

FINAL DRAFT

**A White Paper on Environmental Justice:
*Opportunities in Port of Long Beach Projects***

Confidential Work Product

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Acronyms and Abbreviations

ARB	California Air Resources Board
Caltrans	California Department of Transportation
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
DOT	U.S. Department of Transportation
EPA	U.S. Environmental Protection Agency
FHWA	Federal Highway Administration
NEPA	National Environmental Policy Act of 1969
Port	Port of Long Beach
SLC	California State Lands Commission

A White Paper on Environmental Justice: Opportunities in Port of Long Beach Projects

Purpose

Port of Long Beach (Port) projects may require various types of approvals from several federal, state, and local agencies. These agencies may require that environmental justice issues be considered during the environmental review process. In addition, the Port may choose to include consideration of environmental justice issues even if not legally required by another agency.

This white paper is intended to provide a consistent approach for the Port—including its staff and consultants—to use when addressing environmental justice issues. The first half of this paper provides a step-by-step approach for addressing environmental justice in Port projects, including widely used terminology, definitions, and methodologies. The second half provides a brief history of the environmental justice movement, with an emphasis on how it has shaped federal, state, and local regulations. Several appendices are included in this paper to offer additional guidance and further reading.

Environmental Justice Defined

Environmental justice is the **fair treatment** and **meaningful involvement** of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

Meaningful involvement means that: 1) potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; 2) the public's contribution can influence the regulatory agency's decision; 3) the concerns of all participants involved will be considered in the decision-making process; and 4)

the decision makers seek out and facilitate the involvement of those potentially affected (U.S. Environmental Protection Agency [EPA] 2005).

A Step-by-Step Approach for the Port of Long Beach

Introduction

The step-by-step approach below lays out a general framework for analyzing Port projects. See Figure 1 for the step-by-step approach at a glance. This model checklist should not by any means be considered a one-size-fits all approach; rather, it provides generally accepted, widely used definitions and methodologies in environmental justice assessments. Although this model checklist focuses on environmental justice assessment for a typical environmental document, the discussion will point out the various environmental justice opportunities that exist at each stage of a project, many of which are applicable for application by the Port in day-to-day activities.

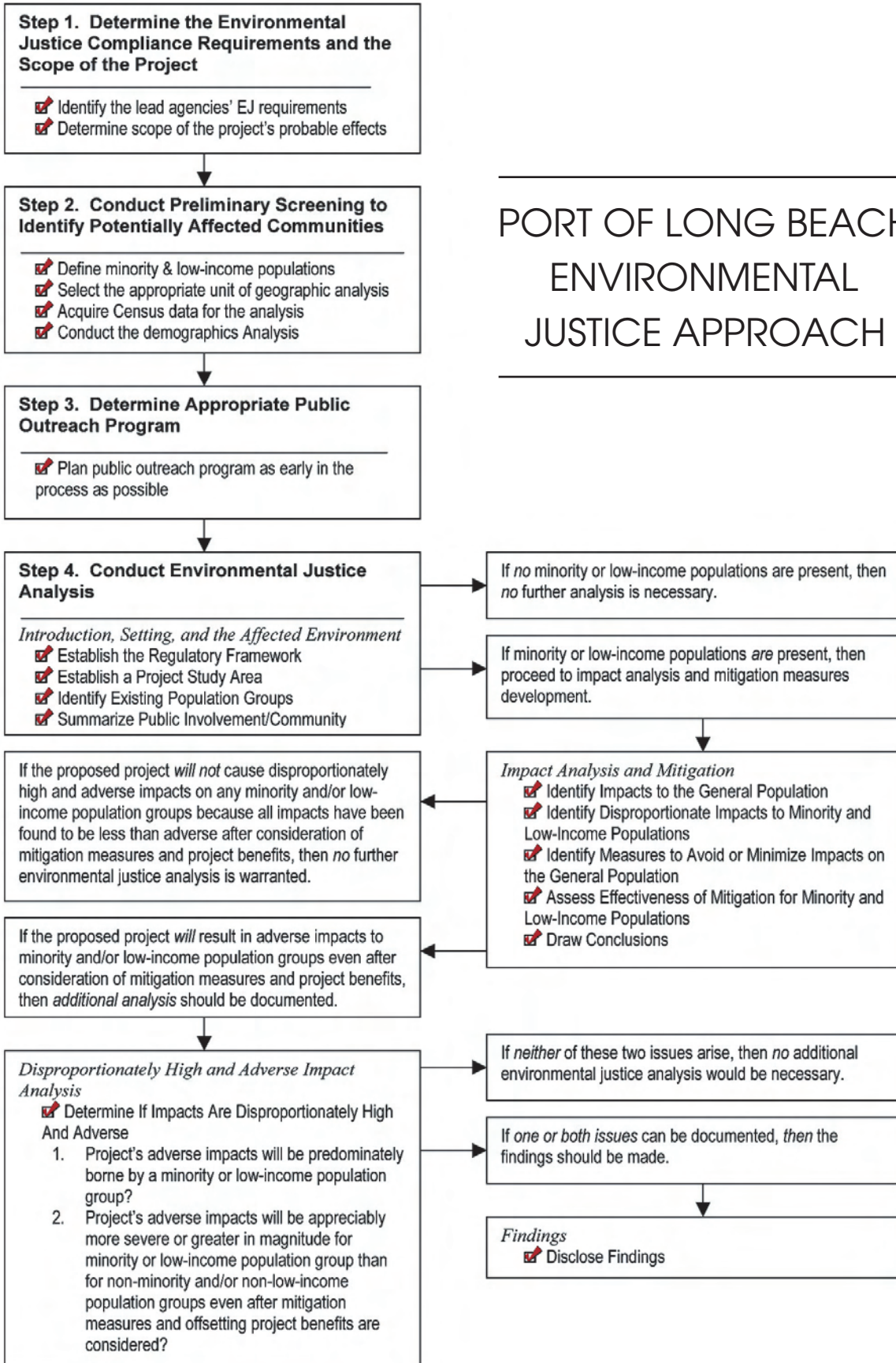
Step 1. Determine the Environmental Justice Compliance Requirements and the Scope of the Project

Identify the lead agencies' EJ requirements

At the time that the Port determines who the federal lead agency will be for a project, that federal agency's environmental justice compliance requirements should be identified based on its adopted guidance or policy, if applicable. For projects triggering both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act of 1969 (NEPA), the Port should also identify any environmental justice requirements of state agencies that may have adopted guidance or policy. For example, a lead agency may require the Port to make certain findings in order to approve a project with a disproportionately high and adverse effect on minority and/or low-income population groups (see "Findings" below).

Before evaluating potential impacts to minority and low-income communities, the analyst should ideally have information about all of the project's components and its probable environmental effects. At this point in the environmental review process it may not be possible to determine specifics related to environmental effects; however, the analyst should utilize an Initial Study checklist or other preliminary screening, as assessed in the other technical sections of an environmental document or as part of independent technical studies, to estimate probable environmental effects. Awareness of the project's components and probable environmental impacts (and benefits) will be useful in choosing an appropriate unit of geographic analysis—the affected area. For example, if a

PORT OF LONG BEACH ENVIRONMENTAL JUSTICE APPROACH



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Figure 1
Step-by-Step Approach:
At a Glance

project's impacts are mostly related to potential accidental spills of hazardous materials, a more focused study would be warranted and data at the census block group and individual block levels may be appropriate, based upon the truck routes where the potential spills might occur.

Determine scope of the project's probable effects

Having a firm idea of a project's scope also helps the analyst determine the appropriate level and type of public participation to seek. For complex projects, an extensive public participation plan may be in order (see "Public Outreach Opportunities" below for more information). Depending on the results of the public outreach program described in Step 3, additional environmental effects may be identified.

Considering the following may also help the analyst determine the complexity of a proposed project:

- Would the project result in short- and/or long-term impacts?
- Would the project result in localized- and/or region-wide impacts?
- Would the project result in adverse effects and/or provide project benefits?
- Would the project result in significant environmental and/or health and human effects?

Step 2. Conduct Preliminary Screening to Identify Potentially Affected Communities

Define minority & low-income populations

For the preliminary screening of potentially affected communities, use the definitions of minority and low-income populations used in the Council on Environmental Quality's (CEQ's) Guidance for Agencies on Key Terms in Executive Order 12898 (CEQ 1997). These definitions are widely used to assess environmental justice in the environmental review process.

Minority individuals are defined as members of the following population groups:

- American Indian or Alaskan Native,
- Asian or Pacific Islander,
- Black, or
- Hispanic.

Minority populations are identified either:

- where the minority population percentage of the affected area is meaningfully greater than the minority population percentage of the general population, or

- where the minority population percentage of the affected area exceeds 50 percent (CEQ 1997).

✚ Select the appropriate unit of geographic analysis

The selection of the appropriate unit of geographic analysis may be a governing body’s jurisdiction (e.g., the City of Long Beach), a neighborhood, census tract, census block group, or other similar unit that is to be chosen so as to not artificially dilute or inflate the affected minority population (Caltrans 2003). In some cases, it may be helpful to compare the minority population with more than one unit of geographic analysis (e.g., the minority population percentage within the census tract and within the city). The determination of the appropriate unit of analysis should be based upon the scope of a project (see “Determine the Federal Lead Agency and the Scope of the Project” above). Depending on the scope and complexities of a proposed Port project, staff and consultants should generally acquire U.S. Census data at the census tract level for census tracts in close proximity to the project area. For most analyses, data should be obtained from the U.S. Census American Factfinder website¹.

✚ Acquire Census data for the analysis

Low-income populations in an affected area should be identified with the annual statistical poverty thresholds from the Bureau of the Census’ Current Population Reports, Series P-60 on Income and Poverty.

Low-income populations are identified as populations in which either:

- the population percentage below the poverty level is meaningfully greater than that of the population percentage in the general population, or
- the population percentage below the poverty level in the affected area exceeds 50 percent.

Methods for Displaying Demographic Data

For purposes characterizing the minority and low-income populations in a project area, the information can be shown in either a table or a map, or both.

The table might include

- total population,
- population with poverty status in 1999 (number/percentage),
- median household income in 1999, and
- minority population percentages (broken down by ethnicity).

The map might show

- boundary of the project study area,
- census tracts where the minority population percentage exceeded 50 percent of the general population, and
- census tracts where the population of those below the poverty level is significantly greater than the rest of the general population.

¹ To go straight to the relevant part of the Census’ Factfinder website, go to http://factfinder.census.gov/servlet/DTGeoSearchByListServlet?ds_name=DEC_2000_SF1_U&state=dt&_lang=en&_ts=16027306420, and choose the appropriate *geographic type*.

In identifying low-income populations, agencies may consider as a community either a group of individuals living in geographic proximity to one another, or a set of individuals (such as migrant workers or Native Americans), that share either type of group experiences or common conditions of environmental exposure or effect (CEQ 1997).

✔ Conduct the demographics Analysis

It is important to learn who lives in the community and to identify minority and low-income communities early on in the process so that public outreach efforts are effective and targeted to certain groups, as appropriate. Preliminary screening to identify potentially affected communities in a project area and vicinity can also provide the Port with more certainty as to whether there is a potential for environmental justice impacts (see, for example, Figures 2a and 2b). See “Knowing the Community” below for a sample textual and graphic depiction of low-income and minority populations.

Step 3. Determine Appropriate Public Outreach Program

✔ Plan public outreach program as early in the process as possible

Once the Port has determined which public agencies it will be coordinating with, the scope of the proposed project, and the composition of the potentially affected community, it can plan its public outreach program. Planning the public outreach program at the outset of the project will help identify the appropriate strategies for special noticing (including the notice of intent and notice of preparation), meetings (including public scoping meetings), and other outreach tactics. See “Public Outreach Opportunities” below and Appendix C for specific suggestions for implementation.

Step 4. Conduct Environmental Justice Analysis

Introduction, Setting, and the Affected Environment

✔ Establish the Regulatory Framework

The environmental justice analysis should first briefly summarize the legal and factual basis for an environmental justice assessment. This involves a citation to the relevant legal, regulatory, and/or administrative requirements (e.g., Executive Order 12898 and any applicable agency guidance or policy statements, as described below under “Regulatory Framework for the Port of Long Beach”). See Appendix B for a model EIR/EIS environmental justice section.

✔ Establish a Project Study Area

The project study area should encompass a geographic location where the potential environmental and human health effects of the proposed project would be reasonably foreseeable for minority and low-income populations.

✔ Identify Existing Population Groups

As described above, the population in the project study area should be characterized in terms of race and ethnicity, income, and poverty status, which should be defined and sourced. Additional demographic variables, such as age,

disability status, English-as-a-second language households, and housing occupancy and tenure may also be provided as indicators of whether environmental justice populations are present. Awareness of these additional variables may also be helpful in tailoring and targeting public outreach efforts to certain groups.

✍ Summarize Public Involvement/Community Outreach

The public involvement and outreach efforts that have been (and will be) conducted for the proposed project should be documented. Although summaries of public outreach efforts are typically captured in the introductory sections of an environmental document, summarizing the specific outreach to affected populations—including minority and low-income populations—within the environmental justice analysis or section helps to address the procedural aspect of environmental justice. To the extent possible, the public involvement associated with each phase of project development should also be stated. This discussion may also summarize the issues that have been raised through public outreach efforts thus far and, if applicable, the proposed revisions to the project that address those concerns.



In this initial step of the environmental justice analysis, the demographic characterization would determine whether further environmental justice analysis is warranted. Where it can be documented that no minority or low-income populations are present, no further analysis is necessary.

Impact Analysis and Mitigation

✍ Identify Impacts to the General Population

The impact analysis should provide an overview of the environmental impacts of the proposed project that have been previously assessed in the other technical sections of an environmental document or as part of independent technical studies. Wherever possible, the nature and extent of those impacts should be summarized. On a practical level, environmental justice impacts should be analyzed after the other resource sections (e.g., air quality, noise, traffic) are prepared. Without information about project impacts to the general population, it would be difficult to determine whether the project would have disproportionate impacts to minority and low-income populations.

✍ Identify Disproportionate Impacts to Minority and Low-Income Populations

The impacts of the proposed project on minority and low-income communities should be compared to the impacts on the general population. The determination of whether an impact is adverse should not be based solely on the size of the affected population, since a disproportionately high and adverse impact can exist for even very small minority and low-income population groups.

✍ Identify Measures to Avoid or Minimize Impacts on the General Population

When adverse impacts on the general population are found to exist, measures that avoid and/or minimize those impacts should be specified. Enhancements associated with the project can be described here since it is just as important to consider project benefits as it is to consider burdens. Project components that demonstrate sensitivity to population groups, neighborhoods, and/or communities would also be relevant to this discussion.

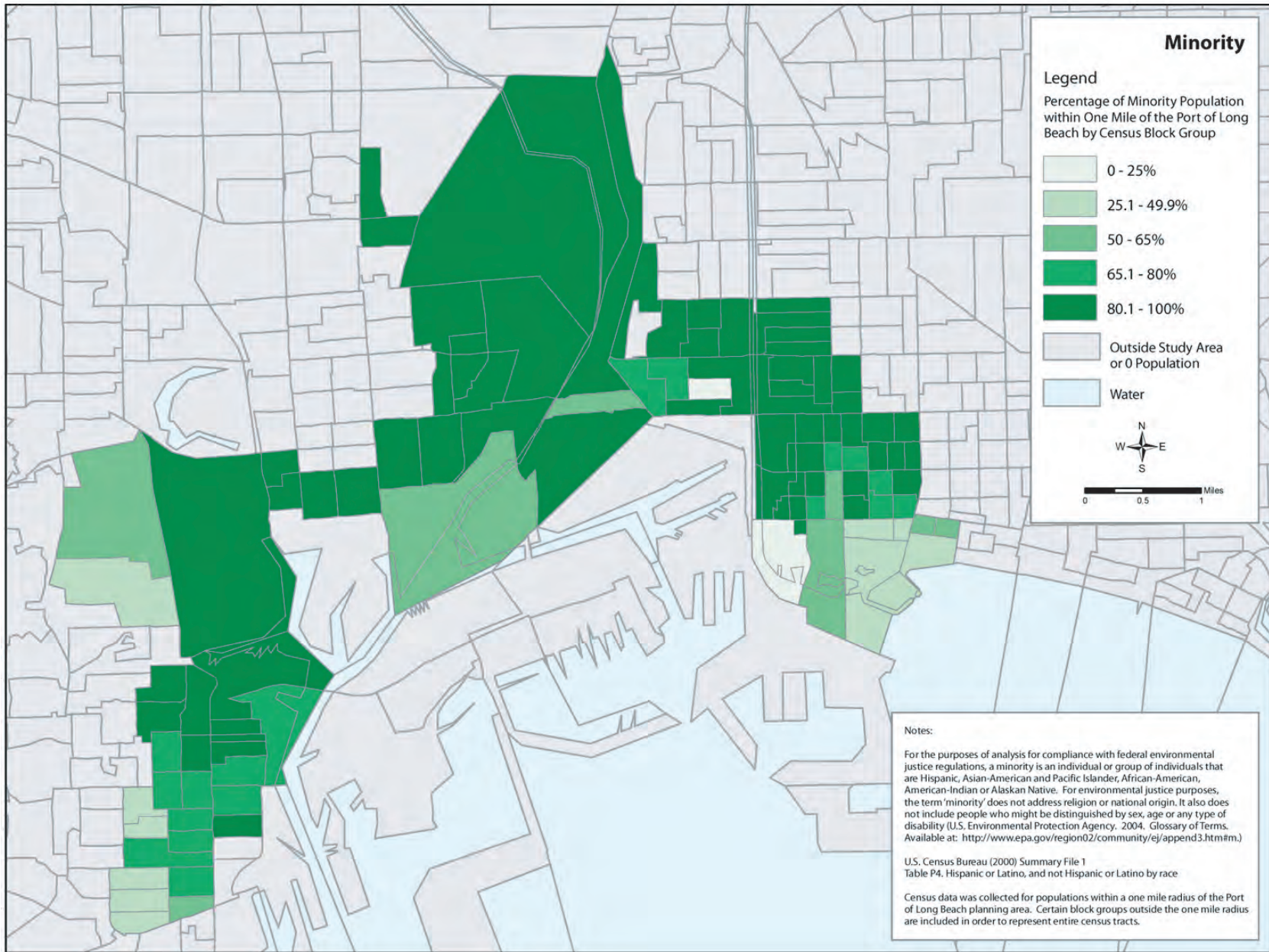


Figure 2a
Census Block Groups
within 1-mile of the Port of Long Beach

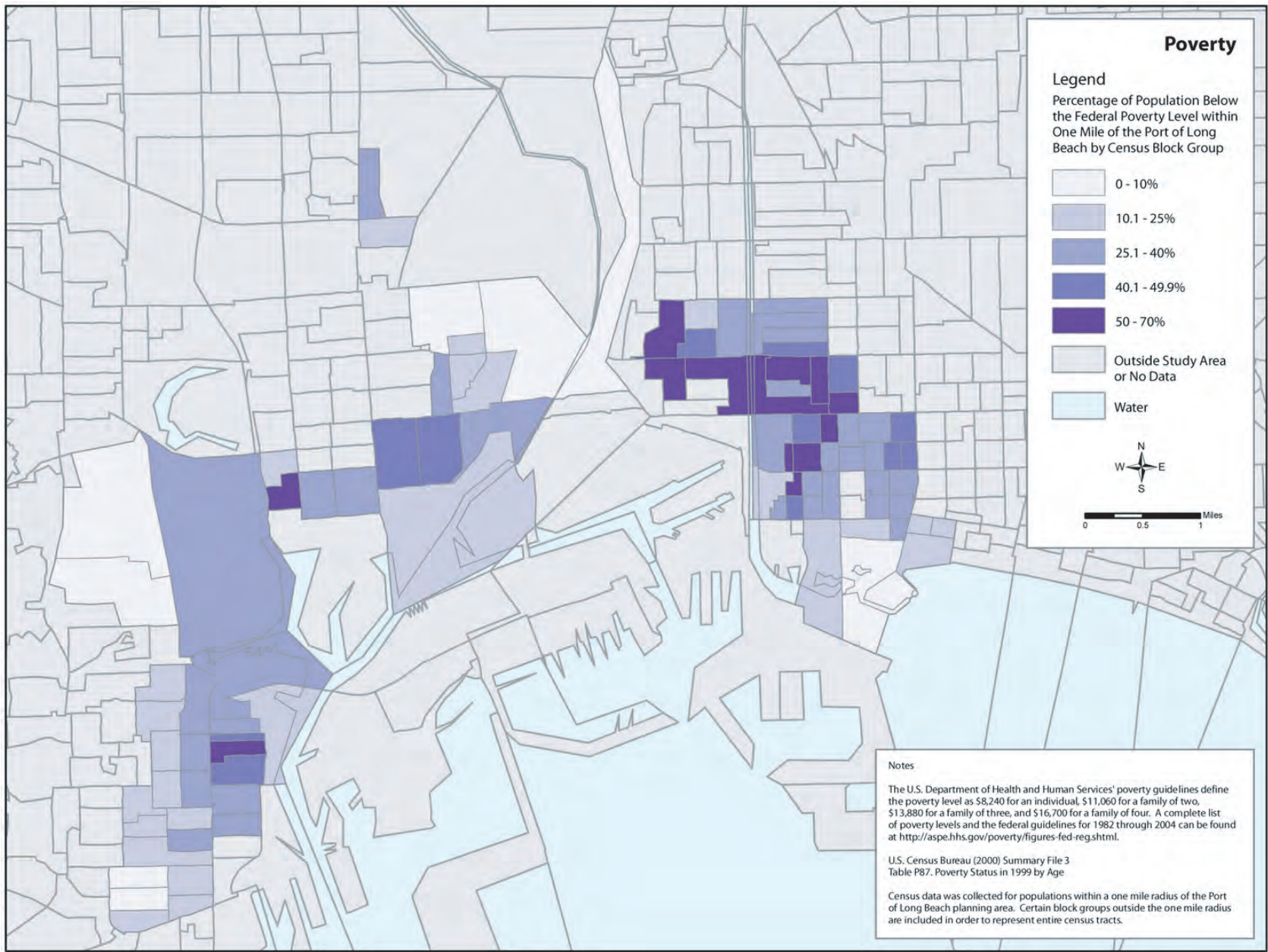


Figure 2b
Census Block Groups
within 1-mile of the Port of Long Beach

Assess Effectiveness of Mitigation for Minority and Low-Income Populations

As part of the environmental review and approval phases, project impact avoidance and mitigation offer one of the final opportunities to ensure that environmental justice concerns are addressed (Caltrans 2003). Still, the objective should be to incorporate environmental justice into the earliest stages of project development rather than relying solely upon avoidance and mitigation measures in the latter stages of the process, as shown in Appendix A. Not only is incorporating environmental justice issues before mitigation a more efficient way to address these issues, but minority and low-income communities would view this approach more favorably and with more confidence.

If a project is determined to have the potential to result in disproportionately high and adverse human health and/or environmental impacts to minority and low-income populations, the relative effectiveness of the mitigation measures should be evaluated. The determination of whether impacts to minority and low-income populations will or will not remain adverse after taking into consideration mitigation measures and project benefits should be documented.

If it is determined that the mitigation measures developed for the general population are not sufficient, additional mitigation should be considered, using avoidance (not taking certain actions or parts of actions) first and then minimization (limiting the degree or magnitude of the action and its implementation) of the impacts. Mitigation may also include measures that ensure procedural equity, including commitments to issue all project-related documents (e.g., construction notices and operational and maintenance updates) to the affected community. These documents shall be in plain, understandable English and take the form of summaries and newsletters. If appropriate, they shall be translated into languages spoken in the project area.

Draw Conclusions

Based on the environmental justice analysis, two possible conclusions may be drawn: 1) the proposed project *will not* cause disproportionately high and adverse impacts on any minority and/or low-income population groups because all impacts have been found to be less than adverse after consideration of mitigation measures and project benefits, or 2) the proposed project *will* result in adverse impacts to minority and/or low-income population groups even after consideration of mitigation measures and project benefits.



The first conclusion would not warrant further environmental justice analysis. Under the second conclusion, however, additional analysis, as described in the next steps, should be documented.

Disproportionately High and Adverse Impact Analysis

Determine If Impacts Are Disproportionately High And Adverse

Although there presently are no definitive guidelines for determining what impacts should be considered disproportionately high and adverse, two general issues should be weighed:

1. whether the project's adverse impacts will be predominately borne by a minority or low-income population group; or

2. whether the project's adverse impacts will be appreciably more severe or greater in magnitude for minority or low-income population group than for non-minority and/or non-low-income population groups even after mitigation measures and offsetting project benefits are considered.

In determining the severity or magnitude of the adverse impacts on a community, the Port should consider the multiple or cumulative exposure to environmental hazards, historical patterns of exposure to environmental hazards, and cultural differences, which may lead certain communities to experience impacts that are more severe than those experienced by the general population (Rechtschaffen and Gauna 2002).



For those projects where neither of these issues arises, no additional environmental justice analysis would be necessary. In the event that one or both issues can be documented, then the findings in the following step should be made.

Findings

Disclose Findings

Where it is concluded that adverse impacts will be predominantly borne by minority and low-income populations and/or will be more severe than impacts to non-minority and non-low-income populations, the environmental document should include the justification for carrying out the action, despite the disproportionately high and adverse effects to minority and low-income population groups.

As discussed below, the environmental justice guidance from the U.S. Department of Transportation (DOT) Federal Highway Administration (FHWA) has established findings that must be met in order for transportation agencies to approve a project with a disproportionately high and adverse effect on minority and/or low-income population groups (see "Regulatory Framework for the Port of Long Beach" below). It appears that these findings are not directly applicable to the Port, since the DOT would rarely serve as the federal lead agency for a typical Port project.

Knowing the Community for the Port of Long Beach

A general demographics analysis was conducted for communities in the vicinity of the Port of Long Beach. Specifically, census data was collected for populations within a 1-mile radius of the Port of Long Beach planning area and shown in Figures 2a and 2b. The breakdown of this population by ethnicity and percentage below poverty level is shown in Table 1.

Figures 2a and 2b display the potentially affected communities in a sample one-mile radius in the vicinity of the Port area that may be defined within a smaller or

Table 1. Low-Income and Minority Populations within One Mile of the Port of Long Beach

Census Tract/ Jurisdiction	Census Block Group	Total Population	% Below Poverty	% White	% Black	% American Indian/ Alaska Native	% Asian	% Hawaiian/Pacific Islander	% Hispanic / Latino	% Other*
2941.20	1	637	9	<1	7	0	2	0	90	<1
	2	1,204	17	1	8	<1	<1	0	90	0
	3	688	9	3	16	<1	4	<1	75	1
2946.20	1	1,600	24	2	<1	<1	1	<1	96	<1
	2	1,581	20	2	2	<1	1	0	95	<1
	3	750	34	3	<1	0	1	0	95	<1
2947	1	12	**	42	0	0	0	0	58	0
	2	19	**	16	58	0	0	0	26	0
	3	95	13	47	11	0	1	3	31	7
	4	1,894	41	8	9	<1	1	<1	79	1
	5	523	49	<1	<1	<1	1	1	96	<1
	6	727	40	2	<1	<1	<1	<1	95	<1
2948.30	1	2,097	39	2	4	<1	1	<1	90	1
	2	1,177	38	7	2	<1	2	2	84	2
2949	1	1,316	13	7	2	<1	3	<1	86	1
	2	1,946	60	2	8	<1	1	1	87	<1
	3	0	**	***	***	***	***	***	***	***
2951.01	1	370	0	50	18	0	11	0	16	4
	2	4,455	4	72	2	<1	5	<1	16	2
	3	363	33	4	8	<1	<1	5	78	4
2962.10	1	1,361	35	5	3	<1	2	<1	89	<1
	2	374	17	25	11	1	3	0	55	6
	3	1,123	34	5	8	<1	3	<1	81	3
2962.20	1	989	41	2	7	<1	2	<1	86	2
	2	2,117	55	8	16	<1	5	<1	68	2
	3	499	48	26	8	<1	16	2	46	2
2965	1	1,316	30	11	9	1	3	<1	74	3
	2	1,621	18	15	12	<1	4	<1	66	2
	3	859	16	18	12	1	3	<1	63	2
2966	1	1,406	36	9	4	<1	2	<1	83	1

Table 1. Low-Income and Minority Populations within One Mile of the Port of Long Beach

Census Tract/ Jurisdiction	Census Block Group	Total Population	% Below Poverty	% White	% Black	% American Indian/ Alaska Native	% Asian	% Hawaiian/Pacific Islander	% Hispanic / Latino	% Other*
	2	1,274	35	24	11	<1	4	<1	57	3
	3	1,028	21	27	6	<1	4	2	58	2
	4	1,492	16	24	7	<1	4	<1	62	2
2969	1	1,360	16	28	10	<1	2	<1	57	3
	2	2,183	31	20	9	<1	4	<1	62	4
	3	1,935	24	32	6	<1	4	<1	54	4
	4	889	12	52	4	0	2	<1	39	3
	5	1,883	13	52	4	<1	4	<1	35	4
2971.10	1	2,109	36	27	8	<1	3	<1	59	2
	2	2,438	28	15	9	<1	1	<1	72	2
2972	1	2,162	21	33	7	<1	5	<1	51	3
	2	1,424	14	45	9	<1	5	<1	37	3
	3	1,602	10	54	3	<1	3	<1	33	6
	4	1,422	9	57	3	<1	6	<1	30	4
	5	1,401	8	59	4	<1	4	<1	27	6
5439.04	1	1,617	16	7	4	<1	12	1	74	3
	2	2,806	26	2	17	<1	9	2	68	1
	3	0	**	***	***	***	***	***	***	***
	4	3	**	0	0	0	0	0	100	0
5728	1	262	70	12	25	2	26	0	29	5
	2	0	**	***	***	***	***	***	***	***
	3	1	**	0	100	0	0	0	0	0
5729	1	1,803	32	3	9	1	14	2	68	2
	2	2,106	42	2	10	<1	4	1	81	1
	3	1,204	14	4	22	<1	39	1	30	2
5730.01	1	1,770	41	7	11	1	13	3	63	2
	2	2,142	37	9	20	<1	5	<1	62	3
	3	1,846	26	14	23	<1	6	2	51	3
	4	1,350	32	18	28	<1	8	<1	42	3
5754.01	1	782	54	14	17	<1	5	1	61	2

Table 1. Low-Income and Minority Populations within One Mile of the Port of Long Beach

Census Tract/ Jurisdiction	Census Block Group	Total Population	% Below Poverty	% White	% Black	% American Indian/ Alaska Native	% Asian	% Hawaiian/Pacific Islander	% Hispanic / Latino	% Other*
	2	616	34	<1	0	1	<1	0	97	1
	3	1,362	51	6	15	<1	2	<1	75	1
	4	2,716	53	2	5	<1	7	1	82	2
5754.02	1	2,957	50	2	8	<1	3	2	84	2
	2	801	58	7	23	<1	15	4	47	3
5755	1	49	63	2	0	0	0	0	88	2
	2	2	**	100	0	0	0	0	0	0
	3	16	**	19	0	0	0	0	81	0
	4	180	51	27	11	2	4	1	56	<1
	5	5	**	20	0	0	0	0	80	0
5758.01	1	1,704	39	8	5	<1	<1	<1	85	2
	2	1,017	52	5	3	<1	3	<1	89	<1
5758.02	1	2,807	46	5	5	<1	5	<1	84	1
	2	2,626	55	12	14	<1	4	<1	67	1
5758.03	1	1,868	51	18	14	<1	11	<1	53	2
	2	1,100	32	26	19	1	9	<1	41	3
5759.01	1	1,235	50	18	23	<1	3	1	51	3
	2	1,196	43	14	22	1	3	<1	57	2
	3	739	27	13	19	<1	4	0	62	1
	4	655	22	13	19	<1	24	1	41	2
5759.02	1	1,757	32	41	22	<1	9	<1	22	5
	2	1,444	31	34	17	2	5	1	38	3
	3	1,907	37	18	18	<1	4	1	55	3
5760	1	440	22	40	18	<1	8	1	29	4
	2	2	**	100	0	0	0	0	0	0
	3	3	**	0	100	0	0	0	0	0
5761	1	826	35	51	14	1	4	<1	26	2
	2	1,096	7	73	5	<1	10	<1	7	4
	3	747	18	55	11	<1	7	<1	22	4
5762	1	1,553	36	13	14	<1	1	<1	69	2

Table 1. Low-Income and Minority Populations within One Mile of the Port of Long Beach

Census Tract/ Jurisdiction	Census Block Group	Total Population	% Below Poverty	% White	% Black	% American Indian/ Alaska Native	% Asian	% Hawaiian/Pacific Islander	% Hispanic / Latino	% Other*
	2	1,290	31	26	17	<1	3	<1	50	3
	3	1,283	28	32	23	1	5	<1	35	3
	4	1,502	28	21	19	<1	3	<1	51	4
	5	11	**	0	0	0	0	0	100	0
	6	13	**	0	8	0	0	0	92	0
5763	1	1,955	48	4	18	<1	27	<1	48	1
	2	1,471	46	7	21	<1	8	<1	62	1
	3	1,148	47	13	14	2	3	<1	67	1
	4	1,140	29	15	21	<1	5	1	54	4
	5	990	31	20	33	<1	7	1	37	1
	6	1,204	26	7	7	2	3	<1	80	2
	7	1,004	28	14	21	<1	25	<1	37	2
5766.01	1	2345	12	60	13	<1	6	<1	16	4
	2	938	14	47	13	<1	6	<1	29	4
	3	1,112	24	43	16	<1	4	<1	29	5
City of Long Beach		461,522	23	33	14	<1	12	1	36	<1
Los Angeles County		9,519,338	18	31	9	<1	12	<1	45	<1

Notes

* % Other category includes 2 or more races as identified in the Census Summary File 1 (SF 1).

** Blank spaces under the % Below Poverty column denote block groups with 0 population for which poverty status was determined.

*** Blank spaces under any of the % ethnicity columns denote block groups with 0 population

larger radius, according to the criteria discussed in Step 2. Figure 2a shows minority population percentages, whereas Figure 2b shows the population percentage of those below the poverty level. The two maps show a relationship between those census block groups with high percentages of minority population and high percentages of population below the poverty line, particularly north of Pier B and east of the part of the Los Angeles River/Flood Control Channel adjacent to the Port.

Public Outreach Opportunities

The figure shown in Appendix A demonstrates that public outreach opportunities exist throughout the project development process and even beyond the life of a project, while Step 3 of the step-by-step approach (above) explains why it is advantageous for the Port to determine a public outreach program at the project outset. Appendix C presents public outreach resources that may assist the Port in the implementing a public outreach program.

Public Participation Principles

According to the International Association for Public Participation, there are five levels of participation for engaging the public in a project:

- Informing the Public—providing the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions;
- Consulting the Public—obtaining public feedback on analysis, alternatives and/or decisions;
- Involving the Public—working directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered;
- Collaborating with the Public—partnering with the public in each aspect of the decision including the development of alternatives and the identification of a preferred solution; and
- Empowering the Public—placing the final decision-making in the hands of the public.

The level of public participation and corresponding strategies vary depending on the different target audiences associated with a project. For example, strategies implemented to inform the general public about the proposed project and the Port's activities may differ from strategies to involve a Citizens Advisory Committee to ensure their issues are considered in project development.

No matter the level of public participation required on a specific project, these activities should be guided by the following principles:

- The public tends to support what it helps create.
- Public participation/public involvement programs must be sincere attempts to involve the public in decision-making.
- Communication must be targeted to everyone who has a stake in the project, not just the public at large or a select few individuals or groups that demand the most attention.
- The outreach program must be sensitive to accommodate multi-cultural demographics.
- Information must be factual, accurate, consistent and presented in a timely fashion.
- Information must be presented to the public in terms and formats that they can understand.
- Information must be provided in concert with environmental planning procedures.
- Project issues must remain focused and must be dealt with when and where they occur.
- Consultants and staff must be approachable, must work to fully understand all stakeholder concerns, and must be responsive to the community.
- Consultants must check in regularly with staff to ensure outreach efforts are consistent, non-duplicative, and coordinated with the Port's outreach efforts whenever possible.
- Communications need to be regular, consistent, and repetitive to compete effectively with the many other messages/issues in the marketplace.

Reaching Out to Communities

Beyond complying with specific environmental justice public outreach requirements, promoting more community involvement at all levels fosters a mutually beneficial relationship between public agencies and the communities they serve. To be meaningful to these communities, public information about plans or projects should be timely, useful, understandable, and presented in an accessible format. Community involvement strategies include the following.

- Undertake research and demographic analysis to assess the audience, identify underserved communities, and support development of plans and projects. This will help tailor outreach activities to ensure lasting results.

- Design and engage tailored public participation strategies early in a project's design stage. Agree on a strategic approach that will promote meaningful public involvement and effective communication efforts.
- Include the identified communities in the project at the onset to avoid surprises and to create buy-in.
- Create a contact/ mailing list, an important public participation building block that provides simplicity, ease, flexibility, efficiency, and speed. Mailing lists can be used throughout planning and project development to track the pulse of the community and to involve other key people. The mailing lists will allow the Port to reach its audience through meeting announcements, invitations, newsletters, summaries, and other event and activity information about the project.
- Form citizen's advisory committees, as appropriate (note that the Federal Advisory Committee Act, 5 USC Appendix 2 Sections 1 – 15, may restrict federal agency involvement related to advisory committees made up of non-governmental organizations). A group of stakeholders that meets regularly to discuss issues of common concern, the advisory committee is a public participation forum where the Port can present goals and proposed programs. Advisory committees provide (1) a continuing venue for bringing people's ideas directly into the process and (2) an opportunity to publicize the public participation process. A citizen's advisory committee should have the following features.
 - Interest groups from throughout the state or region are represented.
 - Meetings are held regularly.
 - Comments and points of view of participants are recorded.
 - Consensus on issues is sought but not required.
 - The advisory committee is assigned an important role in the process. It should be possible to track its activities through informational materials and via the project website.
 - A project spokesperson or coordinator is identified who is easily identifiable and accessible throughout the life of the project.
 - Local businesses, community-based organizations, and institutions are engaged early and throughout the project planning and decision-making process.
- The following materials can be used to assist project messengers where applicable.
 - Key messages and/or Q & A Sheet—Include typical and anticipated project and community-related questions and answers. These can be provided to project spokespersons, stakeholders and community leaders in advance of public events.
 - Contact sheets—List project partner contacts, key stakeholders, and consultants for easy information gathering.

- ❑ Website—Use this tool to inform and educate, as well as provide an opportunity for feedback.
- ❑ Video—Use this tool for education and to address comments received from the public in the early stages of the project.
- ❑ Legislative Packets—Use this tool for background and information for various elected and appointed officials.
- Implement activities in association with advocacy groups, civic leaders, ministers, and local school districts that serve the identified communities.
- Provide information in a format and language that is relevant and readily understood. Create information materials that educate and inform the various audiences about the project and highlight opportunities for involvement.
- Conduct public meetings in a convenient and familiar location within the community, utilizing one of the following venues:
 - ❑ *One-on-one briefings*—A dynamic component of public involvement that helps to break down barriers between people and the project. Provide a time and place for face-to-face contact and two-way communications.
 - ❑ *Small group briefings*—For a handful of individuals and representatives of larger organizations with similar issues/objectives and who typically share philosophies.
 - ❑ *Focus Groups*—A tool to gauge public opinion. This venue is a way to identify customer concerns, needs, wants, and expectations. A focus group informs project sponsors of the attitudes and values that customers, constituents or stakeholders hold and why. It can help drive development of policies, programs and services and the allocation of resources.
 - ❑ *Charrettes*—Intensive sessions in which participants create or review concepts and/or designs and are empowered to work together to support the results of their efforts in future planning efforts. Charrettes are invaluable in that they allow participants to understand several sides of the issues. The resulting “buy-in” or consensus most usually has a positive effect in reducing opposition down the road.
 - ❑ *Community briefing or workshops*—Information meetings with a community group and/or leader. Elected officials, business leaders, the media, regional groups, or special interest groups can participate. These venues usually involve issue-focused communication between agency administrators, project managers, board members or a specific group or part of the community.
 - ❑ *Open House/Public Workshop*—An informal setting in which people get information about a plan or project. Open houses have no set formal agenda. Unlike meetings, no formal discussions and presentations take place, and there are no audience seats. Instead, people get information

informally from exhibits and staff, and are encouraged to give opinions, comments, and preferences to staff either verbally or in writing.

For additional tips on successful public meetings and community outreach, refer to Appendix C for a quick public meeting checklist.

- Provide transportation, childcare services, and refreshments as part of public meetings, to encourage participation.
- Use visual aids and community leaders to facilitate discussions about problems, alternatives, and possible outcomes.
- Coordinate with project partners' media relations departments to determine approach and timing for both news media and editorial board endorsement, encourage media relations activities. This will help reach a larger audience and educate the public on the purpose, need and associated activities of the project. Prepare processes for proactive and reactive media scenarios. Identify media targets and create a media contact list, including print, broadcast and electronic sources. Identify media spokespersons and conduct media training as necessary.

Many of these strategies may be applied during the project development process (see Appendix A). For additional tips (do's and don'ts) on successful public participation activities associated with community outreach and media strategies, refer to Appendix C for a quick reference guide to tips for successful communication.

Strengthening Ties to Communities

It is important that to note that the Port should seek to maintain relationships with communities even after a project has been completed. These relationships build trust between public agencies and the communities they serve, and they provide a valuable channel of communication to address emerging issues and needs in a timely manner. The following are some strategies for strengthening ties to communities.

- Establish a collaborative relationship with local, regional, and tribal governments, and leverage local resources whenever possible.
- Build capacity in communities by providing assistance to non-profit organizations to facilitate meetings, publicize events, and utilize ethnic media.
- Form citizen's advisory committees, if not already established.
- Arrange for managers from various agencies, as appropriate, to be present at public hearings.
- Consider the cultural and historical aspects of communities in planning and project implementation.

- Foster a constructive dialogue among all stakeholders—including minority and low-income communities and tribal governments—to incorporate community values in planning and project development.
- Provide feedback and project updates through newsletters, websites, and press advisories.
- Demonstrate responsiveness to the comments and questions raised at public meetings.

These strategies are applicable during the life of a project (e.g., during public scoping meetings), as well as during ongoing Port operations and maintenance activities, policy development, and public education.

Specific Tactics to Consider

Each project and the composition of each affected community are unique and, as such, require that a specific public participation plan or strategy be designed accordingly. Implementation of public participation plans and strategies can best be achieved through the use of some basic tactics, which may include the following.

Tactics for Implementing Public Participation Plans or Strategies	
<ul style="list-style-type: none"> ■ Collateral materials <ul style="list-style-type: none"> ➤ Brochures ➤ Booklets ➤ Fact sheets ➤ Meeting notices ➤ Newsletters ➤ One-on-one outreach ➤ Websites ➤ White papers ■ Community assessments and polls ■ Crisis management and risk-communication planning 	<ul style="list-style-type: none"> ■ Facilitation and mediation of group discussions and workshops ■ Media relations and media skills training ■ Public meetings, workshops and open houses ■ Contacts database and mailing lists for community outreach and distribution of informational materials ■ Tours and briefings

When using each of these tactics, one should always be mindful of specific cultural sensitivities as well as translation and interpretation needs associated with a particular effort. Tailoring each outreach technique to address these sensitivities and needs will help ensure successful communication with your target community. Preliminary screening to identify minority and low-income populations (and other demographic variables, such as age or disability status), even prior to the preparation of environmental documentation, is important for the selection of appropriate outreach tactics.

Getting the Job Done

The most common mistake made regarding public participation is that most public agencies underestimate the time and expertise it takes to engage the public, especially for projects that may have environmental justice implications. Do not hesitate to bring in a professional public participation team or expert to assist with the design and implementation of your project. Using a public participation expert to involve the public early and often through the life of a project will help avoid surprises and conflicts, anticipate “hot button” issues, and ensure lasting success.

Historical Context of the Environmental Justice Movement

It has been suggested that the basis for environmental justice and all other challenges to governmental discrimination lies in the Equal Protection Clause of the U.S. Constitution. The Fourteenth Amendment of the Constitution expressly provides that the states may not “deny to any person within [their] jurisdiction the equal protection of the laws” (U.S. Constitution, amend. XIV, Section 1). Some would say that the environmental justice movement was borne out of the larger civil rights movement of the 1960s. Most would agree that the environmental justice movement began in a small, predominantly African-American and low-income community in Warren County, North Carolina. In 1982, the State of North Carolina decided to site a toxic waste landfill for the disposal of PCB-contaminated soil in Warren County, prompting several demonstrations by civil rights and environmental activists. By 1983, the State of North Carolina decided to find an alternative site for the landfill proposed for Warren County, which already had been the target for other toxic waste facilities sited in its community before the decision in 1982.

Several reports were commissioned following the Warren County events. Immediately after the public outcry in Warren County, the U.S. General Accounting Office conducted a study of the EPA, Region IV, including North Carolina and other southeastern states. The report, entitled “Siting of Hazardous Waste Landfills and their Correlation with Racial and Economic Status of Surrounding Communities,” revealed that three out of four landfills were located near predominantly minority communities. A few years later, in 1987, the United Church of Christ released a report that found the most significant factor in determining the siting of hazardous waste facilities was race, and that three out of every five African-Americans and Hispanics lived in a community close to unregulated toxic waste sites. A few years later, a National Law Journal study found that the EPA took 20 percent longer to place abandoned sites in minority communities on the national priority clean-up list, and that polluters of these minority communities paid fines 54 percent lower than polluters in white communities. These studies and reports fueled a grassroots movement that was ignited many years before. In 1991, civil rights and environmental activists

convened in Washington, DC, to hold the First National People of Color Environmental Leadership Summit, resulting in 17 principles of environmental justice (Appendix D).

In response to the grassroots movement, and these studies and reports, President Clinton signed Executive Order 12898, titled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, on February 11, 1994 (Appendix E). The executive order followed a 1992 EPA report indicating “[r]acial minority and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution.”

Regulatory Framework for the Port of Long Beach

Port projects may involve several federal, state, and local agencies for various types of approvals. These agencies typically serve as lead, responsible, cooperating, and trustee agencies for the CEQA and NEPA environmental review process. The following summaries characterize the scope of environmental justice-related orders, policies, guidance documents, regulations, and laws—the regulatory framework that mandates that environmental justice is addressed in Port environmental documents. For further reading or to obtain up-to-date information from various agencies, see Appendix H, which includes list of federal, state, and local agency websites relating to environmental justice.

Federal

Several federal agencies may be involved in actions proposed by the Port. These federal agencies have certain environmental justice requirements, based on Executive Order 12898, that must be completed prior to authorizing an activity under its jurisdiction. These federal agencies are:

- DOT,
- U.S. Army Corps of Engineers,
- Federal Energy Regulatory Commission, and
- U.S. Coast Guard.

Executive Order 12898

Executive Order 12898 requires the federal agencies named in the order to address environmental justice issues affecting minority and low-income populations, using all the statutory and regulatory authorities that already exist.

Specifically, the Executive Order 12898 requires federal agencies to do the following:

- Section 1-101. Make achieving environmental justice part of its mission.
- Section 1-102. Create an Interagency Working Group on Environmental Justice, convened by the Administrator of the EPA and composed of the heads of the federal agencies named in the executive order².
- Section 1-103. Develop an agency-wide environmental justice strategy.
- Section 2-2. Conduct its programs, policies, and activities that substantially affect human health or the environment, to ensure that the agency does not exclude populations from participation in, deny such populations the benefits of, or subject populations to discrimination under such programs, policies, and activities because of their race, color, or national origin.
- Section 3-301. Conduct research to include diverse segments of the population, attempt to address multiple and cumulative exposures in research, and enhance participation by such populations in the development and design of research strategies.
- Section 3-302. Collect and disseminate information assessing disproportionately high and adverse human health and environmental effects on minority and low-income populations.
- Section 4-4. As practicable and appropriate, investigate and communicate information on the consumption patterns of populations that primarily rely on fish or wildlife for subsistence.
- Section 5-5. Promote public participation in environmental decision making and public access to health or environmental information by encouraging agencies to ensure that documents, notices, and hearings “are concise, understandable, and readily accessible to the public,” granting agencies the discretion to translate “crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations” (White House 1994).

Executive Order 12898 was not intended to create a right of judicial review against the United States, but rather for agencies and judges to fulfill the spirit of the order by using their discretionary authority under various existing environmental statutes (namely NEPA and the Title VI of the Civil Rights Act of

² Agencies named in Executive Order 12898: “(a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate.” (Section 1-102)

1964³) to achieve the environmental justice goals (Section 6-608 and 6-609) (White House 1994).

Federal Agency Orders and Regulations

U.S. Department of Transportation

Following Executive Order 12898, DOT issued an Order to Address Environmental Justice in Minority Populations and Low-Income Populations to comply with Executive Order 12898 (DOT 1997) (Appendix F). The DOT order described the process by which its operating administrations, including FHWA, would incorporate environmental justice principles. Further, the DOT order provided that FHWA would develop specific procedures to incorporate the goals of the DOT order and Executive Order 12898 into its programs, policies, and activities. This resulted in FHWA's issuance of its own order on environmental justice in December 1998 (Appendix F).

FHWA establishes three fundamental principles of environmental justice, including:

1. avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations;
2. ensure the full and fair participation by all potentially affected communities in the transportation decision-making process; and
3. prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations (FHWA 2005).

The FHWA Environmental Justice Order calls out specific information to be obtained and analyzed when considering environmental justice. It also commits to certain steps in order to prevent disproportionately high and adverse effects. In addition, a determination that an FHWA action will result in disproportionately high and adverse effects on minority or low-income populations requires mitigation measures or alternatives to avoid or reduce the high and adverse effects where practicable, and will only be carried out if there is a substantial need for the program, policy, or action, or where the alternatives that would have less adverse effects on minority or low-income populations would result in impacts that are more severe or would involve increased costs of an extraordinary magnitude (FHWA 1998).

³ Title VI states that "No person in the United States shall, on the ground 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 VI bars intentional discrimination as well as disparate impact discrimination (i.e., a neutral policy or practice that has a disparate impact on protected groups).

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers has not issued specific policy or guidance related to environmental justice, although its Environmental Desk Reference⁴, intended to serve as a desktop reference on environmental statutes and executive policies and orders, provides users with the full text of Executive Order 12898 (U.S. Army Corps of Engineers 1997).

Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission's Guidance Manual for Environmental Report Preparation⁵ requires that the analysis of project construction and operation in a project area should include, among other topics, environmental justice (Federal Energy Regulatory Commission 2002).

U.S. Coast Guard

In May 2003, the U.S. Coast Guard issued Commandant Instruction 5810.3 titled, "Coast Guard Environmental Justice Strategy" (Appendix F) (U.S. Coast Guard 2003). This instruction implements Executive Order 12898 and references other laws, including NEPA. Further, this instruction defines environmental justice and prescribes the responsibilities of specified personnel within the U.S. Coast Guard, including the collection and analysis of data involving minority and low-income populations.

Another instruction intended to guide the U.S. Coast Guard with complying with NEPA and the CEQ's regulations to implement NEPA, is Instruction M16475.1D⁶. This instruction notes that when an environmental assessment or environmental impact statement is needed, then the significance of environmental justice impacts must be considered (U.S. Coast Guard 2000).

When assessing the potential for significant impacts on the socioeconomic environment and environmental justice issues, the U.S. Coast Guard recommends considering whether the proposed action is likely to do any of the following:

- change traffic patterns or increase traffic volumes (road and/or waterway);
- require the rerouting of roads/waterways or traffic;

⁴ The U.S. Army Corps of Engineers' Environmental Desk Reference is accessible via the Web at <http://www.usace.army.mil/inet/functions/cw/cecwp/envdref2/>.

⁵ The Federal Energy Regulatory Commission's Guidance Manual for Environmental Report Preparation is accessible via the Web at <http://www.ferc.gov/industries/gas/enviro/erpman.pdf>.

⁶ The U.S. Coast Guard's Commandant Instruction M16475.1D is accessible via the Web at <http://www.uscg.mil/ccs/cit/cim/directives/cim/cim%5F16475%5F1d.pdf>.

- be located near any existing bottleneck in vehicle or vessel traffic (e.g., a bridge intersection, bend in the waterway, restricted channel);
- have access constraints;
- affect a congested intersection;
- be inconsistent with existing zoning, surrounding land use, or the official land use plan for the specific site and/or the delineated area;
- be inconsistent with surrounding architecture or landscape;
- increase or decrease the population of the community;
- increase the population density of the area;
- require the construction of government housing now or in the future;
- intrude on residential or business uses in the affected area;
- relocate private residences or businesses;
- affect the economy of the community in ways that result in impacts to its character, or to the physical environment;
- result in a higher proportion of effects impacting low income or minority groups;
- require substantial new utilities;
- be regarded as burdensome by local or regional officials or the public because of infrastructure demands (e.g., sewer, water, utilities, street system, and public transit);
- be regarded as burdensome by local or regional officials or the public because of support facilities demands (e.g., schools, hospitals, shopping facilities, and recreation facilities);
- alter a group’s use of land or other resources (e.g., sustenance fishing); or
- disproportionately have a high and adverse effect on a minority or low-income population.

State

While there is no requirement under CEQA to address environmental justice, a handful of legislation has been signed into law since 1999. Environmental justice laws in California have largely been procedural, including, but not limited to, formation of environmental justice advisory

<p>California’s Definition</p> <hr/> <p>Environmental justice is “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws and policies.”</p> <p>California Government Code §65040.12</p>
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committees and assigning coordinating roles and responsibilities to the Governor's Office of Planning and Research and the California Environmental Protection Agency. For information on recent state-level environmental justice efforts and legislation, see a publication by the Governor's Office of Planning and Research, titled "Environmental Justice in California" (released in October 2003), or contact individual agencies for more specific information. Additionally, Appendix G contains a recent article published in the California Development and Planning Report, which focuses on state agencies' environmental justice activities (California Development and Planning Report 2003).

Although there is no specific state law requiring the Port to assess environmental justice issues, Port projects may trigger the jurisdiction of two state agencies, California State Lands Commission (SLC) and California Air Resources Board (ARB), which have adopted environmental justice review requirements.

State Lands Commission

The SLC adopted an Environmental Justice Policy on October 1, 2002, replacing an interim policy adopted earlier that year (Appendix F). Before adoption of this amended policy, the SLC distributed the interim policy to 51 environmental justice and community organizations throughout the state with an invitation to comment. Based on the comments received and additional staff review, the policy was revised to make it more effective and comprehensive.

In its policy, the SLC "pledges to continue and enhance its processes, decisions, and programs with [environmental justice] as an essential consideration." The policy also cites the definition of environmental justice in state law and points out that this definition "is consistent with the Public Trust Doctrine principle that the management of trust lands is for the benefit of all of the people" (SLC 2002).

To date, the SLC has not issued any guidance to implement the policy, although environmental justice is addressed in all SLC environmental documents (Griggs pers. comm.).

California Air Resources Board

ARB has taken extraordinary steps to address environmental justice. On December 31, 2001, ARB was one of the first state entities to adopt an environmental justice policy⁷. ARB has taken various steps to implement the policy, including, but not limited to, modeling best-practices for public meetings, publishing a public participation handbook for agencies and the public in both English and Spanish, and developing an Air Quality Handbook on Land Use.

⁷ ARB's Environmental Justice Policies and Actions document is accessible via the web at <http://www.arb.ca.gov/ch/programs/ej/ej.htm>.

The draft Air Quality Handbook on Land Use is intended to serve as a reference for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. ARB has also convened a multi-stakeholder environmental justice group to serve as a forum to discuss its environmental justice program.

South Coast Air Quality Management District

In 1997, the South Coast Air Quality Management District adopted a set four guiding principles of environmental justice to ensure environmental equity:

1. All basin residents have the right to live and work in an environment of clean air, free of airborne health threats.
2. Government is obligated to protect the public health.
3. The public and private sectors have the right to be informed of scientific findings concerning hazardous and toxic emission levels, and to participate in the development and implementation of adequate environmental regulations in their communities.
4. The Governing Board is to uphold the civic expectation that the public and private sectors of the basin will engage in practices that contribute to a healthy economy and truly livable environment (South Coast Air Quality Management District 2005).

Local

The City of Long Beach has not adopted policies relating to environmental justice. For informational purposes, the following provides some background on environmental justice efforts by the City of Los Angeles. The Port of Los Angeles has not issued its own environmental justice policies or guidance; however, since it is governed by the Los Angeles Harbor Department within the City of Los Angeles, it has informally “adopted” the City of Los Angeles’ policies.

City of Los Angeles

The City of Los Angeles has adopted environmental justice policies as part of its General Plan, in its Framework and Transportation Elements.

The Framework Element includes a policy to “assure the fair treatment of people of all races, cultures, incomes and education levels with respect to the development, implementation and enforcement of environmental laws, regulations, and policies, including affirmative efforts to inform and involve environmental groups, especially environmental justice groups, in early planning

stages through notification and two-way communication” (City of Los Angeles 2001) (Chapter 3, Section 3.1.9).

The Transportation Element includes a policy to “assure the fair and equitable treatment of people of all races, cultures, incomes and education levels with respect to the development and implementation of citywide transportation policies and programs, including affirmative efforts to inform and involve environmental groups, especially environmental justice groups, in the planning and monitoring process through notification and two-way communication” (City of Los Angeles 1999) (Chapter IV, Policy 7.3).

In addition, the City of Los Angeles has committed to a Compact for Environmental Justice, which was adopted as the city’s foundation for a sustainable urban environment. Relevant statements include the following:

- All people in Los Angeles are entitled to equal access to public open space and recreation, clean water, and uncontaminated neighborhoods.
- All planning and regulatory processes must involve residents and community representatives in decision making from start to finish (City of Los Angeles 1999).

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Personal Communication

Griggs, Pam. Staff Counsel, California State Lands Commission. February 15, 2005—telephone conversation.

Appendix A

**Environmental Justice Opportunities in
Port of Long Beach Projects**

PROJECT DEVELOPMENT PROCESS

Project Initiation

- Coordinate with public agencies.
- Conduct community outreach/public participation.
- Identify engineering, environmental, and fiscal constraints.

Project Development

- Identify the project development team (PDT).
- Create a Citizens' Advisory Committee (CAC).
- Develop reasonable range of project alternatives.

Environmental Review

- Conduct public meeting(s).
- Draft environmental impact document.
 - Analyze environmental impacts.
 - Propose mitigation for impacts.
- Public review and comment period.
- Final environmental document.
 - Respond to public comments.
 - Revise analysis and mitigation.
- Adopt environmental document and approve project.
- Monitor impact mitigation.

Project Construction

- Announce contract.
- Select contractor.
- Commence construction.
- Coordinate with community during construction.
- Ensure implementation of pre- and post-construction mitigation.

Project Operations & Maintenance

- Develop and implement Port operations and maintenance (O&M) plan.
- Monitor operations and facility conditions.

ENVIRONMENTAL JUSTICE OPPORTUNITIES

- Early identification of environmental justice (EJ) communities.
- Initial contacts with public officials and leaders of EJ organizations.
- Consider launching preliminary public outreach efforts.

- Identify public participation coordinator
- Include community experts as PDT/CAC members.
- Consider EJ when developing and assessing project alternatives.

- Identify disproportionately high and adverse project impacts in the environmental document.
- Include a separate EJ analysis within the environmental document.
- Tailor mitigation measures that avoid or minimize disproportionate impacts to EJ communities.
- Enhance public outreach for environmental document scoping and review.

- Include contractors/employees from EJ communities in bidding process.
- Maintain community outreach during construction period.

- Ensure all facilities are maintained and repaired.
- Update Port facilities as they become outmoded over time.
- Continue to inform community about O&M and related Port activities.

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Appendix B

Model EIR/EIS Environmental Justice Section

Model EIR/EIS Environmental Justice Section

Introduction

In 1994, concern that minority populations and/or low-income populations were bearing a disproportionate amount of adverse health and environmental effects led President Clinton to issue Executive Order 12898, which focused federal agency attention on these issues.

Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, directed each federal agency to make achieving environmental justice a part of its mission. The President specifically recognized the importance of using the procedures under the National Environmental Policy Act (NEPA) to identify and address environmental justice concerns.

The U.S. EPA defines “environmental justice” as follows:

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from the execution of federal, state, local, or tribal programs and policies.

Meaningful involvement means that (1) potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health, (2) the public’s contribution can influence the regulatory agency’s decision, (3) concerns of all participants involved will be considered in the decision making process, and (4) decision makers must seek out and facilitate the involvement of those potentially affected.

Regulatory Setting

Federal

Executive Order 12898

On February 11, 1994, President Clinton signed Executive Order (E.O.) 12898, titled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.” The executive order followed a 1992 report by the U.S. Environmental Protection Agency (U.S. EPA) indicating that “[r]acial minority and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution.” E.O. 12898 requires the federal agencies named in the order to identify and address disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, using all the statutory and regulatory authorities that already exist. The federal agency must ensure that its activities do not discriminate against persons or groups on the basis of race, national origin, or income.

Title VI of the Civil Rights Act

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination in federally assisted programs. The act stipulates that no person in the United States shall, on the ground of race, color, national origin age, sex, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. All federal programs and projects are subject to this act. The general procedures to be followed are set forth in 49 CFR 21 and 23 CFR 200.

Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission’s Guidance Manual for Environmental Report Preparation¹ requires that the analysis of project construction and operation in a project area should include, among other topics, environmental justice.

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers has not issued specific policy or guidance related to environmental justice, although its Environmental Desk Reference², intended to serve as a desktop reference on environmental statutes and executive policies and orders, provides users with the full text of Executive Order 12898.

¹ The Federal Energy Regulatory Commission’s Guidance Manual for Environmental Report Preparation is accessible via the Web at <http://www.ferc.gov/industries/gas/enviro/erpman.pdf>.

² The U.S. Army Corps of Engineers’ Environmental Desk Reference is accessible via the Web at <http://www.usace.army.mil/inet/functions/cw/cecwp/envdref2/>.

U.S. Department of Transportation Order 5610.2

In April 1997, the U.S. Department of Transportation (DOT) issued the DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations (DOT Order 5610.2) to summarize and expand on the requirements of Executive Order 12898. The order generally describes the process for incorporating environmental justice principles into all DOT existing programs, policies, and activities. DOT and FTA provide that agencies:

- 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; and
- enhance public involvement activities to identify and address the needs of minority and low-income populations in making transportation decisions.

U.S. Coast Guard

In May 2003, the U.S. Coast Guard issued Commandant Instruction 5810.3 titled, "Coast Guard Environmental Justice Strategy." This instruction implements Executive Order 12898 and references other laws, including NEPA. Further, this instruction defines environmental justice and prescribes the responsibilities of specified personnel within the U.S. Coast Guard, including the collection and analysis of data involving minority and low-income populations.

When assessing the potential for significant impacts on the socioeconomic environment and environmental justice issues, the U.S. Coast Guard recommends considering whether the proposed action is likely to do any of the following:

- change traffic patterns or increase traffic volumes (road and/or waterway);
- require the rerouting of roads/waterways or traffic;
- be located near any existing bottleneck in vehicle or vessel traffic (e.g., a bridge intersection, bend in the waterway, restricted channel);
- have access constraints;
- affect a congested intersection;
- be inconsistent with existing zoning, surrounding land use, or the official land use plan for the specific site and/or the delineated area;
- be inconsistent with surrounding architecture or landscape;
- increase or decrease the population of the community;
- increase the population density of the area;
- require the construction of government housing now or in the future;

- intrude on residential or business uses in the affected area;
- relocate private residences or businesses;
- affect the economy of the community in ways that result in impacts to its character, or to the physical environment;
- result in a higher proportion of effects impacting low income or minority groups;
- require substantial new utilities;
- be regarded as burdensome by local or regional officials or the public because of infrastructure demands (e.g., sewer, water, utilities, street system, and public transit);
- be regarded as burdensome by local or regional officials or the public because of support facilities demands (e.g., schools, hospitals, shopping facilities, and recreation facilities);
- alter a group's use of land or other resources (e.g., sustenance fishing); or
- disproportionately have a high and adverse effect on a minority or low-income population.

State

[There is no specific state law requiring the Port to assess environmental justice issues, Port projects may trigger the jurisdiction of two state agencies, California State Lands Commission and California Air Resources Board, which have adopted environmental justice review requirements.]

State Lands Commission

The SLC adopted an Environmental Justice Policy on October 1, 2002, replacing an interim policy adopted earlier that year. Before adoption of this amended policy, the SLC distributed the interim policy to 51 environmental justice and community organizations throughout the state with an invitation to comment. Based on the comments received and additional staff review, the policy was revised to make it more effective and comprehensive.

In its policy, the SLC “pledges to continue and enhance its processes, decisions, and programs with [environmental justice] as an essential consideration.” The policy also cites the definition of environmental justice in state law and points out that this definition “is consistent with the Public Trust Doctrine principle that the management of trust lands is for the benefit of all of the people”.

To date, the SLC has not issued any guidance to implement the policy, although environmental justice is addressed in all SLC environmental documents.

California Air Resources Board

ARB has taken extraordinary steps to address environmental justice. On December 31, 2001, ARB was one of the first state entities to adopt an environmental justice policy³. ARB has taken various steps to implement the policy, including, but not limited to, modeling best-practices for public meetings, publishing a public participation handbook for agencies and the public in both English and Spanish, and developing an Air Quality Handbook on Land Use. The draft Air Quality Handbook on Land Use is intended to serve as a reference for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. ARB has also convened a multi-stakeholder environmental justice group to serve as a forum to discuss its environmental justice program.

South Coast Air Quality Management District

In 1997, the South Coast Air Quality Management District adopted a set four guiding principles of environmental justice to ensure environmental equity:

- a. All basin residents have the right to live and work in an environment of clean air, free of airborne health threats.
- b. Government is obligated to protect the public health.
- c. The public and private sectors have the right to be informed of scientific findings concerning hazardous and toxic emission levels, and to participate in the development and implementation of adequate environmental regulations in their communities.
- d. The Governing Board is to uphold the civic expectation that the public and private sectors of the basin will engage in practices that contribute to a healthy economy and truly livable environment.

Local

City of Long Beach

The City of Long Beach has not adopted policies relating to environmental justice. For informational purposes, the following provides some background on environmental justice efforts by the City of Los Angeles. The Port of Los Angeles has not issued its own environmental justice policies or guidance; however, since it is governed by the Los Angeles Harbor Department within the City of Los Angeles, it has informally “adopted” the City of Los Angeles’ policies.

³ ARB’s Environmental Justice Policies and Actions document is accessible via the web at <http://www.arb.ca.gov/ch/programs/ej/ej.htm>.

City of Los Angeles

The City of Los Angeles has adopted environmental justice policies as part of its General Plan, in its Framework and Transportation Elements.

The Framework Element includes a policy to “assure the fair treatment of people of all races, cultures, incomes and education levels with respect to the development, implementation and enforcement of environmental laws, regulations, and policies, including affirmative efforts to inform and involve environmental groups, especially environmental justice groups, in early planning stages through notification and two-way communication” (Chapter 3, Section 3.1.9).

The Transportation Element includes a policy to “assure the fair and equitable treatment of people of all races, cultures, incomes and education levels with respect to the development and implementation of citywide transportation policies and programs, including affirmative efforts to inform and involve environmental groups, especially environmental justice groups, in the planning and monitoring process through notification and two-way communication” (Chapter IV, Policy 7.3).

In addition, the City of Los Angeles has committed to a Compact for Environmental Justice, which was adopted as the city’s foundation for a sustainable urban environment. Relevant statements include the following:

- All people in Los Angeles are entitled to equal access to public open space and recreation, clean water, and uncontaminated neighborhoods.
- All planning and regulatory processes must involve residents and community representatives in decision making from start to finish.

Methodology

Screening for environmental justice (EJ) impacts was achieved by characterizing the demographics (minority and low-income populations) for census block groups [or census tracts] in the project area and vicinity that would be potentially impacted by the proposed project.

The definitions of minority and low-income populations used for the EJ screening are those of the Council on Environmental Quality (CEQ), whose definitions are widely used to assess EJ in the environmental review process. Minority individuals are defined as members of the following population groups: American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic. Low-income populations in the affected area are identified with the annual poverty threshold defined by the U.S. Census Bureau as 80% or less of the County median income [or below the poverty level, as identified in the 2000

U.S. Census]. Minority and low-income populations are defined according to the following criteria:

- Where the minority population percentage of the affected area is meaningfully greater than the minority population percentage of the general population; and
- Where the population percentage below the poverty level is meaningfully greater than that of the population percentage in the general population.

This characterization would determine whether further analysis is warranted.

Affected Environment

[Results from the demographics analysis, where the population percentages have been compared with the general population (City of Long Beach and/or County of Los Angeles) should be discussed here. They should also be shown graphically. Explain whether the information derived from the census data shows that the potentially affected communities exist in the project vicinity and where, if any, they are concentrated.]

Figure [X] shows the minority block groups within a 1-mile radius of the project boundaries, while Figure [Y] shows the low-income block groups within a 1-mile radius.

[Results of the impact analyses from other technical sections and studies should be discussed in general here to transition into the impacts discussion regarding impacts to both the general population and environmental justice populations.]

Impacts and Mitigation Measures

[The impact analysis would begin here. Begin by first discussing impacts to the general population followed by discussing disproportionate impacts to the low-income and minority populations in the project area.

Specific environmental justice impacts would include, but not be limited to, potential displacement, air quality, noise, changes in land use, economic development, visual, employment, local and regional traffic and transportation, and safety.

Then, continue by assessing whether the mitigation measures developed for the general population would be effective in minimizing or avoiding impacts to low-income and minority populations. If further mitigation is warranted, mitigation measures should be identified where it is appropriate in the document, with an explanation of how the mitigation would minimize or avoid the impact(s) to affected low-income and minority populations.]

Public Outreach Process

[A brief description of the public outreach process that the Port has undergone for the project should be discussed here, or where appropriate, as public participation is a key component to ensuring environmental justice.]

Appendix C

Public Outreach Resources

Tips for Successful Communication

Public Meeting Checklist

Tips for Successful Communication

Public Meetings:

Do Not:	Do:
Engage in “public participation” meetings if the public will not actually influence the decision-making	Clearly identify the purpose of the public meeting (informational, educational, participatory)
Hold meetings at inconvenient locations or inconvenient days/times	Select centrally located facilities that are ADA compliant, and easy to access from public transportation. Avoid holding meetings too close to holidays, and avoid conflicts with known Board meetings / other events
Hold meetings without adequate public notice.	Ensure that public notice is received at least two weeks in advance of the meeting. Ensure that methods for public notice are as thorough as possible.
Commit to anything without knowing in advance the commitment will be supported by decision-makers	Make commitments to consider new ideas, or to seek out answers to questions. Then, deliver on that commitment.
Neglect to anticipate “hot button” issues	Brainstorm about all likely concerns, even those unrelated to the topic directly. Attempt to address these concerns in informational material or in presentations.
Assume things will “work out”	Spend time and energy before public meetings to strategize. Create a public meeting plan, or a communication plan, and stick to it.
Let overbearing participants dominate the meetings	Establish and stick to meeting ground rules, redirect overbearing participants, and make use of an experienced facilitator

Media:

Do Not:	Do:
Speak to a reporter without knowing you are an identified “spokesperson”	Check your organization’s media protocol, and follow it (or create one, if necessary)
Assume you are powerless in telling your own story or assume you have to speak on any subject a reporter raises.	Be prepared. Know exactly what story you want to tell, and stick to it. Stay calm, make points quickly, and be repetitive only if necessary.
Assume that reporters are either your friend or your enemy	Understand reporters: they want a good story. Be straightforward and professional, and as helpful and resourceful as possible within limits.
Speak to a reporter the instant he or she contacts you.	Give yourself time to prepare. Ask the reporter what the subject matter is and when their deadline is, and arrange for an appointment later in the day or later in the week.
Ignore reporters’ attempts to contact you.	Respond promptly.
Assume you have to have all the answers.	Say you “don’t know” if that’s the case, and offer to obtain the information if possible.
Lie, guess, speculate, or offer personal opinion.	Provide only accurate and relevant information.
Speak on subjects other than those you are prepared or authorized to cover or speak on behalf of someone else.	Have key messages prepared and follow them. Bridge to your key messages from any unrelated questions. Defer to the proper spokesperson as necessary.
Speak off the record, or engage in chit-chat before or after an interview.	Understand that everything you say or write (whether part of an interview or not) could be attributed to you in a quote.

Tips for Successful Communication

Cross –Jurisdictional Communications:

Do Not:	Do:
Assume that expectations for cross-jurisdictional communication are the same for each participating organization.	Identify, discuss and set mutual communication goals for participating organizations. Ask one another what tangible benefit they get from participating.
Believe that other jurisdictions make decisions in a manner similar to your organization.	Explain the process for decision making at your organization.
Assume that information you provide will be shared with the correct or appropriate people at your partnering organization.	Take responsibility for determining how to share information so that you reach everyone at your partnering organization whose input and approval is necessary.
Suppose that partnering organizations understand the institutional history that has contributed to your organization's culture, approach, and decision-making	Provide information that sets the historical context for the issue your organization is confronting.
Exaggerate controversy or disagreements to the public or media.	Establish ground rules for discussing and characterizing disagreements among partnering organizations with the outside world: the public and the media.

Political Communications:

Do Not:	Do:
Catch elected officials off-guard	Notify elected officials in advance of projects or programs in their district. Establish a relationship with the official directly, or with their assistant.
Expect elected officials to know what you want from them.	Be specific about the purpose of communications. Are you simply providing information, requesting their attendance at a function, or do you require a formal action on the part of the board?
Communicate with elected officials only reactively.	Provide presentations on a regular (quarterly or biannually) basis and include basic information such as scope of services, service area, and industry trends.
Rely on the ability of electeds to translate technical information into effective public messages.	Speak to electeds in language that they can use in communicating with the lay public. Be knowledgeable about community perceptions and speak to them.

Public Meeting Checklist

Task	Responsible Party	Details
Set Meeting Schedule		<p>Meetings need to be scheduled during public comment period (see “Noticing” below), preferably the beginning or middle.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Check for competing community events (City Council, Planning Commission and Board of Supervisors meetings)
Identify Stakeholders		<ul style="list-style-type: none"> <input type="checkbox"/> Develop or update contacts database to include targeted groups/individuals; community- and faith-based organizations, elected officials, partnering agencies, community members <input type="checkbox"/> Consider purchasing a zip-code mailing list within the project area
Select Meeting Site		<p>Questions to ask:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Availability (add 1.5 hours before and after meeting if possible) <input type="checkbox"/> Capacity (average meeting is 30–100 people; aim high) <input type="checkbox"/> Location (centrally located and accessible via public transit) <input type="checkbox"/> ADA compliant (wheelchair ramps, parking) <input type="checkbox"/> Set up (ample chairs, screens, outlets, lights, acoustics) <input type="checkbox"/> Audio visual equipment (microphones and speakers)
Determine Meeting Format		<p>Key components to consider:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Open house/information displays <input type="checkbox"/> Presentation <input type="checkbox"/> Public comment opportunities (verbal and written)
Develop Meeting Notice		<ul style="list-style-type: none"> <input type="checkbox"/> Schedule mailer to arrive a minimum of 2–3 weeks prior to event <input type="checkbox"/> Develop text and get approval from appropriate parties <input type="checkbox"/> Include information such as who, what, where, why, comment timeframe, contact person, and comment submittal information. <input type="checkbox"/> Coordinate a graphic design service <input type="checkbox"/> Use a mail house for distribution if not able to do in house
Conduct Noticing		<ul style="list-style-type: none"> <input type="checkbox"/> Consider CEQA and NEPA requirements (State Clearinghouse, Federal Register) <input type="checkbox"/> Mail a public meeting notice (see below) <input type="checkbox"/> Post information on web sites and in community-based organization newsletters and in newspapers
Conduct Client/Team Planning Meetings		<ul style="list-style-type: none"> <input type="checkbox"/> Meet biweekly or more frequently as meeting approaches to coordinate details <input type="checkbox"/> Identify a meeting facilitator and project media spokesperson <input type="checkbox"/> Determine staffing assignments (sign-in table greeter, open-house station staffers, presenters, room rovers) <input type="checkbox"/> Get client/team approval at each step

Public Meeting Checklist

Task	Responsible Party	Details
Conduct Media Relations		<ul style="list-style-type: none"> <input type="checkbox"/> Determine media budget <input type="checkbox"/> Identify/update media list (fax/phone/email/contact name for newspapers, radio, and television) <input type="checkbox"/> Develop news release (distribute 3 days prior to event and event day) <input type="checkbox"/> Place follow-up phone calls to media; solicit a feature story <input type="checkbox"/> Take advantage of free media (calendar notices, public service announcements, community-based organization web sites, etc.) <input type="checkbox"/> Design newspaper display advertisements <input type="checkbox"/> Draft script for radio advertisements <input type="checkbox"/> Reserve and place ads in predetermined media outlets
Develop Meeting Materials		<p>Items to develop:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fact sheet or brochure <input type="checkbox"/> Comment cards (design the card so it can be mailed to project representatives) <input type="checkbox"/> Agendas <input type="checkbox"/> Sign-in sheets <input type="checkbox"/> Visual boards on foam core (scoping process flowchart, maps, etc.) <input type="checkbox"/> Name tags for staff
Develop Presentation		<ul style="list-style-type: none"> <input type="checkbox"/> Develop key messages <input type="checkbox"/> Interview preparation and practice with identified spokesperson(s) <input type="checkbox"/> Microsoft PowerPoint with visuals <input type="checkbox"/> Talking points for presenters (describe process, provide project information, entertain questions, and detail next steps) <input type="checkbox"/> Schedule and conduct “dry-run” rehearsal
Coordinate Meeting Logistics and Supplies		<ul style="list-style-type: none"> <input type="checkbox"/> Order audio/visual equipment if necessary (microphones, screens, speaker, etc.) <input type="checkbox"/> Order refreshments (coffee, water, and cookies are standard) <input type="checkbox"/> Bring supplies (stick-on name tags for attendees, pens, Sharpies, and flipchart markers, flipcharts, easels, tape, scissors, etc.) <input type="checkbox"/> Arrange a court reporter if requested
Conduct Post-Meeting Follow-Up		<ul style="list-style-type: none"> <input type="checkbox"/> Forward scoping comments to appropriate client and technical staff <input type="checkbox"/> Respond to comments (if appropriate for stage in the process) <input type="checkbox"/> Create and publicize a scoping report <input type="checkbox"/> Keep attendees and stakeholders informed of project milestones <input type="checkbox"/> Plan for next steps

Appendix D

Principles of Environmental Justice

Principles of Environmental Justice

WE, THE PEOPLE OF COLOR, gathered together at this multinational People of Color Environmental Leadership Summit, to begin to build a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities, do hereby re-establish our spiritual interdependence to the sacredness of our Mother Earth; to respect and celebrate each of our cultures, languages and beliefs about the natural world and our roles in healing ourselves; to insure environmental justice; to promote economic alternatives which would contribute to the development of environmentally safe livelihoods; and, to secure our political, economic and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples, do affirm and adopt these Principles of Environmental Justice:

1. Environmental justice affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.
2. Environmental justice demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.
3. Environmental justice mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.
4. Environmental justice calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food.
5. Environmental justice affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.
6. Environmental justice demand the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.
7. Environmental justice demands the right to participate as equal partners at every level of decision-making including needs assessment, planning, implementation, enforcement and evaluation.
8. Environmental justice affirms the right of all workers to a safe and healthy work environment, without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.
9. Environmental justice protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.
10. Environmental justice considers governmental acts of environmental injustice a violation of international law, the Universal Declaration On Human Rights, and the United Nations Convention on Genocide.
11. Environmental justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.
12. Environmental justice affirms the need for an urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and providing fair access for all to the full range of resources.
13. Environmental justice calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.
14. Environmental justice opposes destructive operations of multi-national corporations.
15. Environmental justice opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.
16. Environmental justice calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.
17. Environmental justice requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and reprioritize our lifestyles to insure the health of the natural world for present and future generations.

Adopted, October 27, 1991

The First National People of Color Environmental Leadership Summit, Washington, D.C.

Appendix E
Executive Order 12898

Presidential Documents

Title 3—

The President

Executive Order 12898 of February 11, 1994

Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1-1. *Implementation.*

1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, 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 in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1-102. Creation of an Interagency Working Group on Environmental Justice.

(a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an interagency Federal Working Group on Environmental Justice ("Working Group"). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order;

(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings as required in section 5-502(d) of this order; and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. *Development of Agency Strategies.* (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. *Reports to the President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Sec. 2-2. *Federal Agency Responsibilities for Federal Programs.* Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3-3. Research, Data Collection, and Analysis.

3-301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations:

(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Sec. 4-4. Subsistence Consumption of Fish and Wildlife.

4-401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or

wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. *Public Participation and Access to Information.* (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6-6. *General Provisions.*

6-601. *Responsibility for Agency Implementation.* The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. *Executive Order No. 12250.* This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. *Executive Order No. 12875.* This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. *Scope.* For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. *Native American Programs.* Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. *Costs.* Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. *General.* Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance

of the United States, its agencies, its officers, or any other person with this order.

William Clinton

THE WHITE HOUSE,
February 11, 1994.

Appendix F

Environmental Justice Guidance and Policies from Selected Agencies

**U.S. Department of Transportation Order on
Environmental Justice**

**FHWA Actions to Address Environmental Justice in
Minority Populations and Low-Income Populations**

Coast Guard Environmental Justice Strategy

**California State Lands Commission Environmental
Justice Strategy**

US Department of Transportation Order on Environmental Justice

[Federal Register: April 15, 1997 (Volume 62, Number 72)]
[Notices]
[Page 18377-18381]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr15ap97-103]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary
[OST Docket No. OST-95-141 (50125)]

Department of Transportation (DOT) Order To Address Environmental
Justice in Minority Populations and Low-Income Populations

AGENCY: Departmental Office of Civil Rights and Office of the Assistant
Secretary for Transportation Policy, DOT.

ACTION: Notice of final DOT Order on environmental justice.

SUMMARY: The Department of Transportation is issuing its final DOT
Order, which will be used by DOT to comply with Executive Order 12898,
Federal Actions to Address Environmental Justice in Minority
Populations and Low-Income Populations. The Order generally describes
the process that the Office of the Secretary and each Operating
Administration will use to incorporate environmental justice principles
(as embodied in the Executive Order) into existing programs, policies,
and activities. The Order provides that the Office of the Secretary and
each Operating Administration within DOT will develop specific
procedures to incorporate the goals of the DOT Order and the Executive
Order with the programs, policies and activities which they administer
or implement.

FOR FURTHER INFORMATION CONTACT: Ira Laster Jr., Office of Environment,
Energy, and Safety, Office of the Assistant Secretary for
Transportation Policy, (202) 366-4859, or Marc Brenman, Departmental
Office of Civil Rights, (202) 366-1119, U.S. Department of
Transportation, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Executive Order 12898, as well as the
President's February 11, 1994 Memorandum on Environmental Justice (sent
to the heads of all departments and agencies), are intended to ensure
that Federal departments and agencies identify and address
disproportionately high and adverse human health or environmental
effects of their policies, programs and activities on minority
populations and low-income populations.

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The DOT Environmental Justice Order is a key component of DOT's

June 21, 1995 Environmental Justice Strategy (60 FR 33896). The Order sets forth a process by which DOT and its Operating Administrations will integrate the goals of the Executive Order into their operations. This is to be done through a process developed within the framework of existing requirements, primarily the National Environmental Policy Act (NEPA), Title VI of the Civil Rights Act of 1964 (Title VI), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and other DOT applicable statutes, regulations and guidance that concern planning; social, economic, or environmental matters; public health or welfare; and public involvement. The Order is an internal directive to the various components of DOT and does not create any right to judicial review for compliance or noncompliance with its provisions.

In order to provide an opportunity for public input, a proposed version of this Order was published for comment on June 29, 1995 (60 FR 33899). A total of 30 written comments were received. Fifteen comments were received from state transportation or highway agencies, representing 20 state agencies (one letter was signed by ten state agencies, but four of those also sent individual comments). The other 15 comments included four from transit agencies, four from national organizations, two each from local governments, metropolitan planning organizations, and citizens objecting to one particular project, and one from a professional association.

Most of the comments from the state agencies suggested that the proposed Order would duplicate existing processes and impose additional burdens on the state agencies, and urged that greater flexibility be granted to states.

The DOT Order reinforces considerations already embodied in NEPA and Title VI, and the final version has been revised to make this clearer. It is intended to insure that a process for the assessment of environmental justice factors becomes common practice in the application of those, and related, statutes.

Many other comments suggested ways in which the Order might be clarified or simplified, or addressed specific details of individual agency implementation. As this Order is only intended to provide general guidance to all DOT components, detailed comments on each agency's implementation are premature, and should be made during opportunities for public input on agency implementation (para. 5 of the Order).

Several commenters suggested greater reliance on existing procedures, particularly those implementing NEPA.

One commenter noted, "Over the past number of years we have seen rules and laws initiated with laudable intent, only to be slowly transformed into bureaucratic mazes only dimly related to their original purpose."

The Department does not intend that this Order be the first step in creating a new set of requirements. The objective of this Order is the development of a process that integrates the existing statutory and regulatory requirements in a manner that helps ensure that the interests and well being of minority populations and low-income populations are considered and addressed during transportation decision making.

To further advance this objective, explanatory information has been provided in this preamble and several changes have been made in the Order. Most notably:

- Further clarification has been provided concerning the use of existing NEPA, Title VI, URA and ISTEA planning requirements and procedures to satisfy the objectives of Executive Order 12898.
- The application of the Order to ongoing activities is discussed in this preamble.
- The Order has been modified to further clarify the relationship

and use of NEPA and Title VI in implementing the Executive Order.

Further, in developing and reviewing implementing procedures, described in paragraph 5a to comply with Executive Order 12898, the emphasis continues to be on the actual implementation of NEPA, Title VI, the URA and ISTEA planning requirements so as to prevent disproportionately high and adverse human health or **environmental** effects of DOT's programs, policies and activities on minority populations and low-income populations.

One of the primary issues raised in the proposed Order concerned the actions that would be taken if a disproportionately high and adverse human health or **environmental** effect on minority populations or low-income populations is identified. The proposed Order set forth three options. A variety of comments were received on this issue, both for and against the various options.

The final Order adopts a modified version of Option B from the proposed Order. While Option B implements a new process for addressing disproportionately high and adverse effects, the Department believes that Option B is consistent with existing law and best accomplishes the objectives of the Executive Order. Option B (now incorporated in paragraphs 8a, 8b and 8c of the final Order) provides 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. Further, populations protected by Title VI are covered by the additional provisions of paragraph 8b. Three commenters expressed concern and uncertainty as to the implementation of paragraph 6b(1) of Option B as proposed, that provided for an agreement with populations protected by Title VI. DOT agreed with the comments and, accordingly, that paragraph has been deleted from the final Order.

Several commenters asked about the effective date of this Order. In particular they wanted to know whether it applies to ongoing projects. The effective date of the Order is the date of its issuance. However, to the extent that the Order clarifies existing requirements that ensure environmental justice principles are considered and addressed before final transportation decisions are made, its purposes already should be reflected in actions relating to ongoing projects.

Several commenters recommended that insignificant or de minimis actions not be covered by this Order. It is noted that the definition of "programs, policies and/or activities" in Section 1f of the Appendix does not apply to those actions that do not affect human health or the environment. Other actions that have insignificant effects on human health or the environment can be excluded from coverage by a DOT component.

One commenter suggested that this Order might be inconsistent with the Supreme Court's decision in *Adarand Constructors v. Peña*. DOT has concluded that, since the purpose of this Order is unrelated to the types of programs which were the subject of *Adarand*, this Order is not affected by the *Adarand* decision.

Dated: February 3, 1997.
Federico F. Pena,
Secretary of Transportation.

Department of Transportation, Office of the Secretary, Washington,
D.C.

Order

Subject: Department of Transportation Actions To Address **Environmental**

[[Page 18379]]

Justice in Minority Populations and Low-Income Populations

1. Purpose and Authority

a. This Order establishes procedures for the Department of Transportation (DOT) to use in complying with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994. Relevant definitions are in the Appendix.

b. Executive Order 12898 requires each Federal agency, to the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, to achieve environmental justice as part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of its programs, policies, and activities on minority populations and low-income populations in the United States. Compliance with this DOT Order is a key element in the environmental justice strategy adopted by DOT to implement the Executive Order, and can be achieved within the framework of existing laws, regulations, and guidance.

c. Consistent with paragraph 6-609 of Executive Order 12898, this Order is limited to improving the internal management of the Department and is not intended to, nor does it, create any rights, benefits, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the Department, its operating administrations, its officers, or any person. Nor should this Order be construed to create any right to judicial review involving the compliance or noncompliance with this Order by the Department, its operating administrations, its officers or any other person.

2. Scope

This Order applies to the Office of the Secretary, the United States Coast Guard, DOT's operating administrations, and all other DOT components.

3. Effective Date

This Order is effective upon its date of issuance.

4. Policy

a. It is the policy of DOT to promote the principles of environmental justice (as embodied in the Executive Order) through the incorporation of those principles in all DOT programs, policies, and activities. This will be done by fully considering environmental justice principles throughout planning and decision-making processes in the development of programs, policies, and activities, using the principles of the National Environmental Policy Act of 1969 (NEPA), Title VI of the Civil Rights Act of 1964 (Title VI), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA), the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and other DOT statutes, regulations and guidance that address or affect infrastructure planning and decisionmaking; social, economic, or environmental matters; public health; and public involvement.

b. In complying with this Order, DOT will rely upon existing authority to collect data and conduct research associated with environmental justice concerns. To the extent permitted by existing law, and whenever practical and appropriate to assure that disproportionately high and adverse effects on minority or low income populations are identified and addressed, DOT shall collect, maintain, and analyze information on the race, color, national origin, and income level of persons adversely affected by DOT programs, policies, and activities, and use such information in complying with this Order.

5. Integration With Existing Operations

a. The Office of the Secretary and each operating administration shall determine the most effective and efficient way of integrating the processes and objectives of this Order with their existing regulations

and guidance. Within six months of the date of this Order each operating administration will provide a report to the Assistant Secretary for Transportation Policy and the Director of the Departmental Office of Civil Rights describing the procedures it has developed to integrate, or how it is integrating, the processes and objectives set forth in this Order into its operations.

b. In undertaking the integration with existing operations described in paragraph 5a, DOT shall observe the following principles:

(1) Planning and programming activities that have the potential to have a disproportionately high and adverse effect on human health or the environment shall include explicit consideration of the effects on minority populations and low-income populations. Procedures shall be established or expanded, as necessary, to provide meaningful opportunities for public involvement by members of minority populations and low-income populations during the planning and development of programs, policies, and activities (including the identification of potential effects, alternatives, and mitigation measures).

(2) Steps shall be taken to provide the public, including members of minority populations and low-income populations, access to public information concerning the human health or environmental impacts of programs, policies, and activities, including information that will address the concerns of minority and low-income populations regarding the health and environmental impacts of the proposed action.

c. Future rulemaking activities undertaken pursuant to DOT Order 2100.5 (which governs all DOT rulemaking), and the development of any future guidance or procedures for DOT programs, policies, or activities that affect human health or the environment, shall address compliance with Executive Order 12898 and this Order, as appropriate.

d. The formulation of future DOT policy statements and proposals for legislation which may affect human health or the environment will include consideration of the provisions of Executive Order 12898 and this Order.

6. Ongoing DOT Responsibility

Compliance with Executive Order 12898 is an ongoing DOT responsibility. DOT will continuously monitor its programs, policies, and activities to ensure that disproportionately high and adverse effects on minority populations and low-income populations are avoided, minimized or mitigated in a manner consistent with this Order and Executive Order 12898. This Order does not alter existing assignments or delegations of authority to the Operating Administrations or other DOT components.

7. Preventing Disproportionately High and Adverse Effects

a. Under Title VI, each Federal agency is required to ensure that no person, on the ground of race, color, or national origin, is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance. This statute affects every program area in DOT. Consequently, DOT managers and staff must administer their programs in a manner to assure that no person is excluded from participating in, denied the benefits of, or subjected to discrimination by any program or

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activity of DOT because of race, color, or national origin.

b. It is DOT policy to actively administer and monitor its operations and decision making to assure that nondiscrimination is an integral part of its programs, policies, and activities. DOT currently administers policies, programs, and activities which are subject to the requirements of NEPA, Title VI, URA, ISTEA and other statutes that involve human health or environmental matters, or interrelated social and economic impacts. These requirements will be administered so as to identify, early in the development of the program, policy or activity,

the risk of discrimination so that positive corrective action can be taken. In implementing these requirements, the following information should be obtained where relevant, appropriate and practical:

- Population served and/or affected by race, color or national origin, and income level;
- Proposed steps to guard against disproportionately high and adverse effects on persons on the basis of race, color, or national origin;
- present and proposed membership by race, color, or national origin, in any planning or advisory body which is part of the program.

c. Statutes governing DOT operations will be administered so as to identify and avoid discrimination and avoid disproportionately high and adverse effects on minority populations and low-income populations by:

(1) identifying and evaluating environmental, public health, and interrelated social and economic effects of DOT programs, policies and activities,

(2) proposing measures to avoid, minimize and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and providing offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by DOT programs, policies and activities, where permitted by law and consistent with the Executive Order,

(3) considering alternatives to proposed programs, policies, and activities, where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, consistent with the Executive Order, and

(4) eliciting public involvement opportunities and considering the results thereof, including soliciting input from affected minority and low-income populations in considering alternatives.

8. Actions To Address Disproportionately High and Adverse Effects

a. Following the guidance set forth in this Order and its Appendix, the head of each Operating Administration and the responsible officials for other DOT components shall determine whether programs, policies, and activities for which they are responsible will have an adverse impact on minority and low-income populations and whether that adverse impact will be disproportionately high.

b. In making determinations regarding disproportionately high and adverse effects on minority and low-income populations, mitigation and enhancements measures that will be taken and all offsetting benefits to the affected minority and low-income populations may 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.

c. The Operating Administrators and other responsible DOT officials will ensure that any of their respective programs, policies or activities that will have a disproportionately high and adverse effect on minority populations or low-income populations will only be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effect are not practicable. In determining whether a mitigation measure or an alternative is "practicable," the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.

d. Operating Administrators and other responsible DOT officials will also ensure that any of their respective programs, policies or activities that will have a disproportionately high and adverse effect on populations protected by Title VI ("protected populations") will only be carried out if:

- (1) a substantial need for the program, policy or activity exists,

based on the overall public interest; and

(2) alternatives that would have less adverse effects on protected populations (and that still satisfy the need identified in subparagraph (1) above), either (i) would have other adverse social, economic, environmental or human health impacts that are more severe, or (ii) would involve increased costs of extraordinary magnitude.

e. DOT's responsibilities under Title VI and related statutes and regulations are not limited by this paragraph, nor does this paragraph limit or preclude claims by individuals or groups of people with respect to any DOT programs, policies, or activities under these authorities. Nothing in this Order adds to or reduces existing Title VI due process mechanisms.

f. The findings, determinations and/or demonstration made in accordance with this section must be appropriately documented, normally in the environmental impact statement or other NEPA document prepared for the program, policy or activity, or in other appropriate planning or program documentation.

Appendix

1. Definitions

The following terms where used in this Order shall have the following meanings *:

a. DOT means the Office of the Secretary, DOT operating administrations, and all other DOT components.

b. Low-Income means a person whose median household income is at or below the Department of Health and Human Services poverty guidelines.

c. Minority means a person who is:

(1) Black (a person having origins in any of the black racial groups of Africa);

(2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(3) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or

(4) American Indian and Alaskan Native (a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition).

d. Low-Income Population means any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy or activity.

e. Minority Population means any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy or activity.

f. Adverse effects means the totality of significant individual or cumulative

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human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and 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 the availability of public and private facilities and 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 the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of DOT programs, policies, or activities.

g. Disproportionately high and adverse effect on minority and low-income populations means an adverse effect that:

(1) is predominately borne by a minority population and/or a low-income population, or

(2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

h. Programs, policies, and/or activities means all projects, programs, policies, and activities that affect human health or the environment, and which are undertaken or approved by DOT. These include, but are not limited to, permits, licenses, and financial assistance provided by DOT. Interrelated projects within a system may be considered to be a single project, program, policy or activity for purposes of this Order.

i. Regulations and guidance means regulations, programs, policies, guidance, and procedures promulgated, issued, or approved by DOT.

* These definitions are intended to be consistent with the draft definitions for E.O. 12898 that have been issued by the Council on Environmental Quality and the Environmental Protection Agency. To the extent that these definitions vary from the CEQ and EPA draft definitions, they reflect further refinements deemed necessary to tailor the definitions to fit within the context of the DOT program.

Federico F. Pena,
Secretary of Transportation.

[FR Doc. 97-9684 Filed 4-14-97; 8:45 am]
BILLING CODE 4910-62-P

United States Department of Transportation - Federal Highway Administration



U.S. Department of Transportation
Federal Highway Administration

FHWA ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS

6640.23
December 2, 1998

Par.

1. Purpose And Authority
2. Definitions
3. Policy
4. Integrating Environmental Justice Principles With Existing Operations
5. Preventing Disproportionately High and Adverse Effects
6. Actions to Address Disproportionately High and Adverse Effects

1. PURPOSE AND AUTHORITY.

- a. This Order establishes policies and procedures for the Federal Highway Administration (FHWA) to use in complying with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), dated February 11, 1994.
- b. EO 12898 requires Federal agencies to achieve environmental justice by identifying and addressing disproportionately high and adverse human health and environmental effects, including the interrelated social and economic effects of their programs, policies, and activities on minority populations and low-income populations in the United States. These requirements are to be carried out to the greatest extent practicable, consistent with applicable statutes and the National Performance Review. Compliance with this FHWA Order is a key element in the environmental justice strategy adopted by FHWA to implement EO 12898, and can be achieved within the framework of existing laws, regulations, and guidance.
- c. Consistent with paragraph 6-609 of Executive Order 12898 and the Department of Transportation Order on Environmental Justice (DOT Order 5610.2) dated April 15, 1997, this Order is limited to improving the internal management of the Agency and is not intended to, nor does it, create any rights, benefits, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the Agency, its officers, or any person. Nor should this Order be construed to create any right to judicial review involving the compliance or noncompliance with this Order by the Agency, its operating administrations, its officers, or any other person.

2. DEFINITIONS

The following terms, where used in this Order, shall have the following meanings¹:

- a. **FHWA** means the Federal Highway Administration as a whole and one or more of its individual components;
- b. **Low-Income** means a household income at or below the Department of Health and Human Services poverty guidelines;

- c. **Minority** means a person who is:
- (1) Black (having origins in any of the black racial groups of Africa);
 - (2) Hispanic (of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
 - (3) Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
 - (4) American Indian and Alaskan Native (having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition).
- d. **Low-Income Population** means any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed FHWA program, policy, or activity.
- e. **Minority Population** means any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FHWA program, policy, or activity.
- f. **Adverse Effects** means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and 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 the availability of public and private facilities and 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 the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of FHWA programs, policies, or activities.
- g. **Disproportionately High and Adverse Effect on Minority and Low-Income Populations** means an adverse effect that:
- (1) is predominately borne by a minority population and/or a low-income population; or
 - (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the nonminority population and/or nonlow- income population.
- h. **Programs, Policies, and/or Activities** means all projects, programs, policies, and activities that affect human health or the environment, and that are undertaken, funded, or approved by FHWA. These include, but are not limited to, permits, licenses, and financial assistance provided by FHWA. Interrelated projects within a system may be considered to be a single project, program, policy, or activity for purposes of this Order.
- i. **Regulations and Guidance** means regulations, programs, policies, guidance, and procedures promulgated, issued, or approved by FHWA.

3. POLICY

- a. It is FHWA's longstanding policy to actively ensure nondiscrimination in Federally funded activities. Furthermore, it is FHWA's continuing policy to identify and prevent discriminatory effects by actively administering its programs, policies, and activities to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decisionmaking process--from early planning through implementation.

Should the potential for discrimination be discovered, action to eliminate the potential shall be taken.

- b. EO 12898, DOT Order 5610.2, and this Order are primarily a reaffirmation of the principles of Title VI of the Civil Rights Act of 1964 (Title VI) and related statutes, the National Environmental Policy Act (NEPA), 23 U.S.C. 109(h) and other Federal environmental laws, emphasizing the incorporation of those provisions with the environmental and transportation decisionmaking processes.

Under Title VI, each Federal agency is required to ensure that no person on the grounds of race, color, or national origin, is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance. This statute applies to every program area in FHWA. Under EO 12898, each Federal agency must identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

- c. FHWA will implement the principles of the DOT Order 5610.2 and EO 12898 by incorporating Environmental Justice principles in all FHWA programs, policies, and activities within the framework of existing laws, regulations, and guidance.
- d. In complying with this Order, FHWA will rely upon existing authorities to collect necessary data and conduct research associated with environmental justice concerns, including 49 CFR 21.9(b) and 23 CFR 200.9 (b)(4).

4. INTEGRATING ENVIRONMENTAL JUSTICE PRINCIPLES WITH EXISTING OPERATIONS

- a. The principles outlined in this Order are required to be integrated in existing operations.
- b. Future rulemaking activities undertaken, and the development of any future guidance or procedures for FHWA programs, policies, or activities that affect human health or the environment, shall explicitly address compliance with EO 12898 and this Order.
- c. The formulation of future FHWA policy statements and proposals for legislation that may affect human health or the environment will include consideration of the provisions of EO 12898 and this Order.

5. PREVENTING DISPROPORTIONATELY HIGH AND ADVERSE EFFECTS

- a. Under Title VI, FHWA managers and staff must administer their programs in a manner to ensure that no person is excluded from participating in, denied the benefits of, or subjected to discrimination under any program or activity of FHWA because of race, color, or national origin. Under EO 12898, FHWA managers and staff must administer their programs to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of FHWA programs, policies, and activities on minority populations and low-income populations.
- b. FHWA currently administers policies, programs, and activities that are subject to the requirements

of NEPA, Title VI, the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Uniform Act), Title 23 of the United States Code and other statutes that involve human health or environmental matters, or interrelated social and economic impacts. These requirements will be administered to identify the risk of discrimination, early in the development of FHWA's programs, policies, and activities so that positive corrective action can be taken. In implementing these requirements, the following information should be obtained where relevant, appropriate, and practical:

- (1) population served and/or affected by race, or national origin, and income level;
- (2) proposed steps to guard against disproportionately high and adverse effects on persons on the basis of race, or national origin; and,
- (3) present and proposed membership by race, or national origin, in any planning or advisory body that is part of the program.

c. FHWA will administer its governing statutes so as to identify and avoid discrimination and disproportionately high and adverse effects on minority populations and low-income populations by:

- (1) identifying and evaluating environmental, public health, and interrelated social and economic effects of FHWA programs, policies, and activities; and
- (2) proposing measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and providing offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by FHWA programs, policies, and activities, where permitted by law and consistent with EO 12898; and
- (3) considering alternatives to proposed programs, policies, and activities, where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, consistent with EO 12898; and
- (4) providing public involvement opportunities and considering the results thereof, including providing meaningful access to public information concerning the human health or environmental impacts and soliciting input from affected minority and low-income populations in considering alternatives during the planning and development of alternatives and decisions.

d. ACTIONS TO ADDRESS DISPROPORTIONATELY HIGH AND ADVERSE EFFECTS

- a. Following the guidance set forth in this Order, FHWA managers and staff shall ensure that FHWA programs, policies, and activities for which they are responsible do not have a disproportionately high and adverse effect on minority or low-income populations.
- b. When determining whether a particular program, policy, or activity will have disproportionately high and adverse effects on minority and low-income populations, FHWA managers and staff should take into account mitigation and enhancements measures and potential offsetting benefits to the affected minority or low-income populations. Other factors that may be taken into account include design, comparative impacts, and the relevant number of similar existing system elements in nonminority and nonlow-income areas.
- c. FHWA managers and staff will ensure that the programs, policies, and activities that will have disproportionately high and adverse effects on minority populations or low-income

populations will only be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is "practicable," the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.

- d. FHWA managers and staff will also ensure that any of their respective programs, policies or activities that have the potential for disproportionately high and adverse effects on populations protected by Title VI ("protected populations") will only be carried out if:
 - (1) a substantial need for the program, policy or activity exists, based on the overall public interest; and
 - (2) alternatives that would have less adverse effects on protected populations have either:
 - (a) adverse social, economic, environmental, or human health impacts that are more severe; or
 - (b) would involve increased costs of an extraordinary magnitude.
- e. Any relevant finding identified during the implementation of this Order must be included in the planning or NEPA documentation that is prepared for the appropriate program, policy, or activity.
- f. Environmental and civil rights statutes provide opportunities to address the environmental effects on minority populations and low-income populations. Under Title VI, each Federal agency is required to ensure that no person on grounds of race, color, or national origin is excluded from participation in, denied the benefits of, or in any other way subjected to discrimination under any program or activity receiving Federal assistance. Therefore, any member of a protected class under Title VI may file a complaint with the FHWA Office of Civil Rights, Attention HCR-20, alleging that he or she was subjected to disproportionately high and adverse health or environmental effects. FHWA will then process the allegation in a manner consistent with the attached operations flowchart.

Original signed by:

Kenneth R. Wykle
Federal Highway Administrator

Attachment - Note: This is a PDF file.

¹These definitions are intended to be consistent with the draft definitions for EO 12898 that have been issued by the Council on Environmental Quality (CEQ) and the Environmental Protection Agency (EPA). To the extent that these definitions vary from the CEQ and EPA draft definitions, they reflect further refinements deemed necessary to tailor the definitions to fit within the context of the FHWA program.



Commandant
United States Coast Guard

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COMDTINST 5810.3
27 MAY 2003

COMMANDANT INSTRUCTION 5810.3

Subj: COAST GUARD ENVIRONMENTAL JUSTICE STRATEGY

- Ref: (a) Executive Order (E.O.) 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 11 February 1994 (*Federal Register*, 16 February 1994, Vol. 59, No. 32)
- (b) "Notice of (Coast Guard) Environmental Justice Strategy," (*Federal Register*, 3 April 1998, Vol. 63, No. 32)
- (c) National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq*
- (d) National Environmental Policy Act (NEPA) Implementing Procedures, COMDTINST M16475.1 (series)
- (e) Environmental Compliance Evaluation (ECE) Program, COMDTINST 16478.5
- (f) Department of Homeland Security's Title VI implementing regulation, "6 CFR Part 21, Regulation Regarding Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of Homeland Security," (*Federal Register*, 6 March 2003, Vol. 68, No. 44)
- (g) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d

1. **PURPOSE.** This Instruction responds to the requirements of references (a), E.O. 12898, and (b), the *Federal Register* "Notice," by establishing the Environmental Justice (EJ) Strategy for the United States Coast Guard (hereafter, "Coast Guard" or "USCG"). As used in this Instruction, "Environmental Justice" means the fair treatment of people of all races, cultures and incomes with respect to the development, implementation and enforcement of environmental laws and guidance, references (c), (d) and (e), and their meaningful involvement in the decision making process of the Coast Guard, when appropriate.

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NON-STANDARD DISTRIBUTION:

COMDTINST 5810.3

2. **ACTION.** Area and district commanders, commanders of maintenance and logistics commands, commanding officers of integrated support commands, commanding officers of headquarters units, assistant commandants for directorates, Chief Counsel and special staff elements at Headquarters shall ensure compliance with the provisions of this Instruction. Internet release is authorized.
3. **DIRECTIVE(S) AFFECTED.** None.
4. **JUDICIAL REVIEW.** As stated in Section 6-609 of E.O. 12898, "This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order."
5. **BACKGROUND.**
 - a. On 11 February 1994, the President issued E.O. 12898, which (1) directed every Federal agency to make Environmental Justice part of its mission by identifying and addressing the effects of all programs, policies, and activities on minority populations and low-income populations and (2) directed every Federal agency to develop an EJ Strategy.
 - b. On 3 April 1998, the Coast Guard published reference (b), "Notice of Environmental Justice Strategy," announcing its development of an EJ Strategy to implement the E.O. in all relevant programs and activities funded, sponsored, supported, or undertaken by the Coast Guard.
 - c. On 1 March 2003, the Coast Guard transferred to the Department of Homeland Security (DHS). On 6 March 2003, DHS published reference (f), "6 CFR Part 21, Regulation Regarding Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of Homeland Security," to implement Title VI of the Civil Rights Act of 1964, reference (g).
6. **RESPONSIBILITY.**
 - a. Consistent with this Instruction and E.O. 12898, the Assistant Commandant for Civil Rights [hereafter, "Commandant (G-H)"] shall, to the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. § 552a), provide leadership to the Coast Guard and policy guidance to the Commandant regarding the collection and analysis of data involving minority populations and low-income populations, as required by Section 3-302 of E.O. 12898.

- b. Consistent with this Instruction, and as stated in Section 2-2 of E.O. 12898, the Coast Guard shall, "...conduct its programs, policies and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color or national origin."
- c. The Coast Guard shall implement its Environmental Justice Strategy within the framework of existing civil rights and environmental laws and guidance, including references (c), (d), (e), (f) and (g).
- d. In conducting the minority populations and low-income populations data collection and analysis responsibilities, the Commandant (G-H), as lead, and its Directorate partners should coordinate efforts, maximize existing resources, share information, eliminate unnecessary duplication and minimize impacts on field units and operations.
- e. This Instruction authorizes no additional resources or operational requirements within the Coast Guard's Maintenance and Logistics Commands to carry out the minority populations and low-income populations-related data collection and analysis responsibilities of E.O. 12898.
- f. The Commandant (G-H) shall be responsible for preparing a list of all existing and new/changing Coast Guard operating facilities and/or sites in or near areas with minority and/or low-income populations. The Commandant (G-H) shall also collect, analyze, and update socioeconomic and demographic profile maps of areas adjacent to the Coast Guard's existing or new/changing operating facilities and/or sites and, periodically, verify its data by site visits. As required by Section 4-4 of reference (a), and whenever practicable and appropriate, the data collection and analysis may include information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence, including Native American populations.
- g. When collecting and analyzing data, the Commandant (G-H) shall, whenever practicable and appropriate, identify low-income populations in an affected area utilizing the annual statistical poverty thresholds from the Bureau of the Census' Current Population Reports on income and poverty.
- h. In coordination and cooperation with facility Commanding Officers and Directorate partners, the Commandant (G-H) shall, whenever practicable and appropriate, conduct periodic site visits to verify available data, including socioeconomic and demographic profile maps. Whenever practicable and appropriate, the Commandant's (G-H's) site visits should complement the Environmental Compliance Evaluation (ECE) site visits required under reference (e). Whenever practicable and appropriate, the Commandant (G-H), ECE evaluation teams and others participating in the EJ site visits shall share draft site visit data and other information necessary for consistency.

COMDTINST 5810.3

- i. All Coast Guard Headquarters' Directorates should be partners in the EJ Strategy and share responsibility for integrating EJ principles into Coast Guard programs, policies, regulations, guidance, activities and operations. This includes ensuring that the Commandant (G-H) is given the opportunity to assist in the evaluation of Coast Guard programs, policies, regulations, guidance, activities and operations that have the potential for disproportionately high and adverse human health or environmental effects upon minority populations or low-income populations within the framework of existing environmental laws and guidance, references (c), (d) and (e).
7. **ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.** As stated in Section 2, above, this Instruction is intended to improve the internal management of the Coast Guard. The Commandant (G-H) considered the environmental aspects and impacts of this Instruction and determined that the implementation of this Instruction does not significantly impact the environment.
8. **FORMS AND REPORTS.** There are no reporting requirements assigned to Coast Guard Maintenance and Logistic Commands or other Directorates relating to the collection and analysis of data involving minority populations and low-income populations required by Section 3-302 of E.O. 12898 or this Instruction.

W.R. SOMERVILLE /s/
Assistant Commandant for Civil Rights

Environmental Justice Policy
California State Lands Commission

Mission Statement: *The California State Lands Commission serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through economic development, protection, preservation, and restoration.*

Commission Jurisdiction/Programs

The California State Lands Commission (Commission) holds title to and manages four million acres of tide and submerged land underlying the State's navigable and tidal waterways. These lands are held under and governed by the provisions of the Public Trust Doctrine for specific public purposes such as fishing, water dependent commerce, navigation, ecological preservation, and scientific study, among others. The Public Trust Doctrine governs the management of such lands held by the State, or its delegated trustees, for the benefit of all of the people.

The Commission also holds title to and manages about 570,000 acres of State School Lands. The school lands are held in trust for the betterment of the common schools of the State and the revenue, by statute, goes to support the State Teachers Retirement System. The school lands must be administered for the benefit of the public.

The Commission grants leases and permits on State lands for such purposes as, but not limited to, marinas, industrial wharves, tanker anchorages, timber harvesting, dredging, grazing, mining, oil and gas, and geothermal development. The Commission has regulatory authority over all marine oil facilities and terminals in the State.

The Commission also administers programs to remove hazardous artificial structures from waterways that pose a risk to public health and safety and participates in projects and programs to preserve, enhance, and restore natural resources.

In the performance of its duties, the Commission frequently makes land use and permitting decisions, produces regulations, and takes other discretionary actions that may have an impact on the environment and human health.

Environmental Justice Policy

The Commission pledges to continue and enhance its processes, decisions, and programs with environmental justice as an essential consideration. Environmental justice is defined by State law as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." This definition is consistent with the Public Trust Doctrine principle that the management of trust lands is for the benefit of all of the people.

The Commission stresses fair treatment of all members of the public in its everyday activities, processes, decision-making, and regulatory affairs. The Commission has earned a reputation for unbiased and balanced decisions concerning uses of public lands and resources. The Commission reaffirms its commitment to an informed and open process in which all people are treated equitably and with dignity and in which its decisions are tempered by environmental justice considerations. The Commission will communicate this policy to the cities, counties, and harbor districts that manage lands granted to them by the Legislature and for which the Commission retains oversight.

The Commission pledges to continue and enhance its processes, decisions, and programs with environmental justice as an essential consideration by:

1. Identifying relevant populations that might be adversely affected by Commission programs or by projects submitted by outside parties for its consideration.
2. Seeking out community groups and leaders to encourage communication and collaboration with the Commission and its staff.
3. Distributing public information as broadly as possible and in multiple languages, as needed, to encourage participation in the Commission's public processes.
4. Incorporating consultations with affected community groups and leaders while preparing environmental analyses of projects submitted to the Commission for its consideration.
5. Ensuring that public documents and notices relating to human health or environmental issues are concise, understandable, and readily accessible to the public, in multiple languages, as needed.
6. Holding public meetings, public hearings, and public workshops at times and in locations that encourage meaningful public involvement by members of the affected communities.
7. Educating present and future generations in all walks of life about public access to lands and resources managed by the Commission.
8. Ensuring that a range of reasonable alternatives is identified when siting facilities that may adversely affect relevant populations and identifying, for the Commission's consideration, those that would minimize or eliminate environmental impacts affecting such populations.
9. Working in conjunction with federal, state, regional, and local agencies to ensure consideration of disproportionate impacts on relevant populations, by instant or cumulative environmental pollution or degradation.

-
10. Fostering research and data collection to better define cumulative sources of pollution, exposures, risks, and impacts.
 11. Providing appropriate training on environmental justice issues to staff and the Commission so that recognition and consideration of such issues are incorporated into its daily activities.
 12. Reporting periodically to the Commission on how environmental justice is a part of the programs, processes, and activities conducted by the Commission and proposing modifications as necessary.

This policy shall be reviewed annually by staff to evaluate its effectiveness in achieving environmental justice in the Commission's management of the lands and resources within its jurisdiction.

Appendix G

California Development and Planning Report
Article: State Agencies Make Progress on
Environmental Justice Strategies

State Agencies Make Progress On Environmental Justice Strategies

by Paul Shigley

Published Apr. 2003 in Vol. 18, Issue No. 4 of *CP&DR*

Spurred by several pieces of legislation approved during the last few years, California's state government agencies are gradually making advances in environmental justice.

At least five agencies have adopted environmental justice policies or mission statements. The Governor's Office of Planning and Research has conducted environmental justice training for employees of more than 50 different agencies. The California Environmental Protection Agency (Cal EPA) is working on a broad environmental justice strategy and implementation measures, all of which are intended to serve as a model for other state agencies.

These steps mark a significant change from only a few years ago. Not until 1999, when Gov. Davis signed SB 115 (Solis), did California codify a definition of environmental justice. The law (Government Code § 65040.12) defines environmental justice — commonly called simply "EJ" — as: "The fair treatment of all races, cultures and incomes with respect to the development, adoption, implementation, and enforcement of all environmental laws, regulations and policies."

The Solis bill was followed in 2000 by SB 89 (Escutia), which required creation of an environmental justice working group and public advisory committee to assist Cal EPA in developing an EJ strategy. Senate Bill 828 (Alarcon) from 2001 gave the agency until December 31, 2003 to adopt the strategy and to identify obstacles in state government to environmental justice.

The EJ movement grew out of 1980's protests over "environmental dumping" or "environmental racism." The idea is that the government ought not place an inordinate number of unwanted land uses in poor or minority neighborhoods, and that agencies ought to consider how development projects and government programs impact — and serve — those neighborhoods.

Caltrans might be farther along in actually carrying out EJ policies than any other state agency. Because it gets so much funding from the federal government, Caltrans has been involved in EJ efforts since President Clinton signed an executive order mandating environmental justice considerations in 1994, said Greg King, chief of Caltrans' cultural and community studies office. Caltrans' project delivery process has included an EJ analysis since the mid-1990s.

In late 2001, Caltrans Director Jeff Morales signed a director's policy that states, in part, "The Department emphasizes the fair treatment and meaningful involvement of people of all races, cultures and income levels, including minority and low-income populations, from the early stages of transportation planning and investment decision-making through construction, operations and maintenance," King said.

Caltrans, said King, has found that environmental justice often can be advanced through early and frequent communication with members of the public, and then responding to public concerns. "We're trying to move environmental issues up early on in the planning process so you have more latitude in the decision-making process," King said. That means thinking about EJ long before a project gets approved for funding through the State Transportation Improvement Program. "By the time we've done our environmental studies, we need to have worked with the communities."

In the heyday of freeway construction, the state frequently bisected or wiped out poor neighborhoods to accommodate new roads. When Caltrans officials return to those neighborhoods 40 and 50 years later to talk about new projects, the officials learn that residents have not forgotten past mistreatment.

When Caltrans rebuilt the Cypress freeway in west Oakland after the 1989 Loma Prieta earthquake collapsed a portion of the elevated highway, the agency met resistance based on the original construction of the freeway through a poor, African-American neighborhood, King explained. Now, both Caltrans and the Federal Highway Administration point to the reconstruction project as an example of EJ success. The agency realigned the freeway away from the neighborhood and nearer to military property. Caltrans also spent \$2.5 million on construction trade training for members of the community, and the agency awarded contracts to minority-owned businesses.

Nowadays, communities that might have gotten steamrolled back in 1950s can tie up a project in court for

years. Caltrans engineers and planners well know this, which further encourages community outreach efforts. This outreach involves local meetings, providing information in multiple languages, and working out mitigations for project impacts, such as sound walls, landscaping, providing linkages over a freeway or even choosing a different route. It's all part of what Morales calls "context-sensitive solutions."

Environmental justice training for Caltrans employees is ongoing, and reactions among workers is mixed, conceded Peter Bond, an associate transportation planner who helps conduct training sessions. "About half the people are saying this is just common sense, and about half the people are shaking their heads and saying what in the world are you talking about," Bond said.

The Office of Planning and Research has provided EJ training for hundreds of government employees. The training is broad and addresses EJ history, issues and controversies, as well as best practices, said Bonnie Chiu, of OPR's environmental justice office. She said OPR recommends full public involvement in projects and programs, using GIS as a tool, and completing a checklist to ensure that impacts are considered and all community members have access to the process.

"We're hoping to do more specific training for just one agency [at a time] so we can get into the details," Chiu said.

Cal EPA's ongoing development of an EJ strategy is the most comprehensive efforts in the state government. During a two-day meeting in March, Cal EPA's 17-member advisory committee refined recommendations it has been developing. The recommendations, contained in a lengthy report, are based on four elements:

- Ensuring EJ is integral to the development, adoption, implementation and enforcement of laws and policies.
- Ensuring and promoting meaningful public participation.
- Improving research regarding the health and environment of "communities of color and low-income populations."
- Ensuring multi-agency coordination and accountability.

The advisory committee is scheduled to complete its work this spring. Working group hearings on the proposed EJ strategy will follow.

Contacts:

Bonnie Chiu, Office of Planning and Research, (916) 323-9033.

Greg King, Caltrans, (916) 653-0647.

Cal EPA environmental justice website: www.calepa.ca.gov/EnvJustice/

Governor's Office of Planning and Research environmental justice website:

www.opr.ca.gov/ejustice/EJustice.shtml

Appendix H

Useful Environmental Justice Websites

Appendix H

Useful Environmental Justice Websites

Local/Regional

Bay Area Air Quality Management District - <http://www.baaqmd.gov/pio/ej/baaqmdej.asp>

South Coast Air Quality Management District - http://www.aqmd.gov/ej/EJ_page.htm

State

California Environmental Protection Agency (Cal/EPA) -
<http://www.calepa.ca.gov/EnvJustice/>

California Bay-Delta Authority (CALFED) -
<http://calwater.ca.gov/EnvironmentalJustice/EnvironmentalJustice.shtml>

California Energy Commission - <http://www.energy.ca.gov/env-justice/index.html>

Caltrans –

Office of Policy Analysis and Research, Title VI and EJ Program -
<http://www.dot.ca.gov/hq/tpp/offices/opar/titleVIandEJ.htm>

Standard Environmental Reference (SER) -
<http://www.dot.ca.gov/ser/vol1/sec3/community/ch25ej/chap25ej.htm>

“EJ Desk Guide in Transportation Planning & Investments” (pdf) -
<http://www.dot.ca.gov/hq/tpp/offices/opar/EJDeskGuideJan03.pdf>

Governor’s Office of Planning and Research (OPR) EJ Program -

“Environmental Justice in California State Government” (pdf) -
http://www.opr.ca.gov/publications/PDFs/OPR_EJ_Report_Oct2003.pdf

Federal Resources

U.S. EPA –

Office of Environmental Justice, US EPA - Contains links to EJ Fact Sheets, Frequently Asked Questions, Publications, Key Coordinators, Regional and other Federal Agency contacts.

<http://www.epa.gov/compliance/environmentaljustice/nejac/index.html>

Environmental Justice Geographic Assessment Tool -

<http://www.epa.gov/compliance/environmentaljustice/assessment.html>

EPA Environmental Justice Fact sheet -

http://www.epa.gov/compliance/resources/publications/ej/ej_fact_sheets.html

EPA Policies and Guidance for Addressing Environmental Justice - Applies to EPA staff who review the actions of other federal agencies, and includes what to look for in an EJ analysis.

<http://www.epa.gov/compliance/resources/policies/ej/index.html>

Guidance for Addressing Environmental Justice Under the National Environmental Policy Act (NEPA), December 10, 1997 - the Council on Environmental Quality's guidance for federal agencies on incorporating EJ into NEPA.

http://www.epa.gov/compliance/resources/policies/ej/ej_guidance_nepa_ceq1297.pdf

Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses, April 1998 - Highlights important ways in which EPA-prepared NEPA documentation may help identify and address EJ concerns.

http://www.epa.gov/compliance/resources/policies/ej/ej_guidance_nepa_epa0498.pdf

Draft Memorandum on Integrating Environmental Justice into EPA Permitting Authority, July 18, 1996 - Richard Lazarus, Member, Enforcement Subcommittee, NEJAC

<http://es.epa.gov/oeca/main/ej/nejacpub.html>

Brochure on the Model Plan for Public Participation - Developed by the national Environmental Justice Advisory Council as guidance for any organization or agency that addresses public participation

<http://es.epa.gov/oeca/main/ej/nejacpub.html>

EO 12898 -

Executive Order No. 12898 - <http://www.epa.gov/fedsite/eo12898.htm>

Overview of EO 12898 and the Environmental Justice program at EPA - Highlights the many facets of the EJ program. Last updated in May 2004.

<http://www.epa.gov/compliance/environmentaljustice/index.html>

National Marine Fisheries Service, Guidelines and Principles for Social Impact Assessment, May 1994 - Prepared by the Inter-Organizational Committee on Guidelines and Principles for Social Impact Assessment. http://www.nmfs.noaa.gov/sfa/social_impact_guide.htm

U.S. Health and Human Services Poverty Guidelines (based on Census Bureau data):

<http://aspe.hhs.gov/poverty/04poverty.shtml>

Additional Resources

American Bar Association: “The Law of Environmental Justice: Update Service” -

<http://www.abanet.org/environ/committees/envtab/ejupdates.html>

Environmental Justice Bibliography -

http://www.epa.gov/compliance/resources/publications/ej/ej_bib.html