

CR 87-181

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CERTIFICATE

JUL 7 1989
8:45 am
Revisor of Statutes
Bureau

STATE OF WISCONSIN)
) s.s.
DEPARTMENT OF TRANSPORTATION)

I, RONALD R. FIEDLER, Secretary of the Wisconsin Department of Transportation and custodian of the official records certify that the annexed rule, relating to the procedures and criteria for siting noise barriers, was duly approved and adopted by this department on June 30th, 1989.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 30th day of June, 1989.

for Donald R. Fiedler, P.E.
Secretary

9-1-89

OFFICE OF THE SECRETARY

IN THE MATTER OF CREATING CH. TRANS 405,	*	
WIS. ADMIN. CODE, RELATING TO THE PROCEDURES	*	ORDER
AND CRITERIA FOR SITING NOISE BARRIERS	*	ADOPTING
	*	RULE
	*	

Analysis Prepared by the Wisconsin Department of Transportation

General summary of rule. 1987 Wisconsin Act 27, s. 3052(3g)(b), requires that the Department of Transportation promulgate a rule establishing the procedures and criteria to be used in siting noise barriers and to ensure public participation in the siting process. The rule is to be submitted by January 1, 1988. It sets forth the departmental policies and criteria which must be met for a site to be eligible for consideration for the construction of a noise barrier. The rule provides for analysis of freeways and expressways in urbanized areas for programming of eligible noise barrier projects. The rule also requires a formal local resolution supporting a proposed noise barrier and documentation of land use controls to prevent future need for barriers adjacent to freeways and expressways. This rule meets the legislatively mandated requirement to establish procedures and criteria for noise barriers.

Final regulatory flexibility analysis. This rule will have no impact on small business.

Fiscal Estimate. This rule will result in a one-time initial cost of \$124,000 and an annual cost thereafter of \$2,176 to the department.

This analysis was prepared by James S. Etmanczyk, Bureau of Environmental and Data Analysis, Wisconsin Department of Transportation.

Pursuant to the authority vested in the Wisconsin department of transportation by s. 85.16(1), Stats, the Wisconsin department of transportation hereby proposes creating a rule ch. Trans 405, Wis. Admin. Code, relating to the procedures and criteria for siting noise barriers as follows:

RULE TEXT

SECTION 1. Chapter Trans 405 is created to read:

Trans 405.01 PURPOSE. In accordance with s. 3052(3g)(b), 1987 Wisconsin Act 27, this chapter sets forth the procedures and criteria used by the department for evaluating and selecting site locations for noise barrier installation and for ensuring local participation in the siting process.

Trans 405.02 DEFINITIONS. In this chapter: (1) "Department" means the department of transportation.

(2) "Existing noise level" means the highest hourly noise level caused by existing conditions in a particular area.

(3) "Future noise level" means the highest hourly traffic noise level based on estimated traffic volumes within a 20 year period after the completion of construction of the new highway facility.

(4) "Noise barrier" means any device, which reduces the transmission of highway traffic noise from a highway to an adjacent receptor, including, but not limited to, earth berms, walls made from timber, metal, concrete, or any combination thereof.

(5) "Noise level" means the sound level obtained through use of A-weighting characteristics. The unit of measure is the decibel (dB), commonly referred to as dBA when A-weighting is used.

(6) "Receptor" means an outdoor place where frequent human use occurs and a lowered noise level would be of benefit.

(7) "Residence" means the official location of a household.

(8) "Retrofit project" means a proposed project for the construction of noise barriers along an existing highway.

Trans 405.03 APPLICABILITY. (1) The provisions of this chapter shall apply to all freeways and expressways under the jurisdiction of the department under ss. 59.965 and 84.295, Stats.

(2) This chapter is to be applied so as to avoid conflict with obligations of the department, under ss. 84.015 and 84.03, Stats., to comply with criteria and standards of federal agencies for obtaining and using federal funds.

Trans 405.04 SITING CRITERIA AND POLICIES. (1) Noise barriers shall be designed to provide protection only to the ground floor of abutting buildings and not other parts of the buildings.

(2) For the department to consider a site for construction of a noise barrier, the site shall meet the following criteria:

(a) For retrofit projects, a receptor shall be exposed to existing noise levels which equal or exceed the levels in Table 1.

(b) For new highway projects, a receptor shall have predicted future noise levels which equal or exceed the levels in Table 1 or which exceed existing noise levels by 15 decibels or more.

(c) A noise barrier protecting a receptor shall reduce noise levels by a minimum of 8 decibels.

(d) The total cost of a noise barrier may not exceed \$30,000 in 1988 dollars per abutting residence. The department may annually adjust this \$30,000 maximum figure up or down based on changes in the construction price index after 1988. Other land

use categories shall be analyzed on a site specific basis to determine cost effectiveness.

TABLE 1
NOISE LEVEL CRITERIA FOR CONSIDERING BARRIERS

<u>Land Use Category</u>	<u>Leq(h)¹ (dBA)</u>	<u>Description of Land Use Category</u>
A	57 (Exterior)	Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.
B	67 (Exterior)	Picnic areas, recreation areas, playgrounds, active sports areas, parks, residences, motels, hotels, schools, churches, libraries, and hospitals.
C	72 (Exterior)	Developed lands, properties, or activities not included in Categories A or B above.
D	--	Undeveloped lands.
E ²	52 (Interior)	Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, and auditoriums.

¹/"Leq" means 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 period. For purposes of measuring or predicting noise levels, a receptor is assumed to be at ear height, located five feet above ground surface.

"Leq(h)" means the hourly value of Leq.

²/Use of interior noise levels shall be limited to situations where exterior noise levels are not applicable.

Trans 405.05 LOCAL PARTICIPATION. The department shall ensure local participation in the siting of noise barriers through the following: (1) The department shall hold one or more informational meetings, in a location convenient to the locality to be affected by the siting, to provide an opportunity for local par-

participation in the selection and development of the noise barrier installation project. The department shall arrange for published notice of each informational meeting. The department shall also give direct written notice of each informational meeting to each person owning real property or leasing a residence in the following locations: (a) within 500 feet in any direction from the proposed noise barrier or

(b) within the areas directly behind the proposed noise barrier and directly across the highway from the proposed noise barrier where the highest hourly traffic noise level equals or exceeds 67 decibels.

(2) For a proposed noise barrier project to be considered for construction, the local government, prior to completion of final design of a proposed noise barrier, shall furnish the department with: (a) A formal resolution supporting the proposed barrier project.

(b) Documentation of its land use controls which: 1. Apply to land adjacent to freeways or expressways; and

2. Would reasonably eliminate the need for state-funded noise barriers in highway rights-of-way adjacent to future developments.

Trans 405.06 PROGRAM. The department, upon receiving a community request for a noise barrier project, shall evaluate and program eligible retrofit noise barrier projects in the highway programming process. Factors considered in this process shall include, but are not limited to, cost of the project, date of

adjacent development along the proposed site, traffic noise levels, number of benefiting receptors, community acceptance of the proposed noise barrier, and predicted noise level reduction.

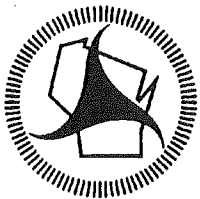
(END OF RULE TEXT)

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2)(intro.), Stats.

Signed at Madison, Wisconsin this
30th day of June, 1989.

Donald H. Jorgensen, Deputy

for RONALD R. FIEDLER, P.E.
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Ronald R. Fiedler, PE
Secretary

OFFICE OF GENERAL COUNSEL
P. O. Box 7910
Madison, WI 53707-7910

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July 5, 1989

JUL 7 1989

Revisor of Statutes
Bureau

Mr. Gary Poulson
Assistant Revisor of Statutes
30 West Mifflin Street
Suite 702
Madison, Wisconsin 53703

RE: Clearinghouse Rule 87-181
In the Matter of Rulemaking Creating Trans 405, Wisconsin
Administrative Code, Relating to the Procedures and Criteria
for Siting Noise Barriers

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of CR 87-181, an administrative rule relating to highway noise barriers. Additionally, a second uncertified copy is also enclosed for use as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

A handwritten signature in cursive script that reads "Philip Peterson".

Philip Peterson
Deputy General Counsel

PP:dmy
Enclosures
cc: Tom Walker
Marvin Schaeffer
John Roslak
Tim Diebels