

**NEW JERSEY NOISE CONTROL COUNCIL MEETING
OCTOBER 12, 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), C. Accettola (Public Member-pending confirmation), 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), Eric Zwerling (RTNAC), D. Triggs (NJDEP).

I. ADMINISTRATIVE

Minutes of the September 14, 2010 meeting were approved with minor corrections from the draft.

II. PROPOSED DISCONTINUANCE OF NOISE CONTROL COUNCIL (NCC)

Chairman Lepis reported on his October 6, 2010 meeting with DEP Assistant Commissioner Wolf Skacel and DEP officials, John Castner, Debbie Pinto and David Triggs. Vice Chairman Schmidt, Norm Dotti of the NCC, and Eric Zwerling, Director of the Rutgers Noise Technical Assistance Center also attended. Assistant Commissioner Skacel had earlier notified Chairman Lepis of the proposed elimination of the NCC. The October 6 meeting was a follow-up to gather additional information and help correct what might be misunderstanding of the NCC role. To facilitate the meeting, Chairman Lepis had prepared an information package on the history, membership, and role of the NCC, including brief biographies of most of its members for use at the October 6 meeting. Chairman Lepis distributed copies of this material. The DEP officials present at the October 6 meeting expressed support for the NCC, and indicated that the decision to eliminate the NCC would be made at a higher level within the DEP.

Mr. Zwerling raised questions regarding the overall objectives of the proposed NCC elimination: 1) Is the DEP simply seeking to eliminate the NCC? 2) Is the DEP seeking beyond this to discontinue all activities with respect to noise? 3) Is there a further objective to eliminate the state noise code entirely, and discontinue state level noise regulation. There ensued a discussion of these alternate scenarios and their consequences:

- 1) *DEP eliminates the NCC but continues a noise role:* This would result in a reduced level of service to the public and increase the workload of the NJDEP, since currently, noise issues raised in calls to NJDEP are “offloaded” to the NCC, which handles them without cost to the state.
- 2) *DEP ceases all involvement with noise:* Given the established health effects and increased mortality associated with noise, as well as the effects on child learning and quality of life, the rationale of discontinuance of involvement with one environmental issue, while continuing with others was unclear. Several members pointed out that the intent might be to offload these responsibilities to the counties and municipalities. However, it was then unclear how updating the noise regulation, model ordinance, and training of noise officers would be handled, since these are clearly most effectively centralized. Furthermore, the passing of these roles to localities without associated funding could create hardship. The DEP and indirectly the NCC are sometimes contacted to interpret the state noise regulation relative to particular noise situations. Absent the DEP and NCC, this role would fall to the

courts, potentially resulting in expensive litigation and ruling by a judge with little noise knowledge.

- 3) *Eliminate the state noise regulation; noise handled entirely by localities:* Since the state noise code currently preempts local ordinances, elimination of the state regulation would result in a non-uniform “patchwork” of regulations inhospitable to business. (The “wild west” scenario.) The NCC tries hard to balance the need to conduct business with environmental considerations, whereas localities are likely to be inconsistent in this regard, and could easily formulate regulations that would destroy businesses. This also seemed to be moving in the opposite direction to prior efforts towards state level consistency in other areas such as the creation of uniform building codes and uniform health codes.

Mr. Zwerling agreed to follow up with the appropriate DEP personnel to determine the higher level objectives of the state actions underway.

III. DETAILS OF TAKING “C” SCALE MEASUREMENTS

Vice Chairman Schmidt had been contacted by an enforcement official outside the NCC regarding the appropriate methods for conducting “C” scale measurements. Regulations involving the “C” scale compare the sounds from a source in question with the ambient sounds at the location. Mr. Zwerling stated that by far the most preferred method was to compare measurements at the same location, with and without the subject source in operation. This can be achieved by turning the source off, or by waiting for time intervals when the source was not emitting sound. i.e. between songs for a music source. Mr. Zwerling stated that it was also possible to move to an alternate nearby location (possibly comparably situated in the same building, but more distant from the source), but he indicated that this approach was far less reliable and not recommended. Mr. Dotti confirmed that selecting an alternate site introduces many problems. There followed some discussion of issues in controlling noise indoors, including the rights and responsibilities of owners in condominium situations, and addressing noise from facilities that were owned by all unit owners, such as plumbing, heating, and other building noises. Also discussed were noises transmitted between apartments, such as “footfalls” in a poorly insulated buildings. The latter brought up the issue of impulsive noise. In response to questions as to whether existing regulations were adequate with respect to impulsive sounds, it was pointed out that existing the regulations allowed for frequent impulses to be treated as continuous sound and are therefore adequate.

IV. EQUIPMENT FOR ENFORCING LIMITS ON WIND ELECTRIC GENERATION

Mr. Lepis queried the group as to preliminary ideas regarding regulating of wind electric generators. Previous NCC activities and research had revealed that much of the sound generated by wind facilities generate is in the very low frequency bands. One possibility would be to extend the octave band regulations to lower frequencies. Unfortunately, such frequencies are below the measurement capabilities of equipment commonly in use, which could introduce equipment acquisition costs and therefore hardship to localities seeking to do such measurements. It was pointed out that Rutgers Technical Noise Assistance Center (RTNAC) has at least one piece of equipment with the needed capabilities available for loan. However, prevalent equipment capabilities will remain a concern. Mr. Zwerling pointed out that the octave band limits in current regulations are quite lenient and questioned whether these are sufficiently protective.

V . NOISE REGULATION AS PART OF NJ “RIGHT TO FARM” (RTF)

Mr. Triggs reported on the State Agricultural Development Committee’s (ADC) draft proposal to include noise restrictions as part of the NJ RTF regulations. The ADC is seeking to create its own standard for wind turbines and solar generators, to be used as a “gold standard” to qualify for RTF status, independent of the DEP’s established day and nighttime sound level limits. It was pointed out that even though wind and electric generation facilities are sometimes called “farms,” “Right to Farm” regulations are traditionally land use regulations covering agricultural activities to produce crops or raise livestock, and extending this concept to cover electric power generation may be inappropriate.

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

Near the close of the meeting, Chairman Lepis briefly reported on his further investigation of the history of listing of industrial, public and community service sites as a “receptor” category in N.J.A.C 7:29. He has unearthed additional evidence from previous transcriptions that this was indeed erroneous. Mr Zwerling, however, stated that the simple solution of eliminating these sites would leave them unprotected and would be not a good idea. Since it had previously been decided that the current version of N.J.A.C would be left unchanged, this issue is slated for further discussion at a future meeting.

VII. NEXT MEETING

The next scheduled meeting is on November 9, 2010.

Respectfully submitted:

Jerome Feder