Environmental Justice and KYTC Projects
"Each Federal agency shall 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."
New Concerns?

- Executive Order 12898 (Feb. 16, 1994)
- USDOT 5610.2 Order To Address Environmental Justice in Minority Populations and Low-Income Populations (April 15, 1997)
- FHWA 6640.23; Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Dec. 2, 1998)
- EJ MOU (Aug. 4, 2011)
- USDOT Environmental Justice Strategy (Mar. 2, 2012)
- USDOT Order 5610.2(a); Final DOT Environmental Justice Order (May 2, 2012)
- FHWA Order 6640.23A FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (June 14, 2012)
Three Fundamental 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.
(1) is predominantly borne by a minority population and/or a low-income population, or
(2) will be 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.
Mitigation and enhancements measures that will be taken and all offsetting benefits to the affected minority and low-income populations may be taken into account.

“...will only be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effect are not practicable.”
Designed for small projects (CE)
Survey of relocatees
Analysis of data received
Effort to contact non-respondents
FHWA consultation required if any underserved populations potentially adversely affected
Does not supersede but “enhances” 2011 guidance

Objectives

- Consistency of data collection and assessment
- Reduce requirements to survey non-respondents
- Eliminate FHWA consultation requirement when adverse effects are clearly not disproportionate

One relocatee cannot result in a disproportionate adverse effect

Disproportionate adverse effects only if >50%
Consistency of data
No impact to EJ populations anticipated
Good Response to Surveys

Environmental Justice Decision Tree

14.1 Project requires more than one potential relocation?

Yes: Survey forms are mailed to potential relocations.

No: Proceed with CE analysis.

14.2 > 50% of respondents respond?

Yes: Additional information required.

No: Proceed with CE analysis.

14.3 > 50% of total relocations with potential adverse effect?

Yes: Develop risk limitation and mitigation measures to reduce the effects below disproportionate levels.

No: Proceed with CE analysis.

Survey form is mailed to potential relocations.

14.2 > 50% of surveyed respond?

Yes: Additional information required.

No: Proceed with CE analysis.

Please review the diagram for a complete understanding of the process.

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Addressing Adverse Effects

14.3 > 50% of total relocations with potential adverse effect?

Yes

Development of avoidance, minimization and mitigation measures to reduce the effect below disproportionate levels

Does FHWA agree?

No

Does FHWA agree?

Yes

This finding concludes EJ analysis

Requires FHWA concurrence to process as a CE

14.3a
Assumption #1: What if all non-respondents are adversely affected?

Sent out 6 and received four back (>50%); one adverse

Statistical Assumption #1
Add non-respondents to respondents with potential Adverse Effect
Using the Assumption

Statistical Assumption #1
Add non-respondents to respondents with potential Adverse Effect

Potential Adverse Effect > 50% of total relocations?

No

This finding concludes EJ analysis

Known adverse + Potential adverse <= 50%

Process Complete
Environmental Justice Decision Tree

14.1 Project requires more than one relocation or relocation of more than one household?

14.2 > 50% of surveyed respond?

14.3 > 50% of total relocation with potential adverse effect?

Statistical Assumption #1: Are non-respondents for respondents with potential adverse effect?

Is Potential Adverse Effect > 50% of total relocations?

Additional information required

Additional Information
Windshield survey to identify obvious low-income residents
Example 2:
3 non-respondents in an area that is 20% minority.

3 x 0.2 = 0.6 rounded to nearest whole number = 0
Combining Assumptions

Known adverse effects + Assumed Low-Income + Assumed Minority >50% of total relocatees?
Commercial/Retail Relocations

- Process addresses residential relocations
- If Business relocations, assessment must consider:
  - Importance of activity to community
  - Unique service in area; Difficulty accessing elsewhere
  - Social gathering place
- Measures to avoid relocation or minimize effect
- Document consideration in addition to process for residential relocations
Test Drive