



A quite complete analysis of the background for the Noise Element can be found in the 2008 Draft Baseline Report prepared by Mintier and Associates (Mintier Harnish).

Background noise measurements were conducted for the Calaveras Council of Governments by J. C. Brennan and Associates in 2013.

### **A) Regulatory Setting**

The State of California Office of Planning and Research provides a table of Land Use Compatibility for Community Noise Environment. This can be found on page 11-11 of the 2008 Draft Baseline Report and on page 6 of the 2013 report by J.C. Brennan and Associates. In this table the Normally Acceptable range of noise for a residential area is between 50 and 60 Ldn. The same range is true for transient lodging, churches, hospitals, schools, libraries, nursing homes. Other more commercial or recreational uses begin also at 50 Ldn but have an acceptable range to higher levels (65-70).

Federal noise abatement criteria range from 52 to 72, with 52 dBA being the recommended level for interior levels of residences, schools, etc.

The Environmental Protection Agency sets 55 Ldn as the basic goal for residential environments, but admits that can be difficult to attain and allows up to 65 Ldn.

The Department of Housing and Urban Development states 65 Ldn is a level where all projects could be approved without mitigation.

It should be noted that these recommended numbers do not differentiate between urban and rural areas. In Caltrans Technical Noise Supplement, Traffic Noise Analysis Protocol 50 dBA is listed as “quiet urban daytime.” This would suggest that perhaps this would be the goal to aim for in a rural county.

## **II. Impact Analysis and Levels of Significance**

“[T]he significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.” (CEQA Guidelines, sec. 15064, subd. (b).) Given the above data, it would suggest that in analyzing the impacts of noise levels in various settings in Calaveras County, and proposed in the current General Plan, levels at the lower end of state and federal regulations would be ideal. In Planning Commission discussion on noise policies, there was some discussion on whether State of California guidelines were adequate to our county situation. We believe that they went with State guidelines even as it was suggested that it might make more sense for them to be lower for a rural area. Please evaluate noise levels in the context of a rural area.

In the actual numbers in the J.C. Brennan report, while Ldn numbers of our major highways are often in the 60-70 range, the majority of our smaller roads do not really even get to 60. This suggests that evaluations of changes to noise levels for new projects need to be based on location, not a one-size-fits-all.

### III. Mitigation and Alternatives

In analyzing the Noise Element for possible mitigation, please consider the following:

1. The noise contour map on page N5 is still only a sample. Has it been replaced with the county map? It would be important to have the actual map.
2. Implementation measures 1A-1D are lacking in the specificity needed to analyze their impacts and effectiveness. When will the Noise Ordinance be updated and by whom? Who will determine noise reduction strategies and how will those be made available to developers? And how can we evaluate the effectiveness of noise reduction strategies if we are not told what they are? Who will evaluate truck route plans and by when? Who will generate the noise-management standards and best practices and by when? Will a developer have to go to the county planning office to know what these are?

“Numerous cases illustrate that reliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decision making; and consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment. (See, e.g., *Gentry v. Murrieta* (1995) [36 Cal.App.4th 1359](#), 1396 (*Gentry*) [conditioning a permit on ‘recommendations of a report that had yet to be performed’ constituted improper deferral of mitigation]; *Defend the Bay v. City of Irvine* (2004) [119 Cal.App.4th 1261](#), 1275 [deferral is impermissible when the agency ‘simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be made in the report’]; *Endangered Habitats League, Inc. v. County of Orange* (2005) [131 Cal.App.4th 777](#), 794 [‘mitigation measure [that] does no more than require a report be prepared and followed, . . . without setting any standards’ found improper deferral]; *Sundstrom*, *supra*, 202 Cal.App.3d at p. 306 [future study of hydrology and sewer disposal problems held impermissible]; *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) [29 Cal.App.4th 1597](#), 1605, fn. 4 [city is prohibited from relying on ‘postapproval mitigation measures adopted during the subsequent design review process’].)” (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70) To qualify as mitigation, general plan provisions must identify the means to achieve specific performance criteria prior to the occurrence of the plan’s impacts. (*Sacramento Old City Association v. City Council of Sacramento* (3d Dist. 1991) 229 Cal.App.3d 1011, 1028-1029.)

As alternatives, consider evaluating impacts:

1. Based on outdoor numbers in Table 1 that are 5 units lower (55 instead of 60).
2. Based on specific implementation measures that state who is responsible and by when these actions will be completed.

Studies referenced:

2008 General Plan Public Review Draft Baseline Report

2013 Calaveras County Council of Governments Background Noise Measurements