

## § 772.3

## 23 CFR Ch. I (4–1–11 Edition)

### § 772.3 Noise standards.

The highway traffic noise prediction requirements, noise analyses, noise abatement criteria, and requirements for informing local officials in this regulation constitute the noise standards mandated by 23 U.S.C. 109(i). All highway projects which are developed in conformance with this regulation shall be deemed to be in conformance with the Federal Highway Administration (FHWA) noise standards.

### § 772.5 Definitions.

(a) *Design year.* The future year used to estimate the probable traffic volume for which a highway is designed. A time, 10 to 20 years, from the start of construction is usually used.

(b) *Existing noise levels.* The noise, resulting from the natural and mechanical sources and human activity, considered to be usually present in a particular area.

(c)  $L_{10}$ . The sound level that is exceeded 10 percent of the time (the 90th percentile) for the period under consideration.

(d)  $L_{10}(h)$ . The hourly value of  $L_{10}$ .

(e) *Leq*—the equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period.

(f) *Leq(h)*. The hourly value of *Leq*.

(g) *Traffic noise impacts.* Impacts which occur when the predicted traffic noise levels approach or exceed the noise abatement criteria (Table 1), or when the predicted traffic noise levels substantially exceed the existing noise levels.

(h) *Type I projects.* A proposed Federal or Federal-aid highway project for the construction of a highway on new location or the physical alteration of an existing highway which significantly changes either the horizontal or vertical alignment or increases the number of through-traffic lanes.

(i) *Type II projects.* A proposed Federal or Federal-aid highway project for noise abatement on an existing highway.

### § 772.7 Applicability.

(a) *Type I projects.* This regulation applies to all Type I projects unless it is

specifically indicated that a section applies only to Type II projects.

(b) *Type II projects.* The development and implementation of Type II projects are not mandatory requirements of 23 U.S.C. 109(i) and are, therefore, not required by this regulation. When Type II projects are proposed for Federal-aid highway participation at the option of the highway agency, the provisions of §§ 772.9(c), 772.13, and 772.19 of this regulation shall apply.

### § 772.9 Analysis of traffic noise impacts and abatement measures.

(a) The highway agency shall determine and analyze expected traffic noise impacts and alternative noise abatement measures to mitigate these impacts, giving weight to the benefits and cost of abatement, and to the overall social, economic and environmental effects.

(b) The traffic noise analysis shall include the following for each alternative under detailed study:

(1) Identification of existing activities, developed lands, and undeveloped lands for which development is planned, designed and programmed, which may be affected by noise from the highway;

(2) Prediction of traffic noise levels;

(3) Determination of existing noise levels;

(4) Determination of traffic noise impacts; and

(5) Examination and evaluation of alternative noise abatement measures for reducing or eliminating the noise impacts.

(c) Highway agencies proposing to use Federal-aid highway funds for Type II projects shall perform a noise analysis of sufficient scope to provide information needed to make the determination required by § 772.13(a) of this chapter.

### § 772.11 Noise abatement.

(a) In determining and abating traffic noise impacts, primary consideration is to be given to exterior areas. Abatement will usually be necessary only where frequent human use occurs and a lowered noise level would be of benefit.

(b) In those situations where there are no exterior activities to be affected

by the traffic noise, or where the exterior activities are far from or physically shielded from the roadway in a manner that prevents an impact on exterior activities, the interior criterion shall be used as the basis of determining noise impacts.

(c) If a noise impact is identified, the abatement measures listed in § 772.13(c) of this chapter must be considered.

(d) When noise abatement measures are being considered, every reasonable effort shall be made to obtain substantial noise reductions.

(e) Before adoption of a final environmental impact statement or finding of no significant impact, the highway agency shall identify:

(1) Noise abatement measures which are reasonable and feasible and which are likely to be incorporated in the project, and

(2) Noise impacts for which no apparent solution is available.

(f) The views of the impacted residents will be a major consideration in reaching a decision on the reasonableness of abatement measures to be provided.

(g) The plans and specifications will not be approved by FHWA unless those noise abatement measures which are reasonable and feasible are incorporated into the plans and specifications to reduce or eliminate the noise impact on existing activities, developed lands, or undeveloped lands for which development is planned, designed, and programmed.

#### § 772.13 Federal participation.

(a) Federal funds may be used for noise abatement measures where:

(1) A traffic noise impact has been identified,

(2) The noise abatement measures will reduce the traffic noise impact, and

(3) The overall noise abatement benefits are determined to outweigh the overall adverse social, economic, and environmental effects and the costs of the noise abatement measures.

(b) For Type II projects, noise abatement measures will only be approved for projects that were approved before November 28, 1995, or are proposed along lands where land development or substantial construction predated the

existence of any highway. The granting of a building permit, filing of a plat plan, or a similar action must have occurred prior to right-of-way acquisition or construction approval for the original highway. Noise abatement measures will not be approved at locations where such measures were previously determined not to be reasonable and feasible for a Type I project.

(c) The noise abatement measures listed below may be incorporated in Type I and Type II projects to reduce traffic noise impacts. The costs of such measures may be included in Federal-aid participating project costs with the Federal share being the same as that for the system on which the project is located.

(1) Traffic management measures (e.g., traffic control devices and signing for prohibition of certain vehicle types, time-use restrictions for certain vehicle types, modified speed limits, and exclusive lane designations).

(2) Alteration of horizontal and vertical alignments.

(3) Acquisition of property rights (either in fee or lesser interest) for construction of noise barriers.

(4) Construction of noise barriers (including landscaping for aesthetic purposes) whether within or outside the highway right-of-way.

(5) Acquisition of real property or interests therein (predominantly unimproved property) to serve as a buffer zone to preempt development which would be adversely impacted by traffic noise. This measure may be included in Type I projects only.

(6) Noise insulation of public use or nonprofit institutional structures.

(d) There may be situations where severe traffic noise impacts exist or are expected, and the abatement measures listed above are physically infeasible or economically unreasonable. In these instances, noise abatement measures other than those listed in paragraph (c) of this section may be proposed for Types I and II projects by the highway agency and approved by the FHWA on a case-by-case basis when the conditions of paragraph (a) of this section have been met.

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