

**§ 772.13**

**23 CFR Ch. I (4-1-02 Edition)**

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 origi-

nal 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, except that Interstate construction funds may only participate in Type I projects.

(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 land 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 esthetic purposes) whether within or outside the highway right-of-way. Interstate construction funds may not participate in landscaping.

(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 (1) severe traffic noise impacts exist or are expected, and (2) the abatement measures listed above are physically infeasible or economically unreasonable. In these instances, noise abatement measures other than those listed in § 772.13(c) of this chapter may be proposed for Types I and II projects by the highway agency and approved by the Regional Federal Highway Administrator on a case-by-case basis when the conditions of § 772.13(a) of this chapter have been met.

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