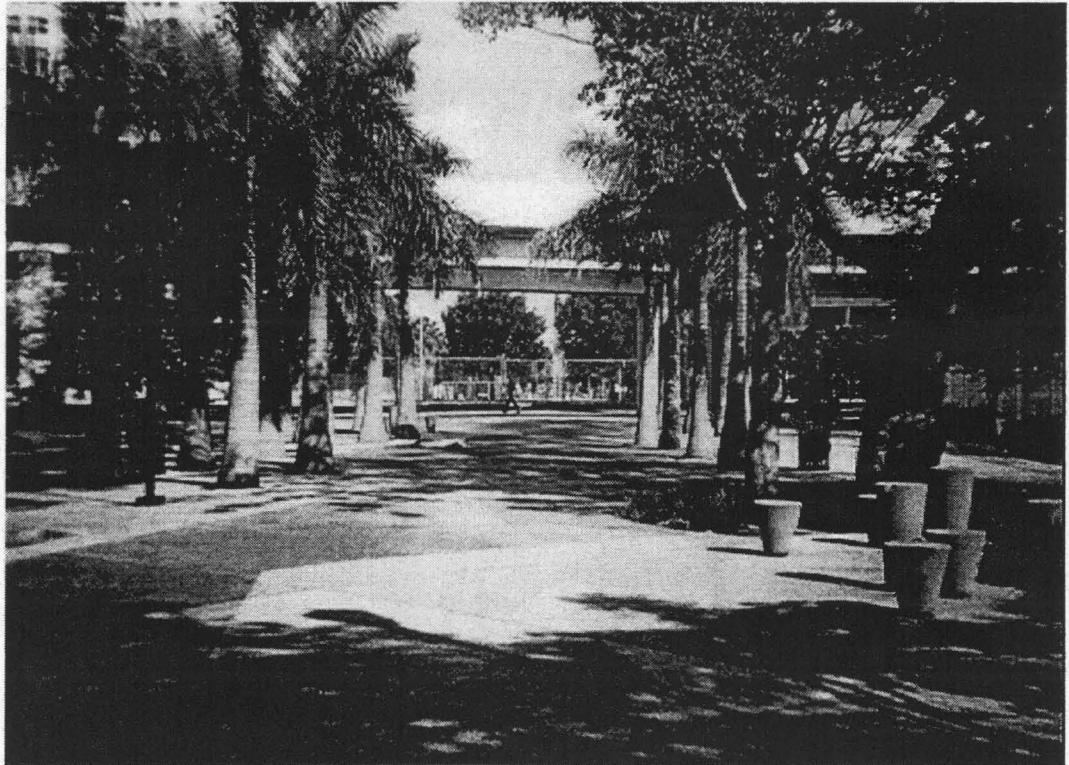




Effects of Transportation Plan Development on Minority and Impoverished Urban Communities



Technical Memorandum

30 June 1998

Prepared by Beverly G. Ward and Eric T. Hill



Photo credit:

9th Street Pedestrian Mall
Miami, Florida
Beverly G. Ward



Effects of Transportation Plan Development on Minority and Impoverished Urban Communities

Technical Memorandum

Table of Contents

List of Figures and Tables	vi
Introduction	1
The Legislative, Historic, and Socioeconomic Experience	5
Historic and Socioeconomic Analysis	7
Representation and Access to the Transportation Planning and Project Development Process	8
Geographic, Historical, and Socioeconomic Profiles of the Communities	11
The Sample of Underrepresented Stakeholders and Their Issues	17
Discussion of Sample Underrepresented Stakeholder Areas and Issues	25
Techniques for Identifying Transportation Issues and Goals of Minority and Impoverished Communities	27
What is Community Impact Assessment (CIA) and Why It Is Important?	27
Outreach to Impoverished and Minority Communities	31
Being Connected and Responsive	34
Closing	38
Endnotes	40
References cited	42
Attachment I: Bibliography	45
Attachment II: World Wide Web (Internet) Sites	49
Attachment III: Selected Federal Regulations, Statutes, Policies, Technical Advisories, and Orders	51
Attachment IV: Methods for Assessing Community Goals and Values: Socioeconomic Tools for Transportation Project Planning and Development Workshop Invitees	79

List of Figures and Tables

9 th Street Pedestrian Mall	Cover
Figure 1 Dade County Population Estimates and Percent of U. S. Population(U. S. Bureau of the Census 1995)	11
Table I. Rate of Population Growth in Dade County	12
Figure 2 Dade County Community Development Block Grant Target Areas ..	15
Table II. Profile Summary: Selected Demographic and Socioeconomic Characteristics of Target Areas and Dade County	16
Table III. Profile Summary: Selected Demographic and Socioeconomic Characteristics of Carol City, Sample Target Areas, and Dade County	18
Figure 3 Carol City Study Area Boundaries	19
Figure 4 Goulds Study Area Boundaries	20
Figure 5 La Pequeña Habana Study Area Boundaries	21
Figure 6 Melrose Study Area Boundaries	22
Figure 7 Perrine Study Area Boundaries	23
Figure 8 West Little River Study Area Boundaries	24
Figure 9 Community Impact Assessment 's Relation to the NEPA Process ..	29

Introduction

Transportation planning, except in remote areas, affects communities. Too often, in the past, the development of transportation plans has had a disproportionate impact on minority and low-income communities. The economic and other social costs of these plans have extensive effects not only on the effected communities, but as we are coming to learn, on society as a whole. While it is important to understand the historical conditions that produced past transportation planning practices, it is most important to identify communities that may have been affected by past practices and ensure that present and future planning does not provide additional impacts. Developing processes to engage communities that may not have historically participated in the planning process also is important.¹

A growing body of knowledge and research is developing that documents the adverse effects of transportation planning and project development on minority and impoverished communities. The bulk of these materials relates to waste management and mining. However, the effects of transportation planning and improvements, particularly highway construction, rail, and other major investments also comprise a significant portion of this literature. What is currently lacking, however, is a basic understanding of the issues and an approach to identifying, measuring, and resolving the issues. (A bibliography of relevant literature is included in Attachment I. A listing of websites is included in Attachment II.)

The Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations, has directed much of the current focus to these issues. The Order directs federal cabinets to develop environmental justice strategies to protect minority and low-income populations. Section 2-2 of the Order, states that departments responsible for federal programs, including the United States Department of Transportation (US DOT), shall conduct their activities in ways that “. . . do not have the effect of excluding persons (including populations) from participating 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.” Section 6-602 provides that the Order is a supplement to Executive Order 12250 requiring consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance.

The Order's legislative basis can be traced to the National Environmental Policy Act (NEPA) of 1969, as amended, and Title VI of the 1964 Civil Rights Act. Beyond environmental justice, all the human and environment assessment issues are based on legislation and regulations that direct evaluation in the transportation planning and project development process. These directives relate to economic, social, and environmental effects. The topics fall into several areas:

- Community cohesion
- Environmental impact assessment
- Environmental justice
- Landuse planning and
- Socioeconomic impacts.

For the purposes of this study, however, we are emphasizing these issues as they relate to minority and low-income groups. Minority is defined as an "individual(s) classified by the Office of Management and Budget Directive No. 15 as Black/African American, Hispanic, Asian and Pacific Islander, American Indian, Eskimo, Aleut, and other nonwhite persons" (EPA 1997:14). The Draft Guidance Pertinent to Environmental Justice Analyses states there are two sources for determining low-income status:

1. the Department of Health and Human Services poverty guidelines or
2. the Department of Housing and Urban Development statutory definition for very low-income for the purposes of housing benefits programs (EPA: 14).

Ethnic or racial minority and low-income population groups appear to experience differences for disease and death rates; however, the data explaining the environmental contributions to these differences is limited. Information is not normally collected on environmental health effects by race and income. Nor is it collected on health risks posed by multiple industrial facilities or transportation facilities. For diseases known to have environmental causes, data are not typically disaggregated by race and socioeconomic group. The literature suggests that racial minority and low-income populations experience higher than average exposures to selected air pollutants and hazardous waste facilities. This exposure does not always lead to serious health problems, but is cause for health concerns.

In addition, ethnic and racial minority and low-income groups may experience different risks as groups and over time. The experiences of immigrants from southern Europe 100 years ago were quite different from that of Southern Europeans today. Some minority groups also may share a *racial* background, but make distinctions about their *ethnicity*. For example, people in the United States of African descent may identify themselves as "Blacks," but also may subdivide themselves as "African Americans," "African," "Caribbean," etc.

Finally, consideration of these issues relates to the distribution of and access to resources — power differentials.

Many metropolitan areas have difficulty engaging the public in their planning processes because of a lack of emphasis on a few key issues. Issues of trust, language, accessibility, attitude, and understanding must be overcome before the public will fully engage in a long or short term planning process for their community. Until these issues are addressed people will fight to preserve what they have, and will be hesitant to dedicate time to a joint, proactive planning process" (Surface Transportation Policy Project 1997:3).

In 1996, the Federal Highway Administration developed the *Community Impact Assessment: A Quick Reference for Transportation* booklet "... as a quick primer for transportation professionals and analysts who assess the impacts of proposed transportation actions on communities." The booklet is an attempt to pull together a checklist of regulations, laws, techniques, and references. While its focus is not on minority and impoverished communities, it does cover the related legislation and regulations and provides a toolkit for assessment of such communities. There is national interest in developing a "community impact assessment" approach that would include the goals of environmental justice.

The literature and case examples provided here suggest that the community impact assessment (CIA) approach may be appropriate for future transportation plan development by Miami Dade Metropolitan Planning Organization. These techniques are consistent with other federal initiatives, namely:

- ▶ the Federal Transit Administration's Livable Communities Initiative and
- ▶ the President's Council on Sustainable Development.

While the CIA approach is in the development stage, there are resource persons and documents available that can be of assistance. The training provided under a later task of this project highlighted some of the available tools and their applications.

As related to minority and impoverished communities, it may be necessary not so much to identify specific tools for these communities, but rather to tailor familiar tools to respond to the communities' needs. This also may entail changing the role of the planner. This role change for planners is suggested by the concepts of transportation travel agents, transportation mobility management, and transportation mobility managers that have come about in response to the changes in the transportation planning process brought on by ISTEA. Prior to ISTEA, planners generally were thought of as "neutral public servants." This is not to say that under varying conditions or due to personal values that planners could or did not act as advocates, educators, and so forth, but these occasions or persons were

exceptions. ISTEA, and the subsequent role changes, suggest more of an integration of the roles into the day-to-day business of transportation planning. One area is public involvement.

There is increasing advocacy for transportation planners to view the public as a partner in the planning process. This advocacy places an onus on planners to educate the public on *their* new roles -- planners and the public -- and *their* responsibilities. Likewise, in the process, the same planner may be called upon to build consensus among diverse groups, advocate for a particular alternative, and so forth. This is a striking change for most transportation planners and is not as neat, tidy, and comfortable as in the past.

Most of these issues and concepts are not new. Many can be traced to legislation enacted 30 years ago. Technological advances have made available new tools and existing resources more manageable. For example, geographic information systems (GIS) places the capability of analyzing very complex data virtually on the desktop of any planner. As more tools and resources become available, it is important to incorporate these into the transportation planning and development process. This memorandum discusses these issues and the application of some resources within the context of the project.

The Legislative, Historic, and Socioeconomic Experience

Much of the current assessment of environmental impacts on low-income and minority communities has arisen from February 11, 1994, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. The Executive Order has as its main purpose the reinforcement of existing environmental and civil rights legislation to ensure that these special populations are not subject to disproportionately high and adverse environmental effects. EPA's Office of Environmental Justice offers the following definition of "environmental justice":

The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies (EPA: 2).

There is a school of thought that "environmental justice is a discipline we can use to focus on the recognition and mitigation of such discrepancies [i.e., disparate impacts of transportation plan development]." Forkenbrock and Schweitzer state, however, that "environmental justice represents a public policy goal of ensuring that adverse human health or environmental effects of government activities do not fall disproportionately upon minority or low-income populations" (1997:1).

The Executive Order builds upon the directives outlined in the Title VI of the Civil Rights Act of 1964, the National Environmental Policy Act of 1989, and the Clean Air Act as amended, all of which are strongly linked to the Intermodal Surface Transportation Efficiency Act (ISTEA). The United States Department of Transportation's (US DOT) goal to become a model agency for protecting and enhancing the environment and quality of life of its inhabitants parallels the strategy set forth in the Executive Order.

The objectives of the Orders include ensuring that all federally funded transportation programs, policies, or activities with the potential to affect human health or the environment involve a planning and programming process that considers the effects on minority populations and low-income populations. Such effects include, but are not limited to:

- ▶ Bodily impairment, infirmity, illness, or death;
- ▶ Air, noise, and water pollution and soil contamination;
- ▶ Destruction or disruption of manmade or natural resources;
- ▶ 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
- ▶ Denial of, reduction in, or significant delay in the receipt of benefits of US DOT programs, policies, or activities.

In the US DOT Order, the word "environment" applies to the physical environment (e.g., air and water quality), *and* the "built environment." The built environment includes the setting within which people live, work, and recreate. Applying this broader interpretation, aesthetically displeasing structures or traffic congestion serve as examples that may be antithetical to environmental justice (Hill and Ward 1998:7).

Historically, public policy goals have not reflected concern for the adverse human and environmental effects of government activities on minority or low-income populations. These communities and their inhabitants have often been viewed as the paths of least resistance and, consequently, became targets for environmental risks (Bullard and Wright 1993: 821).

The current environmental justice movement is thought to have begun as part of an effort to block the dumping of polychlorinated biphenyl (PCB) in 14 counties in North Carolina. Oil laced with highly toxic PCB was illegally dumped along roadways in 1978. While the roadways were cleaned up in 1982, a disposal site was needed for the highly toxic soil. Warren County, North Carolina, rural and predominantly African American, was selected. That year, more than 500 activists were arrested for protesting the siting of the waste facility. The protesters were unsuccessful in blocking the PCB landfill, but brought national attention to siting inequities.

Historic and Socioeconomic Analysis

While the current environmental justice movement is thought to have begun about 20 years ago, the relationship between transportation planning and project development and minority and low-income populations has a much longer, and for some groups, an uninterrupted adverse history.

Transportation generally is considered a key ingredient in social and economic mobility (Environmental Justice Resource Center 1995:3-2). For many African Americans, the quest for justice in public transportation is traced to the 1896 *Plessy v. Ferguson* case, the Supreme Court examined the constitutionality of Louisiana laws that provided for segregation of railroad car seating by race. Other African Americans trace the modern Civil Rights and Environmental Justice Movements to Mrs. Rosa Parks' refusal to give up her bus seat to a white man in 1955. Susan Hanson states "... that the civil rights movement should have been born on a city bus is just one measure of how urban transportation is woven into the fabric of American life" (1995:3). A final example is the fight begun in May 1966 regarding freeway construction in the District of Columbia.

One proposal included the construction of a new bridge

The [inner loop through downtown Washington] was aimed through the inner ghetto areas of the city. Another portion of the proposed freeway system was aimed at other parkland and through businesses and residential areas of both black and white Washingtonians (Leavitt 1970:93).

Washingtonians sought relief from the proposed construction plans in the courts and eventually won in appeals. The battle, however, did not end there. Congress eventually intervened and withheld subway funds until a decision to build the freeways was reached. A bill to build the freeways also was introduced. In hearings on the bill, one white Maryland suburbanite stated,

If an individual white racist, bigot, destroyed an individual Negro's [sic] home by dynamite, he would be universally condemned by the officials, the press, and the public, but when a governing body, be it Congress or a city council, promulgates a policy of urban freeway or urban renewal and unleashes a set of bulldozers to drive thousands of families from their homes, demolishing established and integrated communities, then only the victims object as in the case of Watts, Newark, etc. (Leavitt: 104).

In general, each ethnic or racial group appears to have experienced a unique "nature of contact" (Jordan 1976:45-46; Takaki 1990:28-29). Immigrants from southern Europe were treated differently from Africans. Native Americans were treated differently than these two groups. Persons with Hispanic surnames

may have different experiences dependent upon their country of origin and where and when they settled in the United States (U. S.). The nature of contact also may be associated with particular types of economic systems. Native Americans appear to have been extirpated to provide land for farming and expansion. Africans, initially, provided a source of cheap farm labor and have historically done the "dirty" work. European and Asian immigrants played critical roles in the development of the industrialism. The intersection of race, ethnicity, and poverty have served to create conditions where various groups historically have not had access to the transportation decisionmaking process.

Representation and Access to the Transportation Planning and Project Development Process

The public decisionmaking process has not been accessible to the average citizen for much of U. S. history. Early on, the primary actors in the process were thought to be public servants who were drawn from the "gentleman class" (Mahowald 1997:7; Cayer 1989:280-281). The right to vote was extended generally to white, *non-landholding* men in 1829! The passage of the Fifteenth Amendment, 1870, extended the right to male African Americans by statute. The right was extended to women with the Nineteenth Amendment, 1920. So, what we consider today as a primary right in the public decisionmaking process is a recent phenomenon for some segments of the population.² Beyond the abolition of slavery and women's suffrage, other developments during the late 1800s and early 1900s included labor activity and immigration (Mahowald: 11-12). All contributed to increased public participation beyond that of the "gentleman class."

The Reform Movement, also begun in the late 1800s, served to replace the growing plutocracy with a new set of experts, bureaucrats. This movement gave rise to the discipline of Public Administration and efficient government.

Hays states,

The drama of reform lay in the competition for supremacy between two systems of decisionmaking. One system, based upon ward representation and growing out of practices and ideas of representative government, involved wide latitude for the expression of grass-roots impulses and their involvement in the political process. The other grew out of the rationalization of life which came with science and technology, in which decisions arose from expert analysis and flowed from fewer and smaller centers outward to the rest of society . . . The movement for reform in municipal government, therefore, constituted an attempt by upper-class advanced professional, and large business groups to take formal political power from the previously dominant lower- and middle-class elements so that they might advance their own conceptions of

desirable public policy. These two groups came from entirely different urban worlds, and the political system fashioned by one was no longer acceptable to the other (1964:168-169).

Against this backdrop the role of the public was reduced

...to review[ing], accept[ing], or reject[ing] the plan while the public participation job left to be done by the administrator, was to 'continuously and patiently explain' the plans and decisions reached to both avoid public misunderstanding and to reach a point where the public adopt[ed] the plans as their own (Mahowald: 21)

According to So and Solnit, many public employees' primary foci during the 1920s and 1930s were engineering-related — construction and widening of streets and the placement of sewer and water lines (1988:34-35; 1987:3). Levy states, "In the early years of planning . . . the view was that the plan came solely, or almost solely, from the head of the planner. It was then his or her task to sell that vision to the public and to the political establishment of the community" (1988:79). The average citizen's role was that of a consumer, a user of a finished product not a participant in its development. This was despite the growth of many citizen commissions and boards. The membership on these boards, however, tended to be rather limited. Solnit states

...the commission leadership was usually drawn from the chamber of commerce and the well-to-do elements of the two, which helps explain the fact that the major goal of these commissions was the stabilization and protection of property values (1987:3).

Greater public participation, particularly at the local level, was realized during the 1960s and 1970s. Several factors contributed to the increase including advocacy by individuals, legislation, and citizen activism — the Civil Rights Movement, the Women's Movement, the Poor People's Campaign³. The "intensity and focus" of this level of participation are thought to have decreased during the 1980s for many reasons, including:

- ▶ Disenchantment with the mandates;
- ▶ Reduced requirements; and
- ▶ Reduced funding (Mahowald: 25-26; Catanese 1984:122; Cogan, Sumner, and Hertzberg 1985:283).

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 generally is said to have revitalized public involvement. Specifically stated in *A Guide to Metropolitan Transportation Planning under ISTEA - How the Pieces Fit Together* - U. S. DOT:

The ISTEA places significant emphasis on broadening participation in transportation planning to include key stakeholders who have not traditionally been involved, including the business community, members of the public, community groups, and other governmental agencies. This challenges transportation professionals and elected officials because meaningful engagement of diverse interests can be difficult. However, broader participation should ensure that decisions will be more responsive to local needs (1996:4).

To facilitate this participation, a "major element of transportation planning in metropolitan areas" was "a proactive and inclusive public involvement process" delineated in a five-step approach. The approach provided a systematic method for "... setting up and implementing a public involvement program for a specific plan, program, or project" (US DOT 1996:11). Briefly, the steps were:

1. Set goals and objectives for [the] public involvement program.
2. Identify the people to be reached.
3. Develop a general approach or set of general strategies that are keyed to the goals and objectives of the involvement program and the characteristics of the target audiences.
4. Flesh out the approach with specific techniques.
5. Assure that proposed strategies and techniques aid decisionmaking to close the loop (Howard/Stein-Hudson Associates, Inc. and Parsons Brinckerhoff Quade and Douglas 1996:3-5).

This evolution of public involvement was aimed at integrating participation by the public throughout the transportation planning and project development process. Given the background described above, public involvement under ISTEA may be more inclusive, in theory, than at any other time in U. S. history. Overall, this effort at inclusion may provide for better planning through citizen support of transportation projects, keeping with efforts of sustainable development and livable communities. The better planning, however, may come about at the cost of conflict over resources and the expense of trying to reach consensus. Some also may feel that this is not the most efficient way to plan or develop projects.

The review of the evolution of public involvement frames it as an approach, a tool within the transportation planning and project development process. It is not an end within itself. The well-constructed public involvement plan provides a method through the process to engage the public in the process. ISTEA appears to have expanded the role of the general public. Along with ISTEA, Executive Order 12898, and by reference, Title VI of the Civil Rights Act of 1964, expands our analyses of the needs of low-income and minority communities. Public involvement

then is a mechanism to engage these communities in the transportation planning and project development process.

Access to and participation in the public decisionmaking process can be viewed as a rather recent development to the average citizen. Historically, the process appears to have been vested in different groups of elites — “gentlemen,” experts, bureaucrats — positions rarely held by ethnic or racial minority individuals or those residents of impoverished communities. The recency of the development may contribute to at least two difficulties when trying to assess the effects of transportation plan development on low-income and minority communities. The first relates to the historical or cumulative impacts of the development and the implications. The second relates to future efforts to avoid or otherwise ensure that adverse effects are not experienced by these communities in the future.

Geographic, Historical, and Socioeconomic Profiles of the Communities

The profiles of the low-income and minority communities may be best understood with a brief geographic, historical, and socioeconomic profile of Dade County. The County was created in 1838 by an act of Territorial Legislative Council. Marjory Stoneman Douglas stated that when she came to Dade County in 1913, the population was 5,000 (1998). Figure 1 provides population estimates for Dade County from 1900 through 1990. During this 90-year period, the population of the County rose from an estimated 4,955 to 1,937,094.

When shown as a percentage of the U. S. population, there have been

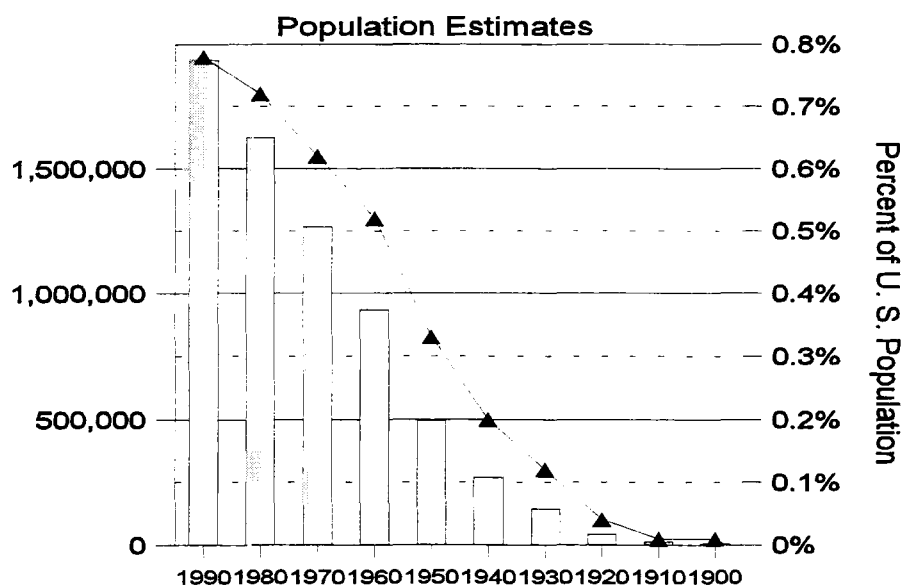


Figure 1 Dade County Population Estimates and Percent of U. S. Population
(U. S. Bureau of the Census 1995)

several significant periods of growth in the County. The growth between 1910 and 1940 is attributed to the south Florida land "Boom."

... there was a superabundance of it in Miami and on the long sandbar across Biscayne Bay to the east. At the beginning of World War I, realtor Edward Dammers had had a hard time selling Miami Beach waterfront lots for a thousand dollars apiece. Henry Flagler's railroad and the Boom changed all that. By the early 'twenties, the lower east coast was exploding . . . (Jahoda 1984: 120).

While the rate of growth as a percentage of the U. S. population sharply declined after 1930, the growth rate, shown in Table I, has been significant during subsequent decades. Growth means development and for Dade County, development entails clearing the swamps. For at least the first half of this century, the labor for clearing the swamps was provided by persons of African descent – primarily African Americans and Bahamians.⁴

Table I. Rate of Population Growth in Dade County

Year	% U. S. Population	% Change
1900	0.01%	0.00%
1910	0.01%	0.00%
1920	0.04%	300.00%
1930	0.12%	200.00%
1940	0.20%	66.67%
1950	0.33%	65.00%
1960	0.52%	57.58%
1970	0.62%	19.23%
1980	0.72%	16.13%
1990	0.78%	8.33%

Source: U. S. Bureau of the Census 1995

After Native Americans, Blacks – Bahamians and African Americans – were among the first racial minority settlers in Dade County, settling in Kebo, a portion of Coconut Grove (Muir 1990: 4-5). This laborpool was drawn on by Henry Flagler to construct the Florida East Coast (FEC) railroad; John Sewell, the Royal Palm Hotel; Carl Fisher, the Collins Bridge; and wherever machetes and axes were needed to slash palmettos and chop mangrove trees (Muir 100 *passim*).

Other ethnic groups also helped develop Dade County. George Merrick “. . . imported Cuban masons to build the first [Coral Gables] houses; James Deering,

builder of Vizcaya, employed an Italian mechanic; and the FEC call was heard by Cubans, Chinese, and immigrant laborers in New York – Irish, Italian, and Swedish” (Muir 77 *passim*).

According to Jordan and Takaki a “different” look was made by mainstream Americans regarding ethnic and minority population groups which included characterizations of “Indians” or Native Americans as “savages” and blacks or African Americans as “hypersensual” children (1976:45-46; 1990:28-29). Both also agree that these distinctions had to do with the nature of contact. Takaki states that, “Unlike Indians, blacks had a future in America and would not eventually be ‘extirpated’”(1990:29). Jordan states that the distinction between African Americans and Native Americans were necessary because

The English invaded their beachhead on the Atlantic coast of North America and successfully conquered their way inland. They were intent on making that new land their home. By contrast, in Africa, the English and other Europeans had to remain content with a trading relationship with the coastal peoples, without settling there appreciably, until the latter half of the nineteenth century (1976:45).

This “psychological process” or “ideology of racism” was repeated again and again in the history of the United States. Immigrants in the 1800s from the “Far East,” particularly, the Chinese were disparagingly compared to blacks (Takaki 1990:216-217). Nor was this distinction reserved for people of color; Irish immigrants to the U. S. in the late 1800s also were described as “childish” and “savage”(Takaki 1990:115-116). In each instance, there seems to be a correlation between the population size of the subjugated group and a particular economic system. Native Americans were “extirpated” in order to make room from colonists. When the African American population reached a critical mass, its movement was controlled by slavery in order to facilitate the American farming-plantation system. The Chinese were thought to “. . . be used as models to help discipline and reform blacks . . . as servants and factory proletariat[s]”(Takaki 1990:219). The Irish, and immigrants from eastern and southern Europe, although childish and “feeble-minded,” were the east coast factory proletarians.

As Dade County’s growth occurred after the Civil War and Reconstruction, many members of ethnic and racial minority groups were subjected to Jim Crow laws or Black Codes despite passage of the Fourteenth and Fifteenth Amendments. Jim Crow laws institutionalized discrimination in and among many social arenas, including

- ▶ Racial and ethnic groups;
- ▶ Marriage;
- ▶ Housing patterns;
- ▶ Education;
- ▶ Employment;

- ▶ Voting; and
- ▶ Public seating arrangements.

Of particular interest to this study is the manner in which segregated housing patterns have contributed to the adverse impacts of transportation planning and project development on low-income and minority communities. As mentioned earlier, a Black settlement was established in Coconut Grove relatively early in Dade County's history⁵. Overtown, originally, a barracks for Black workers, was established in the late 1800s (Yelvington 1992: 5).

The Hispanic presence in Dade County cannot be separated from the history of Florida. It is important also to reflect back to the earlier discussion on the "nature of contact" and ethnic differences. Miami's geographical position not only afforded traffic between Florida and the Bahamas, but also other areas in the Caribbean and Central and South America. The immigration of persons from Cuba is foremost in the minds of the general public. Just as generalizations cannot be drawn regarding Blacks, neither can generalizations be drawn regarding the County's Hispanic population. Again, the country of origin, the time of immigration, economic status, *and* race all may have significant influence on an immigrant's experience.

By 1995, 23 "target" areas were identified as "distressed urban neighborhoods" eligible for Community Development Block Grant funds under the Housing and Community Development Act of 1974 (Metro-Dade 1995: 1). The target areas are located throughout Miami-Dade County and the Cities of Hialeah, Homestead, Miami, Miami Beach, and North Miami. Two areas, Coconut Grove and Model City, are shared by Dade County and the City of Miami. See Figure 2.

"Target areas" are defined as "... neighborhoods with a concentration of low- and moderate-income families where signs of urban blight and economic distress are evident" (Metro-Dade 1995: 1). This definition, coupled with NEPA and Title VI legislation and the Orders regarding environmental justice, brings these areas within the scope of this research. The examination of all 23 target areas, however, was beyond the scope. Analysis focused on seven target areas and Carol City as a control. The Dade County Department of Planning, Development, and Regulation and the Cities of Hialeah, Homestead, Miami, Miami Beach, and North Miami provided information on neighborhood boundaries.

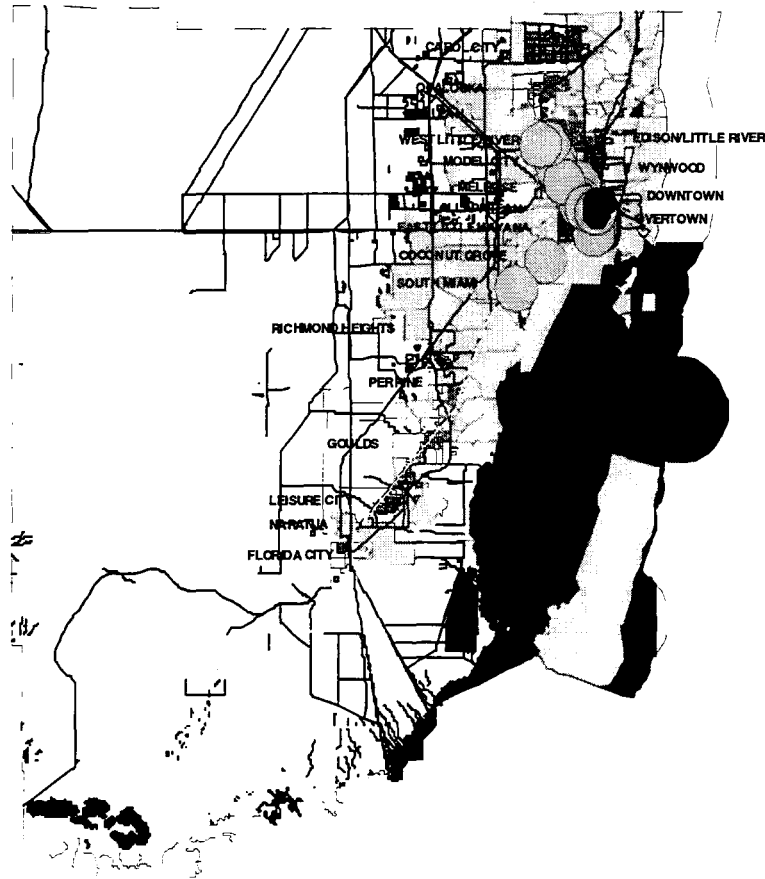


Figure 2 Dade County Community Development Block Grant Target Areas

Underrepresented Stakeholder Communities

The 23 target area communities as defined for CDBG purposes may have been underrepresented in past transportation planning and project development. While NEPA, Title IV, and the Environmental Justice Orders do not establish thresholds for identifying minority and low-income communities, the historical experiences and socioeconomic conditions of residents in these communities may have prohibited their involvement in the transportation decisionmaking process. Consideration of the geographic, historical, and socioeconomic profiles of the communities provides insight.

Table II. Profile Summary: Selected Demographic and Socioeconomic Characteristics of Target Areas and Dade County

Target Area	1990 Population	Black	Hispanic Origin	Median Age	% Female-Headed HH with Children	% Persons Below Poverty Level ^a	Median HH Income ^b	# Housing Units
Allapattah	37,220	9,952	26,712	33.65	10.02	39.52	\$12,270	12,652
Coconut Grove ^c	3,499	3,255	93	30.69	20.01	36.42	\$10,308 ^d	1,445
Downtown	2,504	957	1,206	49.49	4.01	55.63	\$6,970	2,019
Edison/Little River	39,243	32,148	4,957	30.30	19.58	44.50	\$14,142	13,406
Florida City	2,888	2,658	142	27.00 ^e	27.90	47.40	\$15,098	1,070
Goulds	7,599	6,176	1,011	22.00 ^e	32.50	43.90	\$21,085	2,391
La Pequeña Habana	69,327	2,251	64,682	39.00	6.64	36.96	\$12,195	26,911
Leisure City	3,978	451	2,705	22.00 ^e	9.90	26.50	\$22,001	1,403
Melrose	3,975	346	3,500	31.00 ^e	15.40	30.00	\$19,729	1,323
Model City ^c	56,533	53,298	3,036	29.03	39.50	46.25	\$13,973 ^d	20,723
Naranja	18,155	3,076	2,737	32.00 ^e	9.40	18.10	\$27,795	8,054
Opa-locka	15,283	10,603	4,186	27.00	25.90	37.70	\$19,666	5,709
Overtown	11,976	10,343	1,523	32.00	N/A	54.00	\$10,100	5,309
Perrine	4,503	4,282	239	22.00 ^e	42.90	50.70	\$16,802	1,421
Richmond Heights	5,485	5,316	82	27.00 ^e	14.90	16.00	\$30,250	1,823
South Miami	1,726	1,589	95	22.00 ^e	28.70	38.10	\$17,926	596
West Little River	40,812	28,283	11,867	27.00 ^e	20.50	22.40	\$26,119	12,873
Wynwood	16,218	4,525	8,893	31.95	9.66	37.62	\$21,405	8,149
TOTAL/ AVERAGE	340,924	179,509	137,666	29.72	19.85	37.87	\$17,657	94,294
DADE	1,937,094	397,993	953,407	34.20	9.80	14.20	\$31,113	771,288

Sources: U. S. Bureau of the Census, Census of Population and Housing, Summary Tape Files 1A and 3A; Research Division Metropolitan Dade County Planning Department; and City of Miami, Planning, Building, and Zoning Department.

- ^a Due to reporting differences between the cities and the county, percentages are given for *Persons* in the cities. *Household* percentages are shown for target areas in the County.
- ^b Due to reporting differences between cities and the county, *Median* incomes are given for target areas in the cities. *Mean* incomes are shown for target areas in the County. The median is shown for Dade.
- ^c Where appropriate, totals are shown for Coconut Grove and Model City. Averages are shown otherwise.
- ^d City of Miami portion only.
- ^e Florida City, Richmond Heights, and West Little River, 25-29 age interval; Leisure City, Perrine, and South Miami, 20-24 age interval; Melrose and Naranja, 30-34 age interval.

As shown in Table II, 45 percent of Dade County's Black population and 15 percent of the Hispanic population live in the target areas. On average the median age of the target areas is significantly less than the County's. The number of female-headed households with children and the number of person's below poverty level is more than double. Approximately 18 percent of the County's population live in the target areas, but the areas only account for 12 percent of the housing units.

Although the program requirements for CDBG activities have varied over the years, many of the target areas have long histories of economic hardship. Historically, it appears that the target areas with relatively high Black residential populations have served as internal colonies or "administered communities" (Lopez 1998; Thomas 1994; Weingrod 1966).⁶ This also may apply to many predominately Hispanic areas. The high concentration of Blacks in the target areas suggests, however, that racial barriers may have contributed to the inability of Blacks to move other parts of the County. The other area characteristics shown in Table II also suggest the ways in which economic conditions may intersect with ethnicity and race, fostering dependency by the target areas on the larger community.

Access and mobility to jobs and services may serve to improve the economic conditions of the target areas. There is some suggestion, however, that transportation planning and project development can exacerbate the problems of the target areas. While street improvements are planned for many target areas, the access and mobility needs most frequently cited by residents included reduced transit fares and decreased waiting times for public transit (City of Miami n.d.: *passim*).

The Sample of Underrepresented Stakeholders and Their Issues

A more in-depth historical and socioeconomic analysis was made of seven communities, six target areas and Carol City. As shown in Table III, the sample areas represent 9.75 percent of the County population. Slightly less than one-half of Dade's total Black population, and 9.71 percent of the Hispanic population live in the sample area. The sample areas' population is roughly one-half Black and one-half Hispanic origin. The median age is significantly less than that of the County. The percent of female-headed households with children is significantly higher as is the percent of persons below the poverty level. Median household incomes are lower for the sample areas. The number of people per housing unit is 4.44, compared with 3.62 for the target areas, and 2.51 for the County. Overall, the sample reflects many of the characteristics of the target areas while steering the analysis towards issues of racial concentration and overcrowding as suggested by the review of the target areas. Analysis of individual areas in the sample segmented a number of issues. Common themes are discussed following the individual sections.

Table III. Profile Summary: Selected Demographic and Socioeconomic Characteristics of Carol City, Sample Target Areas, and Dade County

Target Area	1990 Population	Black	Hispanic Origin	Median Age	% Female-Headed HH with Children	% Persons Below Poverty Level ^a	Median HH Income ^b	# Housing Units
Carol City	62,606	46,934	11,292	37.00 ^c	19.00	38.62	\$34,336	18,226
Goulds	7,599	6,176	1,011	22.00 ^c	32.50	43.90	\$21,085	2,391
La Pequeña Habana	69,327	2,251	64,682	39.00	6.64	36.96	\$12,195	26,911
Melrose	3,975	346	3,500	31.00 ^c	15.40	30.00	\$19,729	1,323
Perrine	4,503	4,282	239	22.00 ^c	42.90	50.70	\$16,802	1,421
West Little River	40,812	28,283	11,867	27.00 ^c	20.50	22.40	\$26,119	12,873
TOTAL/AVERAGE	188,822	88,272	92,591	29.66	22.82	37.10	\$21,711	42,528
DADE	1,937,094	397,993	953,407	34.20	9.80	14.20	\$31,113	771,288

Sources: U. S. Bureau of the Census, Census of Population and Housing, Summary Tape Files 1A, 3, and 3A; Research Division Metropolitan Dade County Planning Department; and City of Miami, Planning, Building, and Zoning Department.

CAROL CITY

The study area of Carol City comprises 29 census blockgroups, bounded on the east by NW 47th Avenue; northwest, Honey Hill; north, NW 196th Terrace; northeast, NW 203rd Street; west, NW 7th Avenue; and south, Palmetto Expressway. Interstate 95 is on the east, paralleling NW 47th Avenue. (See Figure 3.) Carol City is the northern most community in the sample. While the population of is 75 percent Black, persons of Hispanic origin comprise 18 percent of the total. The Black population is a mixture of African American, Bahamian, and Jamaican. The median age is higher than the County average. Likewise the number of female heads-of-households with children. The median household income, while less than the County average, is the highest among the sample. Like many of the CDBG target areas, Carol City has fewer housing units per person than the County on average.

^a Due to reporting differences between the cities and the county, percentages are given for *Persons* in the cities. *Household* percentages are shown for target areas in the County.

^b Due to reporting differences among cities and the county, *Median* incomes are given for target areas in the cities. *Mean* incomes are shown for target areas in the County. The median is shown for Dade.

^c Carol City, 35-39 age interval; Melrose, 30-34 age interval; Perrine, 20-24 age interval; and West Little River, 25-29 age interval.

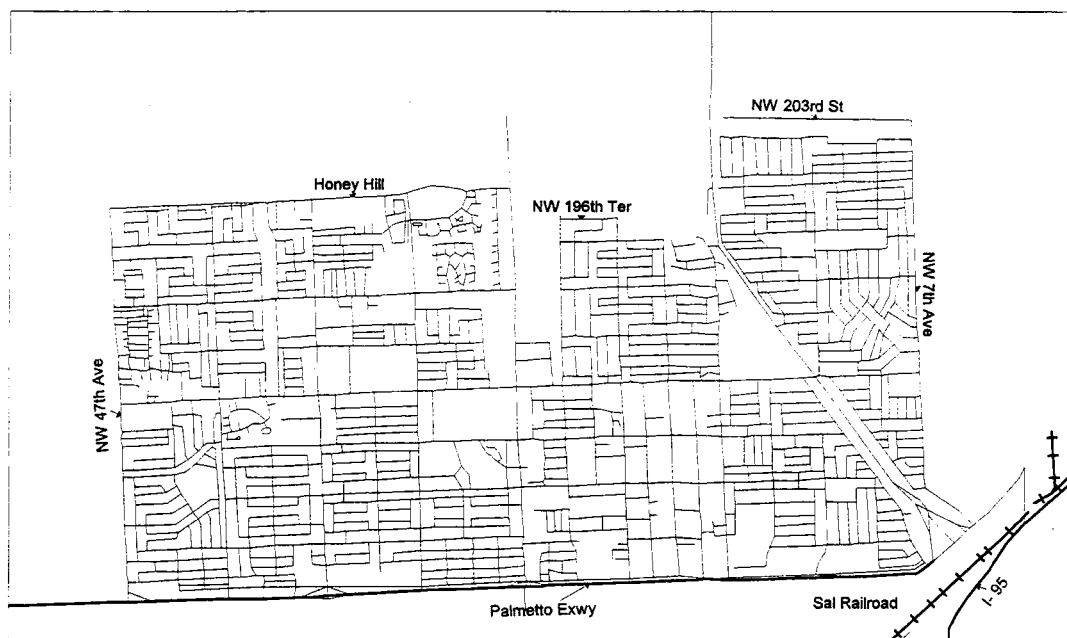


Figure 3 Carol City Study Area Boundaries

The median age and income suggest that the population is aging and may have different transportation concerns than the CDBG target areas and the sample areas. The distance of Carol City from centralized county services may limit transportation choices. Informants have suggested that the private automobile may be the mode of necessity rather than simple choice. Older persons may choose to drive rather than use fixed-route or paratransit services to decrease travel times and for comfort. The availability of private automobiles and the problems associated with aging and driving also were raised as issues. Intercounty travel, between Dade and Broward, also is a mobility issue. Although the private automobile is the primary mode of travel, other alternatives are desired. Transportation planning and project development issues generally focussed on the need for additional public transportation options.

GOULDS

Goulds is the southernmost of the sample areas. Again, the area is predominantly Black, 81 percent, but with a significant population of Hispanic origin, 13 percent. The study boundaries for Goulds, shown in Figure 4, are the same as those of the Metropolitan Dade County Planning Department. Like other areas in the sample, the community has significant socioeconomic challenges. The median age of the area ties with Perrine as the lowest of the sample. Female-headed households with children are nearly one-third of all households. The area is the second highest in the sample of households below the poverty level. The mean household income is 56 percent of the County's mean.

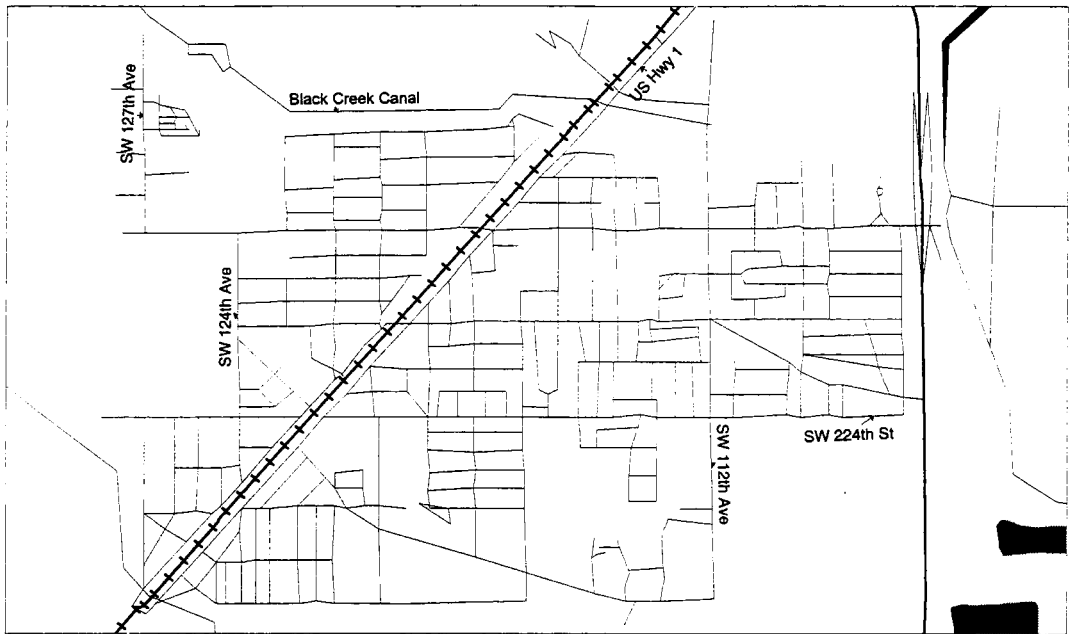


Figure 4 Goulds Study Area Boundaries

The demographics and socioeconomic characteristics of Goulds suggest that the population is relatively young – women and children – with little income. Although the private automobile is the primary mode of transportation, a significant portion of the community uses carpools to commute to work. For others, public transportation may be the mode of necessity, especially for non-work trips. In the 1990 Census, 13 percent of the total persons in Goulds was less than 5 years old. Waiting times and convenience were raised as public transportation issues. U. S. Highway 1 bifurcates the community on a northeast to southwest diagonal. Although there is more development southeast of U. S. 1, there is considerable traffic across the highway. For a younger population, safety becomes an issue.

LA PEQUEÑA HABANA

La Pequeña Habana is the largest of the CDBG target areas and has the largest population of Hispanic origin, 64,682, of the target and sample areas. The study boundaries for La Pequeña Habana, shown in Figure 5, are the same as those of the City of Miami Planning, Building, and Zoning Department. La Pequeña Habana, like the other target and sample areas, has unique socioeconomic challenges. In addition to its size, the median age of the population significantly exceeds that of the County. The percent of female headed-households, however, is the lowest of the target areas and well below the County's. Slightly more than one third of the population lives below the poverty level. The median household income is 39 percent of the County's. As with other target areas, housing problems include overcrowding. According to the City of Miami, the area has the highest

housing shortage in the city (nd: 32). One of the more unique features of the community is diversity of the Hispanic population; the City reports 261 distinct Hispanic groups (nd: 96).

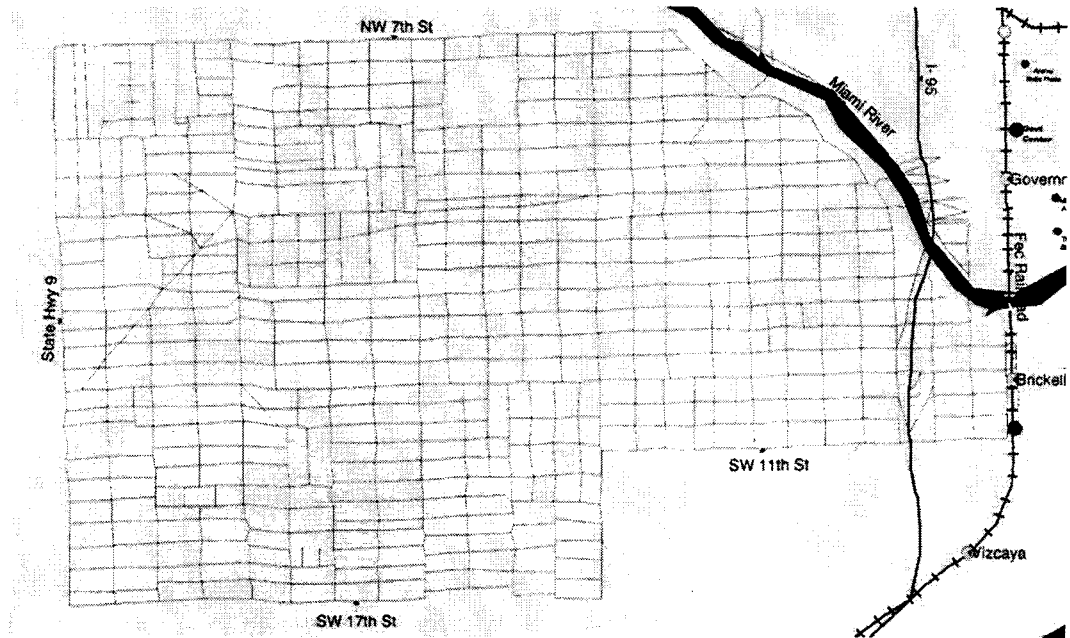


Figure 5 La Pequeña Habana Study Area Boundaries

Transportation issues that were cited by respondents included fare amounts and convenience, particularly waiting times. The area is relatively well-served by public transportation with fixed-route service. The City of Miami also provides funds for a community transportation system. The southeastern border of the community provides access to Metrorail and Metromover. Interstate 95 intersects the community a few blocks west of those two facilities. The distance of the three facilities from the western portion of the area may create difficulties for residents living in the west.

MELROSE

Melrose is one of the smaller CDBG target areas and the smallest of the sample study areas. The boundaries used for the study area are consistent with the County Planning Department and are shown in Figure 6. According to 1990 Census data, 88 percent of the population was of Hispanic origin. The median age is slightly lower than that of the County. The percent of female-headed households is greater than the County's. The percent of households below the poverty level is more than double that of the County. Overcrowding also is a housing issue.

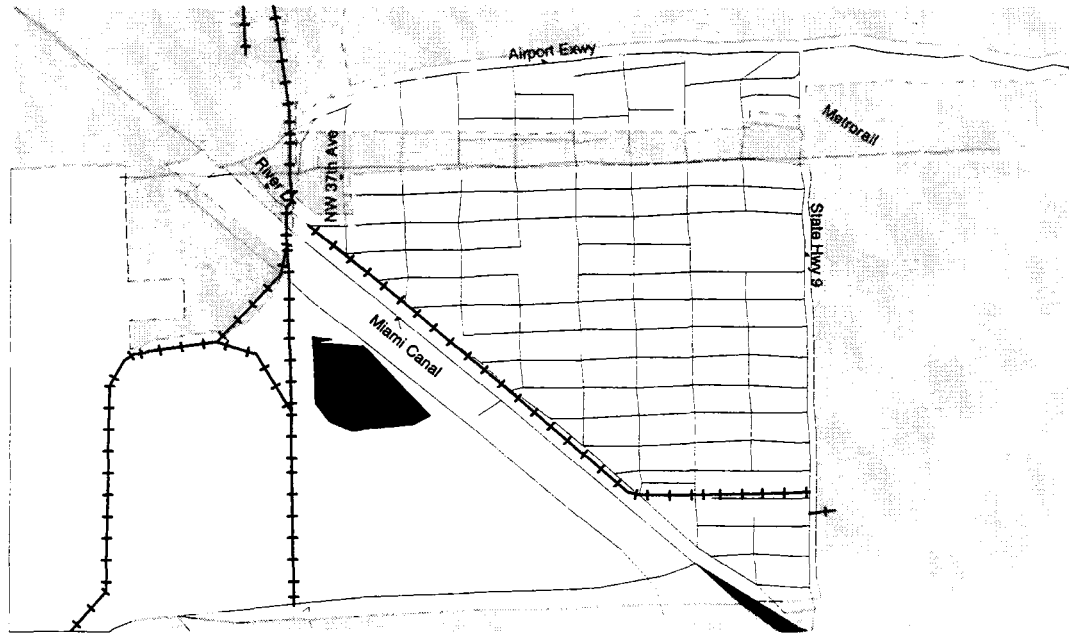


Figure 6 Melrose Study Area Boundaries

Geographically, Melrose appears isolated or contained. This sense of space was somewhat born-out by informants' comments. Although the commute time for residents has been reported as slightly less than the County's average, the landuse of the area necessitates that residents travel outside community boundaries for many services (Metropolitan Dade County Planning Department n.d.: 4, 27). Residents have access to Metrorail on the north.*

PERRINE

The study area boundaries for Perrine, shown in Figure 7, are contiguous with those used by the Metropolitan Dade County Planning Department. Perrine is a small community area of 4,503. Ninety-five percent of the population is Black. The median age is in the 20 to 24 age interval, significantly lower than the County's. The percent of female-headed households with children is more than four times that of the County. More than 50 percent of the community's households are below the poverty area. The median income of the area is 54 percent of the County's. Housing units were one-third more crowded than the County average.

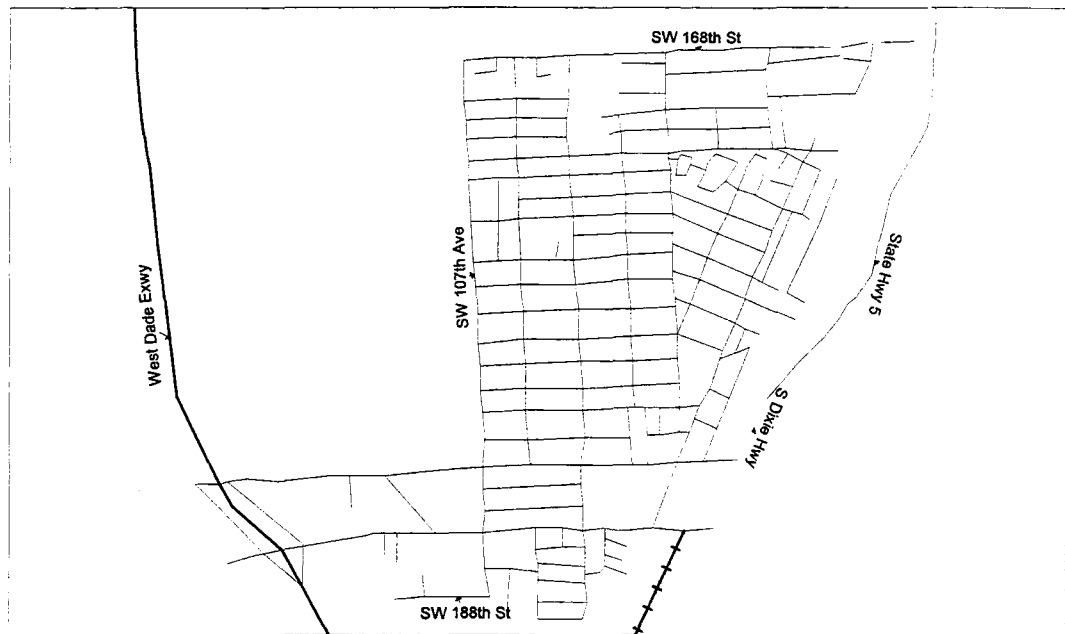


Figure 7 Perrine Study Area Boundaries

While the private automobile was the primary mode of transportation, almost 25 percent of commuters carpoolled and used public transportation. Many of the transportation issues raised by residents of Goulds were repeated by informants in Perrine. There are several similar socioeconomic characteristics among the two communities, including the significant number of children below the age of five; according to the 1990 Census, 12 percent.

Discussion of Sample Underrepresented Stakeholder Areas and Issues

For most of the areas in the sample, transportation planning and project development issues related to access and mobility. While the Miami Dade Transit Agency is one of the top 20 public transportation systems in the nation, it has become increasingly more difficult for rubber tire and fixed guideway transit to meet the transportation needs. The sample areas and the CDBG target areas are generally well-served by public transportation; however, many of the needs of residents must be met by private automobile. Chief among the factors that must be considered is *landuse*.

The CDBG target areas are concentrations of the low-income households in the County. As stated earlier, 45 percent of the Black population and 15 percent of the Hispanic population live within the target areas. Those areas in close proximity to Downtown and other service and employment centers have relatively easy access to goods and services. Many of the target areas, however, do not have the populations or income levels to support merchants to provide retail goods and services, making it necessary to travel outside of the community. This phenomenon – the need to possess durable items frustrated by little cash and information – was discussed 30 years ago by Caplovitz (1967).

In addition to goods and services, public transportation has had a difficult time providing employment access to these communities. Again, there are several factors that contribute to the problem, including:

- landuse,
- educational attainment of residents in the target areas, and consequently,
- the demand for their labor.

As more development occurs away from the target areas, the more demand on public transportation to provide services. Repeatedly, informants cited fares and waiting times as issues related to public transportation.

A number of transportation planning and project development issues cited were historical in nature, relating to indirect or cumulative impacts. Many of the Black residents in the target areas are native (Dade County) born. In many instances, the residents have relocated from other parts of the County. There is a sense of history and pride among these residents of Coconut Grove's and Overtown's pasts. In "Divided Highways: The Interstates and the Transformation of American Life," one Overtown resident described impact of Interstate 95 on the community, as "...the political equivalent of a drive-by shooting."

Other Blacks are more recent immigrants and may have settled into these communities due to "systematic pressures [of] structural separation from white

America" (Ho 1995:99). Income and continued ties to "home," usually the Caribbean, may have provided more recent immigrants limited experience with the transportation planning and project development process.

Although only 15 percent of the Hispanic population lives in the target areas, income and the changes related to the aging process are significant factors. A sense of ethnic history and pride was found among informants, particularly in regard to La Pequeña Habana. Many of the offspring of early residents, however, have been able to move to other areas of the County as they become more affluent, leaving the older residents and those less affluent behind. Newer Hispanic immigrants to these existing communities tend to be younger and with larger families (City of Miami n.d., *passim*). Again, as with newer Black immigrants, income and transnational ties may limit newer residents' experiences with the bigger transportation planning and project development process. The senior citizens in these target areas are concerned with access and safe public transportation services. Younger residents are concerned with access to employment and mobility.

Residents in the target areas, generally, are not focused on long-term transportation projects. This may be due to a lack of familiarity with the public involvement process. Older residents may not have traditionally been able to participate in the process and newer immigrants may not be familiar it. Poor people, in general, may not have the resources -- primarily, time -- to devote to long-term projects. The analysis suggests several areas that will supplement the public involvement program, including:

- ▶ Identifying opportunities to provide public information;
- ▶ Exploring new methods to provide information to different markets;
- ▶ Working with different markets to identify community issues; and
- ▶ Incorporating community issues into the transportation planning and project development process.

Techniques for Identifying Transportation Issues and Goals of Minority and Impoverished Communities

As discussed earlier, the community impact assessment (CIA) approach may be appropriate for future transportation planning and project development by Miami Dade Metropolitan Planning Organization. These techniques are consistent with other federal initiatives, specifically 23 CFR Part 450.300 as related to outreach and public involvement. Through outreach and public involvement, the approach incorporates other traditional planning tools that enable planners to work with communities to identify issues and goals. A description of the approach, drawn from the FHWA guidebook, and examples of its application follow. In addition to this approach, there is a discussion of the concept of “adjusted winner” or “fair division” and its application to conflict resolution. Finally, there is discussion of lessons learned from the Civic Practices Network and ways of transferring this technology to provide outreach and information on the transportation planning and project development process.

What is Community Impact Assessment (CIA) and Why It Is Important?

The *Community Impact Assessment: A Quick Reference for Transportation* booklet defines CIA as “...a process [used] to evaluate the effects of a transportation action on a community and its quality of life (FHWA 1996:4).” CIA incorporates principles of social impact assessment, but the approach is community-driven. The approach also incorporates those elements of economic and environmental impact assessment as they relate to the community’s quality of life. The goals of CIA include community impact management. The process can be used in conjunction with the major investment study (MIS) process.⁷ The CIA process is grounded in legal requirements that direct transportation planning and project development.

Technical Components of the Transportation Planning and Project Development Process

In general, the transportation planning and project development process includes consideration of social, economic, and environmental impacts of a proposed transportation action. Other elements of the process may include financial analysis of the feasibility of the project, management of the process, and

propose next steps (National Transit Institute 1995). The social, economic, and environmental impacts analyses include:

- ▶ Landuse and urban development impacts
- ▶ Other economic impacts
- ▶ Impacts on the natural environment
- ▶ Historic, Cultural, and parkland resources
- ▶ Construction impacts
- ▶ Secondary and cumulative impacts
- ▶ Avoidance, mitigation, minimization of adverse impacts or enhancement.

The purpose social, economic, and environmental impacts analyses is to developing alternatives. When adverse community impacts are encountered, the process calls for alternatives which first avoid or, at least, minimize such impacts. Opportunities also are sought to enhancement or improve the community through the transportation action. Metropolitan planning regulations call for the integration of social, economic, and environmental considerations. CIA approach provides tools that may assist planners to identify adverse impacts and to work with communities to find alternatives.

Legal Basis

The legal basis for community impact assessment is found in transportation and environmental legislation. In addition to the practical reasons for this approach, the legislation is supported by Federal and state regulations, policies, statutes, technical advisories and Orders. Selected items are included in Attachment III. These include:

- ▶ Council on Environmental Quality (CEQ) Regulations for Implementing NEPA
- ▶ Transportation Equity Act for the 21st Century of 1998 (TEA 21)
- ▶ National Environmental Policy Act of 1969 (NEPA)
- ▶ Title VI of the Civil Rights Act of 1964 and related statutes
- ▶ 23 USC 109(h), Federal-Aid Highway Act of 1970
- ▶ 23 CFR 771, Environmental Impact and Related Procedures (1987)
- ▶ TA 6640.8A (1987), Guidance for Preparing and Processing Environmental and Section 4(f) Documents
- ▶ Executive Order (E.O.) 12898 on Environmental Justice (1994)
- ▶ Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations (1997)
- ▶ Farmland Protection Policy Act (1981), as amended in 1994 (7 CFR 658)
- ▶ Uniform Relocation Assistance and Real Property Acquisition Policies Act
- ▶ FHWA Environmental Policy Statements (1990 & 1994)
- ▶ Recommendations of the President's Council on Sustainable Development

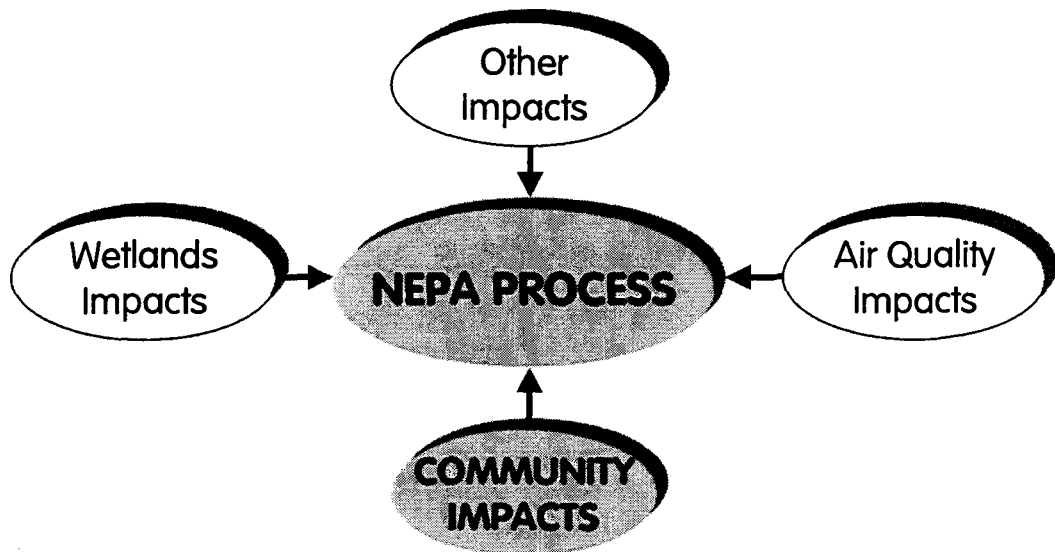


Figure 9 Community Impact Assessment 's Relation to the NEPA Process

Definition of Community

The Federal Highway Administration (FHWA) defines community "... in part by behavior patterns which individuals or groups of individuals hold in common. These behavior patterns may include:

- ▶ Shared perceptions or attitudes;
- ▶ Common characteristics or interests; or
- ▶ Nonspatial relationships, such as religion, income, ethnicity (1996:7).

The Role of Community Impact Assessment

CIA techniques can be incorporated into the entire transportation planning, project development, and decisionmaking process. The techniques can aid in identifying community impacts and when used in with other environmental impact studies can aid in project decisions and meeting NEPA requirements.

CIA techniques may be used throughout the transportation planning and project development process to ensure that community issues are considered along with other environmental and economic. The approach includes several basic components:

- ▶ Define the project and study area: the analyst(s) and the community work to establish the purpose and need for the proposed project, identify the affected area, and develop alternatives.
- ▶ Develop a "community profile": the history, present conditions, and anticipated future of the study area.

- ▶ Analyze impacts: an examination of the anticipated future of the area with proposed transportation action compared to that future without the action.
- ▶ Identify solutions: when adverse impacts are recognized, the CIA thought-process includes four steps – avoidance-minimization-mitigation-enhancement – to identify options.
- ▶ Document findings: this may include documentation for NEPA. Some areas produce specialized, community impact technical reports. Both are considered essential to the public involvement and public hearing processes.

There are two underlying principles to keep in mind when using the approach. First, public involvement is a tool that can be used throughout the process. Second, the process is iterative and may overlap. As communities change or new issues emerge, it may be necessary to revisit components.

Assessment Techniques

Many of the techniques that are used to conduct community impact assessments are familiar to transportation professionals and analysts. The manner in which the techniques are applied, however, helps to analyze the impacts of proposed actions and identify appropriate solutions. Techniques include:

- ▶ Geographic information systems (GIS) or mapping overlays
- ▶ Statistical analysis, trendline projections, forecasting
- ▶ Market research, questionnaires, interviews, and panels
- ▶ Economic impact analysis
- ▶ Social impact analysis

GIS and mapping overlays can be used to plot spatial, demographic, and other data to create a composite image. These images may be used to analyze spatial patterns and proximity of effects. The use of these techniques is limited to effects based on location.

Statistical analyses, trendline projections, and forecasting can be used to assess the status of resources, systems, or communities over time. These techniques may be useful when trying to address cumulative processes. The techniques may require compiling a lot of data.

The use of techniques from market research, including questionnaires, interviews, and focus groups panels are useful in gathering information on multiple actions and resources needed to address and identify goals and values. Many areas also have used panels comprising citizens from the community to work with transportation planners from project conception through construction.

Economic impact analyses can be used to assess changes in business activity, employment, income, and population using economic models during project

construction and after completion. The available models provide definitive, quantified results, but are dependent on data quality and model accuracy. This type of analysis is an important consideration in community impact assessment because economic impacts may affect the quality of life.

Social impact analyses are used to assess community goals and values related to sustainability, i.e., population, political, social resources, community resources, etc. This type analysis addresses social issues, such as community cohesion and social interaction; community facilities and services; and safety.

These are a few of the tools that are used to develop the CIA components. As discussed earlier, public involvement may be used throughout the assessment to develop of project purpose and need; identify of alternatives, transportation impacts, and ways to offset impacts; and so forth. The approach recognizes the overlap of economic, environmental, and social impact analyses and through its emphasis on public involvement provides opportunity for the identification and incorporation of community goals and values into the planning and project development process.

Outreach to Impoverished and Minority Communities

As discussed earlier, there appear to be at least two difficulties when trying to assess the effects of transportation planning and project development on low-income and minority communities. First, the historical or cumulative impacts of transportation developments and the implications of these. The second, future efforts to avoid or otherwise ensure that adverse effects are not experienced by these communities in the future. Given the historical experiences of some communities and the more recent arrival of others, considerable outreach may be necessary to inform citizens of the process. Again, techniques for providing this level of outreach may be found within the community impact assessment approach. The aim, however, is to use the techniques to identify ways to engage the communities.

Community Outreach Resources

In our research for this project, one of the best models for identifying and understanding the issues was found in public housing efforts. Specifically, some of the approaches identified in "Community Building in Public Housing: Ties That Bind People and Their Communities" provide both insights and opportunities. (The housing industry was targeted specifically because overcrowding was an issue in many of the target areas. Also, Hurricane Andrew and its effects may have been more devastating and long-term for those target areas affected.) A number of insights and opportunities are discussed below. A key component is a holistic

approach, like community impact assessment. Another element that the two share is the opportunity to *improve* communities.

Community Outreach Suggestions

ESTABLISH TIES WITH LOW-INCOME AND MINORITY COMMUNITIES BEFORE TRANSPORTATION PLANNING AND PROJECT DEVELOPMENT BEGINS.

This provides an opportunity to establish trust with communities. It also provides avenues for information dissemination once the project begins. Methods of establishing ties may include:

- ▶ Information-only presentations at non-transportation forums;
 - ▶ Tailor presentation to communities, e.g., senior centers for older populations; brochures at daycare centers in younger communities; use "teach-ins" and "read-ins" at area schools; churches, etc.
 - ▶ Outreach information can advise communities of their role in the transportation planning and project development process.
- ▶ Work with other organizations to disseminate outreach information;
- ▶ Many low-income and minority communities visit human service agencies. Information on the role of citizens in the transportation planning and project development process may be made available.
- ▶ Look for opportunities to build in transportation information in outreach efforts of other agencies.

DEVELOP OUTREACH MATERIALS THAT ADVISE COMMUNITIES OF THEIR ROLE IN TRANSPORTATION PLANNING AND PROJECT DEVELOPMENT

- ▶ The Civic Practices Network (See Attachment II) has numerous tools available for outreach. Some of the key elements include:

Materials describe the communities as partners in the process.

In "A Guide to Ethnic Minority Neighborhood Outreach," the American Health Decisions posits a "Golden Rule for Neighborhood Outreach"

Neighborhood meetings involving local people should employ their leaders, on their territory, with their customs, speaking in their language about their problems (1995).

- ▶ Work through existing neighborhood organizations and networks

- ▶ Develop an in-house outreach team. As contacts are developed in minority and impoverished communities, add these members to the team.
- ▶ Develop an outreach plan.

The outreach plan may differ from project to project, however, there are some basic elements that can be included in all plans. In addition, there are some ground rules that are good to consider when working with new participants in the planning process. These include understanding that a dialogue is being established with the neighborhood – many people will not be comfortable with pollsters and surveys. Nor can a *spokesperson* be relied upon to present the *neighborhood's* views. A clear project idea, desired change, and team goal also are needed. Plan elements may include:

- ▶ Identify and use of neighborhood “door openers” to establish contacts. (“Door openers” are considered ambassadors, not “spokespersons.” They help the project team identify opportunities to talk with the neighborhood.)
- ▶ Develop ease in talking with and listening to neighborhoods;
- ▶ Anticipate questions and prepare answers; and
- ▶ Ways to sustain communication. (This may include an advisory board that lasts throughout the project or other methods that the neighborhood identifies.)

USING THE CENSUS OR OTHER INFORMATION SOURCES, TARGET PUBLIC SERVICE ANNOUNCEMENTS, INFORMATION BULLETINS, AND OTHER FORUMS

- ▶ Many low-income and minority citizens use public transportation. Work with the local transportation providers to disseminate information.
- ▶ Information dissemination also may be mode-specific. For example, written information may be appropriate for transit. Public service announcements, presentations, and etcetera targeted to specific markets may be appropriate for carpools, vanpools, and single occupant vehicles (SOVs).
- ▶ Some of the principles of marketing, particularly those related to social marketing may be applicable.
 - ▶ Work with communities where they are.
 - ▶ African Americans spend almost three hours per week on religious activities; churches may provide a point of introduction.
 - ▶ Persons of Hispanic origin and African Americans spend more than 20 hours per week watching television. Targeted public service announcements, local news and other programs can be used.
 - ▶ Establish trust.

Being Connected and Responsive

As discussed earlier, there is increasing advocacy for transportation planners to view the public as a partner in the planning process. Community impact assessment provides planners with the expertise to analyze the impacts of transportation actions. Outreach plans inform the public of their role in the partnership. After engaging the public as a partner, however, it is important to recognize the values of the community and incorporate these into the planning process. Again as mentioned earlier, this is not a neat and tidy process.

Given the historical disenfranchisement of some low-income and minority communities, some proposed transportation actions may result in perceived or actual cumulative impacts. The need to offset additional impacts on one community while meeting the mobility needs of the greater community may be difficult at best. Within the community impact assessment process, alternative selection may require avoidance, mitigation, or minimization of the transportation impacts. An additional alternative may include community enhancement. (These alternatives are available in all types of community impact assessment whether working with low-income or minority communities.) The issue is working with the communities to identify the appropriate alternative. Some of the techniques from conflict resolution or conciliation may be useful.

Conciliation

The Community Board of San Francisco has developed "The Conciliation Handbook" which is used by communities to bring together different groups in the area to resolve conflicts. The Board believes that the Handbook can be used to "...promote conciliation as a vehicle for empowerment, more effective justice systems, and participatory democracy. The Handbook rests on five principles:

- ▶ Voluntariness - the right of participants to enter freely into agreements reached in the process;
- ▶ Informed consent - participants' right to information about the process, other options, and resources;
- ▶ Self-determination - the ability and the right to define issues, needs, and solutions and determine the outcome of the process.
- ▶ Impartiality - participants' right to a process that serves everyone fairly and staff free from bias or favoritism; and
- ▶ Confidentiality - information received from participants kept within the Community Boards. Exceptions to confidentiality are agreed upon before consent (1993:2-3).

Community board staff and conciliators work to bring different segments of the community to resolve differences. The program began in San Francisco in 1976 and has been used by thousands of citizens. The conciliation process is usually

initiated by at least one person involved in a dispute. Referrals also may come from human service agencies, the court systems, and public and private organizations. Participation is voluntary. The Community Board states that almost 90 percent of their sessions result in “a better understanding between the parties and the resolution of the dispute.” Selected sections of the Handbook are available through the Civic Practices Network.

Building Consensus

The Consensus Organizing Institute (COI) has developed “The Consensus Organizing Model.”

By taking practical steps that rely on careful analysis and planning rather than rhetoric or false promises; by carefully crafting the relationships necessary to make progress on important issues; by seeking pragmatic solutions based on the common self interest of the people and institutions connected with a community; by forming, surprising, dynamic partnerships between private and public sector leaders and community groups; by providing effective ways for individuals to use and develop their own skills and creativity on behalf of their communities; and by repeatedly succeeding at positioning people to make genuine, beneficial change on important issues . . . (1998:1-2).

Among its national efforts, COI trained community organizers and provided strategic advice to six Palm Beach County, Florida, community development corporations. The corporations were formed by COI staff while they were members of the Local Initiative Support Corporation Development Team. One of the benefits of the COI model is the opportunity for economic development, a boon to low-income communities. Information about COI also is available through the Civic Practices Network.

“Adjusted Winner” or Fair Division

The concept of “adjusted winner” or fair division arises out of the fields of political science and mathematics. The concept has been described as a means of “. . . efficient conflict resolution rather than protracted litigation” (1995). Fair division provides a method of dividing goods among groups who may have different values. In an example of fair division, representatives of two or more groups secretly rank the value of the issues in question. For our purposes, a community to be impacted might rank a playground as more important than a proposed corridor widening. The larger community might desire the corridor widening, placing lesser importance on the playground. In our hypothetical situation, a representative of each group or each group collectively, ranks the issues, secretly.

A mediator then uses those lists [of issues] to figure out who gets what, according to their own [the groups'] stated preferences. This method of declaring one's values, carried out in secret, doesn't lend itself to posturing, bluffs, and threats. Instead, . . . it allocates the items in a way that maximizes satisfaction for all parties (1995).

Steven Brams, a political scientist at New York University, and Alan Taylor, a mathematician at Union College have worked on this procedure since 1993. Their practical applications are discussed in the book, "Fair Division: from Cake-cutting to Dispute Resolution." Some of the original application of games theory to this type of political problem was begun by Hugo Steinhaus in Poland during World War II. While the concept may seem bounded in lofty theory, Steinhaus, Brams, and Taylor all have sought practical applications. Although the process is oversimplified in our example, the potential for fair or envy-free division has been advanced as a possible tool in the resolution of environmental justice issues.

Marilyn Ababio, Sunshine Environmental Services, and Michelle Depasse, New York City Environmental Justice Alliance, used the concept of "adjusted winner" in working with communities in New York City and US DOT regarding congestion pricing. Ms. Ababio gave this description of the concept at the 1996 African-American Mobility Symposium.

Our procedure shows us, if we follow certain rules, I cut , you choose, the two halves can add up to more than a whole. Not in size but to their subjective value to each player. Now this is a new concept and it is a diversion from the educational process that we have experienced at school where we are asked for the right answer. This concept says that we should ask for what we want, what we value. When you sit at a computer, you're asked to make choices . . . If we take a look at the procedure with four players, we will note that individuals with special needs, do not value the same things that others do. Therefore, often the further apart people are in terms in what they value, the easier it is to divide goods or services. The second concept is equity or fairness. In a roundtable setting, we divide participants in two groups of players. Everyone works to flush out all of the issues around, let's say, a transportation project. Once all of the issues are identified, the two groups of players receive a hundred points each. They then separate and discuss to decide how many points to give each issue. In other words, they decide what they value the most and when the players return, their point allocations are used in a mathematical algorithm to determine winners. But this is not the good part, the good part is that if one group gets more then the other, it has to give back on issues until both players have exactly the same amount of points. We call this procedure "Adjusted Winner." It's very popular because it has certain properties. It has envy-freeness, equability, efficiency and strategy-proofness...Envy-freeness is the idea that neither party will envy the items that the other party receives because it will think

that the value of its item is more than fifty percent of the total based on the fact that they want these issues. Efficiency, both parties cannot benefit by a swap of items. If one party does better, the other must do worst. Equability, each player will think that the value it receives is greater by the same amount over fifty percent as the value the other party receives. And strategy-proofness, truthfulness, it doesn't pay to lie in this game. Truthfulness is the best strategy in the "Adjusted Winner" game. The pay off is not affected by deviating from truthfulness.

Closing

This technical memorandum and project focused on the general effects of transportation planning and project development on low-income and minority communities. A more in-depth project, "Historical Impacts of Transportation Projects in the Overtown Community," also funded by the Miami-Dade MPO provided greater detail on the effect of transportation actions to that community and the County. This memorandum generalizes the experiences of low-income and minority residents in the 23 communities. Several approaches for identifying community goals and values and working with communities are discussed.

The methods and techniques discussed as part of community impact assessment (CIA) were discussed in this memorandum and in a two-day workshop held in Miami, 23 and 24 March 1998. A list of workshop participants is shown in Attachment IV. CIA is viewed by many transportation professionals as a means of achieving the goals of two federal initiatives: sustainable development and livable communities.

The President's Council on Sustainable Development (PCSD) has issued recommendations that have been adopted by FHWA as part of its guidance on CIA. The following were included in the PCSD's Energy and Transportation Task Force recommendations for the reauthorization ISTEA:

- ▶ The shift in focus of funding from new construction to managing and maintaining existing transportation systems.
- ▶ Greatly strengthened local planning and requirements such that a broader array of concerns be considered, such as air quality, the environment, social equity, land use, energy efficiency and economic development.
- ▶ The ability of states to shift a portion of funds from highway projects to other modes.
- ▶ Aspects that promote the development of integrated, multimodal transportation systems.
- ▶ Greater public participation in the decision-making process.

The Livable Communities Initiative is fostered Federal Transit Administration. Its objectives include:

- ▶ Strengthening the link between transit planning and community planning, including land use policies and urban design supporting the use of transit and ultimately providing physical assets that better meet community needs
- ▶ Stimulating increased participation by community organizations and residents, minority and low-income

residents, small and minority businesses, persons with disabilities and the elderly in the planning and design process

- ▶ Increasing access to employment, education facilities and other community destinations through high quality, community-oriented, technologically innovative transit services and facilities
- ▶ Leveraging resources available through other Federal, State and local programs.

These two visions of the future of transportation planning and project development are anticipated to be carried forward in the implementation of the Transportation Equity Act for the 21st Century of 1998. A national workshop on community impact assessment will be convened in September 1998 in Tampa, Florida.

Endnotes

1. The terms "citizen activism," "citizen participation," "public participation," and "public involvement" may appear to be used interchangeably in the early parts of this memorandum. The intent is to show an evolution of the role of citizens in the decisionmaking process and the changes in our thoughts about this role.
2. The qualifying phrase "by statute" is added because of the enactment and enforcement of "Jim Crow" legislation which served to restrict the majority African American males who resided primarily in the South from exercising this right until the Voting Rights Act of 1965. Hence, one of the basic forms of public participation was denied this group for most of the history of this country.
3. The Poor People's Campaign (or Poor People's March), was announced by by Dr. Martin L. King, Jr., in the fall of 1967 to bring awareness of the economic poverty experienced by people of all ethnic and racial backgrounds in the United States. The march was proposed to take place in 1968, however, King was assassinated in April of that year. The march never took place.
4. The terms "people of African descent" and "Black" are used in this writing to signal descriptive, political, and cultural identities for a subgroup of the U.S. population that trace their biological ancestry to the continent of Africa, particularly those descendants of the transatlantic slave trade period of the African Diaspora. The terms also extend beyond phenotypical characteristics to include political and other cultural adaptation strategies. The experiences of Blacks in the U. S. have contributed to a specific *racial* identity. Within the racial group, however, there may be subgroup or *ethnic* differences. Yelvington states "... 'German Americans' and 'Anglo-Americans' in the United States may agree that they share 'racial' similarities but argue that they are 'ethnically' different. The same may hold for 'African Americans' and 'black' Caribbean migrants in Miami" (1995:25).
5. Coconut Grove was not originally part of the City of Miami. Coconut Grove is older than the City of Miami.
6. The theory of internal colonialism would suggest that the target areas were controlled by the larger community within which they are situated, exchanging their labor in the early years for other resources. As the need for or value of their labor decreases, the need for public "investment," financial assistance, or other intervention in the areas increases. The areas are dependent upon the larger community. Weingrod also describes such neighborhoods as "'administered communities' – a community whose social, cultural, economic and political development is directed by outside agencies . . . planning, external control, and paternalism characterize this type of community (1966:viii, *passim*).

7. With the enactment of the Transportation Equity Act for the 21st Century (TEA 21), it is anticipated that the major investment study (MIS) process will be streamlined. The "spirit" of MIS is expected to remain intact. Within this context, community impact assessment (CIA) approach is expected to facilitate the MIS process. CUTR has been working with the Florida Department of Transportation, Environmental Management Office, and the Federal Highway Administration, Office of Environment and Planning since 1997 to incorporate CIA techniques into the transportation planning and project development process.

References cited

- Brams, Steven J. and Alan D. Taylor
1996 Fair Division: from Cake-cutting to Dispute Resolution. New York: Cambridge University Press.
- Bullard, Robert D. and Beverly H. Wright
1993 Environmental Justice for All: Community Perspectives on Health and Research Needs," Toxicology and Industrial Health, Vol. 9, No. 5.
- Caplovitz, David
1967 The Poor Pay More. New York: The Free Press.
- Catanese, Anthony J.
1984 The Politics of Planning and Development. Beverly Hills: Sage Publications, Inc.
- Cayer, N. Joseph
1989 Public Personnel and Labor Relations. In Handbook of Public Administration. Jack Rabin, W. Bartley Hildreth, and Gerald J. Mille, eds. Pp. 277-329. New York: Marcel Dekker.
- City of Miami
n.d. Allapattah Community Development Target Area Neighborhood Planning Program. Miami: Planning, Building, and Zoning Department.
n.d. Coconut Grove Community Development Target Area Neighborhood Planning Program. Miami: Planning, Building, and Zoning Department.
n.d. Downtown Community Development Target Area Neighborhood Planning Program. Miami: Planning, Building, and Zoning Department.
n. d. Edison/Little River Community Development Target Area Neighborhood Planning Program. Miami: Planning, Building, and Zoning Department.
n. d. La Pequeña Habana Community Development Target Area Neighborhood Planning Program. Miami: Planning, Building, and Zoning Department.
n. d. Model City Community Development Target Area Neighborhood Planning Program. Miami: Planning, Building, and Zoning Department.
n. d. Overtown Community Development Target Area Neighborhood Planning Program. Miami: Planning, Building, and Zoning Department.
n. d. Wynwood Community Development Target Area Neighborhood Planning Program. Miami: Planning, Building, and Zoning Department.
- Cogan, Arnold, Sumner Sharpe, and Joe Hertzberg
1986 Citizen Participation. In The Practice of State and Regional Planning. Frank So, ed. Pp. 283-305. Chicago: International City County Management Association.
- Forkenbrock, David J. and Lisa A. Schweitzer
1997 Environmental Justice and Transportation Investment Policy. Iowa City: University of Iowa, Public Policy Center.
- Forstall, Richard L. ed.
1995 Florida Population of Counties by Decennial Census: 1900 to 1990. Washington, DC: U. S. Bureau of the Census.
- Hanson, Susan
1995 The Geography of Urban Transportation. New York: The Guilford Press.
- Hays, Samuel P.

- 1964 The Politics of Municipal Reform. *Pacific Northwest Quarterly*:157-169.
Hill, Eric T. and Beverly G. Ward
- 1998 Geographic Information Systems as a Tool for Examining Environmental Equity Issues in Public Transportation. Tampa: Center for Urban Transportation Research, University of South Florida.
- Hively, Will
- 1995 Dividing the Spoils. *Discover*.
- Ho, Christine G. T.
- 1995 The Twin Processes of Racialization and Ethnification Among Afro-Trinidadian Immigrants in Los Angeles. *Caribbean Quarterly*, Vol 41, Nos. 3 & 4.
- Hott, Larry and Tom Lewis
- 1997 Divided Highways: the Interstates and the Transformation of American Life. Washington, D.C: Hott Production of Florentine Films and Tom Lewis. Howard/Stein-Hudson Associates, Inc. and Parsons Brinckerhoff Quade and Douglas
- 1996 Public Involvement Techniques for Transportation Decision-making. Electronic Version of Publication No. FHWA-PD-96-031 HEP-30/9-96/(4M)QE. Washington, DC: US DOT, Federal Highway Administration and Federal Transit Administration.
- Jahoda, Gloria
- 1984 Florida: A History. New York: W. W. Norton and Company.
- Jordan, Winthrop D.
- 1976 A Sense of Success: Heredity, Intelligence, and Race in American History and Culture. *In Anthropology and the Public Interest*. Peggy Reeves Sanday, ed. Pp. 37-52. New York: Academic Press.
- Levy, John M.
- 1988 Contemporary Urban Planning. Englewood Cliffs, NJ: Prentice-Hall, Inc.
- Lopez, Kimberle S.
- 1998 Internal Colonialism in the Testimonial Process: Elena Poniatowska's *Hasta No Verte Jesús Mío*. Symposium, Volume 52, Number 1.
- Mahowald, Steve
- 1997 Citizen Participation in the Public Decision-making and Transit Planning Process: Its Historical Background, Position in Theoretical Models, and Current Issues and Techniques. A Report for Urban and Regional Studies 88-694, Alternate Plan Paper. Mankato, MN: Mankato State University.
- Metropolitan Dade County Planning Department
- 1995 Metro-Dade Community Development Target Areas: 1990 Census Profile. Miami: Research Division.
- 1993 Coconut Grove Target Area Profile. Miami: Research Division.
- 1993 Florida City Target Area Profile. Miami: Research Division.
- 1993 Goulds Target Area Profile. Miami: Research Division.
- 1993 Leisure City Target Area Profile. Miami: Research Division.
- 1993 Melrose Target Area. Miami: Research Division.
- 1993 Model City Target Area. Miami: Research Division.
- 1993 Naranja Study Area Profile. Miami: Research Division.
- 1993 Opa-Locka Target Area. Miami: Research Division.
- 1993 Perrine Target Area Profile. Miami: Research Division.
- 1993 Richmond Heights Study Area Profile. Miami: Research Division.
- 1993 South Miami Target Area Profile. Miami: Research Division.
- 1993 West Little River Target Area. Miami: Research Division.

- Muir, Helen
 1990 Miami, U.S.A. Miami: The Pickering Press, Inc.
- National Transit Institute
 1995 Training Program for Major Investment Studies. Rutgers University.
- So, Frank S., ed.
 1988 Planning Agency Management. *In The Practice of Local Government Planning*, 2d ed. Pp. 401-434. Washington, DC: International City County Management Association.
- Solnit, Albert
 1987 The Job of the Planning Commissioner. Chicago: APA Planners Press.
- Surface Transportation Policy Project
 1997 Community Empowerment Program: Nurturing Public Involvement in the Transportation Planning Process. Report Number FTA-DC-26-6026-97-1. Washington, DC: Federal Transit Administration, US Department of Transportation.
- Takaki, Ronald
 1990 Iron Cages: Race and Culture in 19th-Century America. New York: Oxford University Press.
- Thomas, Nicholas
 1994 Colonialism's Culture: Anthropology, Travel and Government. Princeton, NJ: Princeton University Press.
- U. S. Department of Transportation
 1996 Community Impact Assessment: A Quick Reference for Transportation. FHWA-PD-96-036. Washington, DC.
- U. S. Environmental Protection Agency, Office of Federal Activities
 1997 Interim Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses. Washington, DC: EPA.
- Weingrod, Alex
 1996 Reluctant Pioneers: Village Development in Israel. Ithaca, NY: Cornell University Press.
- Yelvington, Kevin A.
 1992 Urban Renewal and "Negro Removal": Redevelopment in Overtown, Miami. A paper presented to the American Anthropological Association 91st Annual Meeting. San Francisco.
- 1995 Producing Power: Ethnicity, Gender, and Class in a Caribbean Workplace. Philadelphia: Temple University Press.

Attachment I

Bibliography

- AASHTO Standing Committee on the Environment.
1997 Environmental Justice/Public Participation. ETAP Newsletter, Volume 97-1.
- Arendt, R., et alia
1994 Rural by Design. Chicago: American Planning Association Planning Press.
- Bass, R. and A. Herson
1993 Mastering NEPA: A Step-by-Step Approach. Solano Press.
- Becker, H.
1996 Demographic Impact Assessment in Vanclay, F. and D. Bronstein, eds. Environmental and Social Impact Assessment, New York, NY: John Wiley and Sons.
- Bell, D.
1997 Pollution Racism Suit Heads to Trial: Groups Fight Incinerator and State Policies. Detroit Free Press, Monday April 21, Section B.
- Berry, Brian J. L., Sandra J. Parsons, Rutherford H. Platt.
1968 The Impact of Urban Renewal on Small Business: The Hyde Park-Kenwood Case. Chicago, IL: Center for Urban Studies, University of Chicago.
- Brams, Steven J. and Alan D. Taylor
1996 Fair Division: from Cake-cutting to Dispute Resolution. New York: Cambridge University Press.
- Buffington, Jesse L., and Marie T. Wildenthal
1994 Estimated Impact of Widening U.S. Highway 80 (Marshall Avenue) in Longview, Texas, Transportation Research Record 1450. Washington, DC: Transportation Research Board.
- Bullard, Robert D. and Beverly H. Wright
1993 Environmental Justice for All: Community Perspectives on Health and Research Needs," Toxicology and Industrial Health, Vol. 9, No. 5.
- Burchell, R., D. Listokin, and W. Dolphin.
1985 The New Practitioner's Guide to Fiscal Impact Analysis. New Jersey: Rutgers University, Center for Urban Policy Research.
- Burdge, R.J.
1990 Social Impact Assessment and the Public Involvement Process Environmental Impact Assessment Review 10.1/2.
- CALTRANS.
1997 Community Impact Assessment, CALTRANS Environmental Handbook Volume 4. Sacramento: California Department of Transportation.
- Canter, L., B. Atkinson, and F.L. Lesitritz, eds.
1985 Impact of Growth: A Guide for Socio-Economic Impact Assessment and Planning. Celsea, MI: Lewis.
- Catanese, Anthony J.
1984 The Politics of Planning and Development. Beverly Hills: Sage Publications, Inc.

- Cogan, Arnold, Sumner Sharpe, and Joe Hertzberg
 1986 Citizen Participation. *In* The Practice of State and Regional Planning. Frank So, ed. Pp. 283-305. Chicago: International City County Management Association.
- Copps, D.
 1995 Views from the Road: A Community Guide for Assessing Rural Historic Landscapes. Island Press.
- Dale, Allan P. and Marcus B. Lane
 1994 Strategic Perspectives Analysis: A Procedure for Participatory and Political SIA. Society and Natural Resources, Vol. 7, No. 3.
- Dandekar, H.
 1982 The Planner's Use of Information, Washington D.C.: APA Planners Press.
- DeLeaire, Robert N.
 1994 The Inner-City Elderly: How Effective Are Their Support Structures? New York, NY: Garland Publishing, Inc.
- De Solminihaç, Herman E., and Robert Harrison
 1993 Analyzing Effects of Highway Rehabilitation on Businesses. Transportation Research Record 1395:137-143.
- Episcopal Church, The
 1996 National Dialogue on Anti-Racism. New York: The Episcopal Church.
- Federal Highway Administration
 1976 Social and Economic Effects of Highways. Washington, DC: Government Printing Office.
 1997 Flexibility in Highway Design, Washington, DC: Government Printing Office.
- Forkenbrock, David J., and Norman S. J. Foster
 1990 Economic Benefits of a Corridor Highway Investment. Transportation Research, Vol. 24A, No. 4:303-312.
- Forkenbrock, David J. and Lisa A. Schweitzer
 1997 Environmental Justice and Transportation Investment Policy. Iowa City: University of Iowa, Public Policy Center.
- General Administration Office
 1995 Report to the Chairman, Committee on Environment and Public Works, Scenic Byways: States' Use of Geometric Design Standards, GAO/RCED-95-243.
- Garnham, Harry Launce
 1985 Maintaining the Spirit of Place. Mesa, AZ: PDA Publishers Corporation.
- Godschalk, D.R., et al.
 1994 Pulling Together: A Planning and Development Consensus-Building Manual. Washington DC: Urban Land Institute in cooperation with the Program for Community Problem Solving.
- Hanson, Susan
 1995 The Geography of Urban Transportation. New York: The Guilford Press.
- Hays, Samuel P.
 1964 The Politics of Municipal Reform. Pacific Northwest Quarterly:157-169.
- Heder, Lajos.
 1980 Aesthetics in Transportation. . Washington, DC: U.S. Department of Transportation and Government Printing Office.

- Hill, Eric T. and Beverly G. Ward
 1998 Geographic Information Systems as a Tool for Examining Environmental Equity Issues in Public Transportation. Tampa: Center for Urban Transportation Research, University of South Florida.
- Howard/Stein-Hudson Associates, Inc. and Parsons Brinckerhoff Quade and Douglas
 1996 Public Involvement Techniques for Transportation Decision-making. Electronic Version of Publication No. FHWA-PD-96-031 HEP-30/9-96/(4M)QE. Washington, DC: US DOT, Federal Highway Administration and Federal Transit Administration.
- Hummon, David M.
 1992 Community Attachment: Local Sentiment and Sense of Place. *In Place Attachment*. Irwin Altman and Setha M. Low, eds. Pp. 253-278. New York, NY: Plenum Press.
- Hustedde, R., R. Shaffer, and G. Pulver.
 1984 Community Economic Analysis: A How To Manual, North Central Regional Center for Rural Development. Iowa City: Iowa State University.
- Klosterman, R., R. Brail, and E. Bossard. Spreadsheet Models for Urban and Regional Analysis. 1993.
- Lane, Marcus B., Helen Ross, and Allan P. Dale.
 1997 Social Impact Research: Integrating the Technical, Political, and Planning Paradigms. *Human Organization* Vol. 56, No. 3:302-310.
- Leistritz, F.L.
 1996 Economic and Fiscal Impact Assessment," in Vanclay, F. and D. Bronstein, eds. *Environmental and Social Impact Assessment*, New York, NY: John Wiley & Sons,
- Levy, John M.
 1988 Contemporary Urban Planning. Englewood Cliffs, NJ: Prentice-Hall, Inc.
- Lynch, Kevin
 1960 Image of the City. Cambridge: Massachusetts Institute of Technology Press.
- Maguire, M., R. Foote, and F. Vespe
 1997 Beauty as Well as Bread. *Journal of the American Planning Association* Vol. 63, No. 3:317-328.
- Mahowald, Steve
 1997 Citizen Participation in the Public Decision-making and Transit Planning Process: Its Historical Background, Position in Theoretical Models, and Current Issues and Techniques. A Report for Urban and Regional Studies 88-694, Alternate Plan Paper. Mankato, MN: Mankato State University.
- McLean M. and K. Voytek
 1992 Understanding Your Economy: Using Analysis to Guide Local Strategic Planning. Washington, DC: APA Planners Press.
- National Transit Institute
 1996 Public Involvement in Transportation Decisionmaking, Short Course Materials. New Brunswick, NJ: Rutgers University.
- Qadeer, Mohammad A
 1997 Pluralistic Planning for Multicultural Cities: The Canadian Practice. *Journal of the American Planning Association* Vol. 63, No.4:481-494.
- Riley, Robert
 1992 Attachment to the Ordinary Landscape. *In Place Attachment*. Irwin Altman and Setha M. Low, eds. pp. 13-35. New York, NY: Plenum Press.

- So, Frank S., ed.
1988 Planning Agency Management. *In* The Practice of Local Government Planning, 2d ed. Pp. 401-434. Washington, DC: International City County Management Association.
- Solnit, Albert
1987 The Job of the Planning Commissioner. Chicago: APA Planners Press.
- Stoffle, Richard et. al.
1981 Establishing Native American Concerns in a Social Impact Assessment. Social Impact Assessment 65/66:4-9.
- Surface Transportation Policy Project
1997 Community Empowerment Program: Nurturing Public Involvement in the Transportation Planning Process. Report Number FTA-DC-26-6026-97-1. Washington, DC: Federal Transit Administration, US Department of Transportation.
- Susskind, L. and P. Field
1996 Dealing with an Angry Public. New York, NY: Free Press.
- U. S. Department of Transportation
1996 Community Impact Assessment: A Quick Reference for Transportation. FHWA-PD-96-036. Washington, DC.
- U. S. Environmental Protection Agency, Office of Federal Activities
1997 Interim Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses. Washington, DC: EPA.
- Yaro, R.
1988 Dealing with Change in the Connecticut River Valley: A Design Manual for Conservation and Development. Amherst, MA: Lincoln Institute of Land Policy and the Environmental Law Foundation.

Attachment II: World Wide Websites

Association of Metropolitan Planning Organizations,
<http://server.idi.net/narc/ampo/mposnet.html>

Center of Excellence for Sustainable Development, <http://www.sustainable.doe.gov/>

The Center for Livable Communities, <http://www.lgc.org/clc/welcome.html>

Civic Practices Network, <http://www.cpn.org/>

Committee on Anthropology in Environmental Planning,
<http://www.seattle.battelle.org/services/e&s/anthro/caeppage.htm>

Divided Highway; <http://www.pbs.org/weta/dividedhighways/>

Environmental Inequality, <http://www.cruzio.com/~meuser/EI/index.html>

Environment & Society, <http://www.seattle.battelle.org/services/e&s/e&shome.htm>

Environmental Protection Agency (EPA) Transportation Partners,
<http://www.epa.gov/oppe/tp/>

EPA Office of Policy, Planning and Evaluation, Transportation Group,
<http://www.epa.gov/oppe/transpo/>

Florida Environmental Resource Listings, <http://envirolink.org/florida/resources.html>

Guide to Florida Environmental Issues and Information,
<http://www.arch.usf.edu/FCFGuide/contents.htm>

Institute for Global Communications, <http://www.igc.org/igc/>

National Environmental Justice Advisory Council, <http://www.prcemi.com/nejac/>

National Transit Library, <http://www.fta.dot.gov/ntl/>

OECA's Office of Environmental Justice, <http://es.inel.gov/oeca/oelj.html>

Second Nature, <http://www.2nature.org/>

Surface Transportation Policy Project, <http://www.transact.org/stpp.htm>

Sustainable Economic & Environmental Knowledge, <http://www.mapcruzin.com/>

Transit City, USA; <http://www.fta.dot.gov/transcity/>

Transportation: Environmental Justice and Social Equity Conference Proceedings,
<http://www.transact.org/cf/indexcf.htm>

Thurgood Marshall School of Law, Environmental Justice Clinic,
[http:// www.tsulaw.edu/enviro/viron.htm](http://www.tsulaw.edu/enviro/viron.htm)

University of Iowa, Public Policy Center,
[http://newton.uiowa.edu/~vpr/research/ organize/pubpoli.htm](http://newton.uiowa.edu/~vpr/research/organize/pubpoli.htm)

The Urban Institute, <http://www.urban.org>

The Urban Land Institute, <http://www.uli.org>

Attachment III: Selected Federal Regulations, Statutes, Policies, Technical Advisories, and Orders

23 USC 109(h), Federal-Aid Highway Act of 1970

23 CFR 771, Environmental Impact and Related Procedures

Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations

FHWA Environmental Policy Statement 1994: a Framework to Strengthen the Linkage Between Environmental and Highway Policy

U.S.C. TITLE 23 - HIGHWAYS

CHAPTER 1 - FEDERAL-AID HIGHWAYS

§ 109. Standards

- (h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

- (1) air, noise, and water pollution;
- (2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;
- (3) adverse employment effects, and tax and property values losses;
- (4) injurious displacement of people, businesses and farms; and
- (5) disruption of desirable community and regional growth. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

CFR TITLE 23--HIGHWAYS

PART 771--ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Sec. 771.101 Purpose.

This regulation prescribes the policies and procedures of the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA) for implementing the National Environmental Policy Act of 1969 as amended (NEPA), and the regulation of the Council on Environmental Quality (CEQ), 40 CFR parts 1500 through 1508. This regulation sets forth all FHWA, UMTA, and Department of Transportation (DOT) requirements under NEPA for the processing of highway and urban mass transportation projects. This regulation also sets forth procedures to comply with 23 U.S.C. 109(h), 128, 138, and 49 U.S.C. 303, 1602(d), 1604(h), 1604(i), 1607a, 1607a-1 and 1610.

Sec. 771.103 [Reserved]

Sec. 771.105 Policy.

It is the policy of the Administration that:

(a) To the fullest extent possible, all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable environmental requirements be reflected in the environmental document required by this regulation.¹

(b) Alternative courses of action be evaluated and decisions be made in the best overall public interest based upon a balanced consideration of the need for safe and efficient transportation; of the social, economic, and environmental impacts of the proposed transportation improvement; and of national, State, and local environmental protection goals.

(c) Public involvement and a systematic interdisciplinary approach be essential parts of the development process for proposed actions.

(d) Measures necessary to mitigate adverse impacts be incorporated into the action. Measures necessary to mitigate adverse impacts are eligible for Federal funding when the Administration determines that:

(1) The impacts for which the mitigation is proposed actually result from the Administration action; and

(2) The proposed mitigation represents a reasonable public expenditure after considering the impacts of the action and the benefits of the proposed mitigation measures. In making this determination, the Administration will consider, among other factors, the extent to which the proposed measures would assist in complying with a Federal statute, Executive Order, or Administration regulation or policy.

(e) Costs incurred by the applicant for the preparation of environmental documents requested by the Administration be eligible for Federal assistance.

(f) No person, because of handicap, age, race, color, sex, or national origin, be excluded from participating in, or denied benefits of, or be subject to discrimination under any Administration program or procedural activity required by or developed pursuant to this regulation. [52 FR 32660, Aug. 28, 1987; 53 FR 11065, Apr. 5, 1988]

¹FHWA and UMTA have supplementary guidance on the format and content of NEPA documents for their programs. This includes a list of various environmental laws, regulations, and Executive orders which may be applicable to projects. The FHWA Technical Advisory T6640.8A, October 30, 1987, and the UMTA supplementary guidance are available from the respective FHWA and UMTA headquarters and field offices as prescribed in 49 CFR part 7, Appendices D and G.

Sec. 771.107 Definitions.

The definitions contained in the CEQ regulation and in Titles 23 and 49 of the United States Code are applicable. In addition, the following definitions apply.

(a) Environmental studies. The investigations of potential environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document.

(b) Action. A highway or transit project proposed for FHWA or UMTA funding. It also includes activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(c) Administration action. The approval by FHWA or UMTA of the applicant's request for Federal funds for construction. It also includes approval of activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(d) Administration. FHWA or UMTA, whichever is the designated lead agency for the proposed action.

(e) Section 4(f). Refers to 49 U.S.C. 303 and 23 U.S.C. 138.²

Sec. 771.109 Applicability and responsibilities.

(1) The provisions of this regulation and the CEQ regulation apply to actions where the Administration exercises sufficient control to condition the permit or project approval. Actions taken by the applicant which do not require Federal approvals, such as preparation of a regional transportation plan are not subject to this regulation.

(2) This regulation does not apply to, or alter approvals by the Administration made prior to the effective date of this regulation.

(3) Environmental documents accepted or prepared by the Administration after the effective date of this regulation shall be developed in accordance with this regulation.

(b) It shall be the responsibility of the applicant, in cooperation with the Administration to implement those mitigation measures stated as commitments in the environmental documents prepared pursuant to this regulation. The FHWA will assure that this is accomplished as a part of its program management responsibilities that include reviews of designs, plans, specifications, and estimates (PS&E), and construction inspections. The UMTA will assure implementation of committed mitigation measures through incorporation by reference in the grant agreement, followed by reviews of designs and construction inspections.

(c) The Administration, in cooperation with the applicant, has the responsibility to manage the preparation of the appropriate environmental document. The role of the applicant will be determined by the Administration accordance with the CEQ regulation:

(1) Statewide agency. If the applicant is a public agency that has statewide jurisdiction (for example, a State highway agency or a State department of transportation) or is a local unit of government acting through a statewide agency, and meets the requirements of section 102(2)(D) of NEPA, the applicant may prepare the environmental impact statement (EIS) and other environmental documents with the Administration furnishing guidance, participating in the preparation, and independently evaluating the document. All FHWA applicants qualify under this paragraph.

(2) Joint lead agency. If the applicant is a public agency and is subject to State or local requirements comparable to NEPA, then the Administration and the applicant may prepare the EIS and other environmental documents as joint lead agencies. The applicant shall initially develop substantive portions of the environmental document, although the Administration will be responsible for its scope and content.

(3) Cooperating agency. Local public agencies with special expertise in the proposed action may be cooperating agencies in the preparation of an environmental document. An applicant for capital assistance under the Urban Mass Transportation Act of 1964, as amended (UMT Act), is presumed to be a cooperating agency if the conditions in paragraph (c) (1) or (2) of

²Section 4(f), which protected certain public lands and all historic sites, technically was repealed in 1983 when it was codified, without substantive change, as 49 U.S.C. 303. This regulation continues to refer to section 4(f) because it would create needless confusion to do otherwise; the policies section 4(f) engendered are widely referred to as "section 4(f)" matters. A provision with the same meaning is found at 23 U.S.C. 138 and applies only to FHWA actions.

this section do not apply. During the environmental process, the Administration will determine the scope and content of the environmental document and will direct the applicant, acting as a cooperating agency, to develop information and prepare those portions of the document concerning which it has special expertise.

(4) Other. In all other cases, the role of the applicant is limited to providing environmental studies and commenting on environmental documents. All private institutions or firms are limited to this role.

(d) When entering into Federal-aid project agreements pursuant to 23 U.S.C. 110, it shall be the responsibility of the State highway agency to ensure that the project is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless the State requests and receives written Federal Highway Administration approval to modify or delete such mitigation features. [52 FR 32660, Aug. 28, 1987; 53 FR 11065, Apr. 5, 1988, as amended at 62 FR 6873, Feb. 14, 1997]

Sec. 771.111 Early coordination, public involvement, and project development.

(a) Early coordination with appropriate agencies and the public aids in determining the type of environmental document an action requires, the scope of the document, the level of analysis, and related environmental requirements. This involves the exchange of information from the inception of a proposal for action to preparation of the environmental document. Applicants intending to apply for funds should notify the Administration at the time that a project concept is identified. When requested, the Administration will advise the applicant, insofar as possible, of the probable class of action and related environmental laws and requirements and of the need for specific studies and findings which would normally be developed concurrently with the environmental document.

(b) The Administration will identify the probable class of action as soon as sufficient information is available to identify the probable impacts of the action. For UMTA, this is normally no later than the review of the transportation improvement program (TIP) and for FHWA, the approval of the 105 program (23 U.S.C. 105).

(c) When FHWA and UMTA are involved in the development of joint projects, or when FHWA or UMTA acts as a joint lead agency with another Federal agency, a mutually acceptable process will be established on a case-by-case basis.

(d) During the early coordination process, the Administration, in cooperation with the applicant, may request other agencies having special interest or expertise to become cooperating agencies. Agencies with jurisdiction by law must be requested to become cooperating agencies.

(e) Other States, and Federal land management entities, that may be significantly affected by the action or by any of the alternatives shall be notified early and their views solicited by the applicant in cooperation with the Administration. The Administration will prepare a written evaluation of any significant unresolved issues and furnish it to the applicant for incorporation into the environmental assessment (EA) or draft EIS.

(f) In order to ensure meaningful evaluation of alternatives and to avoid commitments to transportation improvements before they are fully evaluated, the action evaluated in each EIS or finding of no significant impact (FONSI) shall:

- (1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
- (2) Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and
- (3) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

(g) For major transportation actions, the tiering of EISs as discussed in the CEQ regulation (40 CFR 1502.20) may be appropriate. The first tier EIS would focus on broad issues such as general location, mode choice, and areawide air quality and land use implications of the major alternatives. The second tier would address site-specific details on project impacts, costs, and mitigation measures.

(h) For the Federal-aid highway program:

- (1) Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C. 128 and 40 CFR parts 1500 through 1508.
- (2) State public involvement/public hearing procedures must provide for:
 - (i) Coordination of public involvement activities and public hearings with the entire NEPA process.

- (ii) Early and continuing opportunities during project development for the public to be involved in the identification of social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.
- (iii) One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid project which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest.
- (iv) Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. Such notice will indicate the availability of explanatory information. The notice shall also provide information required to comply with public involvement requirements of other laws, Executive orders, and regulations.
- (v) Explanation at the public hearing of the following information, as appropriate:
 - (A) The project's purpose, need, and consistency with the goals and objectives of any local urban planning,
 - (B) The project's alternatives, and major design features,
 - (C) The social, economic, environmental, and other impacts of the project,
 - (D) The relocation assistance program and the right-of-way acquisition process.
 - (E) The State highway agency's procedures for receiving both oral and written statements from the public.
- (vi) Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing.
- (3) Based on the reevaluation of project environmental documents required by Sec. 771.129, the FHWA and the State highway agency will determine whether changes in the project or new information warrant additional public involvement.
- (4) Approvals or acceptances of public involvement/public hearing procedures prior to the publication date of this regulation remain valid.
- (i) Applicants for capital assistance in the UMTA program achieve public participation on proposed projects by holding public hearings and seeking input from the public through the scoping process for environmental documents. For projects requiring EISs, a public hearing will be held during the circulation period of the draft EIS. For all other projects, an opportunity for public hearings will be afforded with adequate prior notice pursuant to 49 U.S.C. 1602(d), 1604(i), 1607a(f) and 1607a-1(d), and such hearings will be held when anyone with a significant social, economic, or environmental interest in the matter requests it. Any hearing on the action must be coordinated with the NEPA process to the fullest extent possible.
- (j) Information on the UMTA environmental process may be obtained from: Director, Office of Planning Assistance, Urban Mass Transportation Administration, Washington, DC 20590. Information on the FHWA environmental process may be obtained from: Director, Office of Environmental Policy, Federal Highway Administration, Washington, DC 20590.

Sec. 771.113 Timing of Administration activities.

- (a) (1) The Administration in cooperation with the applicant will perform the work necessary to complete a FONSI or an EIS and comply with other related environmental laws and regulations to the maximum extent possible during the NEPA process. This work includes environmental studies, related engineering studies, agency coordination and public involvement. However, final design activities, property acquisition (with the exception of hardship and protective buying, as defined in Sec. 771.117(d)), purchase of construction materials or rolling stock, or project construction shall not proceed until the following have been completed:
 - (i) The action has been classified as a categorical exclusion (CE), or
 - (ii) A FONSI has been approved, or
 - (iii) A final EIS has been approved and available for the prescribed period of time and a record of decision has been signed;
- (2) For actions proposed for FHWA funding, the FHWA Division Administrator has received and accepted the certifications and any required public hearing transcripts required by 23 U.S.C. 128;

(3) For activities proposed for FHWA funding, the programming requirements of 23 CFR part 450, subpart B, and 23 CFR part 630, subpart A, have been met.

(b) For FHWA, the completion of the requirements set forth in paragraphs (a)(1) and (2) of this section is considered acceptance of the general project location and concepts described in the environmental document unless otherwise specified by the approving official. However, such approval does not commit the Administration to approve any future grant request to fund the preferred alternative.

(c) Letters of Intent issued under the authority of section 3(a)(4) of the UMT Act are used by UMTA to indicate an intention to obligate future funds for multi-year capital transit projects. Letters of Intent will not be issued by UMTA until the NEPA process is completed. [52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

Sec. 771.115 Classes of actions.

There are three classes of actions which prescribe the level of documentation required in the NEPA process.

(a) Class I (EISs). Actions that significantly affect the environment require an EIS (40 CFR 1508.27). The following are examples of actions that normally required an EIS:

- (1) A new controlled access freeway.
- (2) A highway project of four or more lanes on a new location.
- (3) New construction or extension of fixed rail transit facilities (e.g., rapid rail, light rail, commuter rail, automated guideway transit).
- (4) New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility.

(b) Class II (CEs). Actions that do not individually or cumulatively have a significant environmental effect are excluded from the requirement to prepare an EA or EIS. A specific list of CEs normally not requiring NEPA documentation is set forth in Sec. 771.117(c). When appropriately documented, additional projects may also qualify as CEs pursuant to Sec. 771.117(d).

(c) Class III (EAs). Actions in which the significance of the environmental impact is not clearly established. All actions that are not Class I or II are Class III. All actions in this class require the preparation of an EA to determine the appropriate environmental document required.

Sec. 771.117 Categorical exclusions.

(a) Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.

(b) Any action which normally would be classified as a CE but could involve unusual circumstances will require the Administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

- (1) Significant environmental impacts;
- (2) Substantial controversy on environmental grounds;
- (3) Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
- (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

(c) The following actions meet the criteria for CEs in the CEQ regulation (section 1508.4) and Sec. 771.117(a) of this regulation and normally do not require any further NEPA approvals by the Administration:

- (1) Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
- (2) Approval of utility installations along or across a transportation facility.

- (3) Construction of bicycle and pedestrian lanes, paths, and facilities.
 - (4) Activities included in the State's highway safety plan under 23 U.S.C. 402.
 - (5) Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.
 - (6) The installation of noise barriers or alterations to existing publicly-owned buildings to provide for noise reduction.
 - (7) Landscaping.
 - (8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
 - (9) Emergency repairs under 23 U.S.C. 125.
 - (10) Acquisition of scenic easements.
 - (11) Determination of payback under 23 CFR part 480 for property previously acquired with Federal-aid participation.
 - (12) Improvements to existing rest areas and truck weigh stations.
 - (13) Ridesharing activities.
 - (14) Bus and rail car rehabilitation.
 - (15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
 - (16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
 - (17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.
 - (18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.
 - (19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
 - (20) Promulgation of rules, regulations, and directives.
- (d) Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:
- (1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).
 - (2) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
 - (3) Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings.
 - (4) Transportation corridor fringe parking facilities.
 - (5) Construction of new truck weigh stations or rest areas.
 - (6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.
 - (7) Approvals for changes in access control.
 - (8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
 - (9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
 - (10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
 - (11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.

(12) Acquisition of land for hardship or protective purposes; advance land acquisition loans under section 3(b) of the UMT Act.³ Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

(e) Where a pattern emerges of granting CE status for a particular type of action, the Administration will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in paragraph (c) or (d) of this section, as appropriate.[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

Sec. 771.119 Environmental assessments.

(a) An EA shall be prepared by the applicant in consultation with the Administration for each action that is not a CE and does not clearly require the preparation of an EIS, or where the Administration believes an EA would assist in determining the need for an EIS.

(b) For actions that require an EA, the applicant, in consultation with the Administration, shall, at the earliest appropriate time, begin consultation with interested agencies and others to advise them of the scope of the project and to achieve the following objectives: determine which aspects of the proposed action have potential for social, economic, or environmental impact; identify alternatives and measures which might mitigate adverse environmental impacts; and identify other environmental review and consultation requirements which should be performed concurrently with the EA. The applicant shall accomplish this through an early coordination process (i.e., procedures under Sec. 771.111) or through a scoping process. Public involvement shall be summarized and the results of agency coordination shall be included in the EA.

(c) The EA is subject to Administration approval before it is made available to the public as an Administration document. The UMTA applicants may circulate the EA prior to Administration approval provided that the document is clearly labeled as the applicant's document.

(d) The EA need not be circulated for comment but the document must be made available for public inspection at the applicant's office and at the appropriate Administration field offices in accordance with paragraphs (e) and (f) of this section. Notice of availability of the EA, briefly describing the action and its impacts, shall be sent by the applicant to the affected units of Federal, State and local government. Notice shall also be sent to the State intergovernmental review contacts established under Executive Order 12372.

(e) When a public hearing is held as part of the application for Federal funds, the EA shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The notice of the public hearing in local newspapers shall announce the availability of the EA and where it may be obtained or reviewed. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the availability of the EA unless the Administration determines, for good cause, that a different period is warranted. Public hearing requirements are as described in Sec. 771.111.

(f) When a public hearing is not held, the applicant shall place a notice in a newspaper(s) similar to a public hearing notice and at a similar stage of development of the action, advising the public of the availability of the EA and where information concerning the action may be obtained. The notice shall invite comments from all interested parties. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the publication of the notice unless the Administration determines, for good cause, that a different period is warranted.

³Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others. Protective acquisition is done to prevent imminent development of a parcel which is needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

(g) If no significant impacts are identified, the applicant shall furnish the administration a copy of the revised EA, as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a FONSI. The EA should also document compliance, to the extent possible, with all applicable environmental laws and Executive orders, or provide reasonable assurance that their requirements can be met.

(h) When the Administration expects to issue a FONSI for an action described in Sec. 771.115(a), copies of the EA shall be made available for public review (including the affected units of government) for a minimum of 30 days before the Administration makes its final decision (See 40 CFR 1501.4(e)(2).) This public availability shall be announced by a notice similar to a public hearing notice.

(i) If, at any point in the EA process, the Administration determines that the action is likely to have a significant impact on the environment, the preparation of an EIS will be required.

Sec. 771.121 Findings of no significant impact.

(a) The Administration will review the EA and any public hearing comments and other comments received regarding the EA. If the Administration agrees with the applicant's recommendations pursuant to Sec. 771.119(g), it will make a separate written FONSI incorporating by reference the EA and any other appropriate environmental documents.

(b) After a FONSI has been made by the Administration, a notice of availability of the FONSI shall be sent by the applicant to the affected units of Federal, State and local government and the document shall be available from the applicant and the Administration upon request by the public. Notice shall also be sent to the State intergovernmental review contacts established under Executive Order 12372.

(c) If another Federal agency has issued a FONSI on an action which includes an element proposed for Administration funding, the Administration will evaluate the other agency's FONSI. If the Administration determines that this element of the project and its environmental impacts have been adequately identified and assessed, and concurs in the decision to issue a FONSI, the Administration will issue its own FONSI incorporating the other agency's FONSI. If environmental issues have not been adequately identified and assessed, the Administration will require appropriate environmental studies.

Sec. 771.123 Draft environmental impact statements.

(a) A draft EIS shall be prepared when the Administration determines that the action is likely to cause significant impacts on the environment. When the decision has been made by the Administration to prepare an EIS, the Administration will issue a Notice of Intent (40 CFR 1508.22) for publication in the Federal Register. Applicants are encouraged to announce the intent to prepare an EIS by appropriate means at the local level.

(b) After publication of the Notice of Intent, the Administration, in cooperation with the applicant, will begin a scoping process. The scoping process will be used to identify the range of alternatives and impacts and the significant issues to be addressed in the EIS and to achieve the other objectives of 40 CFR 1501.7. For FHWA, scoping is normally achieved through public and agency involvement procedures required by Sec. 771.111. For UMTA, scoping is achieved by soliciting agency and public responses to the action by letter or by holding scoping meetings. If a scoping meeting is to be held, it should be announced in the Administration's Notice of Intent and by appropriate means at the local level.

(c) The draft EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The draft EIS shall evaluate all reasonable alternatives to the action and discuss the reasons why Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

Protective acquisition is done to prevent imminent development of a parcel which is needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project and appropriate mitigation measures. These studies will be used to prepare the final EIS or, where appropriate, a supplemental draft EIS.

Sec. 771.125 Final environmental impact statements.

(1) After circulation of a draft EIS and consideration of comments received, a final EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The final EIS shall identify the preferred alternative and evaluate all reasonable alternatives considered. It shall also discuss substantive comments received on the draft EIS and responses thereto, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action. Mitigation measures presented as commitments in the final EIS will be incorporated into the project as specified in Sec. 771.109(b). The final EIS should also document compliance, to the extent possible, with all applicable environmental laws and Executive orders, or provide reasonable assurance that their requirements can be met.

(2) Every reasonable effort shall be made to resolve interagency disagreements on actions before processing the final EIS. If significant issues remain unresolved, the final EIS shall identify those issues and the consultations and other efforts made to resolve them.

(b) The final EIS will be reviewed for legal sufficiency prior to Administration approval.

(c) The Administration will indicate approval of the EIS for an action by signing and dating the cover page. Final EISs prepared for actions in the following categories will be submitted to the Administration's Headquarters for prior concurrence:

(1) Any action for which the Administration determines that the final EIS should be reviewed at the Headquarters office. This would typically occur when the Headquarters office determines that

(i) additional coordination with other Federal, State or local governmental agencies is needed;

(ii) the social, economic, or environmental impacts of the action may need to be more fully explored;

(iii) the impacts of the proposed action are unusually great;

(iv) major issues remain unresolved; or

(v) the action involves national policy issues.

(2) Any action to which a Federal, State or local government agency has indicated opposition on environmental grounds (which has not been resolved to the written satisfaction of the objecting agency).

(3) Major urban mass transportation investments as defined by UMTA's policy on major investments (49 FR 21284; May 18, 1984).

(d) The signature of the UMTA approving official on the cover sheet also indicates compliance with section 14 of the UMT Act and fulfillment of the grant application requirements of sections 3(d)(1) and (2), 5(h), and 5(i) of the UMT Act.

(e) Approval of the final EIS is not an Administration Action (as defined in Sec. 771.107(c)) and does not commit the Administration to approve any future grant request to fund the preferred alternative.

(f) The initial printing of the final EIS shall be in sufficient quantity to meet the request for copies which can be reasonably expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the final EIS may be charged a fee which is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

(g) The final EIS shall be transmitted to any persons, organizations, or agencies that made substantive comments on the draft EIS or requested a copy, no later than the time the document is filed with EPA. In the case of lengthy documents, the agency may provide alternative circulation processes in accordance with 40 CFR 1502.19. The applicant shall also publish a notice of availability in local newspapers and make the final EIS available through the mechanism established pursuant to DOT Order 4600.13 which implements Executive Order 12372. When filed with EPA, the final EIS shall be available for public review at the applicant's offices and at appropriate Administration offices. A copy should also be made available for public review at institutions such as local government offices, libraries, and schools, as appropriate.

Sec. 771.127 Record of decision.

(a) The Administration will complete and sign a record of decision (ROD) no sooner than 30 days after publication of the final EIS notice in the Federal Register or 90 days after publication of a notice for the draft EIS, whichever is later. The ROD will present the basis for the decision as specified in 40 CFR 1505.2, summarize any mitigation measures that will be incorporated in the project and document any required section 4(f) approval in accordance with Sec. 771.135(l). Until any required ROD has been signed, no further approvals may be given except for administrative activities taken to secure further project funding and other activities consistent with 40 CFR 1506.1.

(b) If the Administration subsequently wishes to approve an alternative which was not identified as the preferred alternative but was fully evaluated in the final EIS, or proposes to make substantial changes to the mitigation measures or findings discussed in the ROD, a revised ROD shall be subject to review by those Administration offices which reviewed the final EIS under Sec. 771.125(c). To the extent practicable the approved revised ROD shall be provided to all persons, organizations, and agencies that received a copy of the final EIS pursuant to Sec. 771.125(g).

Sec. 771.129 Re-evaluations.

(a) A written evaluation of the draft EIS shall be prepared by the applicant in cooperation with the Administration if an acceptable final EIS is not submitted to the Administration within 3 years from the date of the draft EIS circulation. The purpose of this evaluation is to determine whether or not a supplement to the draft EIS or a new draft EIS is needed.

(b) A written evaluation of the final EIS will be required before further approvals may be granted if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the right-of-way, or approval of the plans, specifications and estimates) have not occurred within three years after the approval of the final EIS, final EIS supplement, or the last major Administration approval or grant.

(c) After approval of the EIS, FONSI, or CE designation, the applicant shall consult with the Administration prior to requesting any major approvals or grants to establish whether or not the approved environmental document or CE designation remains valid for the requested Administration action. These consultations will be documented when determined necessary by the Administration. [52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

Sec. 771.130 Supplemental environmental impact statements.

(a) A draft EIS, final EIS, or supplemental EIS may be supplemented at any time. An EIS shall be supplemented whenever the Administration determines that:

- (1) Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or
- (2) New information or circumstances relevant to environmental concerns and bearings on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

(b) However, a supplemental EIS will not be necessary where:

- (1) The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS; or
- (2) The Administration decides to approve an alternative fully evaluated in an approved final EIS but not identified as the preferred alternative. In such a case, a revised ROD shall be prepared and circulated in accordance with Sec. 771.127(b).

(c) Where the Administration is uncertain of the significance of the new impacts, the applicant will develop appropriate environmental studies or, if the Administration deems appropriate, an EA to assess the impacts of the changes, new information, or new circumstances. If, based upon the studies, the Administration determines that a supplemental EIS is not necessary, the Administration shall so indicate in the project file.

(d) A supplement is to be developed using the same process and format (i.e., draft EIS, final EIS, and ROD) as an original EIS, except that scoping is not required.

(e) A supplemental draft EIS may be necessary for UMTA major urban mass transportation investments if there is a substantial change in the level of detail on project impacts during project planning and development. The supplement will address site-specific impacts and refined cost estimates that have been developed since the original draft EIS.

(f) In some cases, a supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation or the evaluation of location or design variations for a limited portion of the overall project. Where this is the case, the preparation of a supplemental EIS shall not necessarily:

- (1) Prevent the granting of new approvals;
- (2) Require the withdrawal of previous approvals; or
- (3) Require the suspension of project activities; for any activity not directly affected by the supplement. If the changes in question are of such magnitude to require a reassessment of the entire action, or more than a limited portion of the overall action, the Administration shall suspend any activities which would have an adverse environmental impact or limit the choice of reasonable alternatives, until the supplemental EIS is completed.

Sec. 771.131 Emergency action procedures.

Requests for deviations from the procedures in this regulation because of emergency circumstances (40 CFR 1506.11) shall be referred to the Administration's headquarters for evaluation and decision after consultation with CEQ.

Sec. 771.133 Compliance with other requirements.

The final EIS or FONSI should document compliance with requirements of all applicable environmental laws, Executive orders, and other related requirements. If full compliance is not possible by the time the final EIS or FONSI is prepared, the final EIS or FONSI should reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements will be met. Approval of the environmental document constitutes adoption of any Administration findings and determinations that are contained therein. The FHWA approval of the appropriate NEPA document will constitute its finding of compliance with the report requirements of 23 U.S.C. 128.

Sec. 771.135 Section 4(f) (49 U.S.C. 303).

(l) The Administration may not approve the use of land from a significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:

- (i) There is no feasible and prudent alternative to the use of land from the property; and
- (ii) The action includes all possible planning to minimize harm to the property resulting from such use.

(2) Supporting information must demonstrate that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes.

(b) The Administration will determine the application of section 4(f). Any use of lands from a section 4(f) property shall be evaluated early in the development of the action when alternatives to the proposed action are under study.

(c) Consideration under section 4(f) is not required when the Federal, State, or local officials having jurisdiction over a park, recreation area or refuge determine that the entire site is not significant. In the absence of such a determination, the section 4(f) land will be presumed to be significant. The Administration will review the significance determination to assure its reasonableness.

(d) Where Federal lands or other public land holdings (e.g., State forests) are administered under statutes permitting management for multiple uses, and, in fact, are managed for multiple uses, section 4(f) applies only to those portions of such lands which function for, or are designated in the plans of the administering agency as being for, significant park, recreation, or wildlife and waterfowl purposes. The determination as to which lands so function or are so designated, and the significance of those lands, shall be made by the officials having jurisdiction over the lands. The Administration will review this determination to assure its reasonableness. The determination of significance shall apply to the entire area of such park, recreation, or wildlife and waterfowl refuge sites.

(e) In determining the application of section 4(f) to historic sites, the Administration, in cooperation with the applicant, will consult with the State Historic Preservation Officer (SHPO) and appropriate local officials to identify all properties on or eligible for the National Register of Historic Places (National Register). The section 4(f) requirements apply only to sites on or eligible for the National Register unless the Administration determines that the application of section 4(f) is otherwise appropriate.

(f) The Administration may determine that section 4(f) requirements do not apply to restoration, rehabilitation, or maintenance of transportation facilities that are on or eligible for the National Register when:

- (1) Such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and
- (2) The SHPO and the Advisory Council on Historic Preservation (ACHP) have been consulted and have not objected to the Administration finding in paragraph (f)(1) of this section.

(1) Section 4(f) applies to all archeological sites on or eligible for inclusion on the National Register, including those discovered during construction except as set forth in paragraph (g)(2) of this section. Where section 4(f) applies to archeological sites discovered during construction, the section

4(f) process will be expedited. In such cases, the evaluation of feasible and prudent alternatives will take account of the level of investment already made. The review process, including the consultation with other agencies, will be shortened as appropriate.

(2) Section 4(f) does not apply to archeological sites where the Administration, after consultation with the SHPO and the ACHP, determines that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken or where the Administration decides, with agreement of the SHPO and, where applicable, the ACHP not to recover the resource.

(h) Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites are sometimes made and determinations of significance changed late in the development of a proposed action. With the exception of the treatment of archeological resources in paragraph (g) of this section, the Administration may permit a project to proceed without consideration under section 4(f) if the property interest in the section 4(f) lands was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by section 4(f) prior to acquisition.

(i) The evaluations of alternatives to avoid the use of section 4(f) land and of possible measures to minimize harm to such lands shall be developed by the applicant in cooperation with the Administration. This information should be presented in the draft EIS, EA, or, for a project classified as a CE in a separate document. The section 4(f) evaluation shall be provided for coordination and comment to the officials having jurisdiction over the section 4(f) property and to the Department of the Interior, and as appropriate to the Department of Agriculture and the Department of Housing and Urban Development. A minimum of 45 days shall be established by the Administration for receipt of comments. Uses of section 4(f) land covered by a programmatic section 4(f) evaluation shall be documented and coordinated as specified in the programmatic section 4(f) evaluation.

(j) When adequate support exists for a section 4(f) determination, the discussion in the final EIS, FONSI, or separate section 4(f) evaluation shall specifically address:

(1) The reasons why the alternatives to avoid a section 4(f) property are not feasible and prudent; and

(2) All measures which will be taken to minimize harm to the section 4(f) property.

(k) The final Section 4(f) evaluation will be reviewed for legal sufficiency.

(l) For actions processed with EISs, the Administration will make the section 4(f) approval either in its approval of the final EIS or in the ROD. Where the section 4(f) approval is documented in the final EIS, the Administration will summarize the basis for its section 4(f) approval in the ROD. Actions requiring the use of section 4(f) property, and proposed to be processed with a FONSI or classified as a CE, shall not proceed until notified by the Administration of section 4(f) approval. For these actions, any required section 4(f) approval will be documented separately.

(m) Circulation of a separate section 4(f) evaluation will be required when:

(1) A proposed modification of the alignment or design would require the use of section 4(f) property after the CE, FONSI, draft EIS, or final EIS has been processed;

(2) The Administration determines, after processing the CE, FONSI, draft EIS, or final EIS that section 4(f) applies to a property;

(3) A proposed modification of the alignment, design, or measures to minimize harm (after the original section 4(f) approval) would result in a substantial increase in the amount of section 4(f) land used, a substantial increase in the adverse impacts to section 4(f) land, or a substantial reduction in mitigation measures; or

(4) Another agency is the lead agency for the NEPA process, unless another DOT element is preparing the section 4(f) evaluation.

(n) If the Administration determines under Sec. 771.135(m) or otherwise, that section 4(f) is applicable after the CE, FONSI, or final EIS has been processed, the decision to prepare and circulate a section 4(f) evaluation will not necessarily require the preparation of a new or supplemental environmental document. Where a separately circulated section 4(f) evaluation is prepared, such evaluation does not necessarily:

(1) Prevent the granting of new approvals;

(2) Require the withdrawal of previous approvals; or

(3) Require the suspension of project activities; for any activity not affected by the section 4(f) evaluation.

(o) An analysis required by section 4(f) may involve different levels of detail where the section 4(f) involvement is addressed in a tiered EIS.

(1) When the first-tier, broad-scale EIS is prepared, the detailed information necessary to complete the section 4(f) evaluation may not be available at that stage in the development of the action. In such cases, an evaluation should be made on the potential impacts that a

proposed action will have on section 4(f) land and whether those impacts could have a bearing on the decision to be made. A preliminary determination may be made at this time as to whether there are feasible and prudent locations or alternatives for the action to avoid the use of section 4(f) land. This preliminary determination shall consider all possible planning to minimize harm to the extent that the level of detail available at the first-tier EIS stage allows. It is recognized that such planning at this stage will normally be limited to ensuring that opportunities to minimize harm at subsequent stages in the development process have not been precluded by decisions made at the first-tier stage. This preliminary determination is then incorporated into the first-tier EIS.

(2) A section 4(f) approval made when additional design details are available will include a determination that:

- (i) The preliminary section 4(f) determination made pursuant to paragraph (o)(1) of this section is still valid; and
- (ii) The criteria of paragraph (a) of this section have been met.

(p) Use.

(1) Except as set forth in paragraphs (f), (g)(2), and (h) of this section, "use" (in paragraph (a)(1) of this section) occurs:

- (i) When land is permanently incorporated into a transportation facility;
- (ii) When there is a temporary occupancy of land that is adverse in terms of the statute's preservationist purposes as determined by the criteria in paragraph (p)(7) of this section; or
- (iii) When there is a constructive use of land.

(2) Constructive use occurs when the transportation project does not incorporate land from a section 4(f) resource, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the resource are substantially diminished.

(3) The Administration is not required to determine that there is no constructive use. However, such a determination could be made at the discretion of the Administration.

(4) The Administration has reviewed the following situations and determined that a constructive use occurs when:

- (i) The projected noise level increase attributable to the project substantially interferes with the use and enjoyment of a noise-sensitive facility of a resource protected by section 4(f), such as hearing the performances at an outdoor amphitheater, sleeping in the sleeping area of a campground, enjoyment of a historic site where a quiet setting is a generally recognized feature or attribute of the site's significance, or enjoyment of an urban park where serenity and quiet are significant attributes;
- (ii) The proximity of the proposed project substantially impairs esthetic features or attributes of a resource protected by section 4(f), where such features or attributes are considered important contributing elements to the value of the resource. Examples of substantial impairment to visual or esthetic qualities would be the location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or substantially detracts from the setting of a park or historic site which derives its value in substantial part due to its setting;
- (iii) The project results in a restriction on access which substantially diminishes the utility of a significant publicly owned park, recreation area, or a historic site;
- (iv) The vibration impact from operation of the project substantially impairs the use of a section 4(f) resource, such as projected vibration levels from a rail transit project that are great enough to affect the structural integrity of a historic building or substantially diminish the utility of the building; or
- (v) The ecological intrusion of the project substantially diminishes the value of wildlife habitat in a wildlife or waterfowl refuge adjacent to the project or substantially interferes with the access to a wildlife or waterfowl refuge, when such access is necessary for established wildlife migration or critical life cycle processes.

(5) The Administration has reviewed the following situations and determined that a constructive use does not occur when:

- (i) Compliance with the requirements of section 106 of the National Historic Preservation Act and 36 CFR part 800 for proximity impacts of the proposed action, on a site listed on or eligible for the National Register of Historic Places, results in an agreement of "no effect" or "no adverse effect";

- (ii) The projected traffic noise levels of the proposed highway project do not exceed the FHWA noise abatement criteria as contained in Table 1, 23 CFR part 772, or the projected operational noise levels of the proposed transit project do not exceed the noise impact criteria in the UMTA guidelines;
 - (iii) The projected noise levels exceed the relevant threshold in paragraph (p)(5)(ii) of this section because of high existing noise, but the increase in the projected noise levels if the proposed project is constructed, when compared with the projected noise levels if the project is not built, is barely perceptible (3 dBA or less);
 - (iv) There are proximity impacts to a section 4(f) resource, but a governmental agency's right-of-way acquisition, an applicant's adoption of project location, or the Administration approval of a final environmental document, established the location for a proposed transportation project before the designation, establishment, or change in the significance of the resource. However, if the age of an historic site is close to, but less than, 50 years at the time of the governmental agency's acquisition, adoption, or approval, and except for its age would be eligible for the National Register, and construction would begin after the site was eligible, then the site is considered a historic site eligible for the National Register;
 - (v) There are impacts to a proposed public park, recreation area, or wildlife refuge, but the proposed transportation project and the resource are concurrently planned or developed. Examples of such concurrent planning or development include, but are not limited to:
 - (A) Designation or donation of property for the specific purpose of such concurrent development by the entity with jurisdiction or ownership of the property for both the potential transportation project and the section 4(f) resource, or
 - (B) Designation, donation, planning or development of property by two or more governmental agencies, with jurisdiction for the potential transportation project and the section 4(f) resource, in consultation with each other;
 - (vi) Overall (combined) proximity impacts caused by a proposed project do not substantially impair the activities, features, or attributes that qualify a resource for protection under section 4(f);
 - (vii) Proximity impacts will be mitigated to a condition equivalent to, or better than, that which would occur under a no-build scenario;
 - (viii) Change in accessibility will not substantially diminish the utilization of the section 4(f) resource; or
 - (ix) Vibration levels from project construction activities are mitigated, through advance planning and monitoring of the activities, to levels that do not cause a substantial impairment of the section 4(f) resource.
- (6) When a constructive use determination is made, it will be based, to the extent it reasonably can, upon the following:
- (i) Identification of the current activities, features, or attributes of a resource qualified for protection under section 4(f) and which may be sensitive to proximity impacts;
 - (ii) An analysis of the proximity impacts of the proposed project on the section 4(f) resource. If any of the proximity impacts will be mitigated, only the net impact need be considered in this analysis. The analysis should also describe and consider the impacts which could reasonably be expected if the proposed project were not implemented, since such impacts should not be attributed to the proposed project;
 - (iii) Consultation, on the above identification and analysis, with the Federal, State, or local officials having jurisdiction over the park, recreation area, refuge, or historic site.
- (7) A temporary occupancy of land is so minimal that it does not constitute a use within the meaning of section 4(f) when the following conditions are satisfied:
- (i) Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;
 - (ii) Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the section 4(f) resource are minimal;
 - (iii) There are no anticipated permanent adverse physical impacts, nor will there be interference with the activities or purposes of the resource, on either a temporary or permanent basis;
 - (iv) The land being used must be fully restored, i.e., the resource must be returned to a condition which is at least as good as that which existed prior to the project; and

(v) There must be documented agreement of the appropriate Federal, State, or local officials having jurisdiction over the resource regarding the above conditions.[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988, as amended at 56 FR 13279, Apr. 1, 1991; 57 FR 12411, Apr. 10, 1992]

Sec. 771.137 International actions.

- (a) The requirements of this part apply to:
 - (1) Administration actions significantly affecting the environment of a foreign nation not participating in the action or not otherwise involved in the action.
 - (2) Administration actions outside the U.S., its territories, and possessions which significantly affect natural resources of global importance designated for protection by the President or by international agreement.
- (b) If communication with a foreign government concerning environmental studies or documentation is anticipated, the Administration shall coordinate such communication with the Department of State through the Office of the Secretary of Transportation.

Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations

1. PURPOSE AND AUTHORITY.

- a. This Order establishes procedures for the Department of Transportation (DOT) to use in complying with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994. 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 the Department 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, the United States Coast Guard, 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 Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and other DOT statutes, regulations and guidance that address or affect infrastructure planning and decisionmaking; 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. Within six months of the date of this Order each operating administration will provide a report to the Assistant Secretary for Transportation Policy and the Director of the Departmental Office of Civil Rights describing the procedures it has developed to integrate, or how it is integrating, the processes and objectives set forth in this Order into its operations.
- b. In undertaking the integration with existing operations described in paragraph 5a, DOT shall observe the following principles:
 - (1) Planning and programming 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) 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 which 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.
 - b. It is DOT policy to actively administer and monitor its operations and decision making to assure that nondiscrimination is 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, ISTEA 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 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;
 - ☐ present and proposed membership by race, color, or national origin, in any planning or advisory body which is part of the program.
 - 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:
 - (1) identifying and evaluating environmental, public health, and interrelated social and economic effects of DOT programs, policies and activities,
 - (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,
 - (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
 - (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, and activities for which they are responsible will have an adverse impact on minority and low-income populations and whether that adverse impact 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 taken 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. Operating Administrators 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 out if
 - (1) a substantial need for the program, policy or activity exists, based on the overall public interest; and
 - (2) alternatives that would have less adverse effects on protected populations (and that still satisfy the need identified in subparagraph (1) above), either
 - (i) would have other adverse social, economic, environmental or human health impacts that are more severe, or
 - (ii) 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 meanings¹:

- 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) Black (a person having origins in any of the black racial groups of Africa);
 - (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
 - (3) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
 - (4) American Indian and Alaskan Native (a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition).
- 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. proportionately high and adverse effect on minority and low-income populations means an adverse effect that:
 - (1) is predominately 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.
- h. Programs, policies, and/or activities means 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.

¹These definitions are intended to be consistent with the draft definitions for E.O. 12898 that have been issued by the Council on Environmental Quality and the Environmental Protection Agency. To the extent that these definitions vary from the CEQ and EPA draft definitions, they reflect further refinements deemed necessary to tailor the definitions to fit within the context of the DOT program.

FHWA ENVIRONMENTAL POLICY STATEMENT 1994: A FRAMEWORK TO STRENGTHEN THE LINKAGE BETWEEN ENVIRONMENTAL AND HIGHWAY POLICY

PURPOSE

Since the passage of the National Environmental Policy Act (NEPA) in 1969, the FHWA has built a framework of policies and procedures to help meet its social, economic, and environmental responsibilities while accomplishing its transportation mission. This policy statement is a formal expression of the FHWA's commitment to the protection and enhancement of our environment.

The term "environment" as used in the EPS includes the natural environment, the built environment, the cultural and social fabric of our country and our neighborhoods, and the quality of life of the people who live here. This quality of life is enhanced not only by economic security and ample natural resources, but by enduring community values and thriving neighborhoods where all citizens have access to safe, comfortable, and efficient transportation.

With adoption of the EPS, the FHWA is committed to incorporating environmental stewardship into all policies, procedures, and decisions, not just those related to project development. Protecting and enhancing the environment, as well as the quality of life, requires a total, active commitment by all FHWA employees, especially program managers.

The FHWA, with its transportation, environmental, and community partners, will work vigorously to protect and, where practical, to enhance the natural environment and to preserve neighborhood and community values. To realize this goal, the following FHWA policy is established:

FULL INVOLVEMENT OF OUR PARTNERS

Effective communication is critical to successful implementation of FHWA's transportation mission and environmental policy. This has become increasingly evident as we have worked with our partners to fuse the environmental and planning processes and to merge the FHWA, NEPA, and related project development procedures with other Federal, State, and local requirements. We must continually strive to communicate our commitment to protect and enhance the environment. We must increase our partnerships with private enterprise on infrastructure investments, including transit and Intelligent Transportation System (ITS) initiatives. Bringing together the multi-faceted and diverse interests in an open and cooperative process creates a synergy that will produce positive and effective solutions.

It is FHWA policy to:

- Aggressively pursue improved communication and collaboration with our Federal, State, and local partners in the transportation and environmental communities, including other modal administrations within the DOT.
- Seek new partnerships with tribal governments, businesses, transportation and environmental interest groups, resource and regulatory agencies, affected neighborhoods, and the public.
- Ensure that those historically underserved by the transportation system, including minority and low-income populations, are included in our outreach.
- Actively involve our partners and all affected parties in an open, cooperative, and collaborative process, beginning at the earliest planning stages and continuing through project development, construction, and operations.
- Ensure the development of comprehensive, cooperative public involvement programs during statewide and metropolitan planning and project development activities.

COMPLETE INTEGRATION OF ENVIRONMENTAL CONCERNS

For an effective, environmentally sound transportation system, the Federal-aid Highway Program and its projects must incorporate environmental considerations and neighborhood and community values and goals into every phase of transportation decisionmaking. But FHWA must practice environmental sensitivity on an even broader scale. Environmental objectives must be considered in every aspect of FHWA's organization and decisionmaking.

Internal Operations

The FHWA must be a leader among Federal, State, and local transportation agencies in carrying out an environmental ethic that encompasses the consequences of all of our activities, internal as well as external.

It is FHWA policy to:

- Promote and facilitate use of ride-sharing, mass transit, bicycling, walking, telecommuting, alternative work schedules, and other alternatives to single-occupancy-vehicle use for FHWA employees.
- Ensure that procurement policies and specifications incorporate environmental goals such as waste reduction, energy efficiency, and pollution prevention to the fullest extent practical.
- Purchase and recycle remanufactured products.
- Ensure that all of our facilities are operated in an environmentally responsible manner, through conservation of energy, water, and office products; pollution prevention; and disposal and recycling programs.

Systems Planning and Programming

Environmental goals and impacts must be considered early in the development of transportation plans and integrated into land-use planning and transportation decisionmaking at the State, regional, and local levels.

It is FHWA policy to:

- Encourage and help State transportation agencies, MPOs, and local governments to take a leadership role in identifying and considering social, economic, and environmental concerns as early as possible in the development of transportation and land use plans and programs.
- Advocate broad-based public involvement by these agencies to generate consensus on transportation and land use solutions and the purpose and need for transportation investments.
- Work with our partners early in transportation planning and programming to ensure that FHWA-funded projects and programs contribute to sustainable community development that addresses present needs without compromising those of future generations.
- Promote and support innovative solutions to transportation and air quality problems through multimodal, interagency, and joint public-private efforts, including road and parking pricing strategies and ITS applications. Promote and foster travel alternatives to single-occupancy-vehicle use, including mass transit, bicycling, walking, telecommuting, and ride-sharing.

- Ensure coordination of transportation planning with State air quality planning, resulting in transportation plans and programs that conform to air quality implementation plans.
- Promote and support watershed planning and the coordination of transportation planning with effective watershed planning to reduce erosion and non-point source pollution from highway construction, maintenance, and operations.
- Support corridor preservation as a way to ensure early consideration of environmentally sensitive areas and to avoid or minimize future social, economic, and environmental impacts while providing for needed transportation facilities.
- Ensure that major investment studies provide an early, intensive, and objective study of the impacts of alternative transportation solutions. Transportation alternatives considered should be based on public benefits and needs, environmental and cultural concerns, neighborhood and community values, economics, and other pertinent factors. In addition to new facilities and improvements to the existing system, such alternatives include transportation-system management options, demand management strategies, ITS applications, and the option of taking no action.
- Support efforts of Federal, State, and local agencies to control noise emissions at their source, to encourage land use planning and control to prevent noise-sensitive uses from developing in high-noise impact areas, or to ensure that such development is planned to minimize adverse effects.

Project Development

Environmental goals and impacts must be considered continually throughout all phases of project development (location, environment, design, right-of-way, etc.). Social, economic, and environmental issues must be considered equally with engineering, safety, and mobility issues in reaching project decisions.

It is FHWA policy to:

- Provide continuity between the systems planning and project development processes so that the results of analysis performed during the planning stage, including project purpose and need, alternatives, public input, and environmental concerns, are brought forward into project development.
- Ensure the merger of NEPA with other environmental review and decisionmaking requirements, such as Section 404 of the Clean Water Act. Merger requires early and effective interagency coordination to ensure adequate description of the impacted resources, alternatives, and opportunities for mitigation. Determinations of compliance with other requirements should be integral to decisions taken during the NEPA process.
- Use an interdisciplinary approach to identify and analyze the potential impacts of proposed transportation projects on the human and natural environments.
- Ensure that NEPA documents capture and fully describe options to avoid, minimize, and mitigate adverse impacts and, where possible, enhance the natural and human environments.
- Ensure that environmental commitments made during planning and project development and identified in NEPA documents are implemented during construction, maintenance, and operations.

ACTIVE PROTECTION AND ENHANCEMENT OF OUR ENVIRONMENT

It is a critical goal of the FHWA to administer the Federal-aid and Federal Lands Programs to fit in harmoniously with communities, neighborhoods, and project environs. Accomplishing this goal requires full compliance with environmental protection laws, regulations, Executive Orders, and policies.

To be an environmental leader in the transportation field, the FHWA must go beyond compliance and strive for environmental excellence. The widest possible range of both traditional and innovative measures to protect and enhance the environment must be pursued.

It is FHWA policy to:

- Avoid, minimize, and mitigate to the fullest extent possible the adverse effects of transportation programs and projects on the neighborhood, community, and natural resources.
- Seek opportunities to go beyond traditional project mitigation efforts and implement innovative enhancement measures to help the project fit harmoniously within the community and natural environs.
- Ensure that Federal-aid and Federal Lands Programs and projects benefit all segments of society, including those who have historically been underserved and under represented. Improve accessibility for all persons, especially elderly persons, persons with disabilities, and the economically disadvantaged in both rural and urban areas. Consistent with Title VI of the 1964 Civil Rights Act and Executive Order 12898 on Environmental Justice, all program and project actions and decisions must ensure that minority and low-income populations are not disproportionately adversely affected by transportation programs or projects.
- Participate, to the fullest extent permitted by law, in funding mitigation and enhancement activities required by Federal, State, and local statutes and regulations for project-related impacts to the natural environment, neighborhoods, and communities.
- Ensure that Transportation Enhancement funding provided under ISTEA is used to maximize benefits to cultural and natural environments and to contribute to more livable, sustainable communities.
- Improve air quality through funding of projects under the Congestion Mitigation and Air Quality Improvement Program of ISTEA. Ensure that these projects match the identified transportation needs of individual regions, communities, and neighborhoods with solutions that reduce transportation-related emissions.

VIGOROUS RESEARCH, TECHNOLOGY TRANSFER, AND TRAINING

Innovation through research and development is a major theme of the ISTEA and a priority for the DOT. The FHWA is committed to expanding environmental research and improving the transfer of new environmental technology to our partners in the transportation community.

It is FHWA policy to:

- Conduct active and responsive research needed to advance state-of-the-art knowledge of transportation's linkage to and effects on the natural environment, neighborhoods, and communities. This includes pursuing research on the health and environmental effects of transportation on, and benefits of transportation for, minority and low-income populations.
- Develop joint research and training efforts with Federal, State, and local transportation and environmental resource and regulatory agencies. Promote an interchange of training among these and other partners.
- Expand current efforts to disseminate state-of-the-art information on environmental protection, impact evaluation, mitigation, and enhancement. To this end, use forums such as experimental and demonstration projects, technical conferences and training programs, electronic bulletin boards, and other technology transfer activities to promote the incorporation of research results into practice.

- Seek, through research and application of sound management and "intelligent transportation" practices, ways to improve the transportation design and operational characteristics of existing and new transportation facilities from an environmental perspective.
- Expand and improve FHWA's environmental training curriculum, and develop environmental training targeted at managers.

EFFECTIVE DEVELOPMENT AND PROMOTION OF ENVIRONMENTAL EXPERTISE

If the FHWA is to fulfill this policy statement and the DOT's theme of advancing transportation technology and expertise, our agency must have well-trained and professional personnel skilled in a broad set of disciplines. Emphasis must be placed on the environmental, social, and cultural sciences, and experts from the environmental staff must be involved in agency decisionmaking.

It is FHWA policy to:

- Ensure environmental compliance and excellence at management levels.
- Develop, enhance, and maintain environmental staff expertise, and encourage State transportation agencies and MPOs to do the same.
- Utilize the Environmental Training Program as a development source of environmental specialists. Actively recruit from colleges and universities, with a special emphasis on Historically Black Colleges and Universities and other minority institutions, to bring the most promising candidates into the program.

Attachment IV: Methods for Assessing Community Goals and Values: Socioeconomic Tools for Transportation Project Planning and Development Workshop Attendees

Danny Alvarez, Miami-Dade Transit Agency
Frank Baron, Miami-Dade MPO
Chuck Blowers, Planning, Development and Regulation
Roosevelt Bradley, Miami-Dade Transit Agency
Oscar Braynon, Commissioner Barbara Carey Office, District Three
Esther Calas, Miami-Dade Public Works
Kim Cromartie, URS Consultant
Gary Dellapa, DCAD
Andrew Dickman, II, HRS, District 11
Gary Donn, FDOT
Wilson Fernandez, Miami-Dade Transit Agency
Carl Filer, FDOT
Clinton Forbes, Miami-Dade MPO
Mario Garcia, Miami-Dade Transit Agency
Jesus Guerra, Miami-Dade MPO
David Henderson, FDOT
Jeff Hunter, Miami-Dade MPO
David Korros, FDOT
Adam Lukin, DDA
Jose-Luis Mesa, Miami-Dade MPO
Gaspar Miranda, Miami-Dade Public Works Department
Michael Moore, Miami-Dade MPO
Servando Parapar, Expressway Authority SPCC
Ana Rijo-Conde, City of North Miami
Carlos Roa, Miami-Dade MPO
Rene Rodriguez, FDOT
Patricia Rogers-Liebert, Community Planning and Development
Patrice Rosemond, Miami Dade Transit Agency
Irma San Roman, Miami-Dade MPO
Susan Schreiber, Miami-Dade MPO
Clark Turner, City of Miami - Planning
Bob Usherson, Planning, Development and Regulation
Leon Valentine, Miami-Dade Public School
Norman Wartman
Michael Williams, Tri-Rail



Center for Urban Transportation Research (CUTR)
College of Engineering
University of South Florida
4202 East Fowler Avenue, CUT 100
Tampa, FL 33620-5375
(813) 974-3120