

Noise Control in New Jersey

By David E. Triggs,

Whether you like it or not we're surrounded by noise. Unwanted sounds can be as varied as a low flying airplane, jackhammers slamming into concrete, honking car horns or a barking dog. While many people consider noise to be a temporary problem, overexposure to excessive sound can be physically and mentally debilitating. Excessive noise can cause stress, loss of hearing, sleeplessness and increased blood pressure. Many of us deal with noise by plugging our ears, shutting doors and windows or simply distancing ourselves from the source. These ineffective measures of soundproofing should be unnecessary since we are all entitled to a reasonable amount of peace and quiet, especially in a state as densely populated and industrialized as New Jersey.

New Jersey's Noise Control Act ("Act", N.J.S.A 13.1G-1 et seq.) was enacted in 1971 to protect citizens from excessive noise generated by stationary commercial and industrial sources as well as public service and community service facilities. The Act is enforced by regulations promulgated under N.J.A.C. 7:29-1 et seq. These regulations include a daytime sound level standard of 65 decibels and a nighttime standard of 50 decibels as measured at the property line of an affected person. The standards were set based on scientific information dealing with speech interference and sleep interruption, respectively. Indoor noise is currently not regulated under the State noise regulations. In addition, the New Jersey Department of Environmental Protection's regulatory authority is limited. The Federal Railroad Administration (FRA) oversees railroad noise,

aircraft noise is overseen by the Federal Aviation Administration (FAA) and the New Jersey Department of Transportation oversees state highway noise.

Noise enforcement is coordinated through the New Jersey Department of Environmental Protection's Office of Local Environmental Management in the Division of Compliance and Enforcement which acts as a liaison to the New Jersey Noise Control Council and county and municipal health departments. Noise enforcement is delegated to qualified counties and municipalities since local officials are in closer proximity to complainants and can therefore respond in a timely manner. Noise enforcement investigators obtain certification by attending a three-day course at the Rutgers Noise Technical Assistance Center. A one-day re-certification course is then required every two years thereafter. Anyone working for a county or municipality, from police officers to registered environmental health specialists, can take the course. If a municipality cannot address a noise problem, noise enforcement is then conducted at the county level.

There are currently twenty county health departments certified to enforce noise under the County Environmental Health Act (CEHA), N.J.S.A. 26:3A2-21 et seq. Only Mercer County does not have a noise enforcement program at this time, but intends to initiate one before the end of 2005.

Municipalities have three options available to them to respond to noise complaints. The primary tool is the Department's Model Noise Ordinance (Model). The Model was specifically developed as a performance code to be adopted, enforced and adjudicated at the municipal level. It regulates a number of noise sources not covered under the state regulations including noise from residential and multi-use properties and equipment such as landscaping tools. While a local noise ordinance is generally adopted in its original

text form, some flexibility is permitted, such as allowing more stringent time constraints for regulating noise and adding source categories not covered under the state regulations or found in the Model. Adoption of a municipal noise ordinance also requires its publication in the newspaper of record and a public hearing. The municipality must have at least one certified noise investigator and maintain a yearly-calibrated sound meter. By adopting the Model, municipalities have more “home rule” and faster response capabilities when it comes to noise enforcement. Penalties collected would also remain with the responding municipality. To date, thirty-five municipalities have adopted the Model. A generic copy of the Model can be downloaded from the Department’s web site at www.nj.gov/dep/enforcement/noise-intro.html.

A second tool a municipality can use to respond to excessive noise is a local nuisance code, which is enforced by the local police or health official. The nuisance code does not rely on sound level measurements and is based on a more subjective interpretation, referred to as “plainly audible,” which is defined as “any sound that can be detected by a person using their unaided hearing faculties”. An investigating officer might also consider “unusual” or “unnecessary” noise as a violation. The advantage of enforcing noise under a nuisance code is the flexibility that local officials have to enforce against a wide array of noise sources not addressed in the state regulations or the Model. The disadvantage is that violations are often viewed as subjective and thus are more difficult to enforce in court if prosecution is necessary. A third option, which is most often used by municipalities, is to rely on the county health department (with the current exception of Mercer County) to respond to noise complaints.

Noise complaints sometimes require an enforcement action if a violator fails to take corrective action. If sound level measurements collected by a certified noise investigator exceed the established day and/or nighttime standards, the investigator can issue a Notice of Violation (NOV) and if necessary issue a penalty to abate the violation. If the responsible party has not adequately reduced the noise to an acceptable level, then a civil penalty of up to \$3,000 per day/per offense can be assessed.

The Department, in conjunction with the New Jersey Noise Control Council and the Rutgers Noise Technical Assistance Center continually works to reduce the impact of noise by reviewing and approving noise ordinances, responding to public complaints, amending the State's noise regulations and holding public stakeholder meetings. The State's noise regulations sunsetted on May 19, 2005. The regulations were readopted without change; however the Department intends to amend the regulations shortly and hopes to address the public's concerns about idling diesel locomotives, amplified church bells that play every hour and other concerns. Another significant proposal would amend the current exemption for railroads to allow enforcement at the local level using the federal railroad noise standards for idling trains.

The daunting task of protecting the public without imposing Draconian regulations on the business community and other entities remains challenging. Despite all that the Department, the New Jersey Noise Control Council and the Rutgers Noise Technical Assistance Center have accomplished, it's important to realize that noise in some form or another is and will always be a part of our daily lives. Only by working together and being respectful of our neighbors right to peace and quiet can we lessen the impact on us all. So turn down those radios, stop honking those horns and step outside and enjoy the

silence. For more information on noise, visit the Department's web site at www.state.nj.us/dep/ or call the Office of Local Environmental Management at (609) 292-1305. A link to the Department's web site can also be found on the Environmental Commission's web site.