

**NEW JERSEY NOISE CONTROL COUNCIL MEETING
DECEMBER 14, 2010,
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), T. Pitcherello (Member-NJDCA), N. Dotti (Public Member), John Surmay (Public Member – Local Governing Body), S. Szulecki (Public Member-pending confirmation, Ecologist), C. Accettola (Public Member-pending confirmation), Eric Zwerling (RTNAC), D. Triggs (NJDEP), P. Conti (NJDEP).

GUEST: Chris Spangler (Legislative Director for NJ Senator Kean)

I. ADMINISTRATIVE

The meeting provided opportunity to meet and welcome Ms. Patricia Conti who has taken over from Ms. Deborah Pinto in overseeing NCC activities. The NCC was also pleased at the opportunity to meet and interact with Mr. Chris Spangler of Senator Kane's office. Senator Kane has sponsored Senate Bill S2374 regulating the siting of wind turbine electric generators. Members of the NCC introduced themselves and briefly described their activities and role within the NCC.

Minutes of the October 12, 2010 and November 9, 2010 meetings were approved with minor corrections.

II. NCC ROLE AND PROPOSED ELIMINATION

Mr. Triggs brought the group up to date on latest discussions with respect to goals in the proposed elimination of the NCC. The Council may become a subcommittee of the newly established Science Advisory Boards. Some members of the NCC expressed concern that recent actions might be a step in the NJDEP discontinuing all noise related activities and transferring them to the Counties and local governments. This may include incorporating portions of the noise regulations into the state statute.

There ensued discussion highlighting that eliminating the NCC and having the NJDEP abandon noise control would not serve the public, would not save money, and would make New Jersey less friendly to business.

- 1) "Noise and odors" are the two top environmental public complaint areas. At one time, the NJDEP had 20 employees concerned with noise regulation development and enforcement. NJDEP expenditures for noise currently consist of approximately 1/3 time for Mr. Triggs, which covers his activities in interacting with the public and governmental entities, transferring issues to the NCC, and coupling NCC noise regulation development to the NJDEP legal process. Presence of the NCC continues to provide coverage for the citizens of New Jersey while eliminating the need for the NJDEP to itself address spend much effort. Having the NJDEP abandon noise related activities entirely would leave existing regulatory structure unsupported, which contrasts with the current situation in which support is

- 2) Having the state abandon the noise regulation entirely would push this role to localities, encouraging a patchwork of local regulations and creating a situation unfriendly to business. Businesses seek predictability, consistency, and uniformity of regulations to operate efficiently. Furthermore, without state regulation, there would be no enforcement tool for cross border noise problems (e.g. municipality to municipality).
- 3) Localities typically have neither the expertise nor interest in developing noise regulations.
- 4) The NJDEP serves a role in interpreting noise regulations. A simple letter from the NJDEP can resolve a regulation interpretation issue that would otherwise need to be resolved in court.

As historical review, there was also discussion of the state centralized role in noise officer training as specified in N.J.A.C 7:29.2. Mr. Zwerling reported having trained some 6,000 noise enforcement officers within and outside of New Jersey. Enforcement requires technical training, and without this training, police are unlikely to perform enforcement. Citations from untrained officers are unlikely to hold up in court; noise officer training was instituted in response to Court cases requiring it.

Some NCC members were familiar with members of the Science Advisory Board proposed to replace the NCC. The members were described as highly capable within their sphere of expertise, but lacking specialized expertise regarding noise as exists within the NCC. The Science Advisory Board has a broad sphere of responsibility, and would likely be unable to devote much attention to noise related issues. However, having the NCC operate as a subcommittee of the Science Advisory Board could be a potentially workable course.

III. WIND ELECTRICITY GENERATION

Senator Kean has introduced a Bill S2374 that would regulate the siting of “industrial strength” wind turbine electric generators, prohibiting their construction within 2000 feet of residences. This Bill is now in Committee. The NCC was pleased at the attendance of Mr. Spangler from Senator Kean’s office who provided opportunity for NCC members to comment on and furnish input into the Bill. There was considerable discussion including the following points.

- 1) It is unduly strict to have a “blanket” regulation that relies solely on distance and does not distinguish situations in which wind turbines might or might not cause a problem. Relevant factors include the size of the turbine, the technology used, and the number of turbines deployed. As has happened with other noise sources, evolution in the design of wind turbines could render future versions significantly quieter. In previous meetings, the NCC had reviewed data showing that at distances above 2000 feet, turbines were unlikely to cause a problem. At distances less than 2000 feet, turbines might or might not cause a problem, depending on the specifics of the situation. The consensus was that proposed deployment at distances less than 2000 feet should require more detailed analysis and review, including spectral analysis at frequencies below those currently regulated by NJAC 7:29.
- 2) A proposed review process then raises questions regarding metrics and criteria that might be used. Towards this end, Mr. Dotti had prepared and distributed at the meeting graphs of sound level versus frequency associated with various human impact and regulatory criteria. These were based on his review of the literature and included very low frequencies below 31.5 hertz that are emitted from wind turbines. Mr. Dotti’s graphs compared thresholds of

- 3) Mr. Dotti also described human impact issues that might arise from exposure to intensive low frequency sound. As part of this he characterized the suspension of organs within the human body as mass-spring systems subject to resonance. Symptoms of excessive exposure to low frequency sound at sufficient amplitude are nausea and vomiting.
- 4) Mr. Dotti also mentioned that governmental funding policies were encouraging the construction of wind generation facilities in places with insufficient wind for these units operate efficiently.

The NCC offered to help Senator Kean going forward in efforts to refine his proposed legislation. Mr. Spangler stated that he would forward the offer and follow up as necessary. Senator Bateman was suggested as a possible ally in pressing forward with the legislation.

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

As a continuation of the discussion on industrial sites as a receptor category from prior meetings, Mr. Triggs distributed a copy of some excerpts from the 2005 New Jersey Register in which a commenter had made remarks on the inclusion of industrial sites as a receptor category. The DEP response at that time was that the commenter had failed to provide evidence supporting his comment, and no action was taken. This left a situation in which the NCC perceived a mistake made in 1995, but that the issue was reviewed in 2005 and no action was taken. Several members of the NCC questioned whether this later mention and inaction rendered the citing of the originally perceived error moot. Mr. Triggs affirmed that it would be very difficult for the NJDEP at this point to initiate changes to N.J.A.C 7:29. He stated that the new (same as the old) version of NJAC 7:29 was due for publication shortly, and that the Bayonne Energy Center (BEC), who is affected by the 1995 perceived error, could offer comments regarding desirable changes. The NCC had adopted a resolution at the previous meeting acknowledging the 1995 perceived error and proposing methods for addressing it. It was suggested that the BEC be made aware of this resolution.

Chairman Lepis obtained advice that discovered errors in State regulations can be corrected and he agreed to contact Janis Hoagland, DEP Director of the Office of Legal Affairs regarding this. However, he was unsure of the feasibility or practicality of a change 15 years after an error is discovered.

V. NEXT MEETING

The next scheduled meeting, weather permitting, is on January 11, 2011.

Respectfully submitted:

Jerome Feder