CALIFORNIA HIGH-SPEED RAIL AUTHORITY

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Edmund G. Brown Jr
Governor
State of California

ENVIRONMENTAL JUSTICE GUIDANCE

The California High-Speed Rail Authority promotes Environmental Justice Guidance into its programs and activities to avoid, minimize or mitigate disproportionately high human health, environmental effects, including impacts on minority and low-income populations. The Authority emphasizes the fair treatment and meaningful involvement of people of all races, cultures, and income levels, from the early stages of project planning through design, construction, operations and maintenance. This commitment strives to inspire environmental justice and equal access.

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ENVIRONMENTAL JUSTICE GUIDANCE

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I. INTRODUCTION

As a result of the public's concern regarding the quality of the physical environment, federal and state governments have enacted legislation to safeguard the environment and protect the health and safety of the public. Through governmental enforcement of those laws, the people of the United States have made considerable progress toward the goal of a clean, safe, and healthful environment for all Americans.

However, in recent years, there has been an increasing awareness that the burdens of a polluted environment are borne disproportionately by members of minority and low-income communities. In the wake of these studies, a growing number of citizens have begun to examine the causes and effects of this distribution of environmental burdens and to advocate policies that will either cease or reduce such environmental hazards, if possible, or distribute such burdens fairly. That movement has come to be identified by the term "environmental justice." Environmental justice addresses the unequal environmental burden often borne by minority and low-income populations.

Environmental Justice (EJ) is the fair treatment of people of all races, cultures, and income with respect to the development, adoption, implementation and enforcement of environmental laws and policies.

Implementation of environmental justice principles in how the California High-Speed Rail Authority (Authority) plans, designs, and delivers the high-speed rail projects means that the Authority recognizes the potential social and environmental impacts that project activities may have on certain segments of the public. The Authority recognizes how important provisions of existing environmental, civil rights, civil, and criminal laws may be used to help reduce environmental impact in all communities and environmental justice on the human element.

The Authority has included environmental justice considerations in its planning for the statewide high-speed train system since 2000, when it commenced a programmatic environmental review process. The Federal Railroad Administration (FRA) advised the Authority to follow the best practices of the Federal Transit Administration (FTA) Circular 4703.1 *Environmental Justice Policy Guidance for Federal Transit Administration Recipients*, in preparation of the Authority's Environmental Justice Guidance.

The Authority's Environmental Justice Guidance promotes the incorporation of EJ considerations into its programs, policies, and activities to mitigate disproportionate adverse impacts, particularly on minority and low-income populations. The Authority emphasizes the fair treatment and meaningful involvement of people of all races, cultures, and income levels, including minority and low-income populations, from the early stages of transportation planning and investment decision-making through design, construction, operations and maintenance.

As a strategy, this Guidance will assist Authority personnel to further integrate environmental justice into the Authority's transportation decision-making process. The

Guidance includes provisions for identifying and addressing environmental justice matters.

II. LEGAL AUTHORITIES

A. Federal

Executive Order 12898

President Clinton signed Executive Order (EO) 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, on February 11, 1994. Refer to Attachment A for the full text of the Executive Order.

EO 12898 does not create a new legal remedy. As an internal management tool of the Executive Branch, the Order directs federal agencies to put in place procedures and take actions to make achieving environmental justice part of their basic mission. President Clinton explained that federal agencies have the responsibility to promote "nondiscrimination in federal programs substantially affecting human health and the environment." Accordingly, agencies must implement actions to identify and address disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low- income populations.

The Executive Order 12898 directs recipients and subrecipients of federal financial assistance to develop an agency-wide strategy to ensure environmental justice in its planning and project delivery. Consistent with the Executive Order, the Authority recognizes how important provisions of existing environmental, civil rights, civil, and criminal laws may be used to help reduce environmental contamination in all communities and to provide a more equitable distribution of unavoidable environmental burdens. The Authority's planning and projects for the high-speed rail system continue to be guided by a commitment to provide equal protection of the laws to all people.

Presidential Memorandum Accompanying EO 12898

The Presidential Memorandum accompanying EO 12898 emphasizes the importance of existing laws, such as Title VI of the Civil Rights Act of 1964 and the National Environmental Policy Act of 1969 (NEPA), that can assist with implementation of the principles of the Executive Order. The Memorandum provides that in accordance with Title VI, "each Federal agency shall ensure that all programs or activities receiving Federal assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin." With regard to NEPA, the Memorandum provides that, when NEPA requires a Federal agency to analyze "the environmental effects, including

human health, economic and social effects, of Federal actions," that the agency analyze "the effects on minority communities and low-income communities." Further, mitigation measures should "address significant and adverse environmental effects of proposed Federal actions on minority communities and low-income communities."

United States (U.S.) Department of Transportation (DOT) Order 5610.2(a)

On May 10, 2012, DOT issued U.S. DOT Order 5610.2 (a), *Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.* This Order updates the Department's original Environmental Justice Order, which was published April 15, 1997. The updated Order reaffirms DOT's commitment to environmental justice and clarifies certain aspects of the original Order, including the definitions of "minority" populations in compliance with the Office of Management and Budget's (OMB) Revisions to the Standards for the Classifications of Federal Data on Race and Ethnicity of October 30, 1997. The revisions affirm the importance of considering environmental justice principles as part of early planning activities in order to avoid disproportionately high and adverse effects. The updated Order maintains the original Order's general framework and procedures and DOT's commitment to promoting the principles of environmental justice in all DOT programs, policies, and activities

B. State of California

Environmental Justice is defined in California law as "the fair treatment of people of all races, cultures and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." (Government Code Section 65040.12, Subdivision (e); and Public Resources Code Section 71110 et. seq.).

III. ENVIRONMENTAL JUSTICE POLICY

"The California High-Speed Rail Authority (Authority) promotes Environmental Justice into its program, policies and activities to avoid, minimize or mitigate disproportionately high human health and environmental effects, including social and economic effects on minority and low-income populations. It is the policy of the Authority to duly emphasize the fair and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the high-speed rail project planning, development, operations and maintenance. This policy directs the Authority to appropriately engage the public through public participation forums so that decisions are mitigated and reflects environmental justice for all communities. This commitment strives to inspire environmental justice and equal access.

The Authority shall develop and maintain an Environmental Justice Guidance in compliance with Title VI of the Civil Rights Act of 1964, Presidential Executive Order

12898 and California State law--Government Code Section 65040.12 et. seq. and Public Resources Code Section 71110 et. seq."

Principles and Goals

There are three (3) fundamental environmental justice principles:

(1) To avoid, minimize, or mitigate disproportionately high human health and environmental effects, including social and economic effects, on minority and low-income populations.
(2) To ensure the full and fair participation by all affected communities in the transportation decision-making process.
(3) To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

The Authority is committed to the following goals to achieve the principles:

- Protect environmental quality and human health in all communities;
- Apply environmental and civil rights laws to achieve fair environmental protection;
- Promote and protect community members' rights to participate meaningfully in environmental decision-making that may affect them; and
- Promote full and fair opportunity for access to environmental benefits, and minimize activities that result in a disproportionate distribution of environmental burdens.

Concern for environmental justice should be integrated into every transportation decision, from the first thought about a transportation plan to construction operations and maintenance. The Authority has previously incorporated environmental justice considerations into its statewide route planning for the high-speed rail system. As the Authority proceeds with more detailed planning and environmental review, it is committed to continuing to apply environmental justice to all its programs and other activities that are undertaken, funded or approved by the FRA that affect:

- Policy Decisions
- System Planning
- Project Development and Environmental Reviews under the National Environmental Protection Act
- Preliminary and Final Design Engineering
- Right of Way
- Construction, Operations and Maintenance

IV. ENVIRONMENTAL JUSTICE GUIDANCE

The Guidance will assist Authority personnel and programs integrate environmental justice matters into the Authority's transportation decision-making process. The Guidance supplements the Authority's Title VI Program (dated February 2012) and the Limited English Proficiency (LEP) Plan (dated April 2012). The intent of this Guidance is to ensure that Authority personnel engage the public, including minority and low-income populations, to express their needs and concerns so that high-speed rail project decisions reflect community values and interests, in the early stages of planning and investment decisions.

A. ENVIRONMENTAL JUSTICE GUIDANCE RESPONSIBILTIES

The Authority recognizes key personnel positions and programs have the responsibility to administer the Guidance within their respective functional responsibilities. The Authority further recognizes it must identify a single point of contact to implement and manage its commitment to adhere to its Guidance, policy directives and procedures to provide meaningful EJ compliance regarding the Authority's program, activities and services.

Title VI Coordinator

The Authority's Chief Executive Officer (CEO) designates the Title VI Coordinator to administer the EJ Guidance. The Title VI Coordinator has direct, independent access to the CEO concerning EJ matters. The Title VI Coordinator contact information is:

Title VI Coordinator
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814
(916) 324-1541 Fax (916) 322-0827
TTY: 711

The duties and roles of the Title VI Coordinator are to provide guidance and technical assistance to the Authority on EJ matters and have overall program responsibility to develop procedures, monitor for compliance and:

- Promote awareness of Environmental Justice.
- Collect and review statistical data (minority and low-income) on participants in, and beneficiaries of the Authority's programs, activities and services.
- Ensure policy directives include EJ requirements and program procedures have built-in safeguards to prevent EJ discrimination.
- Coordinate the development and implementation of EJ training for Authority employees.
- Conduct an annual compliance review on the Authority's program area

activities, consultants, contractors, suppliers, and the Authority's subrecipients of federal financial assistance and provide the findings to the Authority's Finance and Audit Committee (Board).
- Assist program personnel to proactively implement EJ measures to ensure meaningful involvement from EJ populations.
- Update the EJ Guidance as needed.
- Conduct prompt processing and resolution of EJ complaints.
- Prepare an annual report on the Authority's EJ accomplishments, policy and implementation changes. The information will be included in the Title VI report that is submitted to FRA.

The Authority personnel and divisions share in the responsibility for ensuring the effective implementation and success of the EJ Guidance. The Program Management Team, Consultants and Contractors are expected to give their full cooperation and active support to the Title VI Coordinator in this effort. The Authority will utilize the Interdisciplinary Approach to ensure compliance with EJ obligations. Under the Interdisciplinary Approach, the Authority's Program and Project Managers, Project Management Team, Consultants and Contractors have the responsibility to work closely with the Title VI Coordinator to administer the EJ Guidance.

Program and Project Managers (Authority Personnel)

The Program and Project Managers have the responsibilities to:

- Advise the Title VI Coordinator and their respective management and/or Board on EJ issues.
- Ensure the consultant and construction contracts comply with EJ requirements in their delivery of contract services for the Authority.
- Ensure the collection and analysis of statistical data to determine that meaningful access of the Authority's programs and services are made to EJ populations.
- Provide guidance and technical assistance to program personnel to prevent EJ problems or discriminatory practices.
- Collaborate with the Title VI Coordinator in coordinating and conducting compliance reviews of consultant/construction contracts and respective program functional responsibilities.
- Provide the Title VI Coordinator with an annual report of EJ accomplishments for the respective functional responsibilities.
- Refer EJ complaints to the Title VI Coordinator.
- Ensure Authority personnel attend EJ training as provided by the Title VI Coordinator.
- Incorporate the EJ Guidance by reference into the appropriate program manuals so that Authority personnel are aware of their obligations for compliance.

- Incorporate the EJ Guidance by reference into contract provisions and or general funding provisions so that subrecipients of federal financial assistance are aware of their obligations for compliance.
- Assist program personnel to proactively implement EJ measures and provide meaningful access to the Authority's programs and activities.
- Conduct self-assessments to determine what types of contact the Authority has with the EJ populations.

Program Management Team, Consultants and Contractors

Program Management Team, Consultants and Contractors have responsibilities to:

- Develop a working knowledge of the EJ Guidance, practices and procedures including EJ methods of achieving meaningful access of the program and service to EJ populations.
- Ensure subconsultants are aware of the Authority's EJ Guidance, practices and procedures including EJ methods of achieving meaningful access of the program and services to EJ populations.
- Collaborate with the Title VI Coordinator or designee to conduct self-assessments to determine what types of contact are being made with the EJ population in order to provide meaningful access and services.
- Assist the Title VI Coordinator or designee to obtain EJ data records and reports, to include reviewing the documents for compliance with the EJ obligations.
- Identify and refer potential EJ issues promptly to the Title VI Coordinator.
- Provide EJ training to personnel that are working on the Authority's projects.

B. EMPHASIS PROGRAMS

The Authority has two (2) emphasis programs: Environmental Planning and Right of Way that are directly involved in assuring compliance with Title VI and the EJ Guidance.

Environmental Planning

The Environmental Planning Program formulates policies relative to environmental issues and adherence to environmental requirements. Compliance with the National Environmental Policy Act and Environmental Justice are requirements for the high-speed rail project. For this project, data and information on project alternatives and related environmental effects are collected and analyzed. The goal of this process is to develop a complete understanding of the existing and future environmental conditions, the possible effects of the proposed rail project, and how to mitigate these effects in order to make the best project decision in terms of meeting the intended rail need, the goals of an area or community, and for the protection and enhancement of the environment. The project development for the rail project includes environmental, right of way, and construction contracting.

The environmental process is an integral part of the rail project development process. It emphasizes public input, objective analysis of project impacts and commitments of mitigation measures to reduce or eliminate significant impacts to minority or low-income communities. The environmental process, together with the project development and public involvement process ensures that the high-speed rail project complies with Title VI and Executive Order 12898 on Environmental Justice.

A Community Impact Assessment (CIA) report will be prepared for each individual section of the high-speed rail system in conjunction with the draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS). These CIA reports document the Authority's efforts to assess the impact of the project on the human populations, and also identify the low-income and minority groups, which could be disproportionately impacted by the rail project. The findings of these assessments are/will be located in the draft/final EIR/EIS documents file and can be viewed on the web at www.cahighspeedrail.ca.gov.

The identification of low-income and minority communities or groups is a major emphasis of the CIA. Information gained during the performance of this assessment is essential to determine if the potential for disproportionate or discriminatory impacts would occur as a result of the rail project's implementation.

Primary and secondary sources of information were consulted to determine if such communities and/or groups are present within the rail project's study area. The most current demographic information was reviewed to determine the ethnicity and economic levels of the study area's inhabitants and whether clustering of minority and low-income individuals was evident within the study area. Sources of demographic information include census population and economic projections made by local agencies.

Public involvement is an integral part of the project development process. Conducting public meetings is a method in which the impacted community is granted an opportunity to voice their concerns, learn more about the rail project and meet rail personnel. Notices for these public meetings will be distributed throughout the project area in several ways. The most common distribution methods are via newspaper announcements, emails, post cards, posting invitations in public places, and distributing flyers and notices door-to-door where appropriate. Depending on demographic information, invitations are printed in languages readily understood by the impacted communities and notices are printed in newspapers of the community impacted. Interpreters are made available at the facilitation meetings. Printed informational materials are also printed in alternative languages, when appropriate. All actions are documented in the draft EIR/EIS. Managers review the EIR/EIS for quality, completeness, sufficiency and adequacy of the public participation and Environmental Justice documentation.

The Environmental Manager is responsible for ensuring adherence to Title VI and related statutes, Non-Discrimination Statement and that Title VI matters and related requirements, are considered part of the environmental planning process. When Title VI issues are identified in the environmental process, appropriate mitigation measures are proposed to avoid, minimize, rectify or compensate the impact. Mitigation measures are documented in the environmental document for the rail project. The Environmental Manager will work closely with the Authority's Title VI Coordinator to ensure adherence to Title VI and related statutes.

The EIR/EIS document includes a complete discussion of all of the public meetings and public participation efforts made during the rail project planning and development, including early coordination with the affected communities, their overall input into the project scoping process, documentation of all formal and informal meetings with community groups and the general public. The EIR/EIS explains the rationale for the range of project alternatives, the selection of the preferred alternative, and the development of mitigation measures. The final EIR/EIS includes responses to comments generated during the public review process.

Right of Way

The Right of Way (ROW) Program provides property rights for the construction of the High-Speed Train Project (HSTP) in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act), which requires that people affected by federally funded projects be treated fairly and equitably. These activities require ongoing interaction with the public during all phases of the HSTP, including (but not limited to) the following areas:

- Appraisals
- Acquisitions
- Condemnation
- Relocation Assistance Program
- Property Management

The ROW Program has incorporated affirmative measures to comply with the requirements of Title VI. The ROW agents provide all property owners, tenants and displacees with a copy of the Title VI brochure explaining a person's rights and the complaint process. In addition, a voluntary Title VI Survey form is distributed to all affected customers to complete and submit to the Authority. This survey is anonymous and asks questions to determine gender (of the head of household), marital status and ethnicity.

Every ROW agent is provided a manual to maintain consistency and ensure fair and equitable treatment to all those impacted by the HSTP. The Authority ROW agents (State employees) receive annual Title VI and EJ training, and attend mandatory

ethics class and adhere to the highest ethical standards in all dealings with both internal and external stakeholders.

The Authority will conduct annual Quality Enhancement Joint Reviews. On an annual basis, files are randomly selected and reviewed to make sure that actions taken are consistent with the policies and procedures set forth by Title VI, the ROW manual, Uniform Act and all other pertinent requirements.

Appraisals

The ROW agent prior to or during the first contact provides the following documents to the property owner and/or occupants:

- *Your Property, Your High-Speed Rail Project Pamphlet*
- *What is Title VI?*—English and Spanish Brochure
- Title VI Survey Form
- Title VI Discrimination Complaint Form
- *I Speak* (language identification form)

These documents are also available in Spanish and other languages upon request and can be viewed at www.cahighspeedrail.ca.gov. When necessary, a bilingual specialist is provided for liaison and interpretation.

Uniformity and fairness in the treatment of property owners is the goal of the Uniform Act. Appraisals are made in accordance with the highest professional methods and ethical standards and with constant regard to the rights of the property owners. Authority appraisers adhere to the Uniform Act and the Uniform Standards of Professional Appraisal Practice (USPAP).

A thorough review process is used by the Authority in accordance with the Uniform Act and USPAP to ensure consistent standards of quality for personnel appraisals. In the course of appraisal review, the supervisor/reviewer confirms that the parcel diary indicates that Title VI information has been delivered.

Acquisitions

The ROW agent is required to confirm that the property owner and/or occupants have received the Title VI Survey and brochure during the first call or visit. This information must be documented in the ROW agent's parcel diary.

Condemnation

Expert witnesses hired for condemnation purposes must complete an *Ethnic Group and Small Business Questionnaire* as a part of the expert witness service contract. This form is maintained by the Title VI Program, where the information can be obtained should the need arise.

Relocation Assistance

All displacees receive a standard General Information Notice which contains a non-discrimination clause, as well as a What is Title VI?-- brochure and a voluntary Title VI Survey form. The delivery of this information is documented in the Relocation Agent's parcel diary. Additionally, the Relocation Agent provides the displacee with the appropriate booklet:

- *Your Rights and Benefits as a Displacee under the Uniform Relocation Assistance Program (Residential)*
- *Your Rights and Benefits as a Displacee under the Uniform Relocation Assistance Program (Mobile Home)*
- *Your Rights and Benefits as a Displaced Business, Farm or Nonprofit Organization under the Uniform Relocation Assistance Program*

The referenced documents are also available in Spanish and other languages upon request. When necessary, a bilingual specialist is provided for liaison and interpretation.

Property Management

The ROW agent is required to inform the Authority's post-acquisition tenants about the Authority's policies and procedures under Title VI. The tenants must be given the Title VI brochure and the voluntary Title VI Survey. The ROW agent documents this activity in the rental file diary.

The first line Supervisor ensures that all Title VI requirements are being met by periodic review of the rental files and through discussions with the agents. The Supervisor certifies that the rent is appropriately supported and a fair determination of market rent was established regardless of race, color, national origin, age, disability or sex. On a project that includes a number of rentals, the reviewer will also look for consistency in equal treatment among rental properties.

C. SELF-ASSESSMENT AND ENVIRONMENTAL ANALYSIS

The **Self-Assessment** identifies the number or proportion of EJ populations likely to be served or encountered. A self-assessment will determine whether there are any EJ populations potentially impacted by the high-speed rail project.

This assessment may be made through Census Bureau data, community surveys, local government representatives and elected officials, community based organizations, school district data and public participation forums.

Environmental Justice Analysis

Properly implemented, environmental justice principles and procedures improve all levels of the project decision-making. An environmental justice analysis involves (but is not limited to):

1. When one or more EJ populations are present the potential effects of the project on the EJ populations must be determined. This assessment may include effective public participation engagement and consultation of the EJ populations and the appropriate Authority representatives, including consultants, who are knowledgeable of the prospective project.

2. Determining whether the Authority can avoid, minimize or mitigate any disproportionately high and adverse human health or environmental effects on EJ populations; and whether there are off-setting benefits from the project or enhancements provided to the EJ populations. Public participation early in the project planning can often ensure effective mitigation of adverse human health or environmental effects.

D. INCORPORATING ENVIRONMENTAL JUSTICE PRINCIPLES INTO THE NATIONAL ENVIRONMENTAL PROTECTION ACT (NEPA) PROCESS

Environmental justice issues encompass a broad range of impacts covered by NEPA, including impacts on the natural or physical environment. Executive Order 12898 provides that as part of its review of an action pursuant to NEPA, the Authority will also analyze any disproportionate and adverse human health or environmental effects on EJ populations. The Authority's environmental review under NEPA will document the extent to which environmental justice issues have been identified and addressed. The following identifies how the Authority shall incorporate environmental justice principles in its analysis of the environmental impacts of the high-speed rail project.

- Defining the Project Impact Area - This process occurs early in the planning process and includes an analysis of the demographic characteristics of the persons located within the impact areas (i.e., residential or business, race, age, income levels, etc.).
- Identify Alternatives – A reasonable range of alternatives are discussed as to the potential magnitude and distribution of disproportionately high and adverse human health or environmental effects on EJ populations.
- Identify Adverse Environmental Effects – Identify all important adverse effects of the project both during and after construction to determine whether those adverse effects significantly impact EJ populations and identify alternatives.
- Identify Project Benefits – This includes a discussion of positive effects that the project will have on the community as a whole.
- Mitigation Measures and Enhancements – If it is determined that the project will have a disproportionately high and adverse human health or

environmental effect on EJ populations; the Authority will mitigate the adverse effect to the extent feasible.

- Public Engagement – The goal with any public engagement strategy is to encourage and facilitate the inclusion of all members of the public in the decision-making process.

E. PROMOTING INCLUSIVE PUBLIC INVOLVEMENT

Public involvement is fundamental and essential in achieving equitable program, services and activities. Public participation provides for public involvement of all persons (including Native American Tribal Governments), minorities and low-income persons, effected public agencies, employees, the general public, transportation service providers, public transit users and other interested parties of the community affected by rail programs and projects.

In order to integrate consideration expressed in the United States Department of Transportation Order on Environmental Justice, and the EJ Guidance into community outreach activities, the Authority will seek out and consider the viewpoints of EJ populations in the course of conducting public outreach and involvement activities. The Authority's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed rail and transportation decisions.

The factors for effective public participation may include:

- Time, location, and accessibility of meetings.
- Reaching people within their own communities and during existing meeting schedules.
- Provisions of LEP interpreters at meetings.
- Presentations focused to specific interests of group.
- Placement of meeting announcements and flyers through different types of media.
- Cultural sensitivity for minority and Native American Tribal groups.
- Identified barriers to overcome public participation.

(1) Coordination with individuals, institutions, or organizations and implementation of community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities.
(2) Provide opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.
(3) Use of locations, facilities, and meeting times that are convenient and accessible to low-income and minority communities.

(4) Use of different meeting sizes or formats, or varying the type and number of news media used to announce public participation opportunities, so that communications are tailored to the particular community or population.
(5) Incentivize meeting attendance through the offering of meetings in recognized community facilities, transportation vouchers, etc.

Attachment B provides questions for consideration in planning effective engagement of EJ populations in public participation forums.

The Authority will engage the public by:

- Participating in public involvement activities (meetings, hearings, advisory groups, workshops and task forces) to help the community understand the project, identify community interest and needs, eliminate perceptions, and define project goals. These meetings shall be held at convenient and accessible locations and times.
- Developing clear, concise and understandable documents for members of the public, including EJ individuals, to provide comments on proposed projects.
- Implementing the Authority's *Limited English Proficiency (LEP) Program* to the fullest extent possible.
- Conducting public meetings that are accessible to all, as well as persons with disabilities; and include visual and tactile presentation tools and techniques.
- Using traditional and non-traditional media (website, local newspapers, radio and television stations, signs, etc.) to provide the public, including EJ groups with information about upcoming events.
- Distributing information such as fliers or handbills through mass mailings, postings at community centers, retail stores, religious centers, social gathering events, and school bulletins.
- Hosting a table or booth at community based events.
- Making public information available in electronically accessible formats.
- Partnering with community-based organizations who serve underrepresented populations.
- Following the best practices in the California Department of Transportation "*Community Primer on Environmental Justice & Transportation Planning*" guidebook. For a copy of the guide go to: www.dot.ca.gov/hq/tpp/offices/ocp/ej_titlevi_files/EJ_Primer_4_10_WEB.pdf
- Consider hosting separate events for EJ populations.

As the high speed rail progresses, the Authority will ensure continued engagement of the EJ populations during operations and maintenance of the high speed rail system.

F. TRAINING

The Title VI Coordinator will ensure Authority personnel attend training on understanding the EJ Guidance and how to ensure EJ populations are provided

meaningful access to the Authority's programs and services. The EJ Guidance training is essential to bridging the gap between policies or procedures and actual practices. Training will include the salient points of the Title VI Program and LEP Program and how these two additional programs supplement the EJ Guidance. Authority personnel will complete the training within one (1) year of employment with the Authority. Thereafter, the personnel will attend training on a triennial basis. The Title VI Coordinator will maintain records of personnel who complete EJ Guidance training.

The Authority Contract Managers will ensure Consultant(s) who have a responsibility on complying with EJ matters also provide their personnel with EJ training. The EJ training will be on the same EJ subject components that Authority personnel are being trained on and at the same frequency as Authority personnel. The Consultant will utilize its own resources to provide their personnel with EJ training.

G. MONITORING AND UPDATING THE EJ GUIDANCE

The Title VI Coordinator shall monitor implementation of the EJ Guidance, making revisions to policies and procedures as may be required periodically. In monitoring compliance, an assessment will be made whether the program's procedures allow EJ populations to participate in a meaningful way in the program activities and services.

Monitoring the effectiveness of the EJ Guidance includes consideration of information from the following sources and criteria, as well as other factors as may be appropriate:

- Change in EJ population demographics.
- Survey Authority personnel on whether there should be any changes and if they believe the services are meeting the needs of the EJ communities in the service area.
- Solicit feedback from community-based organizations and other stakeholders about the Authority's effectiveness and performance in ensuring meaningful participation for EJ populations.
- Review and analyze the Self-Assessment on annual basis.
- Observe and evaluate interactions with EJ populations.
- Monitor the Authority's response rate to complaints or suggestions by EJ populations, community members, and employees regarding EJ activities.

The monitoring and review of current policies and the types of language assistance services provided shall occur on an annual basis or more frequently, if needed.

Data Collection

A tool in determining the frequency and adequacy of contact and with EJ populations is data collection.

The Authority will use the Title VI Survey form at its public meetings (Attachment C). The Title VI survey enables the Authority to collect data to identify residents and communities impacted by federal financial assisted projects or activities. Completion of the survey, by the public, is *voluntary.* The Public Participation Visual Tally (Attachment D) will be used as an indirect method for collecting data when at least 50 percent of the participants do not complete the public participation survey. Best judgment will be used when physically counting the participants in regards to the demographics, such as race, age and gender. When conducting a visual count, the public participant's demographic data should be reported as a percentage of the total participants. Refer to Attachment E for an example of the Community Outreach Tally data collection form that is submitted on an annual basis to the Title VI Coordinator.

Once the forms are completed, the program will send the completed forms to the Title VI Coordinator. Information from these forms will be analyzed to determine if a change needs to occur to ensure compliance with EJ obligations.

H. DEFINITIONS

Adverse Effect is 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 the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or non-profit organizations; increased traffic congestion, isolation, exclusion or separation of individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of federally funded programs, policies, or activities.

Benefits and Burdens Analysis is an evaluation comparing the impacts likely to be experienced by EJ populations against those likely to be experienced by non-EJ populations and the community as a whole in order to address any disproportionate benefits or burdens between EJ populations and the population at large.

Disproportionately High and Adverse Effect on Minority and Low-Income Populations is an adverse effect that:

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.

EJ Population are low-income populations and/or minority populations.

Low-Income is a person whose median household income is at or below the Department of Health and Human Services' poverty guidelines.

Low-Income Population are any readily identifiable group of low-income 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 federally funded program, policy or activity.

Minority is a person who is:

1) American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North America (including Central American) and who maintain tribal affiliation or community attachment;
2) Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam;
3) Black or African American Populations, which refers to people having origins in any of the Black racial groups of Africa;
4) Hispanic or Latino Populations, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race; or
5) Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Minority Population are any readily identifiable groups 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 federal funded program, policy or activity.

CALIFORNIA
High-Speed Rail Authority

ATTACHMENT A

Environmental Justice Policy

The California High-Speed Rail Authority (Authority) promotes Environmental Justice into its programs, policies, and activities to avoid, minimize or mitigate disproportionately high human health, environmental effects, including social and economic effects on minority and low-income populations. It is the policy of the Authority to duly emphasize the fair and meaningful involvement of all regardless of race, color, national origin or income with respect to the high-speed rail project planning, development, operations and maintenance. This policy directs the Authority to appropriately engage the public through public participation forums so that decisions are mitigated and reflects environmental justice for all communities. This commitment strives to inspire environmental justice and equal access.

The Authority shall develop and maintain an Environmental Justice Guidance in compliance with Title VI of the Civil Rights Act of 1964, Presidential Executive Order 12898 and California State law—Government Code Section 65040.2 et. seq. and Public Resources Code Section 71110 et. seq.

_____ _____

Jeff Morales
Chief Executive Officer

Date

Federal Register
Vol. 59, No. 32
Wednesday, February 16, 1994

Presidential Documents

Title 3—

The President

Executive Order 12898 of February 11, 1994

Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1–1. *Implementation.*

1–101. *Agency Responsibilities.* To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, 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 in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1–102. *Creation of an Interagency Working Group on Environmental Justice.* (a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an interagency Federal Working Group on Environmental Justice ("Working Group"). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1–103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3–3 of this order;

(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings as required in section 5–502(d) of this order; and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1–103. *Development of Agency Strategies.* (a) Except as provided in section 6–605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)–(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1–104. *Reports to the President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1–103(e) of this order.

Sec. 2–2. *Federal Agency Responsibilities for Federal Programs.* Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3–3. *Research, Data Collection, and Analysis.*

3–301. *Human Health and Environmental Research and Analysis.* (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3–302. *Human Health and Environmental Data Collection and Analysis.* To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1–103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001–11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Sec. 4–4. *Subsistence Consumption of Fish and Wildlife.*

4–401. *Consumption Patterns.* In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4–402. *Guidance.* Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or

wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. *Public Participation and Access to Information.* (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6-6. *General Provisions.*

6-601. *Responsibility for Agency Implementation.* The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. *Executive Order No. 12250.* This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. *Executive Order No. 12875.* This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. *Scope.* For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. *Native American Programs.* Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. *Costs.* Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. *General.* Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance

of the United States, its agencies, its officers, or any other person with this order.

THE WHITE HOUSE,
February 11, 1994.

[FR Citation 59 FR 7629]

United States Department of Transportation Order 5610.2(a)

Final DOT Environmental Justice Order—May 10, 2012

Summary:

The Department of Transportation (the Department or DOT) is issuing an update to Departmental Order 5610.2(a) (Actions to Address Environmental Justice in Minority Populations and Low-Income Populations). This Order updates the Department's original Environmental Justice Order, which was published April 15, 1997. The Order continues to be a key component of the Department's strategy to promote the principles of environmental justice in all Departmental programs, policies, and activities.

DOT Order 5610.2(a) sets forth the DOT policy to consider environmental justice principles in all (DOT) programs, policies, and activities. It describes how the objectives of environmental justice will be integrated into planning and programming, rulemaking, and policy formulation. The Order sets forth steps to prevent disproportionately high and adverse effects to minority or low-income populations through Title VI analyses and environmental justice analyses conducted as part of Federal transportation planning and NEPA provisions. It also describes the specific measures to be taken to address instances of disproportionately high and adverse effects and sets forth relevant definitions.

This updated Order reaffirms DOT's commitment to environmental justice and clarifies certain aspects of the original Order, including the definitions of "minority" populations in compliance with the Office of Management and Budget's (OMB) Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity of October 30, 1997. The revisions clarify the distinction between a Title VI analysis and an environmental justice analysis conducted as part of a NEPA review, and affirm the importance of considering environmental justice principles as part of early planning activities in order to avoid disproportionately high and adverse effects. The updated Order maintains the original Orders general framework and procedures and DOT's commitment to promoting the principles of environmental justice in all DOT programs, policies, and activities.

Order 5610.2(a)

Subject: Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

1. **Purpose and Authority**
   a. This Order updates and clarifies environmental justice procedures for the Department in response to the Memorandum of Understanding on Environmental Justice signed by heads of Federal agencies on August 4, 2011, DOT's revised environmental justice strategy issued on March 2, 2012, and Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994.

   The Department's original Environmental Justice Order, issued April 15, 1997, was a key component of the Department's original strategy and established

procedures to be used by DOT to comply with Executive Order 12898. This revised Order continues to be a key component of DOT's environmental justice strategy. It updates and clarifies certain aspects of the original Order while maintaining its general framework and procedures and DOT's commitment to promoting the principles of environmental justice in all DOT programs, policies, and activities. Relevant definitions are in the Appendix.

b. Executive Order 12898 requires each Federal agency, to the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, to achieve environmental justice as part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of its programs, policies, and activities on minority populations and low-income populations in the United States. Compliance with this DOT Order is a key element in the environmental justice strategy adopted by DOT to implement the Executive Order, and can be achieved within the framework of existing laws, regulations, and guidance.

c. Consistent with paragraph 6-609 of Executive Order 12898, this Order is limited to improving the internal management of DOT and is not intended to, nor does it, create any rights, benefits, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the Department, its Operating Administrations, its officers, or any person. Nor should this Order be construed to create any right to judicial review involving the compliance or noncompliance with this Order by the Department, its Operating Administrations, its officers or any other person.

2. **Scope**

This Order applies to the Office of the Secretary, DOT's Operating Administrations, and all other DOT components.

3. **Effective Date**

This Order is effective upon its date of issuance.

4. **Policy**

a. It is the policy of DOT to promote the principles of environmental justice (as embodied in the Executive Order) through the incorporation of those principles in all DOT programs, policies, and activities. This will be done by fully considering environmental justice principles throughout planning and decision-making processes in the development of programs, policies, and activities, using the principles of the National Environmental Policy Act of 1969 (NEPA), Title VI of the Civil Rights Act of 1964 (Title VI), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; SAFETEA-LU) and other DOT statutes, regulations and guidance that address or affect infrastructure planning and decision-making; social, economic, or environmental matters; public health; and public involvement.

b. In complying with this Order, DOT will rely upon existing authority to collect data and conduct research associated with environmental justice concerns. To the extent permitted by existing law, and whenever practical and appropriate to assure that disproportionately high and adverse effects on minority or low income populations are identified and addressed, DOT shall collect, maintain, and

analyze information on the race, color, national origin, and income level of persons adversely affected by DOT programs, policies, and activities, and use such information in complying with this Order.

5. **Integration with Existing Operations**

   a. The Office of the Secretary and each Operating Administration shall determine the most effective and efficient way of integrating the processes and objectives of this Order with their existing regulations and guidance.

   b. In undertaking the integration with existing operations described in paragraph 5a, DOT shall observe the following principles:

      1. (1) Environmental justice principles apply to planning and programming activities, and early planning activities are a critical means to avoid disproportionately high and adverse effects in future programs, policies, and activities. Planning and programming activities for policies, programs, and activities that have the potential to have a disproportionately high and adverse effect on human health or the environment shall include explicit consideration of the effects on minority populations and low-income populations. Procedures shall be established or expanded, as necessary, to provide meaningful opportunities for public involvement by members of minority populations and low-income populations during the planning and development of programs, policies, and activities (including the identification of potential effects, alternatives, and mitigation measures).

      2. (2) Steps shall be taken to provide the public, including members of minority populations and low-income populations, access to public information concerning the human health or environmental impacts of programs, policies, and activities, including information that will address the concerns of minority and low-income populations regarding the health and environmental impacts of the proposed action.

   c. Future rulemaking activities undertaken pursuant to DOT Order 2100.5 (which governs all DOT rulemaking), and the development of any future guidance or procedures for DOT programs, policies, or activities that affect human health or the environment, shall address compliance with Executive Order 12898 and this Order, as appropriate.

   d. The formulation of future DOT policy statements and proposals for legislation that may affect human health or the environment will include consideration of the provisions of Executive Order 12898 and this Order.

6. **Ongoing DOT Responsibility**

   Compliance with Executive Order 12898 is an ongoing DOT responsibility. DOT will continuously monitor its programs, policies, and activities to ensure that disproportionately high and adverse effects on minority populations and low-income populations are avoided, minimized or mitigated in a manner consistent with this Order and Executive Order 12898. This Order does not alter existing assignments or delegations of authority to the Operating Administrations or other DOT components.

7. **Preventing Disproportionately High and Adverse Effects**

   a. Under Title VI, each Federal agency is required to ensure that no person, on the ground of race, color, or national origin, is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance. This statute affects every program area in

DOT. Consequently, DOT managers and staff must administer their programs in a manner to assure that no person is excluded from participating in, denied the benefits of, or subjected to discrimination by any program or activity of DOT because of race, color, or national origin. While Title VI is a key tool for agencies to use to achieve environmental justice goals, it is important to recognize that Title VI imposes statutory and regulatory requirements that are broader in scope than environmental justice. There may be some overlap between environmental justice and Title VI analyses; however, engaging in environmental justice analysis under Federal transportation planning and NEPA provisions will not necessarily satisfy Title VI requirements. Similarly, a Title VI analysis would not necessarily satisfy environmental justice requirements, since Title VI does not include low-income populations. Moreover, Title VI applies to all Federally-funded projects and activities, not solely those which may have adverse human health or environmental effects on communities.

b. It is DOT's policy to actively administer and monitor its operations and decision-making to assure that nondiscrimination and the prevention of disproportionately high and adverse effects are an integral part of its programs, policies, and activities. DOT currently administers policies, programs, and activities which are subject to the requirements of NEPA, Title VI, URA, SAFETEA-LU and other statutes that involve human health or environmental matters, or interrelated social and economic impacts. These requirements will be administered so as to identify, early in the development of the program, policy or activity, the risk of discrimination and disproportionately high and adverse effects so that positive corrective action can be taken. In implementing these requirements, the following information should be obtained where relevant, appropriate and practical:

- --Population served and/or affected by race, color or national origin, and income level;
- --Proposed steps to guard against disproportionately high and adverse effects on persons on the basis of race, color, or national origin, and income level;
- --Present and proposed membership by race, color, or national origin, in any planning or advisory body that is part of the program, policy or activity.

c. Statutes governing DOT operations will be administered so as to identify and avoid discrimination and avoid disproportionately high and adverse effects on minority populations and low-income populations by:

0. (1) identifying and evaluating environmental, public health, and interrelated social and economic effects of DOT programs, policies, and activities,
1. (2) proposing measures to avoid, minimize and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and providing offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by DOT programs, policies, and activities, where permitted by law and consistent with the Executive Order,
2. (3) considering alternatives to proposed programs, policies, and activities, where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, consistent with the Executive Order, and

3. (4) eliciting public involvement opportunities and considering the results thereof, including soliciting input from affected minority and low-income populations in considering alternatives.

8. **Actions to Address Disproportionately High and Adverse Effects**

a. Following the guidance set forth in this Order and its Appendix, the head of each Operating Administration and the responsible officials for other DOT components shall determine whether programs, policies, or activities for which they are responsible will have an adverse human health or environmental effect on minority and low-income populations and whether that adverse effect will be disproportionately high.

b. In making determinations regarding disproportionately high and adverse effects on minority and low-income populations, mitigation and enhancements measures that will be implemented and all offsetting benefits to the affected minority and low-income populations may be taken into account, as well as the design, comparative impacts, and the relevant number of similar existing system elements in non-minority and non-low-income areas.

c. The Operating Administrators and other responsible DOT officials will ensure that any of their respective programs, policies or activities that will have a disproportionately high and adverse effect on minority populations or low-income populations 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. In determining whether a mitigation measure or an alternative is "practicable," the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.

d. The Operating Administrations and other responsible DOT officials will also ensure that any of their respective programs, policies, or activities that will have a disproportionately high and adverse effect on populations protected by Title VI ("protected populations") will only be carried if:

0. (1) a substantial need for the program, policy, or activity exists, based on the overall public interest; and

1. (2) alternatives that would have less adverse effects on protected populations (and that still satisfy the need identified in subparagraph d(1) above), either

    1. (a) would have other adverse social, economic, environmental or human health impacts that are severe; or

    2. (b) Would involve increased costs of extraordinary magnitude.

e. DOT's responsibilities under Title VI and related statutes and regulations are not limited by this paragraph, nor does this paragraph limit or preclude claims by individuals or groups of people with respect to any DOT programs, policies, or activities under these authorities. Nothing in this Order adds to or reduces existing Title VI due process mechanisms.

f. The findings, determinations, and/or demonstration made in accordance with this section must be appropriately documented, normally in the environmental impact statement or other NEPA document prepared for the program, policy, or activity, or in other appropriate planning or program documentation.

Appendix

1. Definitions

The following terms where used in this Order shall have the following meanings:

a. DOT means the Office of the Secretary, DOT Operating Administrations, and all other DOT components.

b. Low-Income means a person whose median household income is at or below the Department of Health and Human Services poverty guidelines.

c. Minority means a person who is:

1. (1) Black: a person having origins in any of the black racial groups of Africa;
2. (2) Hispanic or Latino: a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
3. (3) Asian American: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent;
4. (4) American Indian and Alaskan Native: a person having origins in any of the original people of North America, South America (including Central America), and who maintains cultural identification through tribal affiliation or community recognition; or
5. (5) Native Hawaiian and Other Pacific Islander: people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

d. Low-Income Population means any readily identifiable group of low-income 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.

e. Minority Population means any readily identifiable groups 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.

f. Adverse effects means 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 within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of DOT programs, policies, or activities.

g. Disproportionately high and adverse effect on minority and low-income populations means an adverse effect that:

1. (1) is predominately borne by a minority population and/or a low-income population, or

2. (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.

h. Programs, policies, and/or activities mean all projects, programs, policies, and activities that affect human health or the environment, and which are undertaken or approved by DOT. These include, but are not limited to, permits, licenses, and financial assistance provided by DOT. Interrelated projects within a system may be considered to be a single project, program, policy or activity for purposes of this Order.

i. Regulations and guidance means regulations, programs, policies, guidance, and procedures promulgated, issued, or approved by DOT.

May 2, 2012

Ray LaHood
Secretary of Transportation

ATTACHMENT D

QUESTIONS TO CONSIDER FOR OUTREACH PROGRAMS TARGETING ENVIRONMENTAL JUSTICE (EJ) POPULATIONS

1. What messages and information will you disseminate to spark public interest and involvement at the planning stage before project details and spending plans are established?

2. Was a demographics survey completed to use as preliminary assessment of the all members of the community, including members of the EJ populations?

3. Through what means and in what manner will you disseminate this information?

4. At what stages in the planning process will you engage in outreach and information disseminations?

5. What are the best times and location(s) to host a public meeting?

6. Does the community require language interpreters and translators for notices, meetings and general discussions?

7. How will transportation decisions makers learn of issues that are of particular concern to environmental justice populations?

8. How will you use input from the public, including environmental justice populations, in the planning process, so that their input influences transportation investment decisions?

9. How will you evaluate the effectiveness of the public engagement process, including its success in reaching environmental justice populations?

10. Was the EJ Plan followed to assure meaningful access for EJ individuals and or groups on the Authority's programs, services and activities?

11. Was data collected and analyzed to determine effective and significant EJ population engagement?

12. Are there barriers to the public engagement process in limited English proficient populations, persons with disabilities, etc.? How will you avoid or mitigate those barriers?

CALIFORNIA
High-Speed Rail Authority

ATTACHMENT E

PUBLIC PARTICIPATION SURVEY

The following information is being collected by the California High-Speed Rail Authority (Authority) in order to comply with Title VI of the Civil Rights Act of 1964, *Nondiscrimination in Federally Assisted Programs*. Please take a few moments to complete the following questions. The data you provide will enable the Authority to identify residents and communities impacted by the Authority's projects or activities. Please check the appropriate boxes with an "X" that best describes you and return the completed survey to the event coordinator. Completion of this information is *voluntary*. Thank you.

Today's Date: _____ **Event Name:** _____

Sex ☐ Male ☐ Female

Ethnicity ☐ Hispanic or Latino ☐ Not Hispanic or Latino

Race

☐ American Indian or Alaska Native
☐ Black or African American
☐ Native Hawaiian or Other Pacific Islander
☐ Asian
☐ White
☐ Other _____

Disability ☐ Yes ☐ No

Age ☐ Under 40 ☐ Over 40

Income

☐ $23,050 or less
☐ Over $23,051

Language

What language is primarily spoken in your household? _____

How many people in household? _____

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 324-1541 or TTY 711, or write Title VI Coordinator, California High Speed Rail Authority, 770 L Street, Suite 800, Sacramento, CA 95814.

Categories and Definitions

The minimum categories for data on race and ethnicity for federal statistics, program administrative reporting, and civil rights compliance reporting are defined as follows:

a. **American Indian or Alaska Native** – a person having origins in any of the original peoples of North and South American (including Central America), and who maintains tribal affiliation or community attachment.
b. **Asian** – a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
c. **Black or African American** – a person having origins in any of the black racial groups of Africa.
d. **Hispanic or Latino** – a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
e. **Native Hawaiian or Other Pacific Islander** – a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
f. **White** – a person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

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CALIFORNIA
High-Speed Rail Authority

ATTACHMENT E

PARTICIPACIÓN PÚBLICA AUTORIDAD ENCUESTA

La siguiente información está colleccionada por el California Ferroviario de Alta Velocida para cumplir con el Título VI del Acta de Derechos Civiles de 1964, de no Discriminación en programas de asistencia federal. Por favor, tómese unos minutos para integrador las siguientes preguntas. Los datos permitirá identificar los residentes y las comunidades afectadas por proyectos o actividades de la California Ferroviario de Alta Velocida. Por favor, recuadro las casillas correspondientes con una "X" y devuelva la forma al coordinador del evento. La presentación de esta información es voluntaria. Gracias.

Fecha de hoy: _____ **Nombre del evento:** _____
(día / mes / año)

Sexo ☐ Femenino ☐ Masculino

Origen étnico ☐ Hispano o Latino ☐ No Hispano o Latino

Raza

☐ Asiático
☐ Indio Americano/Nativo de Alaska
☐ Nortemericano (no Hispano)
☐ Hawaiano o otros isleños del Pacífico
☐ Africano Americano
☐ Blanco
☐ Otro _____

(Vea por favor lado inverso para "Categorías y Definiciones".)

Incapacidad

☐ Sí ☐ No

Edad

☐ Menos de 40 años
☐ Mas de 40 años

Ingresos ☐ Menos de $23,050
☐ Mas de $23,051

Idioma

¿Que idioma se habla principalmente en su hogar? _____
¿Qué es la cantida de personas en su hogar? _____

ADA Aviso Para las personas con discapacidades sensoriales, este documento está disponible en otros formatos. Para obtener más información, llame al (916) 324-1541 o TTY 711, o escribir Coordinador del Título VI, Alta Velocidad de California Autoridad del Tren , 770 L Street, Suite 800, Sacramento, CA 95814.

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c. **Black or African American** – a person having origins in any of the black racial groups of Africa.
d. **Hispanic or Latino** – a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
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CALIFORNIA
High-Speed Rail Authority

ATTACHMENT F

PUBLIC PARTICIPATION VISUAL TALLY

Program:_____ Project No. /Activity:_____ Type of Event:_____
Date of Event: _____ Location: _____ ADA Accessible: Yes/No _____
Purpose: _____ Event Coordinator: _____

CATEGORIES	TALLY	TOTAL or PERCENTAGE*
Gender		
Female		
Male		
Ethnicity		
Hispanic or Latino		
Not Hispanic or Latino		
Race		
American Indian or Alaska Native		
Asian		
Black or African American		
Native Hawaiian or Other Pacific Islander		
White		
Limited English Proficiency Service Needed (Identify Language Spoken)		
Disability		
Yes		
No		
Age		
Under 40		
Over 40		

Please note when conducting a visual count, it is suggested the participant's demographic data, such as ethnicity, race, age, sex, etc., be reported in percentages.

CALIFORNIA
High-Speed Rail Authority

ATTACHMENT G

ANNUAL COMMUNITY OUTREACH TALLY

SUMMARY OF PUBLIC PARTICIPATION COMMUNITY EVENTS FOR FEDERAL FISCAL YEAR ____

Reg.	Proj #/ Activity	Event Contact Person	Type of Event: (Informational, Hearing (public input), Open House, Workshop, Other	Facility Name/ Location of Event	Facility ADA Accessible? Yes/No	Purpose of Meetings	Date of Events	Interpreters and/or Alternate Formats? Yes/No If Yes, in What Language and/or Format?	Translation of Written Materials? Yes/No If Yes, in What Language(s)?	Ethnicity of Public Participants: (# Hispanic or Latino, # Not Hispanic or Latino)	Demographics of Public Participants: Gender/Race/Age/ Disability/Income Level; American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White	Demographic Source(s) Used	# of Attendees	Outreach Methods

Submitted by _____ Title: _____ Contact information _____

Complete by September 25 and submit to:

ATTENTION: Title VI Coordinator
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814
(916) 324-1541

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