

**NEW JERSEY
NOISE CONTROL COUNCIL (COUNCIL)
AUGUST 12, 2025
MEETING MINUTES**

ATTENDEES

Council Voting Members: Steve Szulecki (Chair, Public Member, Ecologist), Jack Zybura (Vice Chair, Public Member), Sal Fama (Motor Vehicle Commission), Philip Makrelis (Public Member, Local Governing), David Triggs (Public Member), Arnold Schmidt (Public Member), Randolph Hauser (Department of Labor), Daniel Lefkowitz (Department of Health).

Council Candidate Members: Syed Rashid (Department of Labor).

Rutgers and NJDEP Representatives: Christy Choo (NJDEP Co-Liaison to the Council).

ROLL CALL

Introductions: Syed Rashid gave an introduction. Mr. Rashid stated that he is from the Department of Labor, he has the same position as Randolph Hauser, and he has a background in chemical engineering.

Service Recognition: Chairman Szulecki had prepared a resolution to recognize Randolph Hauser's service to the Noise Control Council. He read it aloud and thanked Mr. Hauser for his participation and dedication to the council. *Arnold Schmidt motioned to approve, with Sal Fama seconding. All were in favor, the motion carried.*

MEETING MINUTES

July 2025: *Arnold Schmidt motioned to approve the minutes, with David Triggs seconding.* Chairman Szulecki sent his amendments ahead of the meeting. Jack Zybura asked if the Council must be in Executive Session to discuss the farmland question in the Modified Muffler section. Chairman Szulecki stated yes. David Triggs stated that the Council cannot discuss the public comment questions until Michelle Feasel responds first and proposed that they remove it from the minutes. Chairman Szulecki stated that discussion is over changes in the definition of "commercial facility" in *N.J.A.C. 7:29*, which can be in a separate section, but it should be in Executive Session. Mr. Zybura suggested the Council should either remove the question or add a separate section. Chairman Szulecki stated that the definition of "commercial facility" fits better than "industrial facility," and that Eric Zwerling was satisfied with that in the July meeting. Chairman Szulecki suggested that the Council should remove it or add a sentence stating that discussion ensued about commercial farm falling under commercial facility. Mr. Zybura suggested that the Council add the section "Commercial Farm:". Chairman Szulecki proposed to replace the Commercial Farm section with a summary sentence that states "Discussion was had regarding the definition of commercial facility property including commercial farm in the source category." Mr. Zybura stated that the Council should delete the first sentence of the Commercial Farm section that Chairman Szulecki said and keep the rest, starting with Eric Zwerling's statement. Chairman Szulecki stated that the Council should remove the first sentence of the Commercial Farm section, add the summary sentence, keep the rest starting with Eric Zwerling's sentence, and add Chairman Szulecki's edits to the Modified Muffler section. Chairman Szulecki stated he also had a few small

edits on the first page. *Chairman Szulecki motioned to approve the modifications as shown and discussed. A vote was taken, and all were in favor except Jack Zybura who abstained due to being absent at the July meeting. The motion carried.*

CHAIR REPORT

7:29 Amendments: Chairman Szulecki stated that there was at least one comment from the public. The comment period ends on August 15th, which is after the August meeting. Chairman Szulecki stated that the Council's role is to assist Michelle Feasel in responding to the comments, which they will discuss in the September meeting.

Modified Muffler Bill S507: Chairman Szulecki stated that there are no updates on the Modified Muffler Bill.

PUBLIC DISCUSSION

There was no one present from the public to comment.

NEW BUSINESS

Noise Cameras: Norm Dotti emailed an article about noise cameras. Sal Fama stated that they set the limit to 85 dB in the article, which he thinks is too low, since they want to go after modifications that make vehicles very loud. Chairman Szulecki asked 85 dB at what distance. David Triggs asked if the camera is elevated. Chairman Szulecki stated it uses an array of 64 microphones, allowing for the precise positioning of where the sound is originating from. Chairman Szulecki asked if there are two loud cars next to each other, how can it tell them apart. Randolph Hauser stated that with artificial intelligence, programs can analyze different tracks of sound. Philip Makrelis stated that it is similar to red light cameras, and someone can review the footage. Chairman Szulecki stated that the 13-1G noise statute allows for the regulation of motor vehicle noise.

Sea Bright Noise Ordinance: Chairman Szulecki stated that the Sea Bright noise ordinance was struck down by the Appellate Division. Chairman Szulecki stated that the Court listed two aspects of the ruling. The first was the vagueness in the writing of the ordinance, as it spoke about human voice as plainly audible noise. The second was preemption because Sea Bright and other towns joined the Monmouth County Regional Health Commission to avoid having their own municipal health department, however, they cannot have their own nuisance noise ordinance if the Commission has a nuisance ordinance for noise. Eric Zwerling stated in an email sent before the meeting that it is not nuisance. Chairman Szulecki stated that the Sea Bright ordinance speaks about plainly audible noise at a distance. Chairman Szulecki read an excerpt from the New Jersey Public Nuisance Code of 1953 regarding excluding sounds by the human voice. Randolph Hauser asked if there is a history of case law. Chairman Szulecki stated that the Appellate hearing upheld the Public Nuisance Code of 1953 since the county had a regulation in place and the Sea Bright nuisance ordinance was preempted by it. Jack Zybura asked if Sea Bright had the model ordinance, would it be thrown away because they have the state code. Chairman Szulecki stated in the ruling of the Appellate Division, they cited *State v. Clarksburg Inn*, which went all the way to the Supreme Court and was upheld. Arnold Schmidt asked a question regarding "plainly audible at 100 feet," as he asked if it is plainly audible at 90 feet is it a violation or is it only at 100 feet. Chairman Szulecki stated that plainly audible at 100 feet was upheld in *State v. Clarksburg Inn* and that it is not property line based. Chairman Szulecki stated that on the other hand, the Millstones regulation

was found to be not unconstitutionally vague, which was affirmed and mentioned in the Sea Bright case. Chairman Szulecki stated that they would still need someone to decide if the noise is plainly audible and that is where some degree of subjectivity comes in. Sal Fama stated that the maximum threshold of pain is 100 decibels. Chairman Szulecki asked if our model ordinance, as written, is in jeopardy in terms of the non-decibel related standards. Chairman Szulecki stated that all the municipalities in New Jersey are in a county, and that some have their own health department, so are these municipalities preempted if the county has a nuisance based noise ordinance. Daniel Lefkowitz stated that he has a list of local health departments, and that there are many more health departments than just the 21 counties. Over 100 municipalities have their own health department, or they form one together. Chairman Szulecki stated that there is a severability clause in *N.J.A.C. 7:29*, which is the same as in the model and therefore if one section of the model is found to not be on good legal footing the remainder of the ordinance is unaffected. Mr. Zybura stated that the Council is likely not in danger of losing decibel limits by preemption. David Triggs stated that the bar in Sea Bright who sued the town could use the beach bar exemption. Chairman Szulecki suggested that the Council should solicit every health department and that they should forward everything they have related to nuisance noise so the Council can see vulnerabilities. Chairman Szulecki stated that the model makes up three aspects: performance standards; plainly audible; and time-based aspects, like hours of operation. Mr. Schmidt stated that the sound level of plainly audible is subjective. Chairman Szulecki stated that they defined “plainly audible” in the model and Mr. Zybura read the definition aloud. Mr. Szulecki asked what “normal acuity” is in definition. Mr. Triggs stated that there is an annual physical for inspectors in the field. Mr. Lefkowitz stated that Monmouth County Regional Health Commission became the Jersey Shore Regional Health Commission. Mr. Lefkowitz stated there are seven regional health commissions. Chairman Szulecki stated that a municipality can be preempted by a regional health commission or county if they have a nuisance code, as brought about by the Sea Bright case. Mr. Fama asked if the Public Health Code of 1953 has a nuisance provision. Chairman Szulecki stated that the Nuisance Code speaks of the human voice as being a source of nuisance. Philip Makrelis stated that it is not recommended to lean on the 1953 code as an inspector. Chairman Szulecki asked the Council if they saw any vulnerability in the model. Mr. Zybura stated that the court would not strike down the method of enforcement, just the person who did the enforcement. Chairman Szulecki asked why Millstone with plainly audible standards was upheld and reaffirmed while Sea Bright with plainly audible standards was struck down. Mr. Triggs stated that the model is not vulnerable but asked what the Council can do. Chairman Szulecki stated two reasons why municipalities do not adopt the model: either the municipality is too small and they don’t have the resources (personnel, monies for equipment and training), or they want a stricter view of how noise is controlled. Mr. Zybura stated that it would have to happen more times in court and be tested for the Council to be worried. Mr. Zybura asked why Sea Bright did not enforce the county nuisance code instead of their nuisance code.

Modify Outdoor Impulse Language: Chairman Szulecki stated that the Council did not discuss this topic during the July meeting. Jack Zybura proposed from his notes that it should read “Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 dBA. Between 10:00 p.m. and 7:00 a.m., impulsive sounds that occur less than four times in any hour shall not equal or exceed 80 dBA. Between 10:00 p.m. and 7:00 a.m., impulsive sounds that repeat four or more times in any hour shall not equal or exceed 50 dBA for residential receptors.” *Jack Zybura*

motioned to adopt the language as shown and as read, with Sal Fama seconding. All were in favor; the motion carried.

Tables in Model Ordinance: Chairman Szulecki repeated the issue from the June Meeting Minutes where Tables I, II, and III were changed to “Section VII” in Section IV and IX. Chairman Szulecki stated that sections often get renumbered by municipalities. Jack Zybura stated that the tables can have a footnote saying that they are from Section VII and that Section VII still refers to these tables even if the tables are appended. Christy Choo repeated Michelle Feasel’s comment that stated the importance of making sure the numbering aligns so that the ordinance can be approved. David Triggs stated that it is common for municipalities to renumber or put the table at the end as long as it is referenced properly. Jack Zybura proposed a few changes including that in Section IX it should read “the decibel standards set forth herein do not apply” instead of “the standards set forth in Section VII do not apply.” Chairman Szulecki asked Jack Zybura to make the changes and stated that it will be reviewed during the September meeting.

Model Ordinance and Grace Period Law: The Council stated that they are waiting for Eric Zwerling to discuss this topic. Chairman Szulecki stated that if a place fixes the noise issue within 30 days, no penalty is issued, and that the noise officers are not checking every day to assess compliance. Chairman Szulecki stated that Eric Zwerling read his notes about the Grace Period Law during the June meeting and was going to write up something. Philip Makrelis stated that they can skirt the Grace Period if there is a bad or negligent actor. Chairman Szulecki stated that a response regarding the Grace Period Law was received from the DEP, however, the Council does not agree, and they may write back. David Triggs stated there is no clear distinction with regard to what is considered minor and non-minor in regard to noise. Chairman Szulecki stated that the Council should respond to the DEP because there are two ways that “less than 30 days” can be applied to a circumstance. Chairman Szulecki also stated that they could add a section to the guidance document. Chairman Szulecki stated that if it is a bar/restaurant/house party, and they can simply turn the volume down, it is volitional. Mr. Triggs stated that noise is complaint driven, and it is intentional and thus non-minor if the noise is raised again after law enforcement leave. Jack Zybura asked if the Grace Period Law is in the state code. Chairman Szulecki stated that it is in there. Chairman Szulecki proposed that Eric Zwerling formulate a letter in response to the email that answered the Council’s Grace Period Law questions. Chairman Szulecki stated that they must determine who to write it to.

OLD BUSINESS

There was no old business to discuss.

ADJOURNMENT

David Triggs motioned to end the meeting, with Philip Makrelis seconding. All were in favor; the motion carried. The meeting was adjourned.

NEXT MEETING

The next meeting is scheduled for Tuesday, September 9th at 9:30 AM.
Respectfully submitted by Christy Choo, NJDEP Liaison to the Council.