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Appendices



Existing Federal Land Use And Transportation Policies And Legislation

Intermodal Surface Transportation Efficiency Act (ISTEA)

Authorizing legislation for highways began with the Federal-Aid Road Act of 1916 and the Federal Highway Act of 1921. These acts provided the foundation for the Federal-aid highway program (FAHP) as it exists today. Multi-year authorization acts have subsequently continued the FAHP. Since 1978, Congress has passed highway authorization legislation as part of larger, more comprehensive, multi-year surface transportation acts that covered Federal-aid transit funding as well.

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (pronounced Ice-Tea) is a federal law that brought major change to transportation planning and policy, as the first U.S. federal legislation on the subject in the post-Interstate Highway System era. It established the terms and conditions under which federal programs operate, authorized the enactment of appropriations, and how appropriated funds must be used. It also provided for Authorization bills that create, modify, and/or extend agencies and programs. Finally, it limited the term of each new ISTEA Act to approximately five years, unless extended through specific legislative action.

The current law is referred to as the Fixing America's Surface Transportation (FAST) ACT. It is a funding and authorization bill that governs federal surface transportation spending. It was passed by Congress on December 3, 2015 and is set to expire in October 2020.

Currently, Congress is debating the structure, programs, and funding for the next ISTEA authorizing law. It is referred to as the America's Transportation Infrastructure Act of 2019 (ATIA). In addition to funding for roads and bridges, the bipartisan bill includes \$3 billion to support projects that lower highway-related carbon emissions, such as efforts to reduce traffic congestion and provide alternatives to

single-occupant vehicle trips. States will be able to compete for an additional \$500 million by making progress on lowering their per-capita emissions.

The bill also includes a competitive grant program funded at \$1 billion over the five-year period for states and localities to build hydrogen, natural-gas and EV fueling infrastructure along designated highway corridors. While the funds are not dedicated exclusively to EV charging, market demand is likely to drive investments in EV infrastructure over the alternatives.

Federal laws require a fiscally constrained Metropolitan Transportation Plan (MTP) with a time horizon of at least 20 years and is updated every 4 to 5 years depending on the region's air quality attainment status. The plan must address:

Policies, strategies, and projects for the future;

- A systems-level approach by considering roadways, transit, nonmotorized transportation, and intermodal connections;
- Projected demand for transportation services over 20 years;
- Regional land use, development, housing, and employment goals and plans;
- Cost estimates and reasonably available financial sources for operation, maintenance, and capital investments; and
- Ways to preserve existing roads and facilities and make efficient use of the existing system.

The TIP is the four-year transportation program for the urbanized area. This is the region's way of allocating limited transportation resources among various needs of the region. The TIP implements the region's MTP. MTC has begun using performance-based criteria to select projects that support plan goals and community priorities. This list of projects is updated at least every four years, is approved by the MPO and governor, and is incorporated directly into the Statewide Transportation Improvement Program (STIP).

Beyond legislation, the federal government, through its Department of Transportation, has adopted numerous policies and programs that are intended to

bring investments in transportation into alignment with land use policies. Federal programs play an enormous role in supporting the real estate sector and directing new development. With nearly \$1 trillion in direct tax subsidies and \$4 trillion in loan guarantees over the last 5 years, the U.S. government has a significant impact on the real estate market, including where new development is built and what types of housing are created. It is important that land use and transportation planning decisions complement, not contradict, one another. Creating overlap and links between the transportation and land use processes is necessary to ensure that complementary land use and transportation decisions are made.

The Federal Transit Agency has adopted policies that direct growth around transit nodes and into corridors that will help maintain and increase transit's base of riders in the future. They encourage modification of parking regulations to encourage locations behind buildings, reduce the total number of spaces required to encourage public transit use, and promote shared parking agreements to help reduce vacant lots that create barriers for pedestrians and generate a less secure environment. Their guidance documents also advocate for street designs which not only provides transit priority but also are friendly to pedestrians. Federal regulations are also aimed at supporting freight generating land uses that can bring tax benefits to a region. Freight generating industries also provide jobs, and proximity of goods to growing populations and businesses.

Freight volumes, and their attendant impacts, are anticipated to grow significantly in the future, growing by over 60 percent (nationally) over the next 25 years. Accordingly, federal regulations include both long-range and short-range strategies/actions leading to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods.

The STIP is a consolidated list of transportation projects covering four years at the state level. The state prioritizes projects from rural, small urban, and urbanized areas of the state. TIPs from MPOs are incorporated directly without change into the STIP.

The STIP is approved by the U.S. DOT (FHWA and FTA). STIP approval must be granted before projects can move from planning to implementation.

Opportunity Zones were created by the 2017 Tax Cuts and Jobs Act. These zones are designed to spur economic development and job creation in distressed communities throughout the country. They provide tax incentives for investors to finance new infrastructure, development projects, affordable housing, and workforce development, among other things. Currently there are nine census tracts that have been designated as opportunity zones in Solano County, which are located in Fairfield and Vallejo. They are within areas designated as COCs and encompass much of Vallejo's PDAs.

Approved State Legislation

There are a number of recently adopted laws in Sacramento that would impact housing production in Solano County. Below is a summary of adopted legislation that would accelerate or modify housing production; create new source of funding or financing for affordable housing; or create incentives for building housing in transit areas or infill locations.

New Funding Sources

New state funding sources for affordable housing production are starting to come online, following Governor Brown's 2017 housing package and a voter-approved bond for \$4 billion that passed in 2018. These funding sources, administered by the Department of Housing and Community Development (HCD), are awarded via the following programs:

- The No Place Like Home Program, which dedicates nearly \$2 billion in bond proceeds for the development of permanent supportive housing, targeted to assist persons with mental illness and persons experiencing homelessness.
- The Multifamily Housing Program (MHP), which provides deferred long-term loans for construction, rehabilitation, and acquisition-rehabilitation of permanent and transitional affordable rental housing.
- Infill Infrastructure Grants (IIG), which were

formerly funded by Prop 1C in 2006. This program provides gap funding to the infrastructure improvements required for transit-oriented development and infill development.

- CalHome Program, which provide grants to local agencies and developers to develop ownership housing and provide other housing assistance to low-income homeowners.
- SB 2 (Building Homes and Jobs Act) imposed a new real estate recording fee of \$75 on selected real estate transactions. SB 2 funding will be dedicated to local governments for various eligible uses, including: planning and technical assistance to streamline housing development, development or preservation of affordable housing, and assistance for persons experiencing or at-risk of homelessness (rapid rehousing, emergency shelters, rental assistance, etc.)

Streamlining Housing Development

In addition to the new funding described above, the state has also implemented new bills to streamline housing development projects, allow cities to enact inclusionary ordinances. These bills are described below:

- SB 35 (Weiner) – Streamlined housing approval process for developments that have not met their housing targets, provided that development is on an infill site and conforms with local zoning plan. At least 10% of units must be affordable for lower-income families.
- AB 1505 (Bloom) – authorized cities to enact inclusionary ordinances (on-site or off-site low-income housing)
- SB 540 (Roth) – creates an opt-in mechanism for cities to create Workforce Housing Opportunity Zones (WHOZ) close to jobs and transit where workforce and affordable housing is streamlined
- SB 73 (Chiu) – creates opt-in mechanism for cities to create housing sustainability districts to streamline housing by completing zoning and environmental reviews up front.

Proposed State Legislation

The current legislative session has a number of proposed bills that would expand resources for affordable housing, incentivize housing production,

and facilitate housing development near transit. These are described below:

- AB 11 (Chiu) “Redevelopment 2.0” -- Would restore roughly \$1 billion for affordable housing statewide by employing tax increment financing. Property taxes would be diverted from county governments and schools in order for redevelopment agencies retain these funds within local government boundaries. Supporters (including Gavin Newsom) suggest that cities would have enhanced financial incentives to zone for housing if property taxes could be funneled into local coffers. If redevelopment 2.0 follows the model of 1.0, local jurisdictions would also bond against property taxes that are captured, increasing their fiscal capacity.
- AB 68 (Ting) - Overrides local lot size minimum requirements for accessory dwelling units (ADUs) or basement apartments; speeds up approval processes for ADUs to 60 days; and implements a couple of other changes to increase the viability of ADU construction.
- AB 264 (Melendez) – Would create state tax credit to compensate real estate developers for local development impact fees that are incurred when developers construct new housing.
- AB 553 (Melendez) – Would divert funding from high-speed rail bonds to HCD’s Multifamily Housing program.
- AB 725 (Wicks) -- Would require that no more than 20% of cities’ above moderate income allocation could be met by zoning land for single-family homes.
- AB 1279 (Bloom) – State would create a “high resource designation” and proposed affordable housing developments would be permitted by-right. Also calls for impact fees on any housing project affordable to households about 100% of AMI, equivalent to 10% of the difference in the actual sales/rental price and the sales/rental price that would be affordable for someone earning 100% or less of AMI.
- AB 1482 (Chiu) “Rent Cap” –Prevent landlords from raising rent more than 5% plus CPI (corresponds with CASA Compact). The bill is headed to the governor’s desk at the time of writing.
- AB 1483 (Grayson) – Requires cities to maintain

planning/zoning standards and schedules of fees/assessments readily accessible online (corresponds with CASA Compact Item #6)

- AB 1484 (Grayson) – Requires local governments to provide comprehensive impact fee information to developers in an application project; those impact fees are then locked in place as the project proceeds through the development process (corresponds with CASA Compact Item #6).
- AB 1486 (Ting) - Lays groundwork for public agencies to utilize their surplus lands for housing development (corresponds with CASA Compact Element # 8)
- AB 1487 (Chiu) – Would establish regional housing agency in the Bay Area which would have the authority to raise and administer housing funds (corresponds to CASA Compact Element #10).
- SB 50 (Weiner) – SB 50 calls for mandatory upzoning near transit stations. Jurisdictions would be required to allow apartment buildings (min. of '45 to '55 depending on local context) in locations that are (1) within ½ mile of a transit stations (including ferry lines and ports), (2) within ¼ mile of a high frequency bus stop, or (3) within a “job-rich” neighborhood (maps forthcoming). Exceptions granted for projects that would require demolishing apartments that currently house renters, and for sensitive communities/communities of concern (which can receive a 5-year delay in implementing zoning changes). The Fairfield Downtown (Jefferson) PDA, Suisun Waterfront/Downtown PDA, and Vallejo Downtown/Waterfront and Sonoma Blvd PDAs would all have substantial portions of their perimeters subjected to mandatory upzoning, but would qualify for delayed implementation because the areas immediately surrounding these PDAs are “communities of concern” or “sensitive communities.” Additional research would be needed to determine which PDAs also qualify as being within a ¼ mile radius of high-frequency bus service and would therefore be subjected to mandatory upzoning. Mandatory inclusionary requirements for low-income households would be 15-25% depending on the size of the project. The bill also extends displacement protections to mobile home residents. The bill has been put on

hold until 2020.

- SCA-1 (Weiner) - This Senate Constitution Amendment would remove Article 34 of the CA Constitution (passed in 1950) that requires cities to seek approval of voters to construct “low-rent” housing; removing Article 34 would speed up the approvals process for affordable housing.

Regional Housing Efforts

The Committee to House the Bay Area, or CASA, was a regional effort from 2017 to 2019 that brought together leaders from city governments, regional agencies, housing development, philanthropy, tenant advocacy groups, and employers to develop strategies that would increase housing production, including affordable housing production. CASA established a goal of producing 35,000 new housing units each year, which would include 14,000 units affordable to low-income families and 7,000 units affordable to moderate income families. After over a year of deliberations, MTC and ABAG adopted the CASA 10-point Compact. Many of the programs and policies recommended will require state legislative changes in order to be enacted.

The following are the elements of the CASA Compact that could impact Solano County jurisdictions:

- **Compact Element 1** : Just Cause eviction policy (requires landlords to cite specific “just causes” (either fault or no-fault) for termination of tenancy.
- **Compact Element 2**: Emergency rent cap (establishes a permissible annual percent rent increase, CPI + 5%)
- **Compact Element 3**: Emergency Rent Assistance and Access to Legal Counsel (to be maintained by the Regional Housing Enterprise, funded via Compact Item 10)
- **Compact Element 4**: Remove regulatory barriers to ADUs (CASA recommends that a state law be created on this, but city governments also are encouraged to adopt owner occupancy requirements for properties containing ADUs, and that cities’ impact fees be imposed on ADUs only under certain conditions.)
- **Compact Element 5**: Minimum zoning near major transit areas (there are only three of these in Solano, one in Vallejo and two in Fairfield). CASA calls for

state law to be changed, but city governments could adopt standards described in the meantime; note that this Compact item calls for exceptions to be granted to Sensitive Communities so that they can develop context-specific plans. There are three Sensitive Communities in Solano County.

- **Compact Element 6:** Good government reforms to housing approval process (create “transparency, predictability, reliability, and timelines to the housing approvals process”). Involves local jurisdictions maintaining a list all of all of their rules, codes, and standards, and “annually document all local agency impositions that increase the hard cost...of housing construction, including fees and inclusionary zoning requirements.” Compact element also calls for several changes to state law, and several corresponding bills have been introduced.
- **Compact Element 7:** Expedited approvals of zoning-compliant housing projects, and creation of financial incentives for enabling on-site affordability and prevailing wages (a bill has been introduced)
- **Compact Element 8:** Unlock Public Land for Affordable Housing – promotes an increased utilization of surplus/underutilized public land for affordable housing, including all properties owned by cities, counties, state agencies, and public agencies.
- **Compact Element 9:** Raise \$1.5 billion in revenue to fund and finance the CASA Compact, including from the following potential sources: vacant homes taxes, parcel taxes, commercial linkage fees, gross receipts taxes... could have broad implications for local governments.

Existing Regional Land Use And Transportation Plans, Policies, And Programs

Plan Bay Area

Transportation 2035 was the first long-range, regional plan adopted by the Association of Bay Area Governments (ABAG) and the Metropolitan

Transportation Commission (ABAG/MTC) to comply with the state’s mandate to create a Sustainable Communities Strategy. California’s landmark Senate Bill 375 required each region to develop a Sustainable Community Strategy that would integrate economic development, transportation, and housing in order to reduce greenhouse gas emissions from cars and light trucks. Plan Bay Area, adopted in July 2013, projected that the nine-county San Francisco Bay Area region would increase by 660,000 households and 1.1 million jobs from 2010 to 2040. The regional plan allocated approximately 80 percent of the future household growth and 63 percent of new jobs in Priority Development Areas (PDAs). Transportation 2035 also identified major transportation and infrastructure projects that would help to support and sustain the region’s growth and development. The 2040 update of the RTP was the first to adopt the name Plan Bay Area and included expanded consideration of equity and an increased focus on PDAs.

Horizon Initiative

MTC and ABAG are currently in the process of a new planning effort, the Horizon Initiative, to explore challenging issues and emerging trends and their impacts on the region’s future growth and resiliency through 2050. The Horizon Initiative is examining new technologies (autonomous vehicles), climate change and sea level rise, earthquakes, economic cycles, political cycles, and other possible challenges Bay Area residents may face through 2050. The Horizon Initiative will set the stage for developing the regional Plan Bay Area 2050. The Metropolitan Transportation Commission and the Association of Bay Area Governments are expected to adopt Plan Bay Area 2050 in the summer of 2021. Plan Bay Area 2050 will prioritize making the region more equitable and resilient.

Regional CASA Compact

The Committee to House the Bay Area, or CASA, was a regional effort from 2017 to 2019 that brought together leaders from city governments, regional agencies, housing development, philanthropy, tenant advocacy groups, and employers to develop strategies that would increase housing production,

including affordable housing production. CASA established a goal of producing 35,000 new housing units each year, which would include 14,000 units affordable to low-income families and 7,000 units affordable to moderate income families. After over a year of deliberations, MTC and ABAG adopted the CASA 10-point Compact. Many of the programs and policies recommended will require state legislative changes in order to be enacted.

The following section identifies legislation currently being considered by the State. Many CASA elements have been included in a variety of bills.

MTC Suburban Housing Incentive Pool (HIP) Pilot Program

This \$5 million set-aside from MTC is part of the Housing Incentive Program (HIP), referred to as SubHIP. Each CTA is responsible for managing the distribution of funds within its respective county, but MTC maintains a variety of suggested guidelines for projects, including that the projects be located in cities that have an updated housing element that complies with state law, and local policies that reflect recent state housing legislation for density bonuses, ADUs, and surplus land. Currently, Fairfield, Suisun City, and Vacaville meet these criteria (or will very soon). Dixon, Benicia, Rio Vista, and Vallejo are required to update their ADU or density bonus ordinances to be in compliance with state legislation and become eligible for the SubHIP funds.

SB2 is the first permanent source of state funding dedicated to helping local governments increase housing production. The program is funded by fees levied on certain real estate transactions and is expected to generate between \$250 and \$300 million annually. The California Department of Housing and Community Development (HCD) is administering the program. The revenues generated for the first year of funding will be split between homelessness programs and planning grants.

Local governments are eligible to apply for planning grants that can be used on a range of qualifying activities related to streamlining and accelerating housing production. Eligible activities include updates

to general and specific plans, updates to zoning ordinances, and process improvements that expedite planning approval for housing development.

Regional Equity Initiatives

In 2002, MTC created the Community-Based Transportation Plan (CBTP) Program to address the needs of economically disadvantaged communities through community transportation planning. The objective of the program is to develop a plan through a collaborative process that identifies transportation gaps, proposes and prioritizes strategies to address them, and identifies potential funding sources and projects for implementation. The program is designed to ensure that the population directly affected by the transportation plan is guiding the process. CBTPs have been developed for Dixon, Vallejo, East Fairfield, Vacaville, and a combined plan for Cordelia-Fairfield-Suisun City. City of Vallejo to update their plan.

In 2005, MTC created the Lifeline Transportation Program (LTP) to fund projects and programs that would improve mobility and access needs of low-income populations in the region. Currently, the Lifeline Program is focused on Communities of Concern.

In 2011, MTC committed \$10 million in seed funding to the Transit-Oriented Affordable Housing (TOAH) fund, which provides flexible, affordable loans to developers for the purchase of properties near transit for the development of affordable housing, retail space, and other critical services such as child care centers, fresh food outlets and health clinics. By supporting growth along transit corridors in Priority Development Areas, TOAH promotes compact land use patterns, which aligns with the region's Sustainable Community Strategy. MTC committed an additional \$10 million to the fund in 2014.

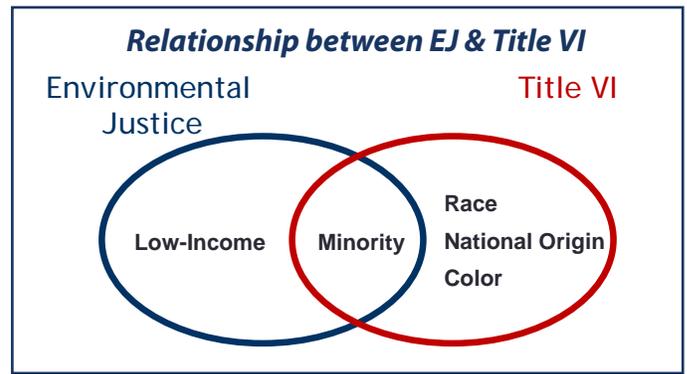
In 2012, SB 375 required metropolitan planning organizations to develop a "Sustainable Communities Strategy" that integrates transportation, land-use and housing policies to reduce automotive greenhouse gas emissions to levels determined by the California Air Resources Board. The last two Regional

Transportation Plans (RTP), Transportation 2035 and Plan Bay Area 2040 have been organized to comply with SB 375. For Plan Bay Area 2040 an Equity Analysis Report summarized key findings from a regional Title VI analysis as well as an investigation of equity measures developed by MTC. The report called out housing affordability as the most significant equity challenge for the Bay Area. Equity is one of the three overarching themes in PBA 2040. The three themes are equity, environment, and economy, or the “Three Es” of sustainability.

In late 2011, HUD awarded MTC and the Association of Bay Area Governments (ABAG) a Sustainable Communities Grant to fund efforts to improve Bay Area housing and economic conditions for low- and moderate-income residents and workers. The grant provided just under \$5 million over three years for planning and implementation work. MTC’s Economic Prosperity Strategy is the framework and strategy for the economic development portion of the Bay Area’s Sustainable Communities Grant.

In conjunction with this work, in 2018 MTC approved implementation of a **pilot Regional Means-Based Fare Program** as a way to provide greater mobility options for low-income persons on participating transit systems in the Bay Area. Persons with income below 200% of the Federal Poverty Level (approximately \$70,000 per year for a family of four in the Bay Area) are eligible. It began its study to evaluate the feasibility and effectiveness of implementing a transit fare subsidy program based on household income in 2015.

In 2018, MTC completed its **Equity Analysis** as part of preparing for the next RTP. The primary purpose of the equity analysis is to estimate the distribution of benefits and burdens of proposed land use and transportation policies and projects on disadvantaged communities, and to assess whether these benefits and burdens are shared equitably across all population groups. The main finding of the equity analysis was that housing affordability remains the most significant challenge for the Bay Area.



The report summarized key findings from the equity analysis for Plan Bay Area (PBA) 2040, the combined Sustainable Communities Strategy (SCS) and Regional Transportation Plan (RTP) for the San Francisco Bay Area. The analysis includes both the federally-required disparate impact and non-discrimination (Title VI) and environmental justice analyses, as well as an analysis of the overall performance of PBA 2040 based on equity measures adopted by the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG).

In 2018, MTC updated its **Coordinated Public Transit–Human Services Transportation Plan** (Coordinated Plan), which seeks to improve transportation coordination in the region to address the mobility needs of low-income populations, seniors, persons with disabilities and veterans. This program sets criteria for how funds can be used to finance capital, planning and operating expenses when the projects selected are derived from a locally developed, coordinated public transit-human services transportation plan. STA became a Consolidate Transportation Services Agency (CTSA) in 2015, making it eligible to receive funding through the regional program.

In 2018, the Committee to House the Bay Area, or **CASA**, brought together leaders from city and regional governments, regional agencies, housing development, philanthropy, tenant protections, and tech companies groups to collaboratively consider, and negotiate around, strategies that would increase housing production, including affordable housing production. CASA’s goal was to change Bay Area housing conditions such that 35,000 housing units could be produced each year, with 14,000 being

affordable to low-income families and 7,000 being affordable to moderate income families. After over a year of deliberations, the final result was a 10-point compact, most of which requires state legislative changes in order to be enacted.

Federal and State Equity Laws and Regulations

Despite more than a half century of efforts to address discrimination and inequality through federal policy, inequity in our nation persists. Though great strides have been made towards overcoming oppression and injustice, creating fairness within the procedures of our institutions or systems, demands addressing the root causes of inequality.

Key policies aimed at promoting equity in transportation funding, access, and impact include:

Civil Rights Act (1964)

The Civil Rights Act outlaws discrimination based on race, color, religion, sex, or national origin. It prohibits unequal application of voter registration requirements, and segregation in schools, employment, and public accommodations, including courthouses, parks, restaurants, theaters, sports arenas and hotels. The act forbids the use of federal funds for any discriminatory program, authorized federal assistance with school desegregation, and prohibited the unequal application of voting requirements.

Title VI of the Civil Rights Act is a Federal statute and provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. This is a crucial consideration in regional transportation funding decisions.

Americans with Disabilities Act (1990)

The Americans with Disabilities Act is the first law in the United States prohibiting discrimination against people with disabilities by regulating five broad areas: Employment, Services provided by State

and Local Government, Public Accommodations & Privately Operated Services, Telecommunications, and Transportation.

Federal Executive Order (EO) 12898 (1994)

EO12898 was issued by Bill Clinton in 1994 to identify and address the disproportionately high and adverse health and environmental effects of government programs on minority and low-income populations. The order directs federal agencies to develop a strategy for implementing environmental justice. The order also seeks to provide minority and low-income communities with expanded access to public information and opportunities for public participation. A memorandum accompanying EO 12898 identified Title VI of the Civil Rights Act of 1964 as one of several Federal laws that must be applied “as an important part of . . . efforts to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects.”

USDOT Order 5610.2 - Instituting an Environmental Justice Strategy (1997)

Following EO12898, USDOT Order 5610.2 established the Department of Transportation’s environmental justice strategy. It defines procedures for analysis of environmental justice issues and inclusive public engagement with minority and low-income communities in the transportation planning process.

USDOT Circular FTA C 4703.1 - Environmental Justice Policy Guidance for FTA Recipients (2012)

Circular FTA C4703.1 is a guidance document for recipients of federal transit funding. It provides strategies and methods to effectively engage environmental justice populations in the public transportation decision-making process, to determine whether environmental justice populations would be subjected to disproportionate impacts as a result of a transportation plan or project, and to avoid, minimize, or mitigate these effects.

FHWA Order 6640.23 - policies to comply with (EO) 12898 and USDOT Order 5610.2.I (2012)

FHWA Order 6640.23 further clarifies the Federal Highway Administration’s environmental justice