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### 458.01 Introduction

This chapter provides broad guidance on how to analyze the social, economic, environmental justice, and relocation impacts of a transportation project. You can find tools for performing an analysis on our Environment website by looking under the subject headings on the site index.

Transportation decision making becomes more effective when we understand and address the unique needs of different socioeconomic groups. All populations should receive an equitable distribution of transportation benefits. Incorporating civil rights principles throughout the transportation planning and decision making processes is an implementation of the principles of NEPA, Title VI of the Civil Rights Act of 1964 (as amended), the Uniform Relocation Assistance & Real Property Acquisition Policies Act of 1970 (as amended), and other related USDOT statutes, regulations, and guidance.

The NEPA process (described in [Chapters 410](#) and [411](#)) includes identifying social and economic effects interrelated with natural or physical environmental effects. You should include analysis of the effects of all alternatives including the no-build. Addressing these issues and implementing the Federal Aid Highway Act [23 USC 109\(h\)](#) (e.g., community cohesion, availability of public facilities and services, adverse employment effects), should help assure our transportation decision-making process is fair, inclusive and consistent with applicable laws and regulations.

#### (1) **Summary of Requirements**

When you prepare documentation for social, economic, or environmental justice, you should include, at a bare minimum:

- A map showing the study area and demographics of the affected area (social and EJ).
- A map showing the study area and zoning (economic).
- Demographics (at the census block level) showing disabled, elderly, limited English proficient, minorities, and low-income populations (social and EJ). Include at least two data sources (social and EJ).
- Any relocations/acquisitions (social, economic, and EJ).

- Any effects on parking and access (social, economic, and EJ).
- Public involvement including any targeted outreach (social and EJ).
- An estimate of the cohesion of any affected communities along with project effects on cohesion (social and EJ).
- Any affected businesses in the area; whether any are minority owned, employ large numbers of minorities or low-income, or fill a cultural niche along with how they are affected (social, economic and EJ).
- A determination, based on analysis, of whether low-income or minority populations are disproportionately affected (EJ).

Whatever level of documentation is used, you need to provide enough information for the reviewer to understand the existing conditions, the potential effects of the project on these elements, public outreach, how you reached conclusions, and whether any proposed avoidance and mitigation is adequate and appropriate.

Projects developed using this process are more likely to successfully avoid and/or minimize disproportionately high and adverse effects on minority or low-income populations.

[Section 458.05](#) has resources to help our projects be successful in this area.

## (2) **Abbreviations and Acronyms**

ADA	Americans with Disabilities Act
CIA	Community Impact Assessment
CSS	Context Sensitive Solutions
EJ	Environmental Justice
LEP	Limited English Proficiency
Title VI	Title VI of the Civil Rights Act of 1964
USDOJ	United States Department of Justice

## (3) **Glossary**

**Adverse Effects** (environmental justice) – 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 from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities. [DOT Order 6640.23] (Adverse effects are determined by both the individuals affected and the judgment of the analyst.)

**Community Cohesion** – The ability of people to communicate and interact with each other in ways that lead to a sense of community, as reflected in the neighborhood’s ability to function and be recognized as a singular unit.

**Community Impact Assessment (CIA)** – A process to evaluate the effects of a transportation action on a community and its quality of life. The assessment process should include all items of importance to people, such as mobility, safety, employment effects, relocation, isolation and other community issues.

**Context Sensitive Solutions (CSS)** – A collaborative, interdisciplinary approach to develop a transportation facility that fits its physical surroundings and is responsive to the community’s scenic, aesthetic, social, economic, historic, and environmental values and resources, while maintaining safety and mobility.

**Disproportionately High and Adverse Effect** – An adverse effect that: (a) is predominantly borne by a minority population and/or a low-income population; or (b) is 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. You need to consider cultural differences as one factor of your analysis.

**Environmental Justice** – Environmental justice seeks to lessen unequal distributions of environmental burdens (pollution, industrial facilities, crime, etc.), equalize benefits and balance access to nutritious food, clean air and water, parks, recreation, health care, education, transportation, safe jobs, etc., in a variety of situations. Self-determination and participation in decision-making are key pieces of environmental justice. Presidential Executive Order 12898 and USDOT and FHWA implementing orders set the standards for environmental justice for transportation projects.

Environmental justice means minority and low-income populations do not suffer disproportionately high and adverse human health or environmental effects from agency programs, policies, and activities.

**Limited English Proficient** – Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance with respect to a particular type or service, benefit, or encounter. Federal laws particularly applicable to language access include Title VI of the Civil Rights Act of 1964, and the Title VI regulations, prohibiting discrimination based on national origin, and Executive Order 13166 issued in 2000.

**Low-income** – A household income that is at or below the federally designated poverty level for a given household size.

**Low-income Population** – Any readily identifiable group of low-income persons who live in a geographic area, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed DOT program, policy, or activity.

**Minority** – A person who is:

- Black (a person having origins in any of the black racial groups of Africa).
- Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or the Spanish culture or origin, regardless of race).
- Asian/Pacific Islander (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands).
- American Indian or Alaskan Native (a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition). These categories are from Ex. Order 12898. Subsequent censuses have altered these slightly. You should use what is current.

**Minority Population** – Any readily identifiable group 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.

**Subsistence** – Used primarily in Environmental Justice. Subsistence refers to the practice of certain cultures to rely on hunting and fishing for their food. State and federal laws define subsistence as the “customary and traditional” uses of wild resources, for food, clothing, fuel, transportation, construction, art, crafts, sharing, and customary trade. Customary and traditional uses of fish and game are important to many cultures, particularly American Indians and Alaskan Natives.

## 458.02 Applicable Statutes and Regulations

This section lists the primary statutes and regulations applicable to social, economic, environmental justice and relocation issues.

### (1) **National Environmental Policy Act/State Environmental Policy Act**

The National Environmental Policy Act (NEPA), [42 USC 4321](#) et seq., requires that all actions sponsored, funded, permitted, or approved by federal agencies undergo planning to ensure that environmental considerations such as social and economic impacts are given due weight in project decision-making.

Federal implementing regulations are in [23 CFR 771](#) (FHWA) and [40 CFR 1500-1508](#) (CEQ).

Under the State Environmental Policy Act (SEPA), [Chapter 43.21C RCW](#), with implementing rules ([Chapter 197-11 WAC](#)), it is assumed that “the general welfare, social, economic, and other requirements and essential considerations of state policy will be taken into account in weighing and balancing alternatives and in making final decisions.”

State implementing regulations are in [Chapter 197-11 WAC](#) and [Chapter 468-12 WAC](#) (WSDOT). For details on NEPA/SEPA procedures, see [Chapters 410, 411, and 412](#).

**(2) Title VI of the Civil Rights Act of 1964**

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, sex, and national origin in the provision of benefits and services resulting from federally assisted programs and activities. The Civil Rights Restoration Act of 1987 amended the Civil Rights Act of 1964 (along with the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975), to clarify the phrase “program or activity” to mean the entire operations of recipients (i.e., WSDOT) whether those operations are federally funded or not. This means that all activities, regardless of funding source must comply with Federal nondiscrimination laws. Title VI applies to every aspect of WSDOT’s processes, requiring WSDOT to provide equal access to transportation-related decisions and processes for all people in the state including equal participation in the public involvement process. Title VI applies to all persons residing in the United States, not just its citizens.

**(3) Uniform Relocation Assistance and Real Property Acquisition Policies Act as Amended**

This statute ([42 USC 4601](#)) passed in 1970 and amended, establishes a uniform policy for the fair and equitable treatment of individuals and businesses displaced as a direct result of programs or projects undertaken by a federal agency or with federal financial assistance. See [49 CFR 24](#) for USDOT implementing regulations.

The primary purpose of this [Act](#) is to minimize the hardship of displacement and to ensure that such persons shall not suffer disproportionate adverse effect as a result of programs and projects designed for the benefit of the public.

**(4) Americans with Disabilities Act and Age Discrimination Act**

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990 protects disabled individuals. The Age Discrimination Act of 1975 protects the elderly. It applies to persons age 65 and over.

**(5) Presidential Executive Order 12898 – Environmental Justice**

Presidential Executive Order 12898 on “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (February 11, 1994) is based, in part, on Title VI. The executive order is intended “to promote nondiscrimination in federal programs substantially affecting human health and the environment, and to provide minority and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment.”

It requires that each federal agency shall, to the greatest extent allowed by law, administer and implement its programs, policies, and activities that affect human health or the environment to identify and avoid “disproportionately high and adverse” effects on minority populations and low-income populations.

The order directs federal agencies to conduct its programs, policies, and activities to ensure they do not have the effect of:

- Excluding persons (including populations) from participation.

- Denying persons (including populations) benefits.
- Subjecting persons (including populations) to discrimination because of their race, color or national origin.

Since 1994, federal agencies have added the following goal:

- Protect minority populations and low-income populations who principally rely on fish and/or wildlife for subsistence from human health risk associated with the consumption of pollutant-bearing fish or wildlife.

**(6) Presidential Executive Order 13166 – Limited English Proficiency**

The President’s [Executive Order 13166](#), on “Improving Access to Services for Persons with Limited English Proficiency” (August 11, 2000), is intended “to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP).” Recipients of Federal financial assistance (i.e., WSDOT and local agencies) must ensure their programs and activities provided in English are accessible to limited English proficient persons. Failure to do so could be considered a violation of Title VI’s prohibition against national origin discrimination.

**(7) Tribal Government**

Tribal considerations are also addressed under both Section 4(f) [49 USC 303](#) and Section 106 of National Historic Preservation Act [16 USC 470\(f\)](#). For further assistance, see the WSDOT [Tribal Liaison](#) web page. Also review FHWA’s [Tribal Issues](#) web page.

**(8) Washington State Relocation Assistance – Real Property Acquisition Policy Act ([RCW 8.26](#)) and [WAC 468-100](#)**

Washington State’s Relocation Act mirrors the Federal Uniform Relocation Act. Review this for both NEPA and SEPA projects.

**(9) Governor’s Executive Order 93-07**

See the Governor’s [Executive Order 93-07](#) *Affirming Commitment to Diversity and Equity in Service Delivery and in the Communities of the State, Re-Establishing Affirmative Action and Prohibiting Discrimination in State Workplaces*.

## 458.03 Policy Guidance

**(1) General Guidance**

Policy guidance for social, economic and environmental justice issues is contained in various FHWA documents, such as: [23 USC 109\(h\)](#); USDOT Order 5610.2 and FHWA Order 6640.23 addressing environmental justice; FHWA’s T 6640.8A; FHWA’s *Community Impact Assessment Guidebook*. Social and economic considerations are also emphasized through WSDOT’s [Executive Order 1028.00](#) on Context Sensitive Solutions.

Local comprehensive plans may contain policies addressing social issues and economics. All of the above are good resources for preparing human environment studies.

**(2) Relocation Policy**

Relocation policy is addressed in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

**(3) Limited English Proficiency**

WSDOT and other agencies receiving assistance from the federal government must take reasonable steps to ensure nondiscrimination on the basis of national origin under Title VI of the Civil Rights Act of 1964. Presidential Executive Order 13166 is a reaffirmation of Title VI and requires that persons with Limited English Proficiency (LEP) have meaningful access to recipients' programs, services, and information. For U.S. Department of Justice policy guidance and other information, see the [LEP](#) web page. Also see the WSDOT [Limited English Proficiency Guidance](#) web page.

Project teams should become familiar with this guidance. Communicating project information using plain talk will increase the likelihood that everyone will understand. Although using plain talk may help Limited English proficient persons (those affected by the project) understand the information, you may also need to provide additional assistance.

You can develop effective public involvement plans and strategies if you know the project area's demographics. Depending on the study area demographics, you may need to print fliers or fact sheets in other languages and have interpreters available at public meetings. You also may need to do different types of outreach than standard public meetings.

**(4) Environmental Justice**

A key component of FHWA's mission (and longstanding policy) is to ensure nondiscrimination in all of its programs and activities. This policy applies to the programs and activities of FHWA's recipients, subrecipients, and contractors. Nondiscrimination requirements can be found in all FHWA regulations. The FHWA Order 6640.23 on Environmental Justice is just one of many guidance documents. This order and other related information is available on the FHWA [Title VI and Environmental Justice](#) web page. Along with this chapter, see detailed environmental justice guidance on the WSDOT [Environmental Justice](#) web page.

**(5) Tribal Consultation**

American Indians are one of the populations covered by Title VI and the Environmental Justice Executive Order. The federal government has a unique legal relationship with tribal governments. Federal policies and implementing regulations must consider effects to tribal governments according to Presidential Executive Order 13175. This is not solely related to Section 106. Environmental justice analysis for a project must also consider whether our transportation projects

will affect Tribal usual and accustomed areas (i.e., fishing, hunting, gathering places). The usual and accustomed areas usually extend beyond reservation or tribally owned land. When out-of-state Tribes have usual and accustomed areas in Washington State, they need to be included in the consultation process.

Our 2008 Model Comprehensive Consultation Process contains the most current information for WSDOT engagement with the tribes during the NEPA/SEPA process. We developed the model in consultation with the tribes. The Model Consultation Process and our updated [Executive Order E 1025 Tribal Consultation](#) are both available on WSDOT's [Tribal Liaison](#) web page.

#### **(6) Local Government Policies**

Local governments receiving federal financial assistance are subject to the same nondiscrimination requirements as WSDOT (including the development and implementation of Title VI Plans/Nondiscrimination Agreements). Local comprehensive plans may contain elements addressing social goals and may include an element on environmental justice. These plans may be a resource when you prepare your environmental document.

### **458.04 Interagency Agreements**

None.

### **458.05 Technical Guidance**

WSDOT has comprehensive information on public involvement, social, and environmental justice on our website. You should use our web guidance to analyze project effects on human populations. You can find it on the site index under social or environmental justice on the WSDOT [Environment](#) web page.

We have developed decision matrices and templates for discipline reports for social, economics and environmental justice. You can find them on the site index under decision matrices or templates on the WSDOT [Environment](#) web page and in the exhibits at the end of this chapter.

WSDOT Environmental Services Office, Real Estate Services, and the WSDOT regional environmental offices provide both assistance and review of social, economic, environmental justice, and relocation project reports.

WSDOT [Local Agency Guidelines](#) M 36-63 Chapter 24 also contains guidance for local agencies. For additional public involvement guidance, see the FHWA [Public Participation/Public Involvement](#) web page.

#### **(1) Discipline Report**

The nature and intensity of a project's effect on a community and the effects on the regional and local economy will determine how you should analyze and document effects. A discipline report will be the usual method for analyzing and documenting effects on a community's social, economic and environmental justice elements.

Whatever level of documentation is used, enough information needs to be provided for the reviewer to understand the affected environment, the potential effects of the project, how conclusions are reached, and whether any proposed avoidance and mitigation is adequate and appropriate.

When effects are unknown, or known and substantial, or when public controversy is expected, you should complete a discipline report. Use the [decision matrices](#) to help you determine the appropriate level of documentation. If you need to prepare a discipline report, we have also provided suggested [templates](#) for discipline reports. These tools should help you to right-size your documentation.

A letter to the project file (if no effects are identified) may be adequate, if effects on the human environment are non-existent or very low and public controversy is expected to be low. The matrices will help determine the level of effects and type of documentation.

The environmental justice analysis should be a section within the social discipline report. This will give a complete picture of the community and prevent a lot of duplication of data. If the analysis of effects to an EJ population is complex, a separate report may be more appropriate, as long as it ultimately ties into the “social” analysis. Schedule the Social and EJ reports for last in the environmental document process. This will help team members coordinate with local agencies in the project area, and with other disciplines such as noise and public involvement to share data and align conclusions.

Data collected for these discipline reports may contain sensitive information. We suggest including aggregate residential and business information in the report, and keeping more detailed information in a separate file available to the reviewer.

## (2) **FHWA Technical Advisory**

FHWA [Technical Advisory T 6640.8A](#), *Guidance for Preparing and Processing Environmental and Section 4(f) Documents* (October 30, 1987), gives guidance on preparing sections on social, economic, and relocation impacts. This guidance is summarized below.

- (a) **Social Impacts** – The draft environmental document should discuss the following for each alternative:
- (i) Changes in the neighborhoods or community cohesion for various social groups as a result of the proposed action.
  - (ii) Demographics in the general area and any limited English proficient populations in the area of effects.
  - (iii) Changes in travel patterns and accessibility (e.g., vehicular, commuter, transit, bicycle, or pedestrian).
  - (iv) Impacts on school districts, recreation areas, churches, businesses, and police and fire protection services (including both direct impacts to these entities and indirect impacts of displacing households and businesses).

- (v) Impacts of alternatives on highway and traffic safety and on overall public safety.
  - (vi) Social groups especially benefited or harmed by the proposed project, particularly disproportionate impacts to minority, low-income and elderly, disabled, non-drivers, and transit-dependent groups.
- (b) **Relocation Impacts** – Following is a summary of information regarding households and businesses that should be discussed for each alternative when a proposed project will result in displacements:
- (i) Estimated number and characteristics of households to be displaced (such as owner/renter, minority, low-income, elderly, disabled).
  - (ii) Comparison of available comparable housing within reasonable distance with the housing needs of these households.
  - (iii) Affected neighborhoods, public facilities, non-profit organizations, unique or culturally specific businesses, special relocation considerations and the measures proposed to resolve these relocation concerns.
  - (iv) Measures to be taken if available alternate housing is inadequate.
  - (v) Estimate of the numbers, descriptions, types of occupancy (owner/tenant), and sizes (number of employees) of businesses and farms to be displaced.
  - (vi) Description of business or farm products and services, particular requirements, and specific availability of replacement sites or buildings.
  - (vii) Coordination with local governments, organizations, groups, and individuals regarding residential and business relocation impacts, including any measures or coordination needed to reduce general and/or specific impacts. The report should include a statement that (1) the acquisition and relocation program will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and (2) relocation resources are available to all relocatees without discrimination.
- (c) **Economic Impacts** – Where there are foreseeable economic impacts, the draft environmental document should discuss the following for each alternative:
- (i) The economic impacts on the regional and/or local economy such as development, tax revenues and public expenditures, employment opportunities, accessibility, and retail sales.
  - (ii) Impacts on the economic vitality of existing highway-related businesses (e.g., gasoline stations and motels) and the overall local economy. Any effects to minority owned businesses or ones that serve a minority population (e.g., Asian video store).

(iii) Impacts on established business districts, and any opportunities to minimize or reduce such impacts by the public and/or private sectors.

(d) **Environmental Justice** – See environmental justice tools on the WSDOT [Environmental Justice](#) web page along with this chapter for WSDOT projects.

### (3) **Other Resources**

The following publications on community impacts may be useful in analyzing social and economic impacts.

- *Community Impact Mitigation Handbook*. Publication No. FHWA-PD-98-024 (May 1998).
- *Community Culture and the Environment. A Guide to Understanding a Sense of Place*. Publication No. EPA 842-B-01-003 (2002).
- *Community Impact Assessment: A Quick Reference for Transportation*. Publication No. FHWA-PD-96-036 (September 1996).

The other documents may be available online in the future at the FHWA [Environment](#) web page or the FHWA [Resources](#) web page. The FHWA [Washington Division](#) has also developed guidance on environmental justice.

## **458.06 Permits and Approvals**

None are required for these disciplines.

## **458.07 Non-Road Project Requirements**

Federal agencies maintain their own unique NEPA procedures in CFR. As such each agency may have different documentation and procedural requirements for complying with NEPA. If your project has a federal nexus with more than one federal agency, it is critically important to meet with the federal lead agencies and determine how to proceed. In some cases the federal agencies may agree to co-lead the NEPA process. In others, one agency may serve as lead and the other as a cooperating agency. This decision needs to be made very early in the process to ensure timely approval of your environmental document. The exact requirement will vary depending on the nature of the project, federal permits and approvals required, and individual circumstances. Common examples of projects that require coordination with more than one federal agency are:

- An FHWA funded project that crosses National Forest Lands.
- A project that receives FHWA and FTA funding.
- Any highway project involving FRA or FAA.
- An FHWA funded project that requires an Army Corps of Engineers Individual permit.

