

Environmental Justice (EJ): Fair Treatment & Meaningful Involvement

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What is EJ?

- Environmental Justice is defined as 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 EPA has this goal for all communities and persons across this Nation.
- It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.



Executive Order 12898

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

- Issued by President William J. Clinton on Feb 16, 1994.
- Directed “all concerned” federal agencies to:
 - Identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, and
 - Develop a strategy for implementing environmental justice
- Established an Interagency Working Group (IWG) on environmental justice, chaired by the EPA administrator

Breaking Down EJ!

- **Fair Treatment:** means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.
- **Meaningful Involvement** means that:
 - People have an opportunity to participate in decisions about activities that may affect their environment and/or health;
 - The public's contribution can influence the regulatory agency's decision;
 - Their concerns will be considered in the decision making process; and
 - The decision makers seek out and facilitate the involvement of those potentially affected

Face of EJ: Disproportionate Impact Factors



DOT's Three EJ Principles

- To 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.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

DOT Order on EJ

- **Updates in Departmental Order 5610.2(a), Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**
 - Specifies that Environmental Justice applies to planning and that an EJ analysis should be conducted as part of early planning efforts.
 - Clarifies the distinction between a Title VI analysis and an environmental justice analysis conducted as part of a NEPA review.
 - Updates the definitions of minority populations to be consistent with the most recent OMB definitions.

FHWA-Complying with E.O. 12898

- FHWA issued Order 6640.23 in 1998; revised Order issued in 2012 after USDOT's order. "FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" to establish policies and procedures for the FHWA to use in complying with E.O. 12898.

FHWA EJ Order 6640.23: Key Elements

- Establishes internal policies and procedures for the FHWA to use in complying with EO 12898.
- Provides guidance on key definitions (e.g., clarifying the definition of “minority.”)
- Restates the FHWA policy to actively ensure nondiscrimination
- Speaks to integrating principles with existing operations and future proposals
- Focus on preventing disproportionately high and adverse effects
- Actions to be taken to address disproportionately high and adverse effects when they may exist

FTA EJ Final Circular

- FTA issued its first circular on Environmental Justice, Circular 4702.1 “Environmental Justice Policy Guidance for FTA Recipients.”
- The Circular became effective on August 15, 2012
- FTA also published an updated Title VI Circular
- FTA is now undertaking outreach to educate our grantees on how to more effectively incorporate the principles of environmental justice in all aspects of their transportation decision-making.
- http://www.fta.dot.gov/12347_14823.html

What's next for FTA

- FTA will hold a webinar in November 2012
- Webinar to include
 - Detail review of the content in Circular
 - Discussion of difference between Title VI and EJ compliance
 - EJ in Transportation Planning and NEPA
 - Case studies

EJ and Implementation-From Construction to Service Provision

- What are some indirect ways that EJ communities may be impacted by service provision or lack thereof?
 - Service elimination without alternative options or mitigation
 - Service reduction without alternative options or mitigation
 - Fare increase in which EJ communities are bearing disproportionate burden

EJ and Implementation-From Construction to Service Provision

- Key considerations that should be accounted for when analyzing service expansions and cuts:
 - Are there alternatives within $\frac{1}{4}$ mile walking distance to a bus stop or $\frac{1}{2}$ mile of rail station?
 - What other alternatives have been considered?
 - Would considering alternatives create a larger burden to EJ communities?

EJ and Implementation-From Construction to Service Provision

- When to do a Title VI analysis and when to do a EJ analysis
- Requires recipients to develop major service change policy, disparate impact policy, disproportionate burden policy, and evaluate adverse effects based on degree of impact
- Recipients may use population of service area or ridership for comparisons

EJ and Civil Rights

EJ is a Civil Rights Issue:

- When some communities benefit from improved accessibility, congestion relief, faster transit service and others do not;
- When some communities suffer disproportionately from adverse effects of transportation policies, e.g., congestion, noise, water and air pollution.
- When some communities are paying higher transportation costs than other communities relative to benefits and service they receive
- When some communities are not represented, or under-represented in transportation decision-making, policy development...that affect the allocation of resources

EJ and Civil Rights

- Emerging Issues in EJ and Civil Rights
 - More focus and discussion about:
 - Why are burdens not equitably distributed?
 - Do we have good data on the causes of environmental inequities?
 - Are there inherent biases in the transportation planning process that tend to favor mobility over accessibility and automobile travel over other modes?

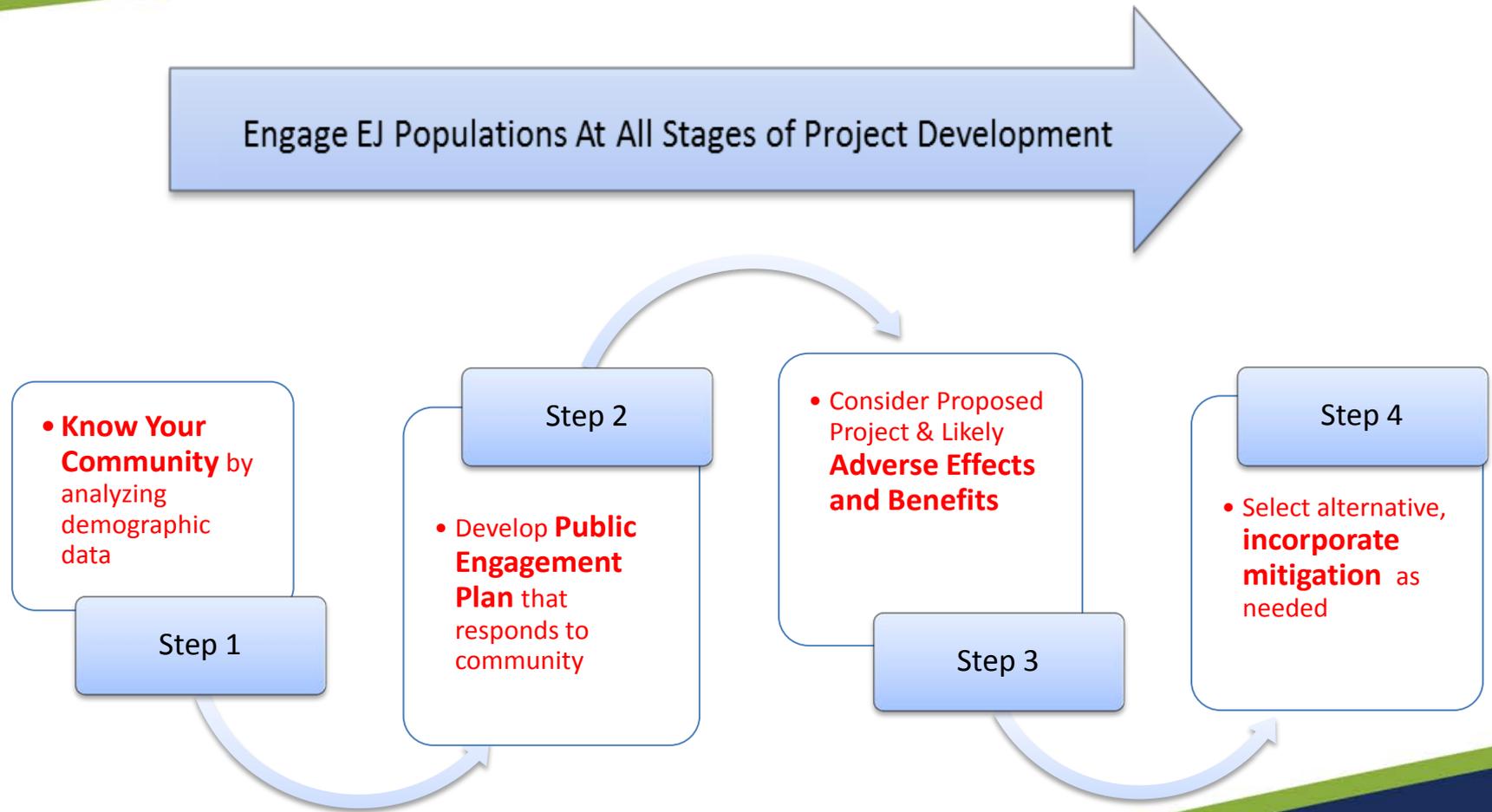
EJ and Civil Rights

- What does meaningful involvement really mean and are recipients of federal aid attaining it?
- Should social equity be an important planning goal and a requirement for sustainable development which balances economic, social, and environmental objectives (e.g. congestion reduction, increased travel speeds, travel cost savings and traffic safety)?

EJ in Planning and NEPA

- “Categorical Exclusion” designation within NEPA does not relieve an agency of the responsibility to assess whether or not a project requires further EJ analysis
- EJ must be considered at both the planning and the project level
- Unconventional outreach strategies can help to garner input from vulnerable populations

Conducting an Analysis



Know Your Community

- What is your “study area”?
- Use an appropriate unit of geographic analysis
 - Use the most up-to-date reliable data available (U.S. Census data – tract or block group level)
 - Other sources (local planning departments, MPOs/COGs, EDCs)
 - Travel the alignment (talk to residents or community organizations)

Determining Whether Adverse Effect Will Be Borne By EJ Population

Questions to consider :

- Whether the adverse effects on EJ populations exceed those borne by non-EJ populations?
- Whether cumulative or indirect effects would adversely affect an EJ population?
- Whether mitigation and enhancement measures will be taken for EJ and non-EJ populations?
- Whether there are off-setting benefits to EJ populations as compared to non-EJ populations?

What about benefits?

- Direct user benefits
 - Travel time savings
- Improved traffic and circulation
- Direct employment (new jobs)
- Redevelopment opportunities
- Improved access to jobs within the corridor
- Improved access to retail, entertainment, restaurant, and other non-work related establishments

Public Outreach and Participation

- Reach out to minority and low-income communities
- Contact social agencies and private organizations
- Provide opportunities for public input in addition to traditional open houses
- Advertise in target publications and community newsletters, other than in English
- Follow-up on suggestions gathered during public outreach activities.
- Make reasonable efforts to reach those affected by the proposed action



EJ in Planning and NEPA

- How can the NEPA and planning process be better inclusive of EJ populations while avoiding duplication?
- How can we ensure that we are accurately predicting potential project impacts on EJ populations (monitoring/community feedback)?

HUD-DOT-EPA Partnership for Sustainable Communities



“By working together, [HUD, DOT, and EPA] can make sure that when it comes to development – housing, transportation, energy efficiency – these things aren’t mutually exclusive; they go hand in hand. And that means making sure that affordable housing exists in close proximity to jobs and transportation. That means encouraging shorter travel times and lower travel costs. It means safer, greener, more livable communities.”

- -President Barack Obama

The Partnership and EJ

- Advancing environmental justice for minority, low-income, tribal, and indigenous people in the United States that experience higher levels of environmental pollution and other social and economic burdens.
- Addressing cross-cutting issues of housing affordability, environmental quality, and transportation accessibility through partnership.

Partnership EJ accomplishments

- Increase interagency collaboration
 - EJ Strategy Updates
 - Consistent vocabulary
- Providing information on EPA, HUD, DOT resources
- Training and capacity building

Current Issues

- Business impacts
- NEPA
- Project locations (stations)
- Goods movement
- Service routes
- Project design (tunnel versus aboveground)

Secretary Ray LaHood on Sustainability and EJ

- "At the Department of Transportation, we are committed to working directly with disadvantaged groups to choose, plan, and build transportation projects that will create jobs and spur economic growth," said Secretary LaHood. When we talk about environmental justice, we don't just mean avoiding harm to disadvantaged communities: we want to invest in projects that will create healthy, vibrant neighborhoods, revitalize communities, and connect all Americans to jobs, housing, schools, and medical care."
–Secretary Ray LaHood

Questions?

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