

**NEW JERSEY
NOISE CONTROL COUNCIL (COUNCIL)
MAY 13, 2025
MEETING MINUTES**

ATTENDEES

Council Voting Members: Jack Zybura (Vice Chair, Public Member), Sal Fama (Motor Vehicle Commission), Arnold Schmidt (Public Member), Randolph Hauser (Department of Labor), Joseph DiFillippo (Public Member), Daniel Lefkowitz (Department of Health), Chris Bergacs (Public Member), Dr. Iris Udasin (Public Member, Medical Doctor), Gina Fischetti (Department of Community Affairs).

Rutgers and NJDEP Representatives: Eric Zwerling (Director of the Rutgers Noise Technical Assistance Center) and Christy Choo (NJDEP Co-Liaison to the Council).

MEETING MINUTES

March 2025: Jack Zybura asked if the April meeting should be removed from the “Next Meeting” section since the April meeting was cancelled. Arnold Schmidt stated that it should be kept because it was still planned at the time of the March meeting. *Arnold Schmidt motioned to approve the minutes as written, with Joseph DiFillippo seconding. A vote was taken, and all were in favor, except Dr. Iris Udasin who abstained. The motion carried.*

EXECUTIVE SESSION

Daniel Lefkowitz motioned to go into Executive Session, with Sal Fama seconding. All were in favor, so the motion carried. This meeting is closed to the public.

Christy Choo handed out the March Executive Session meeting minutes. No changes were made. *Joseph DiFillippo motioned to accept the March Executive Session meeting minutes, with Randolph Hauser seconding. All were in favor, so the motion carried.*

Joseph DiFillippo motioned to leave Executive Session, with Randolph Hauser seconding. All were in favor, so the motion carried.

CHAIR REPORT

Status of Amendments to 7:29: Jack Zybura stated that the DEP has reviewed and accepted the N.J.A.C. 7:29 amendments. The amendments will be published in the NJ Register on June 16, 2025. The Department must have a public hearing 30 days after the amendments are published and they must give 15 days’ notice for the meeting date. Mr. Zybura stated that the meeting can be virtual and can be in place of the July NCC meeting. Mr. Zybura stated that the Council can finalize the date during the June NCC meeting. Mr. Zybura stated that the role of the Council during the meeting is to show up and take questions from the public. Eric Zwerling asked if the Council will also be virtual or if it will be hybrid. Mr. Zwerling also asked if there will be a DEP or official provided link for the meeting. Jack Zybura stated that it will follow the Open Public Meetings Act so it will probably have a DEP link. Arnold Schmidt asked if the meeting would be recorded. Chris Bergacs asked if there will be written minutes and if the State will archive it. Mr. Schmidt stated that in other committee meetings he has attended, minutes are taken in addition to the recording, but minutes are the main record. Sal Fama asked if written comments are allowed.

Mr. Zybura stated that written comments are allowed to account for those who would not be able to attend the virtual meeting. Mr. Zwerling asked how many people read the NJ Register and if he can send an email to the Noise Center, which targets noise officers but not complainants. Mr. Schmidt stated that the Chamber of Commerce is another option. It was suggested to ask Bruce Velzy, the DEP assigned attorney, what the notification requirements are for the Council. Christy Choo will reach out to Bruce Velzy for notification requirements. Jack Zybura stated that a formal decision regarding the public meeting will be made in June.

Modified Muffler Legislative Bill S507: Jack Zybura stated there are no modified muffler updates from Chairman Szulecki. Sal Fama asked if anyone has reached out to the Council about it. Jack Zybura stated that the Council has not been consulted, and that Chairman Szulecki has only been tracking the bill. Mr. Fama stated that the DEP has enforcement for idling and emissions, and the Council should be in communication. Chris Bergacs stated that the bill is out of committee and was passed unanimously.

PUBLIC DISCUSSION

There was no one present from the public to comment.

NEW BUSINESS

Model Ordinance: Jack Zybura stated that the Council will go through the Model Ordinance and check if it is consistent with the amendments to the state code. Mr. Zybura stated that the Council must look at the references to *N.J.A.C. 7:29* once it is published to make sure the numbers are consistent in the Model Ordinance.

IX(B): Eric Zwerling stated that this section can apply if there are complaints about landscaping in an apartment complex when it counts as a commercial facility. Mr. Zwerling therefore proposed to remove the reference to Table II from this section. Jack Zybura stated that landscaping does not qualify the apartment complex as commercial. Mr. Zwerling stated that an apartment complex is a commercial entity and that it is residential when it is inside according to the real property line. Mr. Zwerling gave a transformer example where once it crosses the property line, it is commercial and therefore enforceable. Mr. Zybura suggested that the Council remove the reference to Tables I and II. Mr. Zybura also suggested going further and removing the reference to Table III since landscaping is not under octave bands. Mr. Zwerling stated that lawnmowers move back and forth so the sound levels rise and fall, however, leaf blowers will be steady enough for it to be an octave band event, so Table III is still needed. Arnold Schmidt asked how often people use octave bands. Mr. Zwerling stated that it is rare, but enforcement agencies still buy octave band equipment and train people to use it. Mr. Zybura stated that the state covers section B and asked for the purpose of including section B. Mr. Zwerling stated that it allows locals to enforce it instead of having to call the county to enforce the state code.

IX(D): Eric Zwerling stated that section D has Tables I, II, and III stricken. Jack Zybura stated that the guidance document classifies snow removal as exempt. Mr. Zwerling stated that at all other times, the limits set forth do not apply, and they should add the stricken part of section D back. Mr. Zybura stated that it should be “standards set forth in I, II, and III.” Arnold Schmidt stated that sections A and B have “Tables I, II, and III” while sections C, D, and E have “Tables I, II, or III.” Mr. Zybura proposed that it say “Section VII” instead. Mr. Zwerling suggested the phrasing “standards set forth in Section VII do not apply” to the end of section D. *Arnold*

Schmidt motioned to accept this change, with Joseph DiFillippo seconding. All were in favor; the motion carried.

IX: Jack Zybura proposed replacing where it says “limits set forth in Tables I, II, and/or III” with “standards set forth in Section VII” throughout section IX so that it includes Tables I, II, and III plus impulsive limits. Sal Fama asked about the benefits of this change. Mr. Zybura stated that it will include impulsive sources, so it broadens it. Eric Zwerling stated that this change will allow it to be more lenient during the day and regulated at night. *Arnold Schmidt motioned to accept these changes, with Daniel Lefkowitz seconding. All were in favor; the motion carried.*

XI: Eric Zwerling stated that the Council must make the Grace Period Law consistent with *N.J.A.C. 7:29* as it has a 30-day period, not to exceed 180 days. Mr. Zwerling stated in the Model Ordinance, in section XI(F), there is an upper limit of 180 days as well, but the initial period is 90 days. Mr. Zwerling stated that the Model Ordinance is consistent with the Grace Period Law but more lenient than the state code and asked if the Council needs to change it to match the state code. Mr. Zwerling asked if it is 30 days minimum, and if so they cannot say up to 30 days because the state code says within 30 days and they need to make the wording consistent. Sal Fama stated they should add “to the discretion of the enforcement officer.” Mr. Zwerling asked for clarification on what the Grace Period Law is and what the minimum time is that someone must be given notice before a NOV is elevated to a NOPA for noise. Christy Choo stated that she will investigate it.

IV(C): Jack Zybura stated the Council should replace Tables I, II, and III with “Section VII.” Eric Zwerling stated that it is exempt during the day, but at night it still applies. Mr. Zybura stated that he thinks that IV(C) is redundant because it is exempt by the state since the facility does not exist while being constructed. Eric Zwerling stated that construction is not the facility and that the construction site is not covered. Mr. Zwerling stated that having an exemption for construction is only one sentence, so it is fine to keep it. *Jack Zybura motioned to change “Section VII” and change the second section IV(C) to section IV(D). Dan seconded the motion. All were in favor; the motion carried.*

XII: Daniel Lefkowitz asked for clarification for why “repealer” is in the title. Eric Zwerling stated that if parts of the ordinance are repealed the ordinance is not invalidated. Mr. Zwerling stated that he noticed that some counties do not include section XII.

XI: Eric Zwerling also stated that he noticed that previously a county had a \$3,000 instead of a \$2,000 penalty, and that it was changed because of the state law. Jack Zybura asked that if that is more stringent, why can municipalities not have the \$3,000 penalty. Mr. Zwerling asked if there is a problem if the local law is more stringent than the state law. Mr. Zwerling also asked if there is a problem if a penalty is less than the state code penalty so that it is consistent with 2014 state law. Mr. Zwerling asked if N.J.S.A. 40:49-5 invalidates the stringency requirement, and if the model ordinance should override or match the state code. Mr. Zwerling stated that if it is under a \$1,250 penalty, there is no 30-day grace period and wanted clarification on if this is accurate. Christy Choo stated that she will check. Arnold Schmidt asked where the penalty matrix is located. Mr. Zwerling stated that the penalty matrix is in the manual, not the noise ordinance.

Narrative at the beginning: Daniel Lefkowitz asked if the DEP must approve the model ordinance. Jack Zybura stated that the municipality reviews it and then sends it to the DEP for approval. Eric Zwerling stated that the narrative at the beginning of the model ordinance should

say that any amendment must be approved by the DEP. Mr. Zwerling stated that some municipalities have their ordinances approved but then they add an amendment that is not checked by the DEP again. Mr. Zwerling stated that the DEP never made it clear that all amendments need to be approved. Mr. Zwerling asked if ordinances need the written approval of the Department as stated in *N.J.A.C. 7:29*. Mr. Zybura proposed an addition to the end of sentence regarding approval by the DEP. Mr. Zwerling proposed the addition of the full sentence: "Subsequent amendments to such an ordinance must be resubmitted and approved by the DEP." Arnold Schmidt changed "and approved" with "for review and written approval."

Gina Fischetti asked why approval by the DEP is required for noise ordinances. Eric Zwerling stated it is because municipal noise ordinances must be consistent with and more stringent than the state code. Jack Zybura stated that the Noise Control Act states that noise ordinances are "subject to approval." Arnold Schmidt asked why municipalities are not allowed to have lower dB limits or be more stringent than the model ordinance. Chris Bergacs asked if the Council votes and submits the updated model, does the DEP send out a mass notification of the new version of the model ordinance. Mr. Zwerling suggested that the DEP send mass emails to the clerks to notify everyone. Mr. Bergacs asked if old, accepted model ordinances are void if municipalities do not update to the new one. Mr. Zwerling stated that old ordinances are still valid. Mr. Zybura stated that the Model Ordinance should be voted on in the June NCC meeting as the Council is waiting for an answer regarding the Grace Period Law.

OLD BUSINESS

Vehicles Entering and Exiting: Jack Zybura stated that they are waiting to discuss entering and exiting.

ADJOURNMENT

Arnold Schmidt motioned to end the meeting, with Joseph DiFillippo seconding. All were in favor; the motion carried. The meeting was adjourned.

NEXT MEETING

The next meeting is scheduled for Tuesday, June 10th at 9:30 AM.
Respectfully submitted by Christy Choo, NJDEP Liaison to the Council.