

b. Methodology for identifying adverse Effects and Determining Whether They Have a Disproportionately High or Adverse Impact on Minority and Low-Income Communities

The proposed Order would set forth a methodology to be used by DOT grantees, state, and local officials to determine whether a DOT or a DOT-funded program, policy, project, or activity (DOT action) is likely to have a disproportionately high and adverse effect on low-income or minority populations. As part of this process, DOT or its agents will provide appropriate opportunities for comment by representatives of affected communities, both to obtain their input in identifying potential effects of the action and in devising mitigation strategies, where appropriate, to alleviate disproportionately high and adverse effects. Offsetting mitigation measures that will be taken by DOT or its agents, or any other compensatory benefits that will accrue to the affected minority or low-income populations as a result of the action, will be taken into account in determining if there is a disproportionately high and adverse impact.

c. Actions To Address Disproportionately High Adverse Effects

Although the precise standards are yet to be developed, it is anticipated that the proposed DOT Order will provide standards for any action to address disproportionately high adverse effect on minority or low-income populations. It is anticipated that the action will not be carried out unless:

- (1) A substantial need for the action, based on the overall public interest, can be demonstrated; and
- (2) alternatives that will have a less disproportionate adverse effect on minority or low-income populations would have unacceptable adverse health or environmental impacts (criteria concerning such adverse impacts will be specified in the DOT Order).

(3) In the case of adverse effects on populations protected by Title VI of the Civil Rights Act of 1964, there must also be a demonstration of compliance with Title VI and related statutes.

4. Public Participation

All public participation activities described below will be carried out consistent with the requirements of the Federal Advisory Committee Act.

In accordance with the proposed DOT Order, DOT's public participation processes would be reviewed and revised as necessary to ensure that persons living in minority and low-

income communities have timely access to information and meaningful public participation opportunities in transportation decisions affecting such communities.

The proposed Order would provide that opportunity will be afforded the public, including low-income and minority citizens, to comment on any proposed revisions to DOT regulations, policies, and procedures that address human health and the environment in their communities. DOT shall ensure that revisions to DOT policies and procedures include provisions for access to public information relating to human health, the environment, transportation, or other planning regulations and enforcement. DOT will ensure meaningful opportunities for public involvement by affected minority and low-income persons.

DOT will seek minority and low-income involvement in identifying research and data collection needs, and designing environmental justice projects to address those needs.

DOT will conduct training and information outreach workshops for low-income and minority communities on participating in DOT supported programs.

DOT will produce and disseminate user-friendly materials explaining DOT public participation and other program requirements. This may include environmental justice information on public participation and other pertinent program requirements on a community bulletin board or a 1-800 number to answer environmental justice questions. DOT will seek low-income and minority community input in deciding these matters.

DOT has developed a set of principles to guide its public participation activities. These principles are enumerated as follows.

a. Public participation with respect to environmental justice stakeholders will be based on an interactive partnering approach. Environmental justice stakeholders should be involved in designing studies, determining date needs, and planning conferences and meetings.

b. Environmental justice stakeholders should, in most cases, be included in existing participatory activities. Environmental justice should not result in separate activities for environmental justice stakeholders which isolate them from the majority community. It may be necessary to start with activities specifically for environmental justice stakeholders to enable them to participate but the objective is to enlarge the community dialog on DOT initiatives to include these stakeholders.

c. Including environmental justice stakeholders means more than assuring that they receive notices of meetings or other events and that all events are convenient in terms of time and location. In many cases, the real barriers to participation by these stakeholders are attitudinal ("this is not for us" or "they are not really interested"), language barriers, cultural barriers, technical background, literacy, communications style, and privacy issues. Participant training and other approaches to enable environmental justice stakeholders to participate are likely to be the foundation of a successful approach.

d. Participatory efforts should reach out to non-leaders as well as stakeholder leaders through such techniques as focus groups or workshops.

e. Partnering with environmental justice stakeholders will require agencies to review how they do business. We must assure that our processes are accessible to and usable by stakeholders, to the extent possible.

f. The fundamentals of public involvement are that all interested groups and individuals have access to information, to participatory events, and to decisionmaking through a variety of techniques from the earliest stages of an activity through decisionmaking and implementation. All aspects of public involvement should be open to environmental justice stakeholders.

g. Public participation programs are best designed at the local or state level. The Federal role is to set performance standards for public involvement programs and to provide technical assistance in meeting those performance standards, not to require specific actions.

5. Role of Key DOT Elements in Complying With Environmental Justice Executive Order

In connection with implementing the DOT Order on environmental justice and, in some cases, to supplement these actions, each element of the Department will undertake actions. Some of the actions described below will be developed and refined as the Department's strategy evolves.

a. Departmental Office of Civil Rights

Dissemination of information on how Title VI of the Civil Rights Act of 1964 Pertains to Environmental Justice.

The DOT Order described previously will provide the operating administrations with a framework to ensure that their policies, programs, and procedures comply with the intent of the Executive Order, including meeting the requirements of Title VI.