

**NEW JERSEY NOISE CONTROL COUNCIL MEETING
JUNE 10, 2014
MINUTES**

NCC ATTENDEES: Arnold Schmidt (Chairman, Public Member, Registered Environmental Health Specialist), Joseph Lepis (Vice Chairman, Civil Engineer), Jerome Feder (Secretary, Public Member), Randy Hauser (Department of Labor), Eric Lieberman (Department of Health), Drake Rizzo (Department of Community Affairs), Steven Szulecki (Public Member AAC, Ecologist), Dr. John Kapferer (Public Member), David Triggs (Department of Environmental Protection, Council Liaison).

I. MEETING MINUTES

The draft minutes for the May 12, 2014 meeting were approved with minor changes to the language pertaining to the ongoing discussion of where to take a sound level measurement “at or within” a complainant’s property line.

II. CHAIR REPORT

- The Noise Control Council (NCC) will meet in July. The decision on whether to meet in August will be decided at the July meeting.
- Although it was agreed that it was time to move on from the subject of where to take measurements during a noise investigation, further discussion ensued regarding the “at or within” language in the guidance document. The language in the May meeting minutes seems to reflect what was agreed upon when the NCC voted to accept it. The fact that a vast majority of sound level readings occur at the property line is a good indication that investigators only move to other locations within the property at their discretion when needed and not as a general practice. Chairman Schmidt considers the discussion resolved at this point.

III. COUNCIL MEMBERSHIP

Joseph DiFillippo of the Middlesex County Public Health Department (MCPHD) accepted an invitation by the NCC to attend the July meeting to discuss whether he will be recommended to the Governor’s Office to replace John Surmay as the “Local Governing Body” member. Mr. Triggs requested that Mr. DiFillippo submit a bio and/or resume beforehand for the NCC to review. Thus far nothing has been submitted. Some members are familiar with Mr. DiFillippo’s many years of experience as an investigator in the MCPHD’s noise program.

Chairman Schmidt will reach out to other members of the NCC that have missed many meetings to determine whether or not they want to remain appointed or be replaced by someone whose schedule allows them to more fully participate at meetings.

IV. PART 150 NOISE STUDY

There was nothing new to report to the NCC.

V. MODEL NOISE ORDINANCE MAXIMUM PENALTY REDUCTION

David Triggs wrote a paragraph for the NCC to review to put into a letter/e-mail to let municipalities know about the anticipated reduction in the maximum penalty from \$3,000 to \$2,000 in the Model Noise Ordinance. The language was approved by the NCC with a minor addition to include that the penalty amount will be adjusted whenever the applicable regulation is amended. Mr. Triggs is still waiting for written confirmation from the

DEP's DAG regarding their legal opinion on the matter before a letter or e-mail notification is sent out to the municipalities.

VI. MEADOWLANDS NOISE REGULATIONS

There was nothing new to report to the NCC.

VII. NOISE ENFORCEMENT GUIDANCE DOCUMENT

- Jerome Feder submitted additional language for consideration for the portion of the guidance document pertaining to where/when to take sound level readings "at or within" the property line of a complainant. Most of the members felt that the existing language was adequate and thorough and that adding to it would make the wording too cumbersome.
- Norm Dotti submitted (through e-mail) prior to the meeting the following language to add to the document to assist planning and zoning boards: *NJAC 7:29 (and the Model Noise Ordinance) is a performance standard; it was not and is not intended to be a rigid planning standard. Its sound level limits depend on the current use of a property, not zoning, and may be applied at any places on the receiving property consistent with an "affected person;" the limits do not necessarily apply at all points on the receiving property. Limits may apply at different elevations on the property, again consistent with use (e.g., at "head height" in a rear yard, at second-floor bedroom level by a two-story house). Where the limits are applied is based on where a trained investigator, after consulting with the owner regarding property use, determines appropriate location(s).* Since Mr. Dotti could not attend the meeting this portion of the discussion was tabled.
- Vice Chairman Joe Lepis submitted a header disclaimer to add to the guidance document that basically states that it is in draft form until officially approved by the Department and that the contents of the document should not be taught at the Rutgers Noise Certification Training (RNCT) until otherwise approved. Most of the NCC felt that the RNCT adheres to the stated language in the noise statute and regulations during the cert and recert courses and the program has done so with great success over many years of noise investigator training with DEP approval. Since the word "DRAFT" is prominently displayed across each page, a majority of the NCC felt that a header disclaimer was not needed.
- Other discussions involved the wind speed section, vehicle section and the nuisance code versus noise ordinance section.
- Steve Szulecki stated that he would revise the document to reflect what was discussed and e-mail it to the NCC before the next meeting.

VIII. DEP NOISE WEBSITE DIRECTIVE REGARDING UPDATING THE MODEL

The DEP noise website currently has the following disclaimer pertaining to the Model Noise Ordinance which was last updated in 2010:

"Any noise ordinance approved prior to 1997 should be resubmitted for review and validation"

The NCC discussed whether or not this was needed as the Model is about to undergo further revisions. It was agreed that the wording should be changed to:

"The Model Noise Ordinance was last updated in 2010. While we highly recommend that municipalities re-adopt the most up-to-date version, any prior-approved DEP noise ordinance is still considered valid"

IX. AGENDA ITEMS NOT DISCUSSED

Bylaws review and discussion

Model Ordinance review and update (although it was agreed that the entire document should be revised and not just the maximum penalty amount)

Stakeholders meeting on emergency generators

X. NEXT MEETING

The next meeting is scheduled for July 8, 2014.

Respectfully submitted in Secretary Jerome Feder's absence:
David E. Triggs, NJDEP, NCC Liaison