

Nebraska Noise Related Statutes and Policies

14-102. Additional powers.

In addition to the powers granted in section 14-101, cities of the metropolitan class shall have power by ordinance:

.....
Disorderly conduct.

(22) To provide for the punishment of persons disturbing the peace and good order of the city by clamor and **noise**, intoxication, drunkenness, fighting, or using obscene or profane language in the streets or other public places or otherwise violating the public peace by indecent or disorderly conduct or by lewd and lascivious behavior;

15-255. Public safety; measures to protect.

A city of the primary class may prohibit riots, routs, **noise**, or disorderly assemblies; prevent use of firearms, rockets, powder, fireworks, or other dangerous and combustible material; prohibit carrying of concealed weapons, except the carrying of a concealed handgun in compliance with the Concealed Handgun Permit Act; arrest, punish, fine, or set at work on streets or elsewhere vagrants and persons found without visible means of support or legitimate business; regulate and prevent the transportation of gunpowder or combustible articles, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, dynamite, petroleum or its products, or other explosives or inflammables; regulate use of lights in stables, shops, or other places and building of bonfires; and regulate and prohibit the piling of building material or any excavation or obstruction of the streets.

16-228. Disturbing the peace; punishment.

A city of the first class by ordinance may provide for the punishment of persons disturbing the peace and good order of the city by clamor and **noise**, by intoxication, drunkenness, fighting, or using obscene or profane language in the streets or other public places, or otherwise violating the public peace by indecent and disorderly conduct, or by lewd or lascivious behavior.

25-2121. Conduct constituting contempt; powers of court of record to punish.

Every court of record shall have power to punish by fine and imprisonment, or by either, as for criminal contempt, persons guilty of (1) disorderly, contemptuous, or insolent behavior towards the court, or any of its officers in its presence; (2) any breach of the peace, **noise**, or other disturbance tending to interrupt its proceedings; (3) willful disobedience of or resistance willfully offered to any lawful process or order of said court; (4) any willful attempt to obstruct the proceedings, or hinder the due administration of justice in any suit, proceedings, or process pending before the courts; or (5) contumacious and unlawful refusal to be sworn or affirmed as a witness, and when sworn or affirmed, refusal to answer any legal and proper interrogatory.

37-1253. Motorboat; noise level; restriction; muffling equipment; requirements.

(1) No person shall operate or give permission for the operation of a motorboat on the waters of this state in such a manner as to exceed a **noise** level of ninety-six decibels when measured at one hundred feet or more on plane using the A-weighting network of a sound level meter

complying with the standards set forth in S1.4-1983 (R 2001) of the American National Standards Institute, as those standards existed on August 31, 2003.

(2) The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the **noise** of the exhaust in a reasonable manner.

The use of cutouts is prohibited except for motorboats competing in a regatta or boat race approved as provided in sections 37-1262 and 37-1263, and for such motorboats while on trial runs, during a period not to exceed forty-eight hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight hours immediately following such regatta or race.

37-1305. Existing shooting range; effect of noise provisions.

Any shooting range that is existing and lawful may continue to operate as a shooting range notwithstanding, and without regard to, any law, rule, regulation, ordinance, or resolution related to **noise** enacted thereafter by any city, county, village, or other political subdivision of the state, except as provided in section 37-1308, if operated in compliance with the shooting range performance standards.

37-1308. Hours of operation.

A city, county, village, or other political subdivision of the state may limit the hours between 10:00 p.m. and 7:00 a.m. that an outdoor shooting range may operate.

37-1309. Presumption with respect to noise.

A person who is shooting in compliance with the shooting range performance standards at a shooting range between the hours of **7:00 a.m. and 10:00 p.m.** is presumed not to be engaging in unlawful conduct merely because of the **noise** caused by the shooting.

60-6,286. Muffler or noise-suppressing system; prevention of fumes and smoke; requirements.

Every vehicle shall be equipped, maintained, and operated so as to prevent excessive or unusual **noise**. No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a **muffler** or other effective noise-suppressing system in good working order and in constant operation. It shall be unlawful to use a muffler cutout, bypass, or similar device on any motor vehicle upon a highway.

60-6,339. Snowmobile; operation; muffler, when required.

Except as provided in this section, every snowmobile shall be equipped at all times with a muffler in good working order which blends the exhaust **noise** into the overall snowmobile **noise** and is in constant operation to prevent excessive or unusual **noise**. The exhaust system shall not emit or produce a sharp popping or crackling sound.

This section shall not apply to organized races or similar competitive events held on (1) private lands, with the permission of the owner, lessee, or custodian of the land, or (2) public lands, with the consent of the public agency owning the land.

60-6,353. Operation; rules and regulations; violations; penalty.

Any department, board, or commission of the State of Nebraska with jurisdiction over state parks and state recreation areas as defined in section 37-338 and state wayside areas as described in section 81-711, in which motor vehicles of any type are permitted, may adopt and promulgate rules and regulations permitting and controlling the operation of minibikes and designating the place, time, and manner of such operation in the public recreation area under its control. In designating the manner of such operation within a specific location and during a specific time, the department, board, or commission may establish speed limits and restrictions on the age of the operator, **noise** emission levels, and number of minibikes permitted to be operated within a specific area at the same time. The other provisions of the Nebraska Rules of the Road not inconsistent with sections 60-678 and 60-6,347 to 60-6,353 shall apply to the public area.

Such department, board, or commission may further authorize the supervising official of any area under its ownership or control to prohibit operation of any minibike in emergency situations by personal or posted notice.

Any person operating a minibike in a place, at a time, or in a manner not permitted by the department, board, or commission having control over the area shall be guilty of a Class III misdemeanor.

Any political subdivision of the State of Nebraska with jurisdiction over highways may adopt and promulgate rules, regulations, ordinances, or resolutions in conformity with such sections.

60-6,368. Director of Environmental Quality; powers; rules and regulations; control of noise or emissions.

(1) The Director of Environmental Quality shall have the power, after public hearings on due notice, to adopt and promulgate, consistent with and in furtherance of the provisions of sections 60-6,363 to 60-6,374, rules and regulations in accordance with which he or she will carry out his or her responsibilities and obligations under such sections.

(2) Any rules or regulations promulgated by the director shall be consistent with the provisions of the federal standards, if any, relating to control of emissions from the diesel-powered motor vehicles affected by such rules and regulations. The director shall not require, as a condition for the sale of any diesel-powered motor vehicle covered by sections 60-6,363 to 60-6,374, the inspection, certification, or other approval of any feature or equipment designed for the control of noise or emissions from such diesel-powered motor vehicles if such feature or equipment has been certified, approved, or otherwise authorized pursuant to laws or regulations of any federal governmental body as sufficient to make lawful the sale of any diesel-powered motor vehicle covered by such sections.

60-6,369. Noise; restrictions.

No person shall sell, or offer for sale, a new motor vehicle with a gross vehicle weight of ten thousand pounds or more that produces a maximum **noise** exceeding a **noise** limit of 80dB(A) at a distance of fifty feet from the centerline of travel under test procedures established by section 60-6,372.

60-6,370. Operation; noise; limitation.

No person shall operate within the speed limits specified in this section either a motor vehicle with a gross vehicle weight of ten thousand pounds or more or any combination of vehicles of a type subject to registration, towed by such motor vehicle, at any time or under any condition of

grade, load, acceleration, or deceleration in such manner as to exceed the following **noise** limit based on a distance of not less than fifty feet from the centerline of travel under test procedures established by section 60-6,372: When the posted speed limit is thirty-five miles per hour or less, the noise limit shall not exceed 86dB(A), and when the posted speed limit is more than thirty-five miles per hour, the **noise** limit shall not exceed 90dB(A). This section shall apply to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of sections 60-6,363 to 60-6,374 relating to motor vehicle mufflers for **noise** control.

60-6,371. Exhaust or intake muffler; change; increase of noise; prohibited.

No person shall modify or change the exhaust **muffler**, the intake muffler, or any other **noise**-abatement device of a motor vehicle in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured. Procedures used to establish compliance with this section shall be those used to establish compliance of a new motor vehicle with the requirements of sections 60-6,363 to 60-6,374.

60-6,372. Noise measurement tests; manner conducted; conditions; enumerated.

(1) **Noise** measurements shall be made at a test site which is adjacent to and includes a portion of a roadway. A microphone target point shall be established on the centerline of the roadway, and a microphone location point shall be established on the ground surface at a distance of fifty feet from the microphone target point and on a line that is perpendicular to the centerline of the roadway and that passes through the microphone target point. The microphone shall be placed such that it is at a height of not less than two feet and not more than six feet above the plane of the roadway surface. The test area shall include an open site within a fifty-foot radius of both the microphone target point and the microphone location point. The test site shall be essentially free of large sound-reflecting objects.

(2) **Noise** measurement conditions shall be as follows:

(a) Noise measurements may only be made if the measured average wind velocity is twelve miles per hour or less. Gust wind measurements of up to twenty miles per hour shall be allowed;

(b) Measurements shall be prohibited under any condition of precipitation, but measurements may be made with snow on the ground. The ground surface within the measurement area shall be free of standing water; and

(c) Road conditions shall be such that they would not cause a motor vehicle to emit irregular tire, body, or chassis-impact noise.

(3) In accordance with this section, a measurement shall be made of the sound level generated by a motor vehicle operating through the measurement area on the traveled portion of the highway within the test site, regardless of the highway grade, load, acceleration, or deceleration. The sound level generated by the motor vehicle shall be the highest reading observed on the sound level measurement system as the vehicle passes through the measurement area.

71-2302. Legislative findings.

The Legislature finds that:

(1) Increasing prostitution in Nebraska has become harmful to communities and neighborhoods, often contributing to both incidents of crime and fear of crime. Prostitution depletes local law enforcement resources and leads to a reduction in the quality of life for the residents and businesses that are within close geographic proximity to concentrated areas of prostitution. Prostitution-related activities create **noise**, litter, and harassment of residents and businesses and promote declining property values. Residents and businesses in areas within close geographic proximity to prostitution-related activity often feel threatened when solicitors proposition on their streets or when prostitution-related activities are performed in parked cars, empty parking lots, or alleyways;

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76-804. Condominium property regime; effect of establishment.

Once the property is submitted to the condominium property regime, an apartment in any building may be individually conveyed and encumbered and may be the subject of ownership, possession, or sale and of all types of juridic acts inter vivos or mortis causa, as if it were solely and entirely independent of the other apartments in the regime of which it forms a part, and the corresponding individual titles and interests shall be recordable as provided in section [76-211](#), except that the use and enjoyment of each apartment shall be subject to the following rules:

(1) Each apartment shall be devoted solely to the use assigned to it in the deed to which section [76-803](#) refers;

(2) No tenant of an apartment may make any **noise** or cause any annoyance or do any act that may disturb the peace of the other co-owners or tenants;

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81-1506. Unlawful acts.

(1) It shall be unlawful for any person:

(a) To cause pollution of any air, waters, or land of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters, or land of the state; or

(b) To discharge or emit any wastes into any air, waters, or land of the state which reduce the quality of such air, waters, or land below the air, water, or land quality standards established therefor by the council. Any such action is hereby declared to be a public nuisance. An animal feeding operation is not a nuisance if:

(i) Reasonable techniques are employed to keep dust, **noise**, insects, and odor at a minimum;

(ii) It is in compliance with applicable regulations adopted by the council and zoning regulations of the local governing body having jurisdiction; and

(iii) The action is brought by or on behalf of a person whose date of lawful possession of the land claimed to be affected by an animal feeding operation is subsequent to the issuance of an appropriate permit by the department for such operation or is subsequent to the operation of the feedlot and an onsite inspection by the department is made, before or after filing of the suit, and the inspection reveals that no permit is required for such operation.

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**NEBRASKA DEPARTMENT OF ROADS
NOISE ANALYSIS AND ABATEMENT POLICY
FOR FEDERAL-AID TYPE I PROJECTS**

The Department of Road's Noise Policy is meant to be consistent with FHWA's Procedures for Abatement of Highway Traffic Noise and Construction Noise (23 CFR Part 772). This policy is established by the authority of the Director-State Engineer, Deputy Director of Engineering, and the Division Engineer of the Project Development Division. By memo of June 12, 1995, all state highway agencies must adopt written statewide noise policies that have been approved by FHWA.

Where the FHWA Noise Standards allow a state flexibility in establishing its own policies and practices while maintaining consistency with the standards, the following shall be the policies of the Department in application of these standards:

1. It is the policy of the Department to reduce excessive noise from highway traffic where feasible and economically reasonable on Type I projects. (Type I project is defined as 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 lanes).
2. Locations for traffic noise analyses can be selected based on their representativeness of the entire residential area to be studied.
3. Traffic noise analysis will be done for developed lands and for undeveloped lands if development is planned, designed and programmed. This analysis will be in the noise study report to be included in the environmental document. For the purpose of deciding which areas should receive a noise analysis, development will be deemed to be planned, designed and programmed on the date noise-sensitive land use, such as a residence, school, church, hospital, library, etc., received a plat approval from the local agency.
4. For purposes of establishing the date on which the public is officially notified of the adoption of the location of a proposed Federal-Aid highway project, the date of FHWA approval of the final environmental document will so establish that date. After this date, the Department is still responsible for analyzing changes in traffic noise impacts, when appropriate, but the Department is no longer responsible for providing noise abatement for new development which occurs adjacent to the proposed highway project.
5. A summary of the environmental document will be read at the public hearing. Included in the summary will be the noise impacts created by the proposed project. Views of the impacted residents will be gathered and become part of the hearing transcript. These views will be a major factor in choosing sites to be considered for noise abatement. Notification of the public hearing should be accomplished by informational signs placed in the neighborhood, flyers, and a notice published in the local newspaper.
6. Existing noise levels are determined by field measurement or estimated by applying a traffic noise prediction model when the noise is predominantly due to highway traffic.
7. Future traffic noise levels are determined using traffic parameters expected 20 years after project completion (design year) as inputs in applying the current FHWA traffic noise prediction model or an approved alternative predictive methodology.

8. The Department will include recommendations for buffer zones to minimize future noise impacts in its environmental documents to city and county planning agencies. Final Noise Summary Reports (see page 8) will be provided to all city and county agencies responsible for planning and issuing building permits. The report is to influence their planning and zoning decisions by making clear their responsibility to plan a noise-compatible development for the area.
9. When there is a need for controlling construction noise in a sensitive location, the Construction Division will develop a plan for inclusion in the contract specifications.
10. See page 9 for noise analysis and abatement flow chart.

The Department of Roads will employ the following policy to determine the need, feasibility, and reasonableness of noise abatement at the affected sites within all Federal-Aid Type I projects and Federal-Aid projects that create new traffic noise impacts. The term “decibels,” as used in this policy, refers to A-weighted sound levels.

1. Noise impacts will be documented when any of the following conditions exist for any of the activity categories listed in the noise abatement criteria (NAC) table contained in 23 CFR Part 772.
 - A. When the predicted design-year noise levels approach or exceed the noise abatement criteria (NAC). The Department has established that a noise level of one decibel less than the NAC in the FHWA Noise Standards constitutes “approaching” the NAC.
 - B. It has additionally been established that predicted noise levels of 15 dBA or more above existing levels “substantially exceed” existing levels for purposes of interpreting the FHWA noise 2 3 standards. Absolute noise levels are an additional consideration in assessing the degree of impact associated with this increase in noise level.
2. Noise abatement will not be considered for developed areas where no highway project is proposed.
3. Noise abatement must be considered for all identified traffic noise impacts, even in commercial and industrial areas, however unless special conditions exist, it generally will not be considered reasonable to provide abatement for impacted commercial or industrial areas.
4. The Department of Roads will identify site candidates for noise abatement and include them in the CE, EA, or EIS. However, the final determination of whether or not a site receives noise abatement will occur when the final plans for the project are completed.

NOISE ABATEMENT CRITERIA

5. When noise abatement is considered on a project, several criteria should be examined to determine the feasibility and reasonableness of constructing noise abatement devices on a site-by-site basis.
 - A. Feasibility deals with engineering considerations. A noise abatement device is not feasible unless the insertion loss (reduction in highway noise at a point 10 feet from a residence) is at least a 5-decibel average. The following items will be considered in order to determine the 5-decibel average reduction.

- (1) Can a minimum 5-decibel average noise reduction be achieved for the topography at the affected site location, given certain drainage and maintenance requirements?
- (2) Can the exposed height of a noise wall (except for short lengths) be built 16 feet or less?
- (3) Can the noise barrier be located beyond the clear recovery zone or be incorporated into existing highway barriers?
- (4) Does the site location lack other significant noise sources?

B. Reasonableness is a more subjective criterion and should reflect that common sense and good judgment were used in arriving at a decision. A preliminary determination of reasonableness will include the following items and each item will be given a rating from 1 to 4 as noted:

- (1) The noise abatement must be cost effective. Cost effectiveness is defined as dollars per benefitted residence. (Benefitted residence is defined as receiving at least a 3 dBA reduction.)

<\$18,000/residence = 4;

\$18,000 - \$23,000/residence = 3;

\$23,000 - \$28,000/residence = 2;

\$28,000 - \$30,000/residence = 1

- (2) The change in computed noise levels between the design year and existing will equal or exceed 3 decibels (a barely perceptible change).

>3 decibels = 4;

3 decibels = 3;

2 decibels = 2;

<2 decibels = 1

- (3) The percentage of existing residences or platted development which preceded the FHWA approval of the environmental document for the INITIAL highway project.

>80% = 4;

50 - 80% = 3;

30 - 50% = 2;

<30% = 1

- (4) It is considered ineffective to provide noise abatement on a highway with partial or no control of access.

Full control of access = 4;

½ mile access control = 2;

1/4 mile access control = 1;

<1/4 mile access control = 0

6. Explanation of Noise Abatement Checklist

- A. If any of the feasibility Items 1-4 in Section 5A(on the Noise Abatement Checklist) are checked "NO", the site will be considered not feasible. If the site is considered not feasible, then a reasonable analysis will not be done.

- B. Quantification of each of the reasonableness criteria explained on Page 4 should produce a more objective, supportable, and easily explained decision. If reasonability Item 1 on Page 4 is above \$30,000, the site will be considered not reasonable. If the total score is below ten, the site will be considered not reasonable.
- C. When it is determined that it would be feasible to provide noise abatement for a site, and a preliminary determination has been made that abatement would be reasonable, a public informational meeting will be held as part of the process for a final determination of whether abatement would be reasonable. The benefitted residents will be given an opportunity to vote. "Benefitted Residents" are those whose backyard or sideyard activity areas are directly behind and adjacent to the noise abatement device and, thus, will receive a perceivable noise reduction from the device.
- D. Noise abatement will be provided only if the benefitted residents support the proposal. "Support" means at least 75 percent of the benefitted property owners voting in favor of the proposed noise abatement. If the benefitted property owners vote to reject construction of a noise abatement device, their area will not be reconsidered for future noise abatement.
- E. Where noise barriers are not feasible, the use of landscaping will be considered to provide visual screening of privacy but no physical noise reduction.

NOISE ABATEMENT CHECKLIST

Project No.: _____
 Location: _____
 Control No.: _____
 Date: _____

FEASIBILITY

YES NO

1. Can a 5-decibel noise reduction be achieved? _____
2. Can the exposed height of a noise wall be built _____
16 feet or less?
3. Can a barrier be located beyond the clear _____
recovery zone?
4. Does the site lack other significant noise sources? _____

PRELIMINARY REASONABLENESS

4 = High Reasonableness

1= Low Reasonableness

1. Cost per residence?
2. Future design level 3 decibels greater than existing?
3. Housing development preceded initial highway construction?
4. Control of access?

| SCORE | | | | | |
|-------|---|---|---|---|-------------|
| 4 | 3 | 2 | 1 | 0 | Total Score |
| | | | | | |
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DECISION

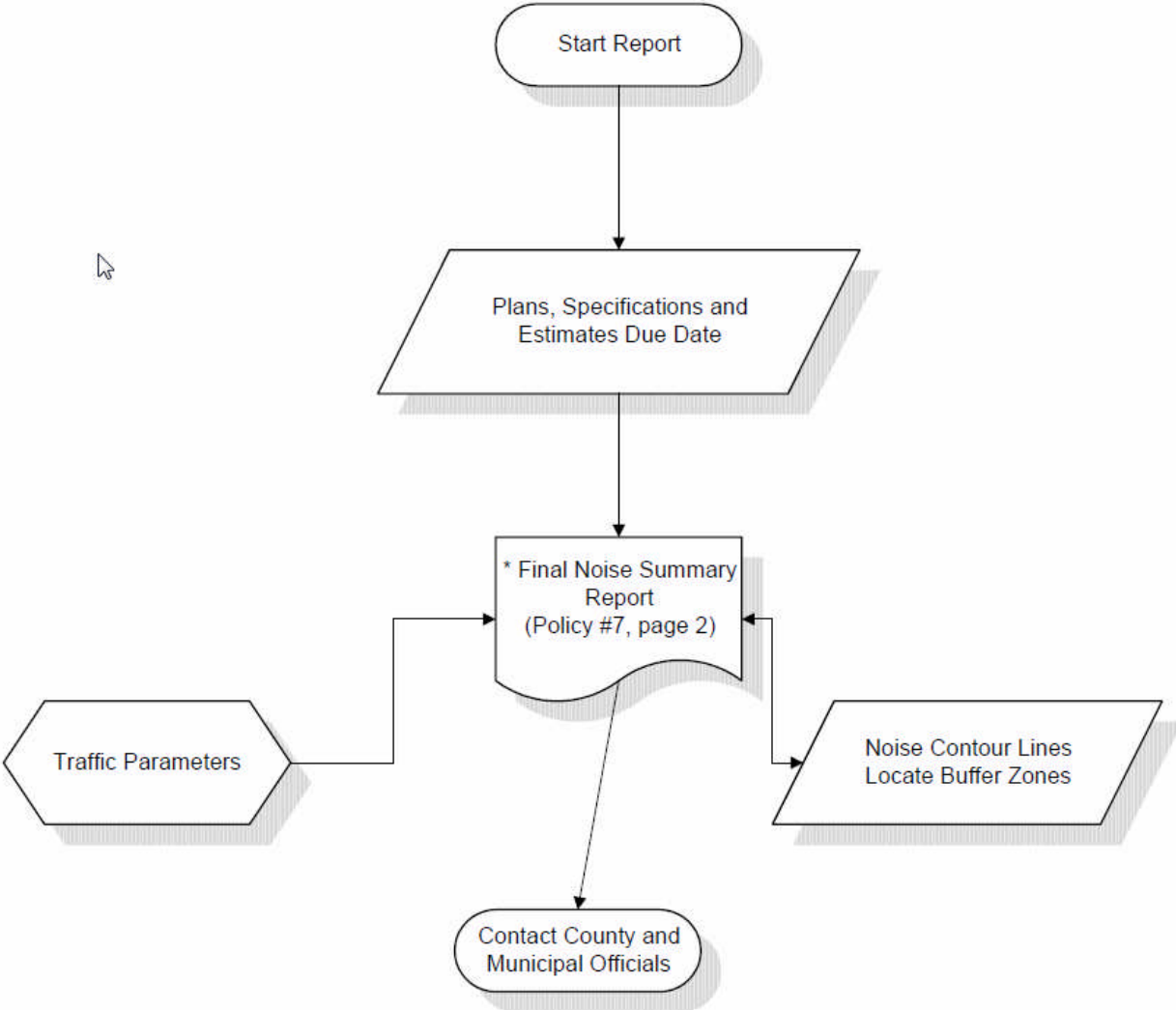
YES NO

Are barriers feasible? _____

Are barriers reasonable? _____

REASONS FOR DECISION:

FINAL NOISE SUMMARY REPORT PROCESS



NOISE ANALYSIS AND ABATEMENT PROCESS

