

# DEVELOPMENT OF A PROGRAM TO CONTROL MOTOR VEHICLE NOISE IN MARYLAND

Frederick Gottemoeller  
Maryland Department of Transportation

The Maryland legislature meets in annual 90-day sessions, beginning early in January. Almost all legislative business is conducted during those periods. The development of new legislative programs is therefore tied to this annual cycle.

The starting point for our efforts in noise control was a series of bills to regulate aviation noise. They were introduced in the late 1960s and early 1970s by Senator Alfred Lipin whose district in Anne Arundel County includes the Baltimore-Washington International Airport. Environmental noise is a matter of some concern to his constituency. The bills were not adequate to deal with the complex field of aviation noise and, in general, were unenforceable. The Maryland Department of Transportation felt that controlling aviation noise was a worthwhile goal and suggested to Senator Lipin that he withdraw his bill in the 1972 session and substitute a resolution directing the department to make a study and submit suitable legislative proposals to the 1973 session. He agreed to do so, and the resolution passed.

The Maryland Department of Transportation was formed in the 1971 legislative session and began operation in July 1971. The agency brought together the State Roads Commission, the Baltimore Metropolitan Transit Authority, the Maryland Port Authority, the State Aviation Administration, which at the time was primarily a regulatory and licensing body but which was shortly to become owner of the Baltimore-Washington International Airport, and the Department of Motor Vehicles,

which is responsible for licensing, registration, safety inspections, and other matters relating to motor vehicles. The goals of the new department included making efficient and effective use of all of the modes of transportation and reducing the environmental impact of transportation. Therefore, the department felt that noise of other transportation modes should be considered in the study. The Maryland Highway Administration had been active since the late 1960s in developing highway noise barriers, including several in advance of federal requirements, but the ratio of reduction gained to barrier cost was discouraging. Source control appeared to be a more effective means, so the study was expanded to include all transportation noise.

The decision was reinforced by the opening during the same period of I-95 from the Baltimore Beltway to the Washington Beltway. This event suddenly exposed a whole new group of people to the noise of a major highway. The natural result was a series of letters and complaints to legislators and to the department.

We advised those who wrote, particularly legislators, of our progress as we went along. One of the legislators went as the governor's representative to a motor vehicle noise course sponsored by the U.S. Department of Transportation in California in 1973. His interest carried over to the 1974 session of the General Assembly, where he was a strong supporter of our legislative proposals.

Senator Lipin's resolution became effective in July 1972. In September we organized an interagency advisory committee, composed of representatives of all agencies that had an interest in noise control: the Motor Vehicle, Highway, Transit, and Aviation administrations in the Department of Transportation, the State Police in the Department of Public Safety and Correction, the Department of Health and Mental Hygiene, the Department of Natural Resources, the Department of State Planning, and the Assistant Attorney General assigned to the Department of Transportation.

The next step was to design the study and to engage an acoustical consultant to perform the study. The study design, which was developed with the help of the interagency advisory committee, included these major reports:

1. A background report to bring all decision-makers to a common level of understanding of the transportation noise problem and to include the status of existing noise control legislation, both in Maryland and elsewhere, surveys of the transportation noise problem in Maryland, and documentation of the state of the art of transportation noise control;
2. A working report to present the major alternatives for noise control legislation and the advantages and disadvantages of each; and
3. A final report to be a plain-language version of the legislation for use in explaining the proposal to legislators and potential supporters.

Contracting difficulties delayed the start of the study until January 1973, and the schedule to produce a legislative proposal was revised to the 1974 session. The background report was published in May 1973. It established that transportation noise, and, in particular motor vehicle noise, determines the ambient noise level in most parts of Maryland. The report also showed a generally favorable view of noise control by public officials at both the local and state levels, but little existing legislation or technical resources that could be drawn on. The state's exhaust system law was not seriously enforced because of its vagueness. Furthermore, mufflers were not required on trucks, and many trucks were sold in Maryland without mufflers. In fact, Maryland has the honor of having the loudest single truck ever measured by the study consultant: 104 dBA at 50 ft (15 m) on I-95 north of Baltimore.

While we were working on the background report, another noise control effort was launched, which had the effect of making our carefully drawn study design suddenly obsolete. Environmental groups were successful in 1972 and 1973 in raising noise control as an issue in Montgomery County, a suburb of Washington, D.C., and in Baltimore City. Local ordinances were proposed and passed in Baltimore City. Supporters of these measures quickly realized that action at the local level would be insufficient to deal with transportation noise, particularly from motor vehicles. So a number of noise control bills were introduced in the 1973 General Assembly by

legislators from Baltimore City and Montgomery County. Interest quickly focused on a bill by Senator Newton Steers of Montgomery County.

The Steers bill basically amended the existing air pollution law to include noise. The bill was a step forward in the sense that it established noise control as a function of state government and established an administrative mechanism for developing regulations. However, it suffered from some serious defects that limited its effect in controlling transportation noise. The methods of measurement and enforcement were unchanged from those provided for air pollution; that is, a \$10,000 civil penalty was the only tool available for enforcement. The responsibility of noise control was left to the Department of Health and Mental Hygiene, which has neither the resources nor the technical background for the task in the transportation field. Finally, the legislature added a provision that all regulations had to be approved by the legislature before taking effect.

On balance, we felt that the state could be better off to wait for the more carefully studied noise control program that we intended to present in 1974. Therefore, we recommended to the legislature that they defer the Steers bill. This put us in the unfortunate position of appearing to criticize a concept that we in fact favored. It also reinforced the suspicions of those who thought that the real goal of our noise control study was to weaken or delay environmental noise control in Maryland.

There are always those who think that setting a transportation agency to monitor transportation noise is like setting a fox to guard the chickens. Unfortunately, the evidence of experience is on their side. Those of us in transportation wanted to believe that our good will and sincerity would counter those views; at least, that is what I used to think. I now think that those views are inevitable and that the only way to deal with them is to set up some other agency, preferably an environmental agency, to be the watchdog. Only in this way can the credibility and the effectiveness of the program be maintained.

In any case, the passage of the Steers bill sealed the decision for us in Maryland. Once given the responsibility for noise control, the Department of Health and Mental Hygiene was understandably reluctant to give it up. Thus, we had hardly issued our background report when the whole legal and administrative framework we were working in changed. Fortunately, our contract and our consultant were flexible enough to adapt to the changed circumstances, so we plunged ahead.

The working report was recast to present 3 alternative reactions to the new bill:

1. Leave the responsibility of noise control with the Department of Health and Mental Hygiene;
2. Attempt to administratively reinterpret existing transportation department laws in the light of the Steers bill to develop an enforceable noise control program (for example, regulations adopted by the Department of Health and Mental Hygiene might be established that would provide quantitative definitions of "excessive noise" under the existing exhaust system law); and
3. Rewrite the Steers bill to include a strong transportation noise control element that involved several state agencies in addition to the health and mental hygiene department.

These possibilities were presented to the interagency advisory committee, which unanimously chose the third alternative in September 1973. This recommendation was presented to the Secretary of Transportation, who concurred.

Clearly the Steers bill would have to be much broader than the transportation noise control bill envisioned in the original contract. The Department of Natural Resources asked that sections on recreational vehicles and motor boats be included. As finally written, the bill included sections on stationary sources, control, recreational vehicles and motorboats, state purchasing and contracting, and motor vehicles and aviation.

It was also clear that the rewrite must contain the basic substance and, as much as possible, the exact wording of the Steers bill. This established the Department of Health and Mental Hygiene as the overall coordinator of the state's noise control

program and the final authority on environmental noise standards. Two basic strategies were adopted.

1. The noise control program would be a joint effort involving several state departments in the areas in which they were most qualified; the Department of Health and Mental Hygiene would provide overall coordination. As a corollary, the bill would build on existing sections of the code and existing enforcement methods insofar as possible. In the final version, 6 chapters of the Maryland Code would require amendments. A permanent Interagency Noise Control Committee, under the chairmanship of the health and mental hygiene department, would be established to coordinate the state's activities and report to the legislature annually.

2. The proposal would be an enabling act, allowing state agencies to promulgate and enforce sound-level limits in accordance with overall policies contained in the bill and environmental noise standards to be established by the Department of Health and Mental Hygiene. Policy guidelines would include reasonable cost, availability of technology, and safety of flight.

Under this basic scheme, the promulgation of motor vehicle sound-level limits was to be assigned to the Motor Vehicle Administration of the Department of Transportation. Enforcement was to be done jointly by the Motor Vehicle Administration and the State Police. This approach paralleled an existing section of the motor vehicle code dealing with safety equipment, to which the noise provisions were merely appended. The motor vehicle section includes regulation-writing authority for motor vehicles in use, new motor vehicles, and after-market replacement equipment.

In mid-October we explained our strategy to Senator Steers. Once he was satisfied that we were sincerely attempting to strengthen his bill and that its major features would be preserved, he was willing to lend his support to the proposal.

We were not so fortunate with the Department of Health and Mental Hygiene. Defining exactly how its role would change from that envisioned in the Steers bill proved to be the most difficult aspect of the drafting job. A 3-month period of interagency negotiation was required. The final issue was who would have the final approval of transportation sound-level limits. We proposed a consulting relation with the Department of Health and Mental Hygiene. Representatives of that proposed that transportation sound-level limits be submitted to them for approval and promulgation. Finally, a secretarial-level meeting was arranged between the 2 departments that resulted in an agreement that transportation sound-level limits would be promulgated by the Secretary of Transportation with the "endorsement" of the Secretary of Health and Mental Hygiene.

We presented the proposal to Governor Mandel with a request that he make it part of his administration program. Only a few bills are placed in this program each year. Once included, the bills are handled by the governor's own legislative staff, and their prospects are much improved. The governor agreed to support the bill, and on this basis the bill was presented to the legislature.

In the first hearing, the Senate committee was not overly receptive. Most of the support was qualified; changes and delays were requested. The committee chairman agreed to appoint a subcommittee, whose membership included Senator Steers, to mark up the bill. During the subcommittee sessions, about a dozen changes were made in the bill. All of our background work paid off, for we were able to give immediate answers on the effects of the bill and to judge whether to accept or reject changes. In the process, we were able to convince the subcommittee members and gain the acceptance of the critics.

The most serious issue was legislative review and approval of sound-level limits. Industry groups were concerned that the state agencies would be unreasonable in setting those limits and wanted to amend the bill to include approval by the legislature of all regulations. We argued that the policy guidelines on the bill were sufficient safeguard. The compromise finally reached was to delay the enforcement date of the bill to July 1975. This would allow the industry groups to bring any unfair regulations to the attention of the 1975 legislative session. With this and other changes, the bill

passed the Senate.

On the house side, a subcommittee was also formed. However, here there was a new issue for us: the effect of the bill on agriculture. At this point it was too late to consider further changes, so our goal was to convince the subcommittee to support the bill. We could not convince the farmers. The bill cleared committee, but a major amendment to exempt agriculture was offered on the floor. It failed by a tie vote, and, by the margin of 1 vote, we have a noise control program in Maryland.

The law went into effect in July 1974. We moved immediately to get budget amendments and new positions in the various agencies to implement the law. Because of the concern expressed in the house hearings, we are careful to include the Department of Agriculture in our implementation efforts.

Our basic schedule is to prepare regulations during early 1975, and simultaneously to obtain personnel and needed equipment. Training and public information programs are to be done during late spring, and enforcement is to begin in July.

In the Department of Transportation, we were able to move money and positions from elsewhere within the department. We developed a follow-up contract with our consultant to assist in developing the regulations and enforcement programs. Vehicle in-use regulations were published on October 30, 1974, and a public hearing was held January 8. The regulations are similar to federal and California standards. New-vehicle standards were published December 11, 1974, and a hearing was held February 18.

Other agencies have not been so successful. The State Police agency was turned down on its request for 12 additional troopers for noise work, and the Department of Health and Mental Hygiene was also refused a special request for additional funds. The earliest that additional help will be available for these agencies will likely be in the budget for the 1976 fiscal year, which begins July 1, 1975. Although this is the earliest that noise enforcement can begin, we had hoped to have the required personnel recruited and trained by that time. If that becomes the earliest that new personnel is available for training, serious enforcement will probably not begin until early 1976. Here the issue of timing is raised again. When we started in 1972, the state's economic situation was much different, and budget support did not appear to be a problem. Now, budget support is a major issue.