

in any lot may have not more than three times the tolerance or three apples (whichever is the greater amount).

§ 51.322 Metric conversion table.

METRIC CONVERSION TABLE

Inches	Millimeters (mm)
§ 51.322 Metric conversion table. .	
1/16 equals	1.6
1/8 equals	3.2
3/16 equals	4.8
1/4 equals	6.4
5/16 equals	9.5
1/2 equals	12.7
5/8 equals	15.9
3/4 equals	19.1
7/8 equals	22.2
1 1/8 equals	28.6
2 1/8 equals	54.0
2 1/4 equals	57.2
2 3/8 equals	60.3
2 1/2 equals	63.5
2 3/4 equals	69.9
Cubic Inches	Cubic Centimeters (cc)
2100 equals	34,412.7
2900 equals	47,522.3
Pounds	Grams (g)
10 equals	4,536.0
37 equals	16,783.2
40 equals	18,144.0

Dated: March 18, 2002.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02-7221 Filed 3-25-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 772

[FHWA Docket No. FHWA-2000-8056]

RIN 2125-AE80

Procedures for Abatement of Highway Traffic Noise and Construction Noise

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Termination of proposed rulemaking.

SUMMARY: This document terminates a rulemaking proceeding to revise noise regulations relating to the noise insulation of private residences. The agency undertook this action to consider allowing Federal participation in the

noise insulation of private residences when a traffic noise impact occurs, i.e., when predicted traffic noise levels approach or exceed the FHWA noise abatement criteria or when the predicted traffic noise levels substantially exceed the existing noise levels. Currently, Federal participation in the noise insulation of private residences is allowable only in situations where severe traffic noise impacts exist or are expected, and normal abatement measures are physically infeasible or economically unreasonable. The agency has determined that the proposed change would establish a highly controversial funding policy and would add tremendous cost to the highway program. Accordingly, we are terminating the rulemaking proceeding and closing the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Armstrong, Office of Natural Environment, HEPN-20, (202) 366-2073, or Mr. Robert Black, Office of the Chief Counsel, HCC-30, (202) 366-1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA noise regulations were developed as a result of the Federal-Aid Highway Act of 1970 (Pub. L. 91-605, 84 Stat. 1713) and apply to projects where a State department of transportation has requested Federal funding for participation in the project. Under the FHWA noise requirements found at 23 CFR part 772, the State DOT must determine if there will be traffic noise impacts in areas adjacent to federally-aided highways when a project is proposed for the construction of a highway on a new location or the reconstruction of an existing highway to either significantly change the horizontal or vertical alignment or increase the number of through-traffic lanes. Such a project is termed a "Type I" project. If the State DOT identifies potential traffic noise impacts, it must consider noise abatement measures and implement the measures when they are determined to be reasonable and feasible.

Federal law and the FHWA regulations do not require the State DOTs to implement noise abatement along existing highways. However, they may voluntarily initiate this type of abatement, termed a "Type II" project, but they are solely responsible for making this decision. Federal

participation in the funding of such projects is limited to those that propose abatement measures along lands that were developed or were under substantial construction before approval of the acquisition of the right-of-way for, or construction of, the existing highway.

Noise abatement measures which may be incorporated in "Type I" and "Type II" projects include the following: (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 aesthetic purposes), whether within or outside the highway right-of-way; (5) acquisition of real property or interests therein (predominately 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); and (6) noise insulation of public use or nonprofit institutional structures.

In establishing the noise regulations, the FHWA limited routine noise insulation to public use or nonprofit institutional structures in an effort to balance what is desirable from an environmental perspective with what is reasonable fiscally, i.e., balance noise reduction benefits with overall program costs. However, 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, the FHWA may approve a State's request for unusual or extraordinary abatement measures on a case-by-case basis. When considering extraordinary abatement measures, the State must demonstrate that the affected activities experience traffic noise impacts to a far greater degree than other similar activities adjacent to highway facilities. For example, residential areas experience absolute noise levels of at least 75 decibels or residential areas experience noise level increases of at least 30 decibels over existing noise levels. The noise insulation of private residences is an example of an extraordinary abatement measure.

The Advance Notice of Proposed Rulemaking (ANPRM)

On December 28, 2000, the FHWA issued an ANPRM, at 65 FR 82301, to seek comment on allowing the use of

Federal funds for noise insulation of private residences as an interior noise abatement measure. Member(s) of Congress had suggested that the noise insulation of private residences be added to the listing of abatement measures, which may routinely be considered whenever a traffic noise impact occurs. Such consideration would not require the occurrence of a severe traffic noise impact. However, such consideration could require that all other measures be evaluated and be determined not to be reasonable and feasible before the noise insulation of private residences could be considered. As with all elements of highway traffic noise analysis and abatement, consideration for the noise insulation of private residences should be applied uniformly and consistently on a statewide basis.

The FHWA sought comments on the following questions:

1. Should the FHWA revise its noise regulation to allow Federal participation in the noise insulation of private residences whenever a traffic noise impact occurs, not only when a severe traffic noise impact occurs?

2. Should the FHWA revise its noise regulation to routinely allow Federal participation in the noise insulation of private residences, i.e., add it to the listing of abatement measures which may be included in "Type I" and "Type II" projects, or should Federal participation in the noise insulation of private residences be allowed only after all the other listed abatement measures have been determined not to be reasonable and feasible?

3. Should the FHWA revise its noise regulation to address the noise insulation of private residences in a manner, which is, different from that discussed in the first two questions? If so, how?

Comments Received in Response to the ANPRM

The agency received comments on the proposed revision from one member of Congress, two Federal agencies, one metropolitan planning organization, one insulation contractor, and 15 State departments of transportation (DOT).

The member of Congress supported making a regulatory change to allow private home insulation where "conventional exterior noise barriers are found to be impractical or excessively expensive." This would increase a State DOT's flexibility to participate in alternative noise abatement projects and would provide noise abatement in many instances where it would not be provided under existing FHWA regulations.

The Department of Housing and Urban Development recommended a "total, multi-modal noise package" be considered for noise effects and mitigation.

The U.S. Environmental Protection Agency encouraged the provision of more flexibility in the use of noise insulation for private residences, i.e., noise insulation should be available for consideration in all situations.

The metropolitan planning organization supported a regulatory revision to allow greater flexibility in using Federal funds for the noise insulation of private homes.

The insulation contractor strongly supported a revision to routinely provide noise insulation.

One State department of transportation commented that the FHWA's noise regulations should be re-crafted to allow Federal participation in any reasonable and feasible noise abatement methodology, provided specific performance criteria have been satisfied.

The other 14 State DOTs voiced opposition to the proposed regulatory change, indicating the proposed regulatory change will result in the following: (1) A substantial increase in the cost and complexity of the noise abatement program (one State DOT estimated its average annual noise mitigation cost would increase from \$1.9 million to \$30.6 million, approximately doubling the annual expenditure for all planning, analysis, design, and construction related to all environmental disciplines); (2) a dramatic increase in the amount of time and effort invested to complete noise studies/final abatement designs, with the potential for causing significant and costly project delays; (3) inequities in the noise abatement program, since the costs associated with insulating private residences would vary greatly (this could increase the potential for discrimination complaints); (4) unnecessary additional burdens for States (since building insulation cannot be accurately modeled, its cost would have to be estimated on a house-by-house basis and its application would be far too difficult to manage in a reasonable and cost effective manner); (5) no provision of benefits for the exterior areas of residences; (6) legal concerns related to maintenance of the home insulation and the consideration of future homeowner remodeling/changes; (7) a tremendous administrative burden, since extensive, comprehensive contractual agreements would be required among all involved parties, e.g., State DOTs, consultants, contractors, local government officials,

and homeowners, to minimize the possibility of litigation; and (8) unnecessary complications of a noise abatement program that has been easily understood and accepted by the public for an extended period of time. The same 14 State DOTs indicated that the current regulatory guidance is adequate and appropriate and that the noise insulation of private residences should remain a "technique of last resort."

Analysis

The agency proposal considered allowing Federal participation in the routine noise insulation of private residences whenever a traffic noise impact occurs. After review of the comments submitted in response to that proposal, it has become apparent that, while increasing the flexibility in providing noise abatement, routinely allowing Federal participation in the noise insulation of private residences would place an unacceptable additional burden on State DOTs and add an unacceptably high cost to the Federal-aid highway program that was not previously anticipated. The additional burden to States would include a tremendous increase in the resources needed to address the administrative, legal, and technical elements of providing noise abatement in private residences. The fifteen-fold increase in annual noise abatement costs estimated by one State DOT is an example of the unacceptable increase in Federal-aid highway program costs.

Conclusion

For the reasons stated above, the FHWA is terminating this rulemaking action and closing the docket.

Authority: 23 U.S.C. 109(h) and (i); 42 U.S.C. 4331, 4332; and 49 CFR 1.48(b).

Issued on: March 18, 2002.

Mary E. Peters,

Federal Highway Administrator.

[FR Doc. 02-7165 Filed 3-25-02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 21

RIN 1076-AD98

Arrangement With States, Territories, or Other Agencies for Relief of Distress and Social Welfare of Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.
