTOR" CATEGORY

Mr. Triggs reported on his discussions with Mr. Ray Cantor, Chief Counsel for the NJ Department of Environmental Protection (NJDEP), regarding the inclusion of industrial sites as a receptor category. This topic had been discussed at previous meetings, and the NCC had previously voted unanimously to recommend deletion of "industrial" as a receptor category from NJAC 7:29 Section 1.2 (b), and also voted to replace "public service facility" with "offices of agencies and instrumentalities of government" in that section. Chief Council Cantor had expressed the view that this change might be achieved with the new DEP "waiver" provisions, currently being considered. More detailed review of the proposed "waiver" provisions advertised in advance of the April 14 hearing revealed that this may not be feasible. Waivers are explicitly described in the DEP notice as case and site specific, requiring assembling of information on the specific waiver, public notice, the making of a case requiring hardship, plus other requirements. The change being advocated by the NCC is a blanket one without case specific considerations. It is unclear that this change fits within the "waiver" framework.

III. AMPLIFIED MUSIC – CITY OF HOBOKEN

Mr. Zwerling stated that 6 municipalities had recently adopted the new Model Ordinance, including the City of Hoboken. Amplified music coming from bars and restaurants has been a significant problem that Hoboken is seeking to address. Hoboken has been training noise control officers, a number of which had recently attended Mr. Zwerling's Noise Enforcement Training Course. Mr. Zwerling informed that Hoboken noise enforcement has surfaced issues with respect to enforcement of Model Ordinance provisions.

1) *Meter Tolerance Adjustment When Measuring Sound Level Differences.* Mr. Zwerling discussed the fact that there are essentially two types of performance (i.e., decibel denominated) noise codes. An 'absolute limit' code establishes a specific sound level limit, in which the sound level of the source under investigation is compared to an absolute limit. A 'relative limit' code establishes a specific limit for increasing the total noise level ("source on") above the ambient sound level ("source off"). In the latter, the permissible limit is set relative to the ambient sound level, and is done so with the same sound level meter used to measure the total noise level.

   It has been DEP guidance, included in the training offered through the Rutgers Noise Technical Assistance Center, that enforcement officers allow for meter tolerances prior to pursuing enforcement actions. Those tolerances were as follows: 2 dBA for an ANSI Type II meter, and 1 dBA for an ANSI Type I meter; an additional 1 dBA has been added to all meters for "reader error", based primarily in the parallax error possible when reading an analog meter.

   Mr. Zwerling stated that he agreed with the meter tolerance allowance when determining compliance with an 'absolute limit' standard, as, for instance, if a Type II meter is reading 66 dBA, the 'real' sound level may be 64 dBA.

   Prior to the adoption of the new C-scale provision for regulating sound production devices in the new Model Ordinance, all performance-based noise regulations in New Jersey Codes were 'absolute limit' codes. Now, however, with the introduction of a new 'relative limit' standard, he stated that it is his belief that the meter tolerances are not appropriate for compliance determination measurements in that specific circumstance. If a meter is erroneously (but within tolerances) reading one or two decibels high when measuring the source sound level, it will be doing the same when the ambient sound level is measured a few minutes later. The meter error will cancel out when subtracting the two sound level values, so an adjustment for meter error is not necessary. Furthermore, parallax error is not an issue with digital meters, now commonly in use. Members present thus voted unanimously that, for enforcement of Model Ordinance Section 8 provisions regarding sound production devices, tolerance adjustments for the meter should not be used. Further, when a digital meter is used, no tolerances are necessary for 'reader error'; however, this correction still applies to analog meters.

2) *Guidance for Field Noise Enforcement Officers when Measuring Level Differences for Sound Production Devices (in the Model Noise Ordinance):* Mr. Zwerling raised the issue that he needed clarification from the NJDEP, (pursuant to the authority granted in NJAC

7:29-2.2 and 2.3), that regulatory compliance analyses for sound production devices are based upon the maximum sound levels emitted by the device, not the minimum levels. The state code requires (at NJAC 7:29-2.10) that calculations for "corrected source sound level" are to be based upon the "minimum measured level of the total sound". This, however, is only applied to continuous sound; it is not applied to impulsive sound, in which case compliance determination is based upon the maximum sound level of the source, when measured with a meter set to either "fast" or "impulse" response". Mr. Zwerling stated that it was clearly the intent of the Model Ordinance to regulate sound production devices as impulsive noise sources, as the provision in the Ordinance specifies measurements to be taken with "fast" meter response. An earlier meeting had investigated experimentally the use of "A" and "C" frequency weighting scales for measuring sound levels when ascertaining the impact of amplified music, which often has a repetitive bass "thump." Because of the properties of sound transmission in structures, this bass "thump" easily transmits to adjacent dwellings or apartments. The experiments resulted in an NCC decision to use "C" frequency weighting in the Model Ordinance, since C weighting does not de-emphasize bass frequencies in a manner similar to "A" frequency weighting. Since the "thump" part of the sound is frequently the primary objectionable component, yet is of short duration, it was specified to use the "fast" sound averaging facility of the meter, which averages sound over a 1/8 second period, rather than "slow" weighting, which averages over a 1 second period. Chairman Lepis estimated the frequency of these "thumps" as commonly between 60 and 150 per minute, which translates to 1 – 2 ½ times per second. There followed a discussion of regarding the guidance that should be given when taking these measurements, which would typically entail a meter rapidly transitioning between a high level, representing the 1/8 second average of the "thump," and a much lower level, representing the period between "thumps." Mr. Zwerling felt strongly that, since previous consensus had been that the "thump" was the objectionable component, the level measured during the "thump" should be the one taken. Chairman Lepis expressed a concern as to whether this might lead to a situation where it might be impossible for a sound producing facility to meet the standard and avoid a violation. Chairman Lepis argued for using the lower reading, during the period between "thumps." Mr. Zwerling felt that the latter technique would make it impossible to identify noise situations that would clearly be regarded as objectionable to most observers. Earlier NCC experiments had showed that distinguishing objectionable situations for "thumping" sounds via meter readings is not easy. Mr. Zwerling informed the NCC and NJDEP's liaison that he was already training students that compliance determination is based upon the maximum sound level of sound production devices, not the minimum. The NJDEP raised no objection. Given that the hour was late and a number of members had to leave, Chairman Lepis tabled the discussion for further pursuit at the next meeting.

IV. NEXT MEETING

The next scheduled meeting is on May 10, 2011.

Respectfully submitted:

Jerome Feder