Title VI and Environmental Justice: The Planning Process Responds

Broward MPO
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Our Objectives for Today’s Session

- Reviewing the principles of Title VI and Environmental Justice (EJ)
- Develop an enhanced approach to Transportation Plan and Program analyses
- Share national noteworthy practices
- Strengthening commitments to EJ action steps through shared discussion and outcomes
Learning Outcomes

Define Title VI of Civil Rights Act of 1964 & Environmental Justice

List fundamental principles of EJ

Explain Executive Order 12898 & U.S. DOT Order

Identify groups addressed by these orders

Recognize analysis techniques for planning purposes
Definitions, Principles & Benefits
Nondiscrimination in the Federal-aid Program

State Transportation Agencies (STAs) and their subrecipients have a legal obligation to ensure nondiscrimination in their implementation and delivery of programs and services.

Different approaches by different agencies, but fundamental objective: promote a more just and equitable society.
Nondiscrimination Authorities

Nondiscrimination in the Federal-aid program is governed by:

- Title VI of the Civil Rights Act of 1964
- The 1987 Restoration Act and
- Other nondiscrimination authorities including Executive Orders
Federal law that prohibits discrimination on the basis of **race**, **color**, & **national origin** in Federally assisted programs & activities;

The law specifically states:

“No person in the United States shall on the ground of **race**, **color**, or **national origin** be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance.” *(42 USC 2000d)*
Restored the original intent of Title VI and its broad, institution-wide scope and coverage of the nondiscrimination statutes to include all programs and activities of Federal-aid recipients and subrecipients whether such programs and activities are Federally-assisted or not.
FHWA’s Nondiscrimination Program

Not limited to prohibitions of Title VI of the Civil Rights Act of 1964 (Race, Color, National Origin)

Includes other civil rights provisions of Federal statutes and related authorities that prohibit discrimination in programs and activities receiving Federal financial assistance (23 CFR 200.5(p)) including Executive Order 12898 on Environmental Justice.
Civil Rights Act of 1964 Title VI

No person in United States shall, on ground of race, color, or national origin, be:

- excluded from participation in,
- denied benefits of, or
- subjected to discrimination

under any program or activity receiving Federal financial assistance.
Environmental Justice

“The fair treatment & meaningful involvement of all people regardless of race, color, national origin or income with respect to the development, implementation & enforcement of environmental laws, regulations & policies.”

Fair treatment: “...no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal & commercial operations or the execution of federal, state & local, & tribal programs & policies.”

Meaningful involvement ensures that:

Potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment &/or health;

Public’s contribution can influence regulatory agency’s decision

Concerns of all participants involved will be considered in decision-making process;

Decision-makers seek out & facilitate involvement of those potentially affected.
Recent Developments

On Aug. 4, 2011, 17 Federal agencies signed a memorandum of understanding that aims to address and reduce disproportionately high and adverse effects from environmental degradation that affects indigenous, low-income, and minority communities.
DOT Title VI Regulations Nondiscrimination

- Impacts
- Access
- Benefits
- Participation
- Treatment, services, contracting opportunities
- Investigation of complaints
- Allocation of funds
- Prioritization of projects
Environmental Justice Executive Order 12898

Reaffirms that each Federal agency must make environmental justice part of its mission by identifying & addressing disproportionately high & adverse human health or environmental effects of its programs, policies & activities on minority & low-income populations.
Avoid disproportionately high & adverse human & environmental effects
Prevent denial, reduction, or delay in benefits received by minority & low-income populations
Ensure full & fair participation of affected populations in transportation decision making
Treat Others as They Want to Be Treated

“The heart of the question is ... whether we are going to treat our fellow Americans as we want to be treated.“

President John F. Kennedy
1963
Environmental Justice Addresses Which Groups?

Minority - a person who is:
- Black/African-American
- Hispanic
- Asian American
- American Indian & Alaskan Native

Low-Income – a person whose:
- Median household income is at or below poverty level
Definition of Effect

Adverse effect - totality of significant individual or cumulative human health or environmental effects

Disproportionately high & adverse - an effect that:

1) is predominately borne by a minority &/or low-income population; or

2) will be suffered by minority &/or low-income population appreciably more severe or greater in magnitude than adverse effect that will be suffered by non minority &/or non low-income population.
“Interrelated social & economic effects, which may include, but are not limited to:
Bodily impairment;
Infirmity;
Illness or death;
Air, noise, & water pollution & soil contamination;
Destruction or disruption of man-made or natural resources;
Destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community’s economic vitality;
Destruction or disruption of availability of public & private facilities & services;
Vibration;
Adverse employment effects;
Displacement of persons, businesses, farms, or nonprofit organizations;

Increased traffic congestion, isolation, exclusion or separation of minority or low-income;

Individuals within a given community or from broader community

Denial of, reduction in, or significant delay in receipt of, benefits of DOT programs, policies, or activities.”

Appendix of U.S. DOT Order
Commuting time (all modes)
Transportation affordability
Mobility for those who rely on transit
Access to jobs & services (by mode)
Planning Title VI / E.J. Issues

- Safety & security of system
- Level of service
- Level of maintenance
- Disproportionate impacts or benefits
- Consistency of standards across system (landscaping, lighting, upkeep, maintenance)
PLANNING PROCESS CONSIDERATIONS
Establish Goals and Strategies

Assess adequacy of current planning activities.
Define work program tasks.
Review consistency with EJ principles
Identify actions to implement improvements.
EJ Reflected in Planning Products

- Work Program
- Public Participation Plan
- Transportation Plan
- Transportation Improvement Program
- Congestion Management Process
- Other planning products, as appropriate
Title VI of Civil Rights Act
Environmental Justice Executive Order 12898
- Minorities
- Low Income

U.S. DOT Order
- Principles
- Adverse Effects
Website – FHWA EJ materials
www.fhwa.dot.gov/environment/ej2.htm

Transportation and Environmental Justice Case Studies book, December 2000

NHI Training Course (#14204): Fundamentals of Environmental Justice
www.nhi.fhwa.dot.gov
"Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1994

An Overview of Transportation and Environmental Justice
A 1994 Presidential Order directed every Federal agency to make environmental justice part of its mission. The DOT is committed to a comprehensive, inclusive approach. Get the basics here.
Learning Outcomes

Define Environmental Justice & Title VI of Civil Rights Act of 1964

List fundamental principles of EJ

Explain Executive Order 12898 & U.S. DOT Order

Identify groups addressed by these orders

Explain relationship between Title VI & Environmental Justice
Questions?