

# Environmental Justice FAQs

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This webpage is intended to provide answers to the most frequently asked questions concerning environmental justice in the planning and NEPA processes.

- 1) Does the Environmental Justice (EJ) Circular present new requirements for EJ compliance review?  
No. FTA's EJ Circular 4703.1, published in August 2012, does not introduce new requirements. FTA developed the Circular to clarify existing requirements, reiterate the importance of environmental justice considerations in transportation planning and project development, and to focus attention on examples of good practice.
- 2) What is the different between Title VI and EJ?  
Title VI is a statutory and regulatory requirement and all FTA grantees must comply with the provisions of Title VI. The Title VI Circular can be found at <http://www.fta.dot.gov/12328.html> >). Title VI requirements are broader in scope than environmental justice and grantees should be careful not to mix the two. While they overlap, engaging in an EJ analysis under transportation planning and NEPA provisions will not satisfy Title VI requirements, as outlined in both Circulars. Similarly, a Title VI analysis may not necessarily satisfy environmental justice requirements (one reason is that Title VI does not include low-income populations).
- 3) Can an individual file a legal complaint under environmental justice?  
No. Environmental justice stems from a directive from the President of the United States to Federal agencies and is intended to improve the internal management of the Federal government; therefore, it does not create legal rights enforceable by a party against the United States.
- 4) How should grantees demonstrate that they have satisfactorily considered the needs and concerns of EJ populations?  
FTA suggests a variety of options for integrating EJ considerations into existing programs, planning and project development processes, including:
  - (a) Ensuring that the level and quality of public transportation service is provided in a non-discriminatory manner: for example, when considering transit routes and service options, grantees should take into account the challenges faced by low-income and minority households who are dependent on transit for accessing employment and other services.
  - (b) Promoting full and fair participation in transportation decision-making without regard to race, color, national origin or income: for example, grantees should (and MPOs must) be able to demonstrate how they seek out and consider the needs of those traditionally underserved by existing transportation systems and should periodically review the effectiveness of the procedures, strategies, and desired outcomes contained in their public participation plan to ensure a full and open participation process, which considers the needs of low-income and minority households.
  - (c) Ensuring meaningful access to public transportation-related programs and activities by persons with limited English proficiency: for example, grantees can prepare additional literature in the languages which are predominant in their regions.

- 5) What do we mean by “meaningful public engagement”?
- FTA and FHWA’s shared planning regulation, found at 23 CFR 450 outlines federal expectations for statewide and metropolitan planning agencies in effectively engaging the public, including low-income and minority communities. Planning agencies are required to evaluate the effectiveness of these strategies and, where necessary, improve public involvement processes to eliminate participation barriers and engage minority and low-income populations in transportation decision making. Grantees should develop and implement strategies for meaningful engagement of the community, including members of EJ populations as a part of the planning process. Through effective public engagement grantees are able to identify and understand the needs of the community as a whole, and incorporate those needs into transportation plans and programs. FTA’s regulation outlines MPO requirements for producing public participation plans with specific outreach strategies for transportation plan and program development that “describe explicit procedures, strategies, and desired outcomes for” public engagement, which includes low-income and minority populations, as well as a process for periodically evaluating the effectiveness of these outreach strategies. Direct outreach to individuals and engagement with organizations that represent members of the EJ community are methods to determine the needs and concerns of environmental justice populations. Reaching out to the EJ populations in their community is critical. Public engagement is not a one-size-fits-all approach and should be scaled to the specific impacts of the proposed action, as well as the resources available. Many agencies rely on formal meetings as the foundation of their public engagement plans because these are often required by law; however, agencies should consider going beyond the traditional methods of public outreach to incorporate innovative approaches that leverage the ever-changing communications environment in which we live. Effective communication methods include distributing flyers at the local community center, churches, or grocery stores, and posting information on vehicles, at bus stops, transit stations, and other locations frequented by riders. Materials also should be prepared for persons with limited-English proficiency. “Meaningful public engagement” does not mean that every issue or concern raised by the community must be resolved. However, it does mean that grantees work diligently to engage in a meaningful public dialogue with the communities impacted by the proposed action, listen to what they have to say, respond to their comments and concerns, and incorporate their comments into the transportation decision-making process where practicable.
- 6) What data should grantees use? Readily identified by Census data or "field" observation?
- At the planning level, activities should be supplemented by data collection through both national services (*e.g.*, Census Bureau, American Community Survey) and locally developed and administered data collection (*e.g.*, finance department data, community impact assessments, customer surveys). Local data can be derived from local surveys and recordkeeping. Places where surveys may be used include: churches, farmer's markets, transit stations and centers, senior centers and various local community organizations and social groups. These data will permit a comparative assessment of accessibility, travel times, travel mode usage, and other travel attributes across EJ and non-EJ populations. FTA understands the uncertainty with the US 2010 Census data, but currently it is the best data set to use for future EJ analyses. Remember that partnering with local public and nonprofit organizations with an interest in Environmental Justice outcomes (such as local groups that provide services or University researchers) can offer valuable strategies for accessing additional resources and data. There are a variety of tools for you to consider listed on FTA’s website: FTA EJ web page: [http://www.fta.dot.gov/15446\\_15425.html](http://www.fta.dot.gov/15446_15425.html)

- 7) What groups are included in EJ populations?  
EJ populations include minority or low-income populations.
- 8) Does EJ apply in communities where the population is less than 200,000?  
Yes. EJ requirements apply regardless of the size of the community. There are no situations where EJ considerations do not apply based on population size.
- 9) What is meant by “low-income individual”?  
FTA encourages the use of a locally developed threshold, such as that used for FTA’s grant program, or a percentage of median income for the area, provided that the threshold is at least as inclusive as the U.S. Department of Health and Human Services (HHS) poverty guidelines. Public Law 112-141 (MAP-21), revises 49 U.S.C. § 5302 to include a definition of “low-income individual” to mean “an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section, for a family of the size involved.” The definition in chapter 53 does not have broad applicability to FTA or DOT programs, such as Title VI and Environmental Justice. FTA’s Title VI circular uses the more narrow definition: a person whose median household income is at or below the HHS poverty guidelines. This is the same definition DOT uses in the environmental justice order and other documents. In FTA’s Environmental Justice circular, we encourage recipients to use a more inclusive definition, but do not require the more inclusive assessment as long as the HHS poverty guideline is applied.
- 10) Is an EJ population always a residential population?  
The EJ community definitions apply to the residential population, as well as to workers, students, patients, and other individuals who are part of the community that would be affected by a given plan, program, policy, or project.
- 11) Does the Circular eliminate the use of "thresholds" for determining the presence of an EJ population?  
The Circular does not eliminate the use of “thresholds” for determining the presence of an EJ population. The Circular cautions grantees not to be too reliant on thresholds to serve as a “bright line” for identifying impacted populations. A very small minority or low-income population (statistically “insignificant”) in the project, study or planning area does not eliminate the possibility of a disproportionately high and adverse effect on these populations. For instance, you could have a project with a geographic unit of 20% EJ population, which may not trigger further analysis compared to a 35% regional EJ population. Disregarding that geographic unit could be short sighted because it is possible there could be a disproportionate impact on the 20% EJ population for a given factor. If you were strictly enforcing a 50% EJ population threshold, this area would have been missed. EJ determinations are ultimately based on effects, not on population size; therefore, it is important to consider the comparative impact of an action among different population groups. Furthermore, meaningful identification and public involvement of EJ populations is the core principle of an effective EJ analysis.
- 12) Can there be a disproportionate high and adverse effect on a minority or low income population even if the minority and low income population does not exceed the average for the service area?  
Yes. This is precisely the distinction that FTA makes in the Circular. While the minority or low-income population in an area may be small, this does not eliminate the possibility of a

disproportionately high and adverse effect of a proposed action on the EJ population. Disproportionately high and adverse effects, not population size, are the bases for environmental justice.

13) What is the correct unit of geographic analysis?

The unit of geographic analysis is the area impacted by the proposed action. Depending on the nature of the proposed action, the unit of geographic analysis may be a governing body's jurisdiction, a transit provider's service area, a neighborhood, Census tract, or other similar unit. However, when establishing the boundaries of the geographic unit, grantees will want to be careful not to choose boundaries that artificially dilute or inflate the affected minority population and/or low-income population. Through the statewide or metropolitan planning processes, FTA recommends that grantees conduct an evaluation of the system-level EJ impacts of a collection of projects in the long-range plan. When projects move from a long-range plan into the short-range Transportation Improvement Program (TIP) or State Transportation Improvement Program (STIP), they are assumed to be reasonably assured of funding and ready for implementation. At that point, for projects that include Federal funds or involve a Federal approval, local agencies and project sponsors are required to evaluate the projects under NEPA. When considering EJ principles for individual projects, the geographic unit for comparison may need to be smaller than the entire geographic area covered by the long-range plan depending on the project and its likely impacts. Grantees will want to make sure that aggregating results at the regional level does not obscures critical local details. Grantees are encouraged to work closely with the FTA Regional Office in establishing an appropriate unit of geographic analysis.

14) How do grantees address the difference between Census data for low-income populations which are a weighted average every ten years with yearly HSS poverty levels?

Census data provides mean information on household characteristics such as income and race at a variety of geographic levels: census tract, block group, and block level. The decennial census is published every ten years. The American Community Survey is published annually, based on a smaller set of the population. Census data provides a geo-spatial understanding of the community. It is helpful to be familiar with Census data across multiple years in order to identify trends in the community. Whenever possible, attaining data at the block group level is recommended. Census data are used primarily for statistical purposes, for example, to produce statistics on the percentage of those living in poverty. Thresholds like the HSS poverty guidelines are primarily used for administrative purposes such as determining whether a person or family is financially eligible to receive assistance or other services under particular federal, state, or local government programs. In the context of an environmental justice analysis, Census data will help identify the population living in certain geographic area that may be considered "low income" or "minority" – geo-spatially identifying areas where environmental justice populations could be located. HSS poverty guidelines will help determine whether the community's median household income is at or below HSS poverty guideline, thereby qualifying the population as "low-income" under FTA's program definition.

15) What is a "disproportionately high or adverse effect"?

Whether an adverse effect is "disproportionately high" on minority and low-income populations depends on whether that effect is (1) predominantly borne by an EJ population, or (2) will be

suffered by the EJ population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-EJ population. It is important to note that determinations of disproportionately high and adverse effects take into consideration the mitigation and enhancement measures that are planned for the proposed action.

16) How are “benefits and burdens” characterized?

Determinations of benefits and burdens are based on the totality of the circumstances, both the burdens of the proposed action (e.g., short-term construction impacts) and its benefits (e.g., increased transportation options). One of the best ways to assess the totality of the circumstances is through a robust and inclusive public engagement program. Meaningful public engagement helps identify transit needs of EJ populations and a proposed project’s, or group of projects’, burdens and benefits. Grantees should be specific about the benefits of the project. Over emphasizing or providing too much weight to benefits such as “increasing property values,” “removing blight”, etc. are broad sweeping statements that are often not properly substantiated or might be perceived as benefits to some populations and burdens to others. Therefore, if these types of benefits are raised, please be aware that the adverse effect of such growth on low-income populations may need to be addressed.

17) What do you do in a case when mitigation is not feasible? Are enhancements to affected communities required?

If mitigation is not possible, FTA encourages grantees to involve the EJ community in identifying acceptable alternatives, such as betterments or enhancements of a project.

18) Is a Community Impact Assessment a good tool for conducting an EJ analysis?

A Community Impact Assessment (CIA) is a stand-alone document that aggregates pieces of information about a community (demographics, economy, environment, equity, health, mobility, etc.) and presents a profile of that community. Planning practitioners and transit agencies can consult the CIA and pull information from it to inform planning and project level analyses. When available, grantees can use a CIA as part of transportation planning process and in the project level NEPA studies, as long as there is a verified source for the CIA. Practitioners are cautioned to review the different data sources during the transportation planning and project development phases to ensure consistency among the many different planning and project development documents.

19) In considering a health threatening impact on a minority and/or low-income population, would it be mandatory to involve health or a specific environmental office to conduct an investigation to merit further EJ analysis?

It is advisable that when a transportation program, plan or project threatens the quality of human health, the grantee should consider reaching out to the local governmental health agency in understanding the need for further investigation. For more information on efforts to account for health in transportation, please see DOT’s “[Health in Transportation](#)” web page, hosted by FHWA. To identify public health professionals working in a community, consult the [Centers for Disease Control and Prevention](#) and local Public Health Departments from the National Association of County and City Health Officials available [here](#) for state Public Health Departments.

20) Is it appropriate to involve advocates for Environmental Justice populations?

Yes. FTA encourages grantees to reach out both to individuals that are part of an EJ population as well as to organizations that represent the community.

21) What is FTA's position on using social media and live conference technology to engage public involvement in an outreach effort?

FTA encourages the use of a wide variety of tools to engage the public. Social media should not replace traditional public meetings, but can be a very useful supplement that provides greater opportunity to engage the public. Be sure to establish a policy (it can be brief) to outline expectations for users about how their input will be considered and whether comments submitted via social media are considered "official" comments and will be included in the administrative record. TCRP Synthesis Report 99, [Uses of Social Media in Public Transportation](#) provides helpful case studies and information.

22) What if an agency has limited access to software tools (e.g., GIS) to help analyze EJ impacts?

Does FTA recommend using EPA's EJ View online tool?

Yes. There are a number of tools available across the federal agencies that FTA encourages grantees to consider. Links are available on FTA's EJ webpage. The EPA EJ View tool is available on the [EPA EJ webpage](#).

23) Does FTA have examples of an EJ analysis for rural areas in which census data on the block group/tract level was not available?

FHWA provides a few examples of EJ work related to project development in a rural locale in South Carolina and on tribal lands in Arizona. FHWA case studies can be found [here](#).

24) Do grantees need to produce a stand-alone EJ document outlining policies, such as the Title VI document that is required every three years?

Principles of environmental justice should be reflected in existing policies, programs, procedures, processes, and accompanying documentation. FTA encourages grantees to pay special attention to low-income and minority populations and fully involve them in the regular activities of the MPO, State, or transit provider. For project-level environmental justice analysis, the evaluation of environmental justice should be incorporated into the NEPA document for the project to the extent possible.

25) Should an EJ analysis be part of a long range study/short range study?

Yes. The concerns and needs of the Environmental Justice community should be considered at all stages of the cooperative, continuous, and comprehensive planning processes conducted at the statewide and metropolitan levels as well as project development. By the time project development begins, numerous systems-level decisions have already been made and it is important to consider the EJ population (if present in the geographic area) when making planning choices that lead to project outcomes.

26) How does long range planning consider environmental justice? What is the planning body (State, MPO, RTPO) responsible for?

Long range plans and public participation plans, should clearly demonstrate how the needs and concerns of the EJ community are incorporated into the planning process and its products from visioning to project development and operations. Agencies should use public involvement to clearly demonstrate that they understand the needs of the community and reflect those needs and concerns throughout the planning process. Planning agencies should engage the public and enhance their analytical capabilities to identify current and projected transportation patterns of

low-income and minority populations and ensure that they address any concerns related to the public transportation requirements for such communities.

27) How do we measure an EJ impact on a long range plan?

An EJ impact on a long range plan could become apparent through public engagement and distributional analysis. Some impact areas to consider at the regional planning level include: access to the transportation system, multi-modal options, transportation affordability, noise and vibration, air pollution, impacts to housing availability, affordability, and services in the area, etc. Keep in mind that the defining element of an “EJ impact” is 1) whether there is an impact, and 2) whether that impact disproportionately impacts those who are low-income and / or minority.

28) How should “benefits and burdens” be quantified in long range planning?

There is no single way to define or quantify the benefits and burdens of a long range plan or TIP. Each community should look to visioning, long range planning, TIP development, and the public participation plan as opportunities to collaboratively define and then implement community priorities regarding environmental justice. For this reason, extensive public involvement is the center piece of the planning process. Benefits and burdens should be locally determined in collaboration with the low-income and minority population in any given community. There is no one-size-fits-all solution. FTA’s and FHWA’s shared planning regulation specifically requires grantees to develop explicit procedures, strategies, and desired outcomes for public involvement, make special efforts to engage members of low-income and minority communities, and periodically evaluate the effectiveness of that engagement from visioning to project development and operations. The fundamental objective of public engagement programs is to ensure that the concerns and issues of everyone with a stake in transportation decisions are identified and addressed in the development of the policies, programs, and projects being proposed in their communities. For many of grantees, engaging EJ populations in the transportation decision-making process is a standard part of their overall public engagement plan that is integrated throughout the process, from the earliest stages (long-range planning, visioning, and scenario planning) through project implementation (construction, operation, and on-going evaluation).

29) What does “quantitative distributional analysis” mean?

FTA recommends that grantees conduct a quantitative evaluation of the distributional, system-level EJ impacts of the collection of projects in the long-range plan and that plan level distributions translate to the TIP level. One option for this would be to use the most recent Census and land use data available, supplemented by any local surveys, to identify the areas where low-income and / or minority populations live, work, and play. By overlaying the geographic location of proposed investments, including access points to those investments, grantees may determine whether a proportionate share of anticipated investment will serve those who are minorities and / or low-income. It is important to determine whether a new project will provide a proportionate level of access to members of the EJ community.

30) What is the role of EJ in an S/TIP? Must grantees conduct a stand-alone EJ analysis for the S/TIP?

FTA does not require a stand-alone EJ analysis for the S/TIP. Chapter IV of the Circular describes how environmental justice considerations at the planning level, which extend to the S/TIP, are addressed primarily through data collection and comparative analysis, and public engagement.

As projects are prioritized from the plan into the S/TIP, and then selected from the S/TIP for implementation, it is assumed that a S/TIP would be equally reflective of EJ considerations as the plan from which it is derived. FTA expects that projects that primarily benefit an EJ community would be equally likely to move forward into implementation as any other project.

31) Is FTA planning on conducting additional training on how to do EJ analysis for NEPA documents?

Yes, FTA plans to provide further training on EJ. Please register for GovDelivery via the FTA Environmental Justice web page, at: <http://www.fta.dot.gov/about/15446.html> to receive notifications when such training becomes available.

32) Will FHWA provide similar guidance to FTA's Circular 4703.1?

Yes. FHWA has issued an FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, [6640.23A](#) and is conducting outreach and training. For more information on FHWA's environmental justice guidance, please visit the [FHWA EJ webpage](#).

33) Are case studies available?

FTA will develop case studies to include on the FTA EJ webpage. In the meantime, FHWA has several cases for review [here](#). FTA also encourages you to sign up with GovDelivery on the FTA EJ page to receive email notifications when new materials become available.