

**NEW JERSEY NOISE CONTROL COUNCIL (NCC)**  
**JANUARY 9, 2018**  
**MEETING MINUTES**

**ATTENDEES:** Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Randy Hauser (Department of Labor), John Lago (Department of Community Affairs), Eric Lieberman (Department of Health), Salvatore Fama (Motor Vehicle Commission), Dr. Iris Udasin (Public Member, Medical Doctor), Norm Dotti (Public Member, Industrialist), John Kapferer (Public Member), Joseph DiFillippo (Candidate Member), Eric Zwering (Director, Rutgers Noise Technical Assistance Center) and David Triggs (Department of Environmental Protection, Noise Control Council Liaison).

**PUBLIC:** Jack Zybura (Lewis S. Goodfriend and Associates).

**MEETING MINUTES**

With minor revisions to the Communications/Correspondence section, Norm Dotti motioned to accept the December meeting minutes with Randy Hauser seconding. The members were unanimously in favor so the motion passed.

**CHAIR REPORT**

There has been no update from the Governor's Office regarding pending appointments or re-appointments. The NCC will wait for the transition of the new governor before proceeding.

**NCC COMMUNICATIONS/CORRESPONDENCE**

Chairman Schmidt discussed a meeting that NCC liaison David Triggs had on December 14th with senior NJDEP staff to discuss a proposal by UPS to add an exemption to the State Noise Control Regulations (Regulations). The exemption would grandfather industrial/commercial facilities when a commercial/industrial zone is re-zoned residential. It would apply when a new development encroaches upon an existing facility, which inevitably results in noise complaints. Penalties would be eliminated or reduced on a case-by-case basis at the discretion of the noise investigator, after considering factors such as prior use of the properties involved and re-zoning, which results in poor planning. Mr. Triggs pointed out that the NCC is currently drafting amendments to the Regulations and that a representative from UPS is welcome to attend the next meeting to explain their proposal in more detail. Mr. Triggs gave his e-mail address and phone number but was not contacted by UPS. No one from UPS attended the January NCC meeting. As a result of a prior e-mail exchange regarding the proposal between some members of the NCC, that did not constitute a quorum, Norm Dotti volunteered to draft language for an exemption, which he handed out at the January meeting for the NCC members to review and comment on for further discussion at the February meeting.

**OLD BUSINESS**

- *Round Table Part 150:* Norm Dotti stated that a portion of the Part 150 Study has been completed. There is currently no funding available for noise abatement in Environmental Justice areas where DNLs exceed 65.
- *Revisions to N.J.A.C. 7:29:* The regulatory amendments portion of the meeting started with the following statement read by Chairman Schmidt: *Our task is to deliberate on amendments to the regulation and forward our recommendations to the DEP. So for the New Year I would like to read a paragraph - an excerpt from the Statute which resulted in the regulation we are reviewing. Quote "The legislature finds and determines that the people of the State are entitled to and should be insured an environment free from noise which unnecessarily degrades the quality of life; that the levels of noise in the community have*

*reached such a degree as to endanger the health, safety and welfare of the people of this State as well as the integrity of the environment; and that this threat can be abated by the adoption and enforcement of noise standards embodied in regulations.” End of quote. The point is – we are making proposals to amend those regulations – not the Statute which requires that the regulations protect the people of NJ from noise that unnecessarily degrades our quality of life. So our job is to consider what we believe genuinely degrades our quality of life. With the statement read the floor was open to review the NCC member’s recommended amendments.*

(A more detailed description of the recommended changes will be tracked on two separate documents)

### **Eric Zwerling’s recommended amendments:**

(Mr. Zwerling is not a member of the NCC; however, he attends the NCC meetings as Director of the Rutgers Noise Technical Assistance Center. He also serves as Chairman of the NCC’s subcommittee formed to make proposed amendments to N.J.A.C. 7:29)

#### 7:29-2.7 Reporting Requirements:

(5.) To remove “when the ambient is below 14 degrees F (-10 degrees C),” because noise investigators are prohibited from taking sound level readings when the temperature drops below 14 degrees F, since the detectors won’t work. Norm Dotti motioned to accept the change and Eric Lieberman seconded. All were in favor so the motion passed.

(9.) To add “if applicable,” since not all sources of noise have a duty cycle. Eric Lieberman motioned to accept the change and Dr. Udasin seconded. All were in favor so the motion passed.

(10.) To remove “or in DBA peak measuring maximum instantaneous sound pressure level of impulse sound,” since “peak” can mean different things for different meters and “peak” is no longer referenced in the Regulations. Norm Dotti motioned to accept the change and John Lugo seconded. All were in favor so the motion passed.

(13.) To add “under investigation,” to make it clearer. John Lugo motioned to accept the change and Norm Dotti seconded it. All were in favor so the motion passed.

(14.) To add “and extraneous,” since the noise investigator needs to describe extraneous sound for clarification. Norm Dotti motioned to accept the change and Steve Szulecki seconded. All were in favor so the motioned passed.

#### 7:29-2.8 Preparation for testing:

(a.) To remove “on foot” and to add “confirm the suspected source.” After an initial discussion, Eric Zwerling agreed to table this proposed amendment.

(b.) To remove “the sound source or sources are under observation the investigator shall ascertain whether it is steady state or extraneous,” and to add “the investigator is observing the sound sources under investigation they shall ascertain whether the sound is continuous or impulsive.” Also, to remove the word “time” in the final sentence. These changes are proposed since a steady state of noise has no meaning in the Code and if it is extraneous, you would not measure it anyway, as it is no longer part of the source. Adding the wording makes a distinction that has legal ramifications. Steve Szulecki motioned to accept the change and Norm Dotti seconded it. All were in favor so the motion passed.

(d.) To remove the final two sentences since “peak” was removed from the Regulations in 2007. Norm Dotti motioned to accept the change and Arnie Schmidt seconded. All were in favor so the motion passed.

## **Salvatore Fama's recommended amendments:**

Before listening to Mr. Fama's suggested amendments, he requested to submit a statement of clarification on a portion of the December meeting minutes, because Mr. Fama claimed that Chairman Schmidt's statement was inaccurate. The following are his suggested changes in bold:

*Revisions to N.J.A.C. 7:29:* Chairman Schmidt read the following statement: "Before we proceed with our review process I will say this. During our subcommittee meeting Sal made some amendment recommendations for exemptions similar to the ones he made during our September meeting which we all, other than Sal, unanimously rejected. **Sal revised those and presented them to the subcommittee on November 30<sup>th</sup>. They included sound produced by activities such as** running, biking, swimming and clapping of hands. Through recent emails with Sal and the other subcommittee members Sal stated he thought it was unfair that his recommendations were not included on the agenda for today's meeting for review and discussion, **because Sal felt that all of the recommended changes to 7:29 should be presented to the voting council together in a non-biased way, because there are opposing views and opinions on proposed exemptions, and presenting them piece meal to the council would not be appropriate or fair.** Sal had previously indicated that he would not be here today – therefore I advised him that I did not want to present or discuss his proposals in his absence. Unless any of the other subcommittee members would like to discuss Sal's proposals at this time we will move forward." There was no subsequent discussion.

Chairman Schmidt, had no problem with Mr. Fama's comments inserted within his statement.

(Mr. Fama included a PowerPoint presentation with pictures of potential noise sources to emphasize some of his suggested amendments)

### 7:29-1.5 Exceptions

1. *Agricultural activities:* Mr. Fama recommended leaving the exemption intact, as removing or altering the current exemption would be detrimental to a farmer's ability to make a viable living. The exemption should include holding weddings and harvest festivals where live and amplified music might be used. Steve Szulecki mentioned that he has done extensive research on agricultural practices and he would like to prepare a PowerPoint presentation to share his findings before a vote is taken. Mr. Fama therefore agreed to table this item.
- 3.5 Mr. Fama proposed adding an exemption for backup alarms for mobile equipment used at commercial/industrial facilities which is required under OSHA. Eric Zwerling stated that he could present numerous options, such as strobe lights, spotters and flag wavers. Beepers can also be self-adjusting or broadbands could be used, which is easier to locate. While John Lago and Norm Dotti voiced their support for the exemption, Mr. Fama agreed to table the proposal until more information is provided.
8. *Public celebrations:* To exempt sound amplification devices at government-sponsored or government-permitted events. While Eric Zwerling and Steve Szulecki recommended tabling this discussion until a definition of "public celebration" is drafted, Mr. Fama moved to accept the exemption and John Lago seconded it. No other members (Norm Dotti, Arnie Schmidt, Randy Hauser, Steve Szulecki, Eric Lieberman and John Kapferer) were in favor so the motion did not pass.

11.5 Mr. Fama proposed the following exemption: “*Sound producing recreational and sporting activities where the human body is interacting with a non-motorized and non-amplified object; such as, bats, balls, water, air; and such as people engaged in playing baseball, golf, tennis, hand ball, paddle ball, pickle ball, soccer, basketball, running, bike riding, skate boarding, swimming to include splashing, and clapping of hands.*” Norm Dotti felt that it was too wordy and complicated. Non-amplified and non-motorized actions such as “splashing,” “running” and “clapping of hands” typically don’t get complaints. Steve Szulecki mentioned that many of the listed sources are impulsive and would not likely be a violation or last long enough to allow for a valid sound level measurement. In addition, the regulations force planning boards to base their decisions around potential noise issues when near residents. An exemption such as this would encourage poor planning. A pickleball complaint was brought to the NCC and because it wasn’t exempt, it was discussed and potentially resolved, which is a good thing. He further stated that the current regulations don’t prevent these things, they merely make their actions reasonable for those who might be impacted by the noise they create. Eric Zwerling stated that the World Health Organization’s Guidelines for Community Noise discuss the health impacts of some types of impulsive noise. 80 dBA is a fairly permissive level and one of the recommended sources (bats) can be quite loud when the bat is made of aluminum. Arnold Schmidt mentioned that bouncing basketballs can be extremely annoying. Joseph DiFillippo stated that he hasn’t encountered many complaints, such as those proposed by Mr. Fama, except for basketball played at homes and model planes used in parks. John Kapferer pointed out that exempting sources such as leaf blowers, could lead to neighbor-against-neighbor battles with sound-making devices. After a lengthy discussion, Mr. Fama motioned to accept the proposed exemption, with John Kapferer seconding it. No other members (Arnold Schmidt, Norm Dotti, Randy Hauser, Steve Szulecki, John Lago and Eric Lieberman) were in favor so the motion did not pass.

#### 7:29-1.5 Exceptions

13. Mr. Fama proposed the following exemption: “*Firearm ranges, such as, rifle, shotgun and pistol ranges where people are engaged in discharging firearms.*” David Triggs pointed out that in the State Noise Control Statute under 13:1G-21.2., only shooting ranges that have been maintained continuously in the same location since January 24, 1972 are explicitly exempt. Introducing a blanket exemption in the regulations is not possible without first amending the law. Mr. Fama then made a motion that the NCC request that the Commissioner of the DEP approach the Assembly to remove the grandfathered date and to allow all shooting ranges to be exempt. Mr. Fama indicated that states are relaxing gun laws, including open carry and concealed carry to allow people to defend themselves when faced with an active shooter; following such incidents as San Bernardino, Las Vegas and the Pulse night club mass shootings. Citizens therefore need more ranges to practice their shooting. There was no second so the motion did not move forward to a vote.

Norm Dotti recommended removing revision and date references for the ANSI standards and only include the numbers.

#### **NEW BUSINESS**

No new business was brought up.

#### **PUBLIC DISCUSSION**

There was no public discussion.

**EXECUTIVE SESSION**

There was no need to go into Executive Session.

**NEXT MEETING**

The next meeting is on February 13<sup>th</sup> at 9:30 A.M.

Respectfully submitted by: David Triggs, NJDEP Liaison to the NCC