

# Environmental Justice and Transportation Planning

(Originally presented at APTA Bus and Paratransit conference, Milwaukee, May 6, 2003)

## Basics

- “movement” began in 1982 in North Carolina, concern over the location of landfills and the racial and economic status of surrounding communities. Race was found to be a significant factor
- Individuals from minority and ethnic groups often find participation difficult and are also traditionally under served by transportation.
- Barriers arise both from the nature of the system and from cultural, linguistic and economic differences.

## Goals

- To avoid or minimize disproportionately high and adverse human health and environmental effects, including Social and economic effects, on minority and low-income population
- To ensure the full and fair participation by all potentially affected communities in the decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations

## Environmental Justice

- “the pursuit of equal justice and equal protection under the law for all environmental statutes and regulation without discrimination based on race ethnicity and/or socioeconomic status”
- The Final Rule on Metropolitan and Statewide Planning requires MPOs and states to “seek out and consider” the needs of the transportation-disadvantaged.
- Issue is essentially:
  - Who Benefits?
  - Who Pays?

## Title VI of Civil Rights Act of 1964

- “each Federal agency is required to ensure that no person is excluded from participation in, denied the benefit of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion.”
- Bans racial discrimination under any program or activity receiving federal funding, includes state and local environmental agencies
- A complaint can be filed within 180 days of permit issuance against the permitting agency
- Two-step process - determine:
  - Adverse impact?
  - Disproportionate effect on minorities

## Executive Order on Environmental Justice

Issued in 1994

An attempt to bring together the protection of civil rights and the protection of the environment.

The initiatives affect two areas

- Any project or activity subject to EIS requirements
- Any project or activity requiring permits from a state or local authority receiving federal funding

## Application

The U.S. DOT Order applies to all policies, programs, and other activities that are undertaken, funded, or approved by the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), or other U.S. DOT components:

- Policy Decisions.
- Systems Planning.
- Metropolitan and Statewide Planning.
- Project Development and Environmental Review under NEPA.
- Preliminary Design.
- Final Design Engineering.
- Right-of-Way.
- Construction.
- Operations and Maintenance.

## Transit Agency Roles

Transit agencies support Title VI and environmental justice principles when they:

- Ensure that new investments and changes in transit facilities, services, maintenance and vehicle replacement deliver equitable levels of service and benefits to minority and low-income populations.
- Avoid, minimize or mitigate disproportionately high and adverse effects on minority and low-income populations.
- Enhance public involvement activities to identify and address the needs of minority and low-income populations in making transportation decisions.

## Objectives

- To convey issues in ways that are meaningful to various cultural groups
- To bridge cultural and economic differences that affect participation
- To use communication techniques that enable people to interact
- To develop partnerships on a one-to-one or small group basis
- To increase participation by underrepresented groups

## Assessment Process

### Identify Minority or Low-Income Populations:

- determine whether minority populations, low-income populations, or Indian tribes are present,
- if so whether there may be disproportionately high and adverse human health or environmental effects.

### Public Participation:

- effective public participation strategies that assure meaningful community representation in the EIS process.

### Numeric Analysis:

- Where a disproportionate and adverse environmental impact is identified, agencies should consider relevant demographic, public health and industry data concerning the potential for exposure to human health or environmental hazards

### Alternatives and Mitigation:

- The relative impact of alternatives should be considered, and measures to avoid, minimize, and mitigate impacts should be evaluated as part of the EIS.

Understanding a culture is critical.

Use diversity in your organization to better relate to the diversity in the community.

Recognize varied styles of communication.

- It may be considered improper to disagree with authority.
- Discussion with the entire community may need to precede decisions by leaders and elders.
- Speaking up may be interpreted as “making trouble.”

## Techniques

- Draw from the full array of formal techniques for citizen participation: committees, task forces and advisory bodies, meetings and conferences, focus groups, surveys, working through neighborhood groups.
- Use Informal techniques – developing relationships, networking within communities. Walk through the neighborhood, personally inviting people to attend.
- Community organizations and their leaders are invaluable
- Community groups provide access to individuals and can serve as forums for participation.
- Religious organizations are an effective way to reach minority and ethnic groups.
- Make special efforts to communicate with people who use languages other than English.
- Small meetings are less intimidating and more conducive to interaction.
- Hold meeting where ethnic or minority groups cluster.
- Announcements in minority or ethnic news media.
- Incentives may be used to improve attendance.
- Start early and extend throughout the process diffusing potentially controversial issues
- Allow time for people to understand a process or project

- Promote proactive participation
- Establish good relationships with under served groups
- Get people to help in the planning
- Break down historical barriers
- Increase chances for obtaining consensus

## Environmental Justice and Specific NEPA Phases

### Scoping Process

- Determine If Included groups are present in area
- If so, seek input from them as early as possible
- Public Participation
- Require approaches to overcome potential barriers, such as linguistic, cultural, economic, etc

### Determining Affected Environment

- Demographic data may be needed for potential impact area
- Analysis
- Determine how effects are distributed within affected community

### Alternatives

- Seek help from possibly affected groups to develop possible alternatives as early as possible
- Disproportionate effects must be considered accordingly when determining the environmentally preferred alternative

### Recognition of Decision

- Disproportionate effects must be explicitly discussed
- Plain language should used, translating when necessary
- Mitigation
- Should reflect needs and preferences of affected groups

## What if there is no EIS Required?

In instances where an EIS or EA is not required and disproportionate effects may occur, the process should be adjusted so that the environmental justice concerns are still addressed

- Public participation goals should still be satisfied
- Alternatives should be fully developed and considered, as would have been required by NEPA

## Sources

FHWA/FTA Environmental Justice Web Page

- <http://www.fhwa.dot.gov/environment/ej2.htm>

FHWA

- <http://www.fhwa.dot.gov/environment/e\2000.htm>

Federal Transit Administration

- <http://www.fta.dot.gov/office/planning/ep/subjarea/envjust.html>

Environmental Justice Guidance Under the National Environmental Policy Act

- <http://ceq.eh.doe.gov/nepa/regs/ej/ej.pdf>

Environmental Justice in Planning and Permitting Decisions

- [http://www.goodwinprocter.com/publications/ELA\\_environmentjustice\\_11\\_00.pdf](http://www.goodwinprocter.com/publications/ELA_environmentjustice_11_00.pdf)
- <http://www.fhwa.dot.gov/environment/ejgrphs/ejmain.gif>