

Addressing Changes to Proposed Noise Barrier Designs

Federal Transit Authority's (FTA's) Transit Noise and Vibration Impact Assessment Guidance Manual (DOT-T-95-16; 1995) requires that transit agencies:

- Determine anticipated noise impacts associated with their proposed transportation projects;
- Analyze the overall social, economic, and environmental effects of providing noise mitigation; and
- Incorporate the views of impacted residents as a major consideration in reaching decisions on the reasonableness of the mitigation measures to be provided.

Noise analyses, conducted in accordance with FTA guidance, determine the need for and the most appropriate form of mitigation to reduce the effects of increased noise. Typically, the recommended mitigation strategy is to construct a noise wall or berm of a prescribed height and length. However, the guidance states that "...decisions regarding mitigation should be made only after considering input from the affected public, relevant government agencies, and community organizations."

This section discusses the consideration of specific criteria when evaluating the reasonableness and feasibility of changes in proposed noise mitigation walls or berms as a part of the FasTracks program. There are three scenarios that describe individual, neighborhood, or business requests to alter recommended noise mitigation:

1. The requested change would increase the height or length of the barrier.
2. The requested change would decrease or eliminate the height or length of the barrier, or change the recommended location.
3. The requested change would alter the aesthetic features of the barrier.

Each scenario is presented below with criteria that establish the reasonableness of the requested change. These criteria are consistent with and supported by the FTA Transit Noise and Vibration Impact Assessment Guidance Manual (FTA-VA-90-1003-06, May, 2006).

Scenario 1: Increased Barrier Length or Height

Criteria that establish the reasonableness this scenario include the following:

- At least 75% of all parties affected by the change must be in agreement with the change. It is the responsibility of the advocates for the change to provide proof of this majority agreement. "Affected parties" shall be understood to mean the owners of the properties identified in the NEPA document or technical noise report that are expected to receive a perceptible benefit.
- RTD must still determine the feasibility of any recommended change and must balance all factors, including public input, in determining reasonableness.
- Full and complete costs of the increase are to be borne by the proponents of the change.
- No increases in barrier height will be approved for wall lengths of less than 1,250 feet.
- A legally binding agreement to cover the full costs of the increases in mitigation must be in hand no less than four months prior to the anticipated date for initiating final design/construction activities.

Scenario 2: Decrease or Eliminate Height/Length of Barrier or Change its Location

Criteria that establish the reasonableness of this scenario include the following:

- Any changes to the location of a proposed barrier will be considered provided the property owner or Homeowners Association provides access, easements and right-of way, and any other actions necessary to construct and maintain the barrier.
- No gaps or holes of less than 1,250 linear feet will be approved in a continuous barrier, unless the removal of the barrier is recommended for the end of a non contiguous (i.e., unconnected) barrier. In the case of an end section of barrier, the minimum length shall be determined by the property lines of the parties desiring the change, and the property lines of all parties who would be affected by the change.
- No reductions in barrier height or changes in location will be approved for wall lengths of less than 1,250 continuous feet to accommodate individual property owners unless these deviations are at the end of a non-contiguous (i.e., unconnected) barrier. In the case of an end section of barrier, the minimum length shall be determined by the property lines of all parties affected by the proposed change.
- Any desired lowering of the recommended barrier height at the end of a recommended barrier or along an interior portion of the barrier must have the approval of at least 75% of all affected parties.
- RTD will determine the "affected" parties based on the noise analysis completed for the project. "Affected parties" shall be understood to mean the owners of the properties identified in the NEPA document or technical noise report that are expected to receive a perceptible benefit. All "affected parties" will be contacted by RTD or a public meeting will be held by RTD to explain the effect of the desired change.
- Tenants/renters who reside in, but are not the actual owners of the properties, also will be invited to the public meeting hosted by RTD. Because tenants are not the owners of the property, they can not be afforded a vote in the process, however, their input will be considered.
- The RTD must still determine the reasonability and feasibility of any recommended change and must balance all factors, including public input, in determining reasonableness.
- All property owners who agree to a proposed change in noise mitigation treatments must submit a statement in writing to RTD indicating:
 - They approve of the reduction in mitigation;
 - Their reasons for desiring a reduction or elimination of the proposed noise mitigation; and
 - They hold RTD and FTA harmless for any past, present, or future consequences that might arise related to the provision of noise mitigation for their property until and unless a future transportation project warrants a change in the originally prescribed barrier heights.
 - In addition, property owners must acknowledge that they will be responsible for informing potential buyers of their property or their agents that noise mitigation was offered and refused, or was reduced, to meet the desires of the affected parties.
- It shall be the responsibility of the proponents for the reduction in mitigation to secure all required letters of support and assemble them into a single submittal to RTD.
- All letters of support for the reduction or elimination of noise mitigation must be notarized and submitted to RTD no less than four months prior to the anticipated date for initiating final design/construction activities.

Scenario 3: Enhance the appearance of the recommended noise wall.

These aesthetic changes would be made through a change in construction materials, architectural or decorative treatments, or improved landscaping features. Criteria that establish the reasonableness of this scenario include the following:

- At least 75% of all parties affected by the change must be in agreement with the change. It is the responsibility of the advocates for the change to provide proof of this majority agreement. "Affected parties" shall be understood to mean the owners of the properties identified in the NEPA document or technical noise report that are expected to receive a perceptible benefit.
- Changes to be made must apply to the entire noise wall to be constructed, not to a single or multiple sections of the wall.
- Full and complete costs of the increase are to be borne by the proponents of the change.
- A legally binding agreement to cover the full costs of the increases in mitigation must be in hand no less than four months prior to the anticipated date for initiating final design/construction activities.