

Annotated Bibliography for Title VI and Environmental Justice

LEGISLATION AND U.S. CODE:

Civil Rights Act of 1964, 42 U.S.C. 2000d-2000d-4 Pub. L. 88-352-

Nondiscrimination in Federally Assisted Programs, primary Title VI legislation—mentions race, color, and national origin. Section 601 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." (Proscribes discrimination in impacts, services, and benefits of, access to, participation in, and treatment under Federal-aid recipients' programs or activities)

http://www.fhwa.dot.gov/environment/title_vi.htm

Civil Rights Restoration Act of 1987

An Act to restore the broad scope of coverage and to clarify the application of Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title VI of the Civil Rights Act of 1964.

http://www.fhwa.dot.gov/environment/ejustice/facts/restoration_act.htm

National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., declares national policy to encourage harmony between man and the environment, to promote efforts, which will prevent or eliminate damage to the environment, and to stimulate the health and welfare of man; as well as creates the Council on Environmental Quality. The NEPA also requires the consideration of alternatives; including the "no-build" alternative; consideration of social, environmental, and economic impacts; public involvement; and use of a systematic interdisciplinary approach at each decision-making stage of Federal-aid project development.

http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm

<http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0771.htm>,

Federal-aid Highway Act of 1970, 23 U.S.C. 109(h) added by Sec. 136(b) of Pub. L. 91-605, 84 Stat. 1734 (Dec. 31, 1970): first appearance of protection for communities/human environment.

http://environment.fhwa.dot.gov/projdev/imp109_h.asp

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, 42 U.S.C. 4601 et seq., as amended by the Surface

Transportation and Uniform. Provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms due to Federal-aid programs. -"For the fair and equitable treatment of persons displaced as a direct result of result of programs or projects undertaken by a Federal agency or with Federal financial assistance."

http://www.access.gpo.gov/uscode/title42/chapter61_.html

Age Discrimination Act of 1975, 42 U.S.C. 6101 (see also 10 CFR 1040.1 et seq. and 45 CFR 90.1 et seq.)-provides that: "(N) o person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance"-adds "age" as a protected group with wording similar to Title VI of the Civil Rights Act of 1964. (Prohibits discrimination based on age.)

http://www.dol.gov/oasam/regs/statutes/age_act.htm

Americans with Disabilities Act of 1990, (Pub. L. 101-336, 42 U.S.C. 12101-12213)- July 26, 1990, Title II - Public Services; and Title III - Public Accommodations and Services Operated by Private Entities. "No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or a local government." (Provides enforceable standards to address discrimination against individuals with disabilities.)

<http://www.usdoj.gov/crt/ada/adahom1.htm>

Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240,

December 18, 1991—also known as ISTEA—provides for flexible funding of modes of surface transportation and supports substantial emphasis on early program planning and environmental consideration, including transportation enhancements, bicycle and pedestrian programs, and a National Trails system. It also encourages public participation be extended into planning efforts. It mentions Indian tribal government involvement in planning and describes women to be presumed to be socially and economically disadvantaged individuals for purposes of Disadvantaged Business Enterprises section. Its Declaration of Policy includes "improved mobility for elderly, disabled, and economically disadvantaged" and "social benefits must be considered...with particular attention to...other aspects of the quality of life...."

National Highway System Designation Act of 1995, Pub. L. No. 104-59, November 28, 1995-establishes the NHS and its design criteria which, among other things, "may take into account...(A) the constructed and natural environment of the area, (B) the community ...impacts of the activity..." and (C) access for other modes of transportation." It also allows for an advance payment option and credit for donations of funds, materials, and services toward the State match for transportation enhancement activities.

<http://www.fhwa.dot.gov/legsregs/nhsdatoc.html>

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005 - SAFETEA-LU authorizes the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period 2005-2009. SAFETEA-LU represents the largest surface transportation investment in history. SAFETEA-LU builds on ISTEA and TEA-

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21. SAFETEA-LU provides States with increased flexibility to use tolling, introduces a Safe Routes to School program, more flexibility for road pricing, creation of a participation plan during planning, broadening of "interested parties" and funds non-motorized pilot programs.

<http://www.fhwa.dot.gov/safetealu/index.htm>

23 U.S.C. 109-"Highway"-Standards for the Secretary of Transportation
23 U.S.C. 109(h)-assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project. This section states specific potential community impacts, which need to be addressed.

http://environment.fhwa.dot.gov/projdev/imp109_h.asp

23 U.S.C. 128-"Public hearings"-State highway department certification of a public hearing, or opportunity for one, at a convenient location; of allowing persons whose property will be affected or who are contiguous to the project "to express any objections they may have." The State highway department must also certify that it has "considered the economic and social effects" of a project, and that the project is consistent with the goals and objectives of urban planning as promulgated by the community. The certification is accompanied by a report " which indicates the consideration given to the economic, social,...and other effects...raised during the hearing or..otherwise considered." <http://www.law.cornell.edu/uscode/23/128.shtml>

42 U.S.C. 3601-3631-Fair Housing Act (Pub. L. 90-284) policy and implementation. Protections afforded against making unavailable or deny, a dwelling to any person "because of race, color, religion, sex, familial status, or national origin" <http://www4.law.cornell.edu/uscode/42/ch45.html>

42 U.S.C. 4321 et seq.-National Environmental Policy-Congressional declaration of purpose-The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality. <http://www4.law.cornell.edu/uscode/42/4321.html>

42 U.S.C. 4601 et seq.-Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs. <http://www4.law.cornell.edu/uscode/42/4601.html>

42 U.S.C. 12101-12213-Codification of the Americans with Disabilities Act of 1990-Equal Opportunity for Individuals with Disabilities. <http://www4.law.cornell.edu/uscode/42/12102.html>

REGULATIONS:

23 CFR 200-"Title VI Program and Related Statutes-Implementation and Review Procedures"-includes race, color, religion, sex, and national origin. The FHWA's regulations implementing Title VI.

http://www.access.gpo.gov/nara/cfr/waisidx_02/23cfr200_02.html

23 CFR 771.111-Early coordination, public involvement, and project development. (a) Early coordination with appropriate agencies and the public aids in determining the type of environmental document an action requires, the scope of the document, the level of analysis, and related environmental requirements, (b) The Administration will identify the probable class of action as soon as sufficient information is available. (h) For the Federal-aid highway program: (1) Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program.

<http://www.fhwa.dot.gov/hep/23cfr771.htm>

40 CFR 1500-1508 (CEQ Regulations on Implementing NEPA), effective July 30, 1979-Relates primarily to the natural and physical environment with some references to the human environment. Provides for environmental procedures and document format into which social and economic impact assessment can be fitted. http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm

49 CFR 21-"Transportation"-Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964—includes race, color, national origin.

<http://www.fhwa.dot.gov/hep/49cfr21.htm>

49 CFR 24-"Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs"-DOT's regulation implementing the Uniform Act as amended in 1987 for Federal and federally assisted programs requiring compliance with nondiscrimination statutes and executive orders.

<http://www.fhwa.dot.gov/legsregs/directives/fapg/4924bsup.htm>

49 CFR 27-Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance-DOT's regulations implementing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended.

http://www.access.gpo.gov/nara/cfr/waisidx_03/49cfr27_03.html

DOT AND FHWA ORDERS, POLICY, AND GUIDANCE:

U.S. Department of Transportation. Social and Economic Effects of Highways, Washington, DC. 1974-A useful reference primarily for specialists.

Summarizes the results of a broad cross-section of recent research concerning the social and economic effects of highways, particularly in the

areas of displacement, accessibility and proximity effects. The major findings of each study are described (from Skidmore, et al.)*(not available on line)*

FHWA Memorandum, Guidance Material on Public Hearings and Other Public Involvement, October 8, 1982.

<http://environment.fhwa.dot.gov/guidebook/vol2/doc13b.pdf>

FHWA Technical Advisory T6640.8A, titled "Guidance for Preparing and Processing Environmental and Section 4(F) Documents," dated October 30, 1987; effective November 27, 1987. Statement of National Transportation Policy," Secretary of Transportation Samuel Skinner presented to President George Bush on March 8, 1990-among the six themes were to "ensure ... public safety and national security" and to "protect the environment and quality of life." It states, "the benefits of transportation must be available to all Americans, including economically and socially disadvantaged, minority, young and old, and disabled citizens." It also states it is Federal transportation policy to "encourage the design and building of transportation facilities that fit harmoniously into communities and the natural environment, and preserve scenic and historic sites."

<http://www.fhwa.dot.gov/legsregs/directives/techadvs/t664008a.htm>

Executive Order 12898 - "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, and its accompanying Presidential Memorandum which mentions minority and low-income communities, (see Executive Order 12948 - "Amendment to Executive Order No. 12898," January 30, 1995.) Issued by President Clinton-Requires each Federal agency to 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.

<http://www.epa.gov/fedrgstr/eo/eo12898.htm>

FHWA/FTA Policy and Guidance on Public Involvement, December 5, 1994, joint transmittal memorandum from FHWA's Director of the Office of Environment and Planning (Kevin E. Heanue) and FTA's Director of the Office of Planning (Samuel L. Zimmerman) to Associate Administrators, Staff Office Directors, Regional Federal Highway Administrators, Federal Lands Highway Program Administrator, Director of Joint ITS Program Office, and Regional Federal Transit Administrators) with "FHWA/FTA Interim Policy on Public Involvement" and "FHWA/FTA Questions and Answers on Public Involvement in Transportation Decision making."

<http://environment.fhwa.dot.gov/guidebook/chapters/v2ch13.asp>

FHWA's, "Community Impact Assessment: A Quick Reference for Transportation," FHWA-PD-96-036, September 1996.

http://www.ciatrans.net/CIA_Quick_Reference/Purpose.html

Bold face are primary laws, statutes and guidance.

FHWA and FTA Publication, "Public Involvement Techniques for Transportation Decision making," FHWA-PD-96-031, September 1996.
<http://www.fhwa.dot.gov/reports/pittd/cover.htm>

U.S. Department of Transportation (DOT), Final "Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations," [subsequent to draft in Federal Register, Vol. 60, No. 125, June 29, 1995, pp.33899-33903.] signed by Secretary Pena on February 3, 1997; published in Federal Register, Vol. 62, No. 72, April 15, 1997, pp. 18377-18381. *Officially formatted into DOT Order 5610.2.*
<http://www.state.nj.us/transportation/business/civilrights/pdf/usdotfhwa.pdf>

FHWA Order on Environmental Justice, "FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," December 2, 1998.
http://www.fhwa.dot.gov/legsregs/directives/orders/6640_23.htm

DOT Order 5301, "Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaskan Natives, and Tribes," November 16, 1999. Contains an extensive listing of relevant laws, policies, definitions, etc. It also expresses the responsibilities of each DOT component toward American Indians, Alaskan Natives, and tribes.
<http://isddc.dot.gov/OLPFiles/OST/009273.pdf>

Executive Order 13166, entitled ``Improving Access to Services for Persons with Limited English Proficiency." 65 FR 50121 (September 16, 2000). Issued by President Clinton-Requires each Federal departments and agencies extending financial assistance to develop and make available guidance on how recipients should, consistent with the DOJ LEP Guidance and Title VI of the Civil Rights Act of 1964, as amended, assess and address the needs of otherwise eligible limited English proficient persons seeking access to the programs and activities of recipients of federal financial assistance. <http://www.usdoj.gov/crt/cor/Pubs/eolep.htm> and <http://www.usdoj.gov/crt/cor/lep/dotlep.htm>

OTHER GOVERNMENT RESOURCES:

FHWA's "Flexibility in Highway Design," Publication FHWA-PD-97-062, published July 1997. <http://www.fhwa.dot.gov/environment/flex/>

Council on Environmental Quality, "Environmental Justice: Guidance under the National Environmental Policy Act," Appendix A provides guidance for Federal agencies on key terms in Executive Order 12898. The publication is dated December 10, 1997. We provide this for reference but request that the

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methodology not be used on Washington State transportation projects since it is in conflict with our established methodology.

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

EPA's "Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses" from their Office of Federal Activities. The stated intent and purpose is "to improve the internal management of EPA with respect to environmental justice under NEPA" and "to assist EPA staff responsible for developing EPA NEPA compliance documentation...." dated April 1998.

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

FHWA Publication, "Community Impact Mitigation: Case Studies," FHWA-PD-98-024, May 1998. A look at five very large projects that impacted communities. <http://www.ciatrans.net/Casestud.html>

"A Guide to Best Practices for Achieving Context Sensitive Solutions" (NCHRP Report 480). http://gulliver.trb.org/publications/nchrp/nchrp_rpt_480a.pdf

FHWA Public Involvement Techniques for Transportation Decision-making – This is an old guide but still very useful.

<http://www.fhwa.dot.gov/reports/pittd/cover.htm>

FHWA Planning Assistant - The Planning Assistant is a self-diagnostic tool to help you form ideas, identify techniques, and organize notes for your public involvement activity.

http://www.planning.dot.gov/PublicInvolvement/pi_tool/getting-started.asp

FHWA Public Involvement Techniques - This is a reference work that makes a wide variety of public involvement techniques available to transportation agencies. It includes the 14 techniques originally published in Innovations in Public Involvement for Transportation Planning.

http://www.planning.dot.gov/PublicInvolvement/pi_documents/toc-foreword.asp

Transportation Research Board, A1D04: Committee on Public Involvement in Transportation "State of the Practice: White Paper on Public Involvement"

<http://www.trbpi.com/publications/trbwhitepaper.pdf>