

Environmental Justice Frequently Asked Questions

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What are the fundamental concepts of Environmental Justice?

According to Executive order 12898 there are three fundamental environmental justice principles:

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

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Is Environmental Justice a new requirement?

No. The recipients of Federal-aid have been required to submit assurances of compliance with, and the U.S. DOT must ensure nondiscrimination under, Title VI of the Civil Rights Act of 1964 and many other laws, regulations, and policies. In 1997, the U. S. DOT issued its Order to Address Environmental Justice in Minority Populations and Low-Income Populations to summarize and expand upon the requirements of the 1994 Executive Order 12898 on Environmental Justice.

How does this fit with WSDOT's and FHWA's policy direction?

FHWA in their initial policy in response to the Presidential Executive Order 12898 has encouraged full involvement of partners, assessment of social benefits and a highway system that fits harmoniously within both the natural environment and neighborhoods and communities. In 1996, FHWA issued "CIA: A Quick Reference for Transportation" (purple book). They have sponsored community impact assessment workshops and supported a TRB subcommittee on community impact assessment. WSDOT responded by instituting a Context Sensitive Design training and co-sponsoring a Community Impact Assessment workshop in Spokane. "[Building Projects that Build Communities](#)" was issued in 2003, as was the Secretary's [executive order on Context Sensitive Solutions](#).

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What role does context sensitive design/solutions play in Environmental Justice?

Context Sensitive Solutions is a model for transportation project development that encourages broader project design not only for its physical aspects as a facility serving specific transportation objectives, but also for its effects on the aesthetic, social, economic and environmental values, needs, constraints and opportunities in a larger community setting. WSDOT endorses the Context Sensitive Solutions approach for all projects, large and small, from early planning through construction and eventual operation. Through WSDOT Executive Order E 1028.00, WSDOT employees that work on projects and facilities should:

- Engage from the project inception with representatives of affected communities, including elected and appointed officials and a widely representative array of interested citizens.
- Assure the transportation objectives of projects are clearly described and discussed with local communities in a process that encourages reciprocal communication about local views and needs in the overall project setting.
- Pay attention to and address community and citizen concerns.
- Ensure the project is a safe facility for both the user and the community.

CSS supports EJ through its emphasis on communication and assessing impacts on the social values, needs, constraints and opportunities of the community.

FHWA's memorandum on Context Sensitive Solutions, October 2002, states that one of the "Vital Few" strategies is for FHWA to assist with and encourage context sensitive solutions/context sensitive design. TRB issued a report titled A Guide to Best Practices for Achieving Context Sensitive Solutions (NCHRP Report 480). WSDOT executive order on Context Sensitive Solutions, December 2003.

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What role does community impact assessment play in Environmental Justice?

The DOT Order (5610.2) on Environmental Justice asks whether a proposed action or plan causes disproportionately high and adverse effects on minority populations and low-income populations, and whether these populations are denied benefits. A framework of analysis that can determine how a proposed action or plan could differentially impact different populations is required. Community impact assessment can provide this framework. Currently many state DOTs are leading the implementation of community impact assessment including:

- [Florida Department of Transportation's program](#)
- [North Carolina Department of Transportation's program](#)
- [California Department of Transportation's handbook](#).

Like public involvement, community impact assessment is an integral part of planning and project development. Community impact assessment is a process to evaluate the

effects of a transportation action on a community and its quality of life. Its information can help to mold the transportation plan and its projects, and provide documentation of the current and anticipated social and economic environment of a geographic area with and without the proposed action. The assessment process is comprised of the following steps: (1) define the project, study, and planning area; (2) develop a community profile; (3) analyze impacts; (4) identify solutions; (5) use public involvement; and (6) document findings. These steps are elaborated on in FHWA's *Community Impact Assessment: A Quick Reference for Transportation*, and its companion document, *Community Impact Mitigation: Case Studies*, published in 1998.

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Do we have to consider EJ in the Planning process?

Yes. Environmental Justice is an important part of the planning process and must be considered in all phases of planning. A truly integrated and effective planning process actively considers and promotes environmental justice within projects and groups of projects, across the total plan, and in policy decisions.

Planners need to determine whether Environmental Justice/Title VI issues exist and use data and other information to:

1. Assess potential benefits to and potential negative impacts on minority populations and low-income populations from proposed investments or actions;
2. Quantify expected effects (total, positive and negative) and disproportionately high and adverse effects on minority populations and low-income populations; and
3. Propose an appropriate course of action, whether avoidance, minimization, or mitigation. If issues are not addressed at the planning stage, they may arise during project development, or later when they could be more difficult to mitigate and delay project decisions.

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Must Title VI and Environmental Justice be considered ONLY on projects requiring an Environmental Impact Statement (EIS)?

No. Title VI and Environmental Justice applies to all planning and project development programs, policies and activities. In project development, environmental justice should be considered in all decisions whether they are processed with an Environmental Impact Statements (EIS's), Environmental Assessments (EA's), and Categorical Exclusions (CE's), The determination of significance should be guided as much by potential impacts to the human environment as by potential impacts to the natural environment.

At the scoping stage in the NEPA process, which provides early identification of public and agency issues, there should be adequate consideration of Title VI and environmental

justice. Minority and low-income populations should be identified as early as possible and their concerns should be examined and addressed, preferably in planning stages.

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What is the Limited English Proficiency (LEP) requirement?

Limited English Proficiency (LEP) comes from the Presidential Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency", signed in 2000. It requires federal agencies to examine services provided, identify any need for those services for those with limited English proficiency and ensure those persons have meaningful access to those services. A public involvement plan needs to include consideration of LEP. If demographics indicate that 5% or 1,000 persons or more in a project area speak a language other than English, project materials should be translated into that language.

So far the 2000 US Census is the best source of data for identifying those who are limited English proficient. Again, be aware that US Census data can be up to 10 or 12 years old...another reason to get out and meet the community. Social service organizations and school enrollment can be another source of data.

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Project Team Information

How should Environmental Justice be addressed in the NEPA process?

Environmental justice should be considered and addressed in NEPA compliance and appropriately documented in Environmental Impact Statements, Environmental Assessments, and Categorical Exclusions.

The Executive Order 12898 and the accompanying Presidential Memorandum infer that specific actions be carried out in NEPA-related activities. They include:

- Analyzing environmental effects, including human health, economic, and social effects on minority populations and low-income populations when such analysis is required by NEPA;
- Ensuring that mitigation measures are outlined and disproportionately high and adverse environmental effects or proposed actions on minority populations and low-income populations are addressed;
- Providing opportunities for community input in the FHWA NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving accessibility to public meetings, official documents, and notices to affected communities; and improving accessibility to public meetings, official documents, and notices to affected communities; and
- In reviewing other agencies' proposed actions under Section 309 of the Clean Air Act, EPA must ensure that the agencies have fully analyzed environmental effects

on minority communities and low-income communities, including human health, social, and economic effects.

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When does an Environmental Justice analysis need to be done?

An environmental justice analysis needs to be done in connection with programs and activities receiving federal assistance. [Section 109\(h\) of the Federal Aid Highway Act](#) also requires it, which would apply to non-NEPA projects. Because the nondiscrimination requirements of Title VI extend to all programs and activities of State DOTs and their respective sub-recipients and contractors, the concepts of Environmental Justice apply to all State projects, including those which do not involve Federal-aid funds, whether Design Build, or not. The local FHWA division office is a good resource if you have questions. (360) 534-9325.

Does an EJ analysis have to be a separate discipline study?

No. No matter how you choose to integrate the EJ analysis into your environmental document, the reader needs to understand the process you used to arrive at the conclusion. If both the social and EJ analysis are combined in one discipline report, it is easier to review. However if combined, there may be a greater need to cross-reference supporting materials.

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How should the study area be defined?

The study area for the EJ analysis should be large enough to include the impacts that would potentially affect the social environment (i.e.: noise, relocations). Typically, this is done based on an educated guess, with input from the Project Engineer and or Inter Disciplinary Team (IDT); since it would be done early in the process, prior to scoping. Maps are very useful to illustrate the study area.

Why should demographics be collected?

There are two reasons for conducting a demographic analysis:

- To determine if there are minority and/or low-income populations within the study area that could be potentially affected by the project.
- To support the projects' public involvement plan -- one needs to know who they are communicating with in order to determine the best means of communication (e.g.: this may identify translation needs or specific methods that could be used to distribute information).

What should be included in the demographics?

At a minimum your analysis should include minorities and low-income. “Minority” and “low-income” are defined as follows:

The U.S. DOT Order (5610.2) on Environmental Justice defines "Minority" in the Definitions section of the Appendix, and provides clear definitions of the four (4) minority groups addressed by the Executive Order. These groups are:

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.
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.

The FHWA Order defines "low-income" as "a person whose household income is at or below the Department of Health and Human Services poverty guidelines." The Department of Health and Human Services (HHS) poverty guidelines are used as eligibility criteria for the Community Services Block Grant Program and a number of other Federal programs. However, a State or locality may adopt a higher threshold for low-income as long as the higher threshold is not selectively implemented and is inclusive of all persons at or below the HHS poverty guidelines. The most current HHS poverty guidelines can be found at HHS's website: <http://aspe.hhs.gov/poverty/04poverty.shtml>

Demographics can be done to feed the public involvement plan, EJ, and social impact technical report. So, you may want to include minority, low-income, age distribution, income levels, employment status, and special sub-populations (e.g.: Section 8 housing, disabled, immigrant, and linguistically isolated populations).

How detailed should the demographics be?

The amount of detail depends on use. The detail needs to be enough to determine if EJ populations are in the project area and what the impacts could be.

Do we have to print all materials in other languages?

If your demographics show that 5% or 1,000 or more of the community speaks a language other than English, brochures, meeting invitations and newsletters and similar material should be printed in that language. The recommendation is to err on the conservative side. The project team might decide to print materials in another language(s) despite lower percentages if they feel there are limited English proficient individuals who may be impacted. Environmental documentation does not need to be printed in languages other than English unless it is requested; however, if requested WSDOT will work to provide equal access to the information.

How do you involve the community and keep them involved?

After getting some idea of the community composition using easy access data sources like the US Census, you need to meet with community, neighborhood and civic groups to find out more about your project's community, how they communicate, their interests, and how to best involve them. Communicate, communicate, communicate.

A good resource is FHWA's "[Public Involvement Techniques for Transportation Decision Making](#)".

How do you convey technical information to non- technical people?

Stay away from acronyms. If you can use a visual instead of text do so. Try to avoid technical terms. If you can not find another word or phrase in place of the term, then footnote the word (or phrase) and give an explanation. Use short sentences. Be clear about your message. Use the active voice. It's more direct and concise than the passive voice. Write short sections and separate them with headings.

Some legal requirements will have to be written in a certain way i.e.: ADA statement or legal notices.

Currently the WSDOT Environmental Documentation Style Guidelines are under review. When finalized, they will provide guidance in this area.

What is public involvement and where does it start?

Public involvement is planning and implementing a comprehensive, integrated program to involve the public in transportation decisions. Its goal should be to gain information that will help us to develop a transportation system that meets real community needs.

Ideally public involvement should start in the planning process. Typically in the environmental process it starts as a project moves from the definition phase to the design phase prior to scoping. Public involvement will give additional information to the project team to help with scoping. It will help define issues early and give the team the opportunity to address them.

Involve environmental staff and public information staff early in the process to help define issues. An early start on public involvement will help determine the appropriate level of documentation for a project, build trust with the community, develop a transportation system that meets real community needs and save money by reducing or eliminating need to redesign.

How should your public involvement be tracked and documented?

Your public involvement plan identifies *who* to involve, *what* needs to be done to involve the public, *where* any meetings will be held, a *timeline* for when activities will take place,

how strategies will be used to involve the affected public, and an overview of *budget*. In addition, your public involvement plan should be developed to meet regulatory requirements, and project schedule and budget constraints.

So, you need to document all of these activities as they occur.

- Retain copies of all meeting materials, press releases, public materials such as brochures or websites, traffic to the website, responses to surveys, public comment from all contact. Public meetings should have as much content as possible documented with issues summarized.
- Develop meeting summaries that include such things as the purpose of the meeting, number of attendees, ethnic composition based on Title VI forms, action items, issues discussed, and lessons learned.

The project team also should set up a tracking system early in the project so comments and responses can be tracked, including responses and who the responder was. The system also needs to be able to identify issues so they can be tracked to identify patterns and for evaluation purposes.

Do we have to conduct surveys?

The methods used to communicate with people and gather information about the community will vary from project to project. Sometimes a survey will be an appropriate tool. Other times other tools would be more effective. Surveys can help to obtain information from people who are not likely to speak out in a public workshop.

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Is the public involvement plan a separate document and how should EJ be discussed?

Yes. It is helpful to have a public involvement plan as an appendix to the environmental documentation to enable reviewers to be able to determine if public involvement was inclusive.

Depending on how you are incorporating your EJ analysis and the public involvement plan into the environmental document, provide:

- A brief summary of the project's outreach strategies to the EJ community
- A summary of results of outreach efforts to the EJ community, and
- Cross reference sections of the document where this information can be found

Any specific outreach done for the EJ community should be mentioned in the environmental document. If documents were translated, mention should be made in conjunction with the demographics. In most cases, individual comments would not be included. An overview should give the history of public involvement efforts, present efforts and future plans.

Does the public involvement plan change?

Yes. The public involvement plan should be a living document. As the team learns more about the affected community, strategies should be adjusted to ensure they are inclusive and appropriate to the community.

Public involvement methods used should be evaluated periodically to assess if changes are needed to the plan. Ask the following questions.

- Is the entire project community participating in public involvement activities?
- Is there continuity among participants?
- Are the appropriate communication techniques being employed?
- Are community comments relevant to the project? Are they realistic and appropriate to the project phase?
- Are there significant unresolved issues on the project?

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Will all this increase cost?

Early estimates are that this process could add some additional cost to the overall project costs. However, over the lifetime of the project, it is estimated that money will be saved due to less public controversy and fewer delays.

Demographics done early in the process can be used to provide information for both the social, public involvement and EJ (when needed). This will help provide consistency and a higher quality of data.

What type of documentation is needed?

For each alternative, a clear explanation should be provided for any avoidance, minimization, mitigation and enhancement measures that have been adopted.

Document the strategies taken to reduce, avoid, or mitigate impacts to EJ communities. The discussion of these strategies should be clearly 'linked' to the associated community impacts. If appropriate, include a discussion of how these strategies helped turn a disproportionate adverse impact into a proportionate adverse impact.

Include a summary of the public interaction used to develop and/or review the various strategies.

Doing an EJ Analysis

Where does the process start?

The environmental justice process starts as the scope of work is being developed for the project. One needs to answer some basic questions:

- Will the EJ analysis be a separate discipline study?
- What data will be needed for the analysis and from whom?

A project moves into the design phase of project development after the general project boundaries are identified and as the public involvement plan is developed.

What are the basic components of conducting an EJ Analysis?

1. Describe the proposed Project.
2. State why the analysis is being done.
3. Determine how the analysis is conducted.
4. Identify the study area in which the analysis will be done.
5. Identify the study area's demographics.
6. Document the public interaction process.
7. Identify and compare anticipated affects.
8. Identify appropriate mitigation/benefit: Make a determination as to the magnitude or intensity of impact to determine if high and adverse impacts fall disproportionately on the minority or low-income populations.
9. Determine the anticipated affect on the environmental justice community.
10. Document data sources.

What is the first step in doing an EJ analysis?

The first step is to determine if you have any minority or low-income individuals within your study area. To make this determination you need to define your study area and conduct a demographic analysis of your study area. You may be able to obtain some of this information from your local comprehensive plan.

Depending on how you organize your project, you may not need to pay for demographics collected three different times for your public involvement plan, EJ analysis, and social impact assessment. One set of demographics can be used for all three if preparers work together with these three closely related areas. In addition, your analysis results can provide data for all three in a continuing loop of information. Keep in mind that because the project public involvement plan is developed prior to scoping, you would want to do this as soon as possible.

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What is the second step?

After collecting the demographics, the second step is to create the project's public involvement plan using the study area's demographics as part of its base. Your demographics may need to be further refined later on due to the level of needed detail. You may want to contact local businesses, community services, and local government agencies to identify stakeholders and understand how the community works.

The public involvement plan is one of the first things done in the design phase of project development along with creating the project's interdisciplinary team, and scoping. Identifying the affected community and stakeholder groups with respect to the project under development is key to planning effective public involvement. The study area demographics will help to identify community structure and community issues, potential approaches that should be considered, and specific action steps, techniques, and timing. WSDOT has a responsibility to ensure effective two-way communication, since people have a key role in the decisions shaping the transportation systems and services that will be part of their communities. [Chapter 458-2](#) in the WSDOT Environmental Procedures Manual has a flow chart of the steps.

What methodology should be used to conduct an EJ analysis?

The specific approach you use should be tailored to the unique circumstances of each project and those communities/populations affected by it. The method you used should be consistent with WSDOT's Environmental Procedures Manual (EPM) guidance on EJ, and agreements with project partners (i.e., transit agencies, MPOs, cities, etc). The EPM is meant to provide a consistent framework for both preparing an EJ analysis and developing effective public involvement strategies. It contains only principles and general procedures, allowing project coordinators the flexibility to tailor the method to the unique circumstances of each project and those communities/populations affected by it.

In addition, the local FHWA division has developed a guide --Environmental Justice: What you should know . This guide is intended to assist its Division staff (working with project teams) in developing an appropriate approach for Title VI Environmental Justice analysis and an effective public involvement strategy. The material contained in this guide also provides a framework to review environmental documents.

The FHWA and WSDOT have spent a considerable amount of time preparing the respective guidance documents to ensure that they are closely aligned and usable by FHWA, WSDOT, local agencies, and consultants.

What data sources should be used?

The basic question you are trying to answer at this point is: Are there any environmental justice populations within your study area? Use census data to start. Since Census Data can be 10-12 years old, also examine other data sources that could help determine the existence of environmental justice populations within the study areas (e.g. public school data).

- WSDOT Environmental Work Bench and the US Census Data Engine can be used to analyze Census data. (See factsheet: [WSDOT Tools to Support Environmental Justice \(EJ\) Analysis](#))

- Determine if tracts, block groups, or blocks will be used for initial analysis. Not all data is available at all levels.
- Determine minority and low-income percentages in the census area both in the aggregate and disaggregate.
 - Disaggregated data could be useful for impact analysis and public involvement purposes.
 - Aggregated data will be used to flag census areas for further examination per FHWA Guidance.

How large must the minority or low-income population be to consider EJ?

Disproportionately high and adverse effects, not size , are the basis for environmental justice. A very small minority or low-income population in the project, study, or planning area does not eliminate the possibility of a disproportionately high and adverse effect on these populations. What is needed is to show the comparative effects on these populations in relation to either non-minority or higher income populations, as appropriate.

Be aware that if minority or low-income populations are small ("statistically insignificant"), there may still be a need to do an environmental justice analysis. Environmental justice determinations are made based on **effects** , not population size. It is important to consider the **comparative impact** of an action among different population groups.

What happens if there are no minority or low-income individuals in the study area?

When there are no environmental justice populations, end your analysis, and document your results. You may use the following statement:

“No minority or low-income populations have been identified that would be adversely impacted by this project as determined above. Therefore, this project has met the provisions of Executive Order 12898, as it is supported by Title VI of the Civil Rights Act.”

Is an EJ analysis done only on residential impacts?

An EJ analysis includes more than residential. Business, resources and usual and accustomed areas (in the case of tribal governments - fishing, hunting, etc.) should be looked at for disproportionate, adverse impacts on the EJ population.

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How should the demographics be displayed?

There is not a standard. The most useful is to display the study area demographics on a map. Maps are useful when talking about outreach strategies and identifying impacts in relation to the surrounding community.

How are demographics integrated into your Public Involvement Plan (PIP)?

Demographic analysis should be part of the foundation upon which your public involvement plan is developed. For environmental justice purposes, your demographic analysis should include minorities and low-income. For the broader purpose, you should probably include other pertinent elements like English proficiency, income, disabilities, age, employment status, and etc. These demographics will not only help with public involvement and EJ, but can contribute to your project's social impact assessment. You can find useful data sources and example maps in the “Affected Environment” module.

You need to know “who” you will be talking with to determine the best means of communicating with them (e.g.: this may identify translation needs, cultural tradition to be aware of, specific communication methods used by that community). The results should be used to personalize the public involvement plan. As the project becomes more refined, the demographics can be referred to for making any adjustments in the public involvement plan.

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What is a “adverse impact” in the context of EJ?

According to FHWA, “all reasonably foreseeable adverse social, economic, and environmental effects on minority populations and low-income populations must be identified and addressed. As defined in the Appendix of the DOT Order, adverse effects 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 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;
- Denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.

Adverse impacts are determined in part through discussion with those environmental justice populations potentially affected by the action. The displacement of an Asian individual may not be significant on the surface, but after talking with that individual you may find that he/she supports elderly parents who live next door who aren't being displaced. This displacement of that individual now may become significant. This

information should be combined with the technical analysis and other public involvement feedback to determine if there is an overall significant adverse effect.

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What is “disproportionate” in the context of EJ?

An adverse effect that:

- Is predominately borne by a minority population and/or low-income population, or
- 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.

How are "disproportionately high and adverse effects" determined?

Both disproportionate and adverse are determined by a combination of factors that can vary from project to project. Therefore an exact formula cannot be given. It is important to realize that:

Adverse effects = input from technical experts + public input

Adverse effects cannot be determined just from the input from public feedback nor from technical analyses but both should be used together to determine what is adverse.

Disproportionate needs to be determined by comparing the effect on the EJ population versus a comparison population, therefore:

Disproportionality = effect on EJ community vs. non EJ community.

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Does this mean coordination is needed between discipline reports?

Yes. As the public submits comments, these comments should be tracked and distributed to the correct technical person on the project team, and addressed appropriately. These comments will provide insight into potential impacts, mitigation measures, benefits, and more.

As the technical reports are developed, we need to determine who is affected by the potential project impacts and create a dialogue with the potentially affected community. This may require refining your demographics in those areas potentially affected by the impact(s). This dialogue should be guided by input from the project's public involvement coordinator. As impacts are identified and shared with the project management team, that information needs to be conveyed to the technical report writers.

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What is the difference between Environmental Justice and Title VI?

The major similarities and differences between EJ and Title VI are:

Similarities

- Both address non-discrimination
- Both identify minority populations
- Both are rooted in the constitutional guarantee (14th Amendment) that all citizens are created equal and are entitled to equal protection
- Both address involvement of impacted citizens in the decision-making process through meaningful involvement and participation

Differences

- EJ covers minority and low-income while Title VI and supplemental legislation cover, race, color, national origin, gender, age and disability
- EJ is an executive order (an order of the President of the United States).
- EJ mandates a process, while Title VI prohibits discrimination.

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What happens if the analysis shows there are no impacts to minority or low-income individuals in the study area?

When it is determined that there are no impacts to the environmental justice populations, end your analysis, and document your results. You may use the following statement:

“No minority or low-income populations have been identified that would be adversely impacted by this project as determined above. Therefore, this project has met the provisions of Executive Order 12898, as it is supported by Title VI of the Civil Rights Act.”

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What happens if the project appears to have a disproportionately high and adverse impact on an EJ population?

The document (DCE, EA, Draft EIS) must reflect how the impacts of the preferred alternative could not be avoided or minimized, how the impacted populations were involved in the decision process and what practicable mitigation commitments have been made.

In addition, you must demonstrate how other alternatives which would have a less-adverse effect on minority and/or low income populations are not practicable because

they would either not satisfy the project needs, have more severe adverse impacts on other environmental elements (i.e., wetlands, 4(f), et al), or that the social, economic, environmental or human health impacts of the other alternatives reach costs of extraordinary magnitudes. The approach is to first avoid impacts, minimize impacts; then mitigate unavoidable impacts. Enhancements and benefits the impacted EJ community will receive should also be considered in making the determination.

A disproportionately high and adverse effect on EJ populations can only be carried out if further avoidance, minimization, mitigation and enhancement measures are not practicable. In determining whether a measure is "practicable", the social, economic (including costs), and environmental effects of avoiding, minimizing, or mitigating the adverse effects can be taken into account.

What should be considered to determine appropriate avoidance, minimization, mitigation and enhancement measures?

Take into account mitigation, enhancements and project benefits when assessing if there will ultimately be a disproportionately high and adverse impact on an EJ population.

Also consider the fairness in distribution of avoidance, minimization, mitigation and enhancement measures between EJ and non-EJ communities. When considering these measures for an EJ community vs. the entire project area, keep in mind that the measures should be proportional to the level of impact on each.

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What kind of documentation needs to be done?

Supply enough documentation to support your finding. This may involve cross-referencing other reports, summarizing formation, and providing maps or tables. How you document your finding will be partially dependent on how you structure your analysis – as a separate discipline study, or integrated into the social impact assessment.

Below is a list of things that one would expect to see in an environmental justice analysis. By no means is this an all-inclusive list, nor does this mean that a separate discipline study has to be written. The amount and type of documentation done on a project will vary according to its level of complexity. A good rule of thumb is to do more documentation than you think is necessary. Err on the side of more documentation, not less.

Project Description

- Describe briefly the project, its purpose, need, and location.
- Describe the type of environmental document (EIS, EA, DCE, etc.) being developed for the project

Regulatory Framework

- Document that the analysis is being done in accordance with appropriate laws, regulations, and guidance
- Document the reason why an EJ analysis is being done for the project (EIS, EA, DCE, and etc.)

Methodology

- Define “adverse” and “disproportionate” impacts (per USDOT order.)
- Document of data sources and methods for determination.

Affected Environment

- Describe the study area and the rationale for its establishment.
- Document the presence/location of low income or minority populations.

Public Involvement

- Document outreach strategy to involve low income/minority population.
- Describe outreach efforts results (issues, attendance, responses, etc.).
- Document community perception (+/-) of impacts/benefits and severity.
- Document community perception of suitability of mitigation proposed.
- Describe methods used to overcome potential outreach barriers.

Impacts and Benefits Analysis

- Document the impacts of each alternative, including No-Build.
- Describe any disproportionately high and adverse effects.
- Discuss alternatives that avoid, minimize, or mitigate such effects.
- Describe any offsetting benefits.
- Describe appropriate avoidance, minimization, mitigation and enhancement measures.

Finding

- State impacts on EJ population with supporting evidence.
- Summarize practicability determination if disproportionately high and adverse effects on minority populations or low-income populations cannot be avoided, minimized or mitigated with supporting evidence.

Sometimes analysts find it useful to include copies of brochures, mailings or other outreach materials.