

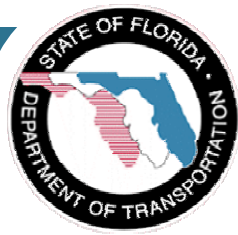
Historically, minority, disadvantaged, low-mobility, and low-income populations have been underrepresented in the transportation planning and project development process. Inadequate access to decision-making and information increases the potential that a specific population will be adversely affected by a transportation project and the likelihood that their specific needs or concerns will not be fully addressed. Since 1964, federal laws and policies have been developed to ensure that the civil rights of minority, disadvantaged, low-mobility and low-income populations will be protected and that the decision-making process for those projects is free from discrimination. Title VI compliance cross cuts all sociocultural considerations.

LEGAL AUTHORITY

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *Title VIII of the Civil Rights Act of 1968* addresses discrimination in regard to the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling on the basis of race, color, religion, sex, disability, familial status, or national origin. *The Civil Rights Restoration Act of 1987* clarified the intent of Title VI to include all program and activities whether they are federally funded or not.

FHWA's *Environmental Impact and Related Procedures [23CFR771]* provides that no person, because of disability, age, race, color, sex, or national origin, be excluded from participating in, or denied benefits of, or be subject to discrimination under any Administration program or procedural activity required by or developed pursuant to this regulation.

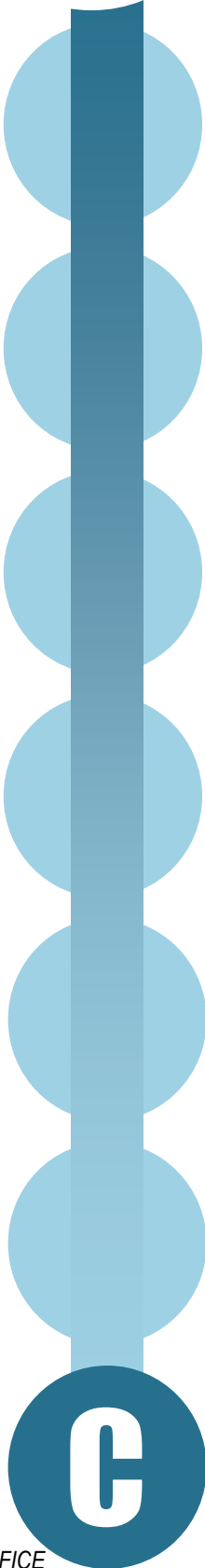


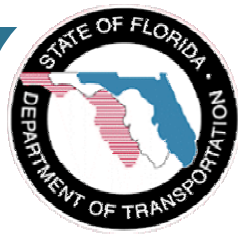


Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations [February 11, 1994] re-emphasizes the intent of the Civil Rights Acts and expands protection to low-income populations. It also requires federal agencies to provide minority communities and low-income communities access to public information and opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of meetings, crucial documents, and notices.

DOT Order 5610.2: Department of Transportation Actions to Address Environmental Justice in Minority *Populations and Low-Income Populations [April 1997]* establishes procedures for the Department of Transportation (DOT) to use in complying with Executive Order 12898 (see above), providing that disproportionate impacts on low-income and minority populations are to be avoided, if practicable, that is, unless avoiding such disproportionate impacts would result in significant adverse impacts on other important social, economic, or environmental resources. Guidance is provided for making determinations regarding disproportionately high and adverse effects on minority and low-income populations, providing that mitigation and enhancement measures be taken into account, as well as the design, comparative impacts, and the relevant number of similar existing system elements in non-minority and non-low-income areas. It also provides guidance for determining whether a mitigation measure or an alternative is *practicable*, providing that the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account. (PD&E Manual Part II Chapter 9, Project Development)

DOT Order 6640.23: FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations [December 1998] requires the FHWA to implement the principles of the DOT Order 5610.2





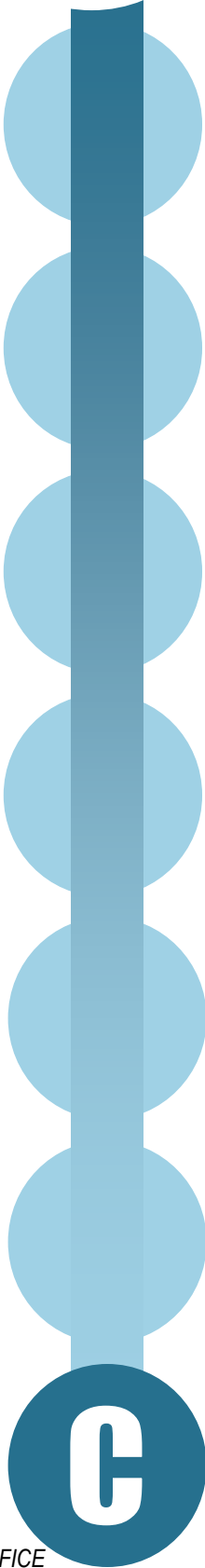
and E.O. 12898 by incorporating environmental justice principles in all FHWA programs, policies, and activities.

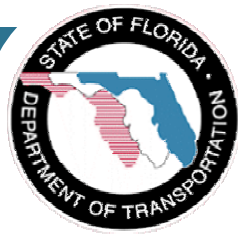
Nondiscrimination Regulations include:

- 28 CFR 35: Department of Justice (DOJ) regulations governing nondiscrimination on the basis of disability in state and local government services.
- 28 CFR 36: DOJ regulations governing nondiscrimination on the basis of disability by public accommodations and commercial facilities.
- 28 CFR 41: Implementation of Executive Order 12250, nondiscrimination on the basis of handicap in federally assisted programs.
- 28 CFR 42, Subpart C Nondiscrimination in federally assisted programs: Implementation of Title VI of the Civil Rights Act of 1964.
- 28 CFR 44: DOJ procedure to address unfair immigration related employment practices and establishes an Office of Special Counsel.
- 49 CFR 21: DOT's regulation implementing Title VI of the 1964 Civil Rights Act.
- 49 CFR 24: DOT's regulation implementing the Uniform Relocation and Real Property Acquisition Act for Federal and Federally-assisted programs requiring compliance with Nondiscrimination Statutes and Executive Orders.
- 49 CFR 27: DOT's regulation implementing Section 504 of the Rehabilitation Act of 1973.
- 23 CFR 200: FHWA's regulation implementing Title VI of the 1964 Civil Rights Act.

Nondiscrimination directives include:

- DOT Order 1000.12 Implementation of the DOT Title VI Program.
- DOT Order 1050.2 Standard Title VI Assurances.
- FHWA Order 4720.1A Civil Rights Responsibilities of Motor Safety Assistance Program (MCSAP). July 16, 1993.





PROCEDURE

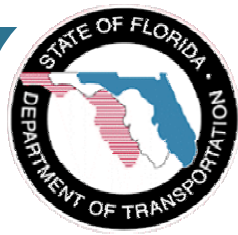
To address Title VI/Civil Rights in the Sociocultural Effects Evaluation process, the community analyst must evaluate the following:

1. Analyze environmental effects on all communities, including human health, economic, and social effects on all citizens, with special considerations for minority and low-income populations;
2. Identify if disproportionately high and adverse environmental effects exist;
3. Ensure that mitigation measures address any disproportionately high and adverse environmental effects on proposed actions on minority populations and low-income populations within the study area; and
4. Provide opportunities for community input throughout the project development process, including consultation with affected communities to identify potential effects and possible mitigation measures, and improving accessibility to public meetings, project documents, and project decision-makers.

For example, the community analyst must ensure that the selection of a roadway alignment does not intentionally follow the path of the lowest property values which take principally low-income housing or minority neighborhoods, without adequate study and reasonable engineering, economic, and social justification. Similarly, the analyst must ensure that the proposed improvement does not discriminate in providing access and egress to adjacent neighborhoods based on race, color, religion, sex, disability, familial status, national origin, or income level.

In short, the analyst must provide reasonable assurance (file documentation) that the selection of a project alternative was not a discriminatory act. Coordination with the FHWA and Environmental Management Office (EMO) in highly controversial situations will aid in providing such assurance.





Title VIII guarantees each person equal opportunity in housing. The analyst, in working the District Relocation staff, can ensure that the Department complies with this law.

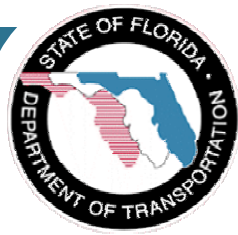
The community analyst must also ensure that all aspects of the Civil Rights Acts have been addressed through additional coordination with the District Minority Programs Coordinator. Consultation with FHWA is necessary in situations where disproportionately high and adverse impacts affecting protected social groups are involved. The Central Environmental Management Office and District Minority Programs Coordinator should also be consulted. The files should be documented to show consideration of Title VI and Title VIII accordingly.

The SCE Evaluation Process promotes access to decision making and project information. Every reasonable effort must be made to involve potentially affected populations *equally* in the transportation decision-making process. Community outreach activities must give special attention to bridging communication barriers.

Are there minority and low-income groups in the community? Review the demographic data included in the CCI to determine the presence of minority and low-income groups. If necessary, consult with local minority leaders, social agencies and/or the property appraiser's office to validate your findings. Have these groups been represented in the planning process to date? Review the public record to date to determine if these groups have effective representation in the process. If available, review attendance records from other transportation projects in the community to determine if group representatives or individuals have been participating.

Disproportionate effects refers to a situation where the adverse affects of the transportation project on minority and low-income groups are substantially more severe or greater in magnitude than the adverse effects suffered by non-minority or non-low-income populations. Conversely, it





can also refer to a situation in which the beneficial effects are not equally shared.

Will the project result in disproportionate effects on minority and low-income neighborhoods? One simple test is to overlay a map showing the proposed right-of-way acquisition areas with a map delineating minority/low-income neighborhoods and businesses. Determine if the number of minority and low-income displacements is high in proportion to total displacements. Consider if other effects (e.g., reduced mobility) affect minority and low-income residents more than other groups. Be sure to consider the cumulative effects of the current project in addition to other public works projects. Consult with minority and low-income leaders or representatives to determine the community perception of potential effects.

Will minority and low-income neighborhoods receive a proportionate share of the benefits? Review the project need statement to determine what benefits are anticipated. Identify the geographic areas that will share in the benefits. Determine if minority and low-income areas are proportionate to the community perception of potential benefits.

Sociocultural effects evaluation promotes:

- Nondiscrimination;
- Equal access to information and decision makers;
- Equal opportunity to participate in the project development process;
- Early, continuous public involvement of all citizens;
- Proactive public outreach to involve traditionally underserved; and
- Recognition and accommodation of citizens' needs, where possible.

If SCE Evaluation is properly done, Title VI/Civil Rights should not be an issue.

