

**NEW JERSEY NOISE CONTROL COUNCIL (NCC)**  
**JULY 10, 2018**  
**MEETING MINUTES**

**ATTENDEES:** Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), John Lago (Department of Community Affairs), Randy Hauser (Department of Labor), Salvatore Fama (Motor Vehicle Commission), Eric Lieberman (Department of Health), Norm Dotti (Public Member, Industrialist), Dr. Iris Udasin (Public Member, Medical Doctor), John Kapferer (Public Member), Jerry Feder (Public Member) Joseph DiFillippo (Candidate Member for vacancy left by John Surmay), Eric Zwerling (Director, Rutgers Noise Technical Assistance Center), David Triggs (NJDEP Liaison to the Council) and Michelle Feasel (NJDEP Co-Liaison to the Council).

**PUBLIC:** Axel Carrion (UPS), Mark Roskein (Bridgewater)

**MEETING MINUTES**

Norm Dotti motioned to approve the June meeting minutes with one minor change and Salvatore Fama seconded. All were in favor with Randy Hauser and Dr. Udasin abstaining, so the motion passed.

The June Executive Session Meeting Minutes will be provided at the next meeting.

**CHAIR REPORT**

- A NCC member appointment memo prepared by David Triggs to the Commissioner's Office has been put on hold pending a response/or lack of, to a letter sent to NCC member Nancy Tanella from Chairman Schmidt, asking whether she wants to remain on the NCC. She has not attended a meeting since December 2017 and has not responded to multiple attempts to contact her through e-mail. The letter was sent certified mail and was confirmed to have been delivered.
- David Triggs and Eric Zwerling responded to an e-mail questioning whether a gun range at a Coast Guard facility was exempt from N.J.A.C. 7:29. The range has been active since January 1972, which falls under the exemption. Regardless, Mr. Triggs felt that, as a federal facility, it would also fall under the "Sovereign Immunity" provision, which protects federal facilities from enforcement actions cited under state regulations.
- David Triggs and Chairman Schmidt were part of an e-mail chain regarding renewed noise complaints from concerts at Mercer County Park. While the Mercer County Division of Public Health has taken sound level measurements, they claim that the meters used were not calibrated properly and therefore no violation was issued for exceeding the permissible limit. Mr. Triggs reminded them that all CEHA agencies must have a properly calibrated meter and must respond to all applicable noise complaints in a timely manner. The NCC, as well as a DAG, agreed that the "public celebration" exemption does not apply to these events and therefore any violation should result in an automatic penalty, since a NOV was already issued within the past year.
- The NCC decided to cancel the regular August meeting. The subcommittee will likely still meet to discuss amendments to N.J.A.C. 7:29.

**NCC COMMUNICATIONS/CORRESPONDENCE**

Refer to the Chair Report.

## **OLD BUSINESS**

- *Proposed Amendments to N.J.A.C. 7:29*: Mr. Axel Carrion, Director of State Public Affairs for UPS, presented a proposed amendment to 7:29, which would effectively exempt facilities from complaints when an adjacent property zoned commercial/industrial is changed to residential, resulting in noise complaints from the new homeowners. NCC member Norm Dotti read a disclaimer which stated that he had nothing to do with UPS's presence at the meeting. The open discussion included comments such as facilities can often comply with permissible limit exceedances, especially large corporations such as UPS. The Code does not factor in whether the source or receptor came first. The problem often lies with local zoning and poor planning, which is not the fault of the resident that bought the property. A waiver provision may be more applicable, as an Administrative Court would likely not entertain the language as it is currently written. Putting forth a good-faith effort to reduce the noise should not excuse a source property from its obligation to bring any noise below the permissible limits. A resident cannot lose their right to the regulations being enforced based on their ignorance of the conditions surrounding them. Randy Hauser, an OSHA consultant, stated that he has never been in a warehouse that couldn't come into compliance. Salvatore Fama thanked the UPS representative for bringing their problem to the NCC's attention, as he stated that over-regulation by the government often impacts industry in a negative way. Chairman Schmidt also thanked UPS and while the NCC cannot directly advise a member from the public, the subcommittee created to review 7:29 would discuss the merits of their proposal further and then present their findings and suggestions to the full NCC for their consideration.

Amendments suggested by Eric Zwerling for the following definitions and sections were voted on and approved by the Noise Control Council. Refer to the Subcommittee notes for the March 28th meeting for details or request a copy from David Triggs of 7:29 with the highlighted and NCC-approved amendments.

### **7:29-1.1 Definitions**

“Z-weighted sound level” (Arnold Schmidt motioned to approve and Dr. Udasin seconded. All were in favor, so the motion passed.)

### **7:29-2.9 Procedure**

(a.), (b.) and iv. (Arnold Schmidt motioned to approve with minor revisions to (b.) and iv. and Norm Dotti seconded. All were in favor, so the motion passed.)

(v.) (Arnold Schmidt motioned to approve and John Kapferer seconded. All were in favor, so the motion passed.)

### **7:29-2.1 Definitions**

“Octave band” (Arnold Schmidt motioned to approve, and Steve Szulecki seconded. All were in favor, so the motion passed.)

### **7:29-2.6 Equipment**

- (a.) 1. (Arnold Schmidt motioned to approve, and Norm Dotti seconded. All were in favor, so the motion passed.)

- i. (Arnold Schmidt motioned to approve with a minor revision and Steve Szulecki seconded. All were in favor, so the motion passed.)
- ii. (Arnold Schmidt motioned to approve with a minor revision and Steve Szulecki seconded. All were in favor, so the motion passed.)
1. (Arnold Schmidt motioned to approved and Steve Szulecki seconded. All were in favor, so the motion passed.)

### **7:29 – 2.12 Incorporation by reference**

Mr. Zwerling proposed to remove the entire section.

(Steve Szulecki motioned to accept, and Arnold Schmidt seconded. All were in favor, so the motion passed.)

Eric Zwerling pointed out that there is no impulsive standard for indoor noise (i.e., dropping weights in a gym), which is something that should be discussed for both 7:29 and the Model.

### **NEW BUSINESS**

No new business

### **PUBLIC DISCUSSION**

Refer to Old Business.

### **EXECUTIVE SESSION**

The NCC did not meet in Executive Session.

### **NEXT MEETING**

The next meeting is on Monday, September 17<sup>th</sup> at 9:30 A.M. as the August meeting was canceled. The September meeting is on a Monday due to the Jewish holiday.

Respectfully submitted by David Triggs, NJDEP Liaison to the NCC