

**DEPARTMENT OF TRANSPORTATION****Federal Transit Administration****[Docket FTA–2011–0055]****Environmental Justice: Final Circular****AGENCY:** Federal Transit Administration (FTA), DOT.**ACTION:** Notice of availability of final circular.

**SUMMARY:** The Federal Transit Administration (FTA) has placed in the docket and on its Web site final guidance in the form of a Circular (hereinafter “EJ Circular”) on incorporating environmental justice principles into plans, projects, and activities that receive funding from FTA. This final guidance provides recommendations to State Departments of Transportation, Metropolitan Planning Organizations, public transportation providers, and other recipients of FTA funds on how to fully engage environmental justice populations in the public transportation decision-making process; how to determine whether environmental justice populations would be subjected to disproportionately high and adverse human health or environmental effects as a result of a transportation plan, project, or activity; and how to avoid, minimize, or mitigate these effects.

**DATES:** The effective date of the Circular is August 15, 2012.

**FOR FURTHER INFORMATION CONTACT:** For program questions, Amber Ontiveros, Office of Civil Rights, Federal Transit Administration, 1200 New Jersey Avenue SE., Room E54–422, Washington, DC 20590, phone: (202) 366–4018, fax: (202) 366–3809, or email, [Amber.Ontiveros@dot.gov](mailto:Amber.Ontiveros@dot.gov); or for legal questions, Cecelia Comito, Office of Chief Counsel, 200 West Adams Street, Suite 320, Chicago, IL 60606, phone: (312)353–2789, or email, [Cecelia.Comito@dot.gov](mailto:Cecelia.Comito@dot.gov).

**SUPPLEMENTARY INFORMATION:****Availability of Final Circular**

This notice provides a summary of the final changes to the EJ Circular and responds to comments. The final Circular itself is not included in this notice; instead, an electronic version may be found on FTA’s Web site, at [www.fta.dot.gov](http://www.fta.dot.gov), and in the docket, at [www.regulations.gov](http://www.regulations.gov). Paper copies of the final Circular may be obtained by contacting FTA’s Administrative Services Help Desk, at (202) 366–4865.

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**I. Overview**

Prior to the issuance of Environmental Justice Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” FTA guidance on incorporating principles of environmental justice into transportation decision-making processes consisted of a page in FTA Circular 4702.1A, “Title VI and Title VI–Dependent Guidelines for FTA Recipients.” Recipients of FTA funds often were confused about the relationship between Title VI of the Civil Rights Act of 1964 (Title VI) and environmental justice (EJ). With the new EJ Circular, FTA is providing additional guidance on environmental justice and is clarifying the relationship between environmental justice and Title VI. The EJ Circular provides guidance on the implementation of Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” (February 11, 1994) and U.S. Department of Transportation (DOT) Order 5610.2(a), “Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (May 10, 2012).

On May 10, 2012, DOT issued Order 5610.2(a), updating and reaffirming DOT’s policy to consider environmental justice principles in all DOT programs, policies, and activities. The May 2012 Order, updating DOT’s original 1997 EJ Order, describes how the objectives of environmental justice will be integrated into transportation planning and programming, rulemaking, and policy formulation. The DOT Order sets forth steps to prevent disproportionately high and adverse effects on the environment and human health of minority and/or low-income populations through environmental justice analyses conducted as part of Federal transportation planning and National Environmental Policy Act (NEPA) provisions. It also describes the specific measures to be taken to address

instances of disproportionately high and adverse effects and sets forth relevant definitions.

FTA’s EJ Circular builds on the DOT Order, and provides further guidance for recipients for promoting principles of environmental justice in their public transportation decision-making processes, programs, plans and activities. FTA conducted extensive outreach to develop the final Circular. FTA sponsored Information Sessions in five cities around the country regarding the proposed new EJ Circular as well as proposed revisions to the Title VI Circular (see docket FTA–2011–0054 for more information on the proposed Title VI Circular). The meetings provided a forum for FTA staff to make presentations about the two proposed Circulars and allowed attendees an opportunity to ask clarifying questions. In addition, FTA participated in various conferences occurring in October and November 2011, hosted several webinars, and participated in a U.S. DOT webinar related to environmental justice. FTA received written comments to the docket related to the proposed EJ Circular from approximately 57 providers of public transportation, State Departments of Transportation, advocacy groups, individuals, metropolitan planning organizations, and the American Public Transportation Association. Some comments were submitted on behalf of multiple entities.

FTA’s new EJ Circular is intended to provide recipients with a distinct framework to assist them as they integrate principles of environmental justice into their public transportation decision-making processes, from planning through project development and implementation.

FTA expects the additional clarification provided by both the new EJ Circular and the final Title VI Circular, to be published later this summer, will provide recipients the guidance they need to properly incorporate both Title VI and EJ into their public transportation decision-making. This notice provides a summary of the EJ Circular and addresses comments received in response to the September 29, 2011, **Federal Register** notice (76 FR 60590).

**II. Chapter-by-Chapter Analysis***A. General Comments*

This section addresses comments that were not directed at specific chapters, but to the Circular as a whole.

Some commenters expressed concerns about perceived administrative and financial burdens of the new Circular, stating that the Circular contained new

requirements. These commenters also suggested that FTA exempt smaller transit agencies or rural transit agencies from the Circular. One commenter suggested that the new Circular contained additional “requirements” because the Title VI Circular only addressed environmental justice as it related to construction projects, whereas the new EJ Circular states that recipients are to consider EJ principles as part of all of their transportation decision-making. This last comment illustrates one of the reasons FTA decided to provide expanded guidance on environmental justice. By identifying only one example for consideration of environmental justice (i.e., construction projects) in the Title VI Circular, recipients incorrectly inferred that consideration of EJ principles is limited to only construction projects. It is not. As set forth in Executive Order 12898 and DOT Order 5610.2(a), EJ principles should be considered in all DOT programs, policies and activities.

Thus, the EJ Circular does not contain any new responsibilities for recipients. Recipients’ responsibilities regarding environmental justice have been a part of FTA’s annual Master Agreement, which is incorporated by reference and made a part of every grant agreement and cooperative agreement, for many years. Section 12.j. of FTA’s October 1, 2011, Master Agreement requires recipients to promote environmental justice by following and facilitating FTA’s compliance with Executive Order 12898, and following DOT’s Order on environmental justice. The EJ Circular does not place any additional burdens on recipients; rather it provides additional guidance to assist recipients in promoting environmental justice.

Several comments addressed whether FTA should issue a separate EJ Circular. Most commenters expressed approval in providing separate Circulars on Title VI and environmental justice. However, a few commenters did not approve of separating the Circulars, noting that it would be less confusing if Title VI and EJ guidance continued to be in one combined Circular. FTA believes that providing separate Circulars on Title VI and environmental justice will help eliminate the existing confusion between Title VI and environmental justice and provide greater clarity to recipients and the public. Moreover, expanding the Title VI Circular to include the information now in the EJ Circular would make the Title VI Circular unwieldy.

Numerous commenters made suggestions on the structure of the proposed Circular. Although several commenters liked the plain language

style used in the EJ Circular, others suggested that the Circular should be revised to reflect the outline organizational structure used in the Title VI and other FTA Circulars and should contain separate chapters based on the type of recipient (i.e., transit agencies, metropolitan planning organizations, etc.). Other commenters suggested reorganizing the order of the chapters in the EJ Circular by placing Chapters IV and V, which address *when* to do an EJ analysis, before Chapters II and III, which address *how* to do an EJ analysis. Additionally, several commenters suggested moving the information in proposed Chapter VI, which discusses the differences and similarities between Title VI and EJ, to Chapter I. Several commenters asked that FTA provide more examples and explanation of the topics covered in the Circular.

FTA considered all of these suggestions and incorporated several of them into the final EJ Circular. FTA took a hard look at the Circular’s readability to ensure that it would be understandable to recipients, transportation planners, and the general public. Where appropriate, headings or graphic illustrations have been added. FTA reviewed all of the definitions and terms used in the Circular to ensure that they are consistent with Executive Order 12898, DOT Order 5610.2(a), and other federal guidance. Additionally, FTA verified that the definitions used in the EJ Circular are the same as those in the revised Title VI Circular. FTA, however, declined to incorporate concepts that are applicable only to Title VI into the EJ Circular.

The suggestion to restructure the chapters informed our decision to combine Chapters I and VI. FTA declined to use the outline format used in other FTA Circulars because such a format would not contribute to issues of readability and accessibility of the Circular by the general public and non-transit professionals. FTA also did not revise the Circular to set out specific guidance based on the type of recipient because such distinctions are not as relevant when considering EJ principles in transportation decision-making.

Several commenters wanted clarification on whether FTA would review EJ activities of recipients and the extent of the State departments of transportation’s responsibility for subrecipients. Other commenters wanted FTA to incorporate strong accountability measures into the Circular, including requirements for documentation, reporting EJ activities alongside or within Title VI programs, monitoring compliance, public

challenges of EJ analyses, and an EJ complaint process. Others questioned whether FTA has sufficient resources for review and enforcement of the EJ Circular.

FTA currently reviews EJ analyses prepared as part of the NEPA process. Additionally, FTA monitors recipients’ efforts to promote EJ through its oversight reviews, including triennial reviews, planning certification reviews, and state management reviews. FTA expects recipients to maintain documentation of EJ analyses undertaken as part of their transportation planning and decision-making processes for FTA’s review during its normal monitoring activities described above.

FTA declined to provide an enforcement mechanism for environmental justice similar to that provided in the Title VI Circular. Section 6–609 of the Executive Order explicitly states that the E.O. “is intended only to improve the internal management of the executive branch” and that it “shall not be construed to create any right to judicial review involving the compliance or non-compliance of the United States, its agencies, its officers or any other person with this order.” Through the Master Agreement recipients are required to promote environmental justice and follow the Executive Order and DOT Order. FTA will monitor recipients’ efforts to address EJ concerns through its normal oversight activities and NEPA reviews.

Several commenters asked for clarification on the use of the word “should,” and indicated they were concerned “should” would become “shall” over time. FTA has reviewed the final Circular and made revisions as appropriate, limiting use of the word “should.”

Commenters also urged FTA to coordinate its EJ guidance with other Federal agencies, particularly with FHWA. FTA continues to work with FHWA and DOT to ensure consistency with promoting environmental justice, including our collaborative efforts with the Federal Interagency Working Group on Environmental Justice and our joint efforts with FHWA on planning certification reviews. Additionally, all DOT modal administrations are subject to DOT Order 5610.2(a).

Multiple commenters asked questions about whether the EJ Circular requires a separate analysis on service and fare equity from that required under Title VI. One commenter suggested requiring one analysis or report for assessing service and fare changes on EJ populations, rather than separate ones for Title VI

and EJ. Another commenter suggested centralizing the service and fare change discussion in the Title VI Circular only. Some commenters suggested allowing recipients' flexibility in determining what type of service changes would require EJ analysis. Several comments suggested that, where a provider builds a project for another provider, FTA should require a service and fare equity analysis to determine the impact on minority populations of both systems. FTA considered these comments and decided that issues related to service and fare equity analyses should be consolidated in a single location in the final Title VI Circular. Consolidating FTA's guidance on service and fare equity analyses in the Title VI Circular will provide clarity to recipients and prevent duplication of efforts.

Several commenters asked for more clarification and examples. In particular, a commenter wanted FTA to clarify that EJ applies at the earliest stages of decision-making, while another wanted clarification as to whether the Circular is outcome- or process-based. Throughout the EJ Circular, FTA states that principles of environmental justice are to be considered throughout the transportation planning and project development processes. Addressing environmental justice is primarily a process-based activity, involving public outreach to EJ populations and evaluating whether there are disproportionate adverse effects on EJ populations. However, outcomes are also important. In the event disproportionate adverse effects on an EJ population, recipients must evaluate whether there are practicable alternatives to the action prior to taking the action.

#### *B. Comments Beyond the Scope of the Circular*

There were numerous comments that were outside the scope of the Circular, including comments on highway improvement projects, joint development policies, skeletal service, persons with disabilities, and the Americans with Disabilities Act (ADA). Several commenters also made comments on affordable housing, fair housing, and community development, which were unrelated to the EJ Circular. FTA is not responding to these comments because they are beyond the scope of the notice for the EJ Circular.

#### *C. Chapter I—Environmental Justice, Title VI, and Public Transportation*

Chapter I of the final Circular is an introductory chapter. It provides a brief background of the Executive Order and

DOT Order on EJ, describes the purpose of the Circular, and presents the guiding EJ principles, derived from the DOT Order on environmental justice, that informs the rest of the Circular.

Several commenters suggested the discussion in Chapter VI of the Circular about the similarities and differences between Title VI and EJ be moved into Chapter I. FTA agreed with that suggestion, and revised chapter I to include the information from Chapter VI. At the core of this discussion was a table that compared Title VI and EJ. Several commenters also provided suggestions on the table, suggesting the table be enhanced and expanded, and also to discuss the scope, requirements, and applicability of Title VI and EJ. FTA has implemented many of those suggestions where appropriate, keeping in mind FTA has a separate Title VI Circular and did not want to repeat everything in the EJ Circular that is in the Title VI Circular.

Several of the comments on Chapter I asked for clarification, specifically as to what it means to consider EJ principles; how EJ principles are addressed in different chapters; and how disproportionately high and adverse effects apply to majority minority areas. FTA has expanded the discussions of these topics in Chapter I and throughout the Circular. FTA also has clarified the Circular so that the discussions of the applicability of the EJ analytical framework are consistent throughout the Circular.

One commenter applauded Chapter I, stating it offered a needed clarification on the important role of the EJ community throughout the planning and development process to ensure EJ concerns are meaningfully addressed.

Another commenter suggested clarifying language to reflect potential or estimated effects. FTA believes the references to potential effects, in the "Guiding EJ Principles" and "Conducting an EJ Analysis" sections, effectively convey that potential effects are to be considered.

One commenter suggested adding a section on avoiding, minimizing, or mitigating adverse effects. FTA has revised chapters II and V to include more discussion about mitigation.

#### *D. Chapter II—Conducting an Environmental Justice Analysis*

This chapter is designed to provide an analytical framework for incorporating principles of environmental justice when considering transportation plans, programs, projects, and activities. In response to comments, this chapter has been reworked to provide more detailed guidance on conducting an EJ analysis.

FTA received many comments on Chapter II, including multiple positive comments and suggestions for improving this chapter to provide more clarity. Additionally, many commenters raised questions about the terms used in the chapter, prompting FTA to take a hard look at the chapter to determine whether it provided sufficient information for recipients to undertake an EJ analysis. Based on this review, FTA decided that the chapter needed to be reorganized and that certain sections needed to be expanded.

FTA proposed adopting the Council for Environmental Quality (CEQ) guidance on determining whether a minority population is present. Under this guidance, CEQ suggests that a minority population may be present if the minority population percentage of the affected area is "meaningfully greater" than the minority population percentage in the general population or other "appropriate unit of geographic analysis." The term "affected area" is an area in which the proposed project or activity will or may have an effect. CEQ suggests minority populations will always be "meaningfully greater" when the percentage of minorities exceeds 50 percent, regardless of what the percentage of minority populations is in the comparison geographic unit. FTA had suggested using this threshold for both minority populations and low-income populations. Commenters were concerned that the "50 percent threshold" was a minimum requirement, and that MPOs and others were not free to establish lower thresholds, if appropriate. Others suggested that "meaningfully greater" should be defined consistent with how "minority routes" are defined in the Title VI Circular and FTA should use the "average percentage of the minority population in the service area" standard outlined in the Title VI Circular. Other commenters liked the proposed threshold. Some commenters were concerned that the standard "meaningfully greater" would be difficult to apply in practice.

Based on the comments FTA received on this topic, we have decided not to adopt this threshold test, finding that the threshold was too confusing for recipients and resulted in further blurring of Title VI and EJ. FTA has removed any reference to adopting the CEQ threshold. In its place is a discussion of the importance of considering whether there are disproportionately high and adverse effects on EJ populations; these effects are the basis for addressing environmental justice concerns, not the size of the EJ populations. A very small

minority or low-income population in the project, study, or planning area does not eliminate the possibility of a disproportionately high and adverse effect on these populations. Some commenters wrongly suggested that if minority or low-income populations are small (“statistically insignificant”), this means there is no environmental justice consideration. While the minority or low-income population in an area may be small, this does not eliminate the possibility of a disproportionately high and adverse effect of a proposed action. Thus, FTA has concluded that recipients should make EJ determinations based on effects, not on population size.

Commenters also asked questions about how to undertake an EJ analysis when the majority of the population in the affected area is minority or low-income. The fact that the majority of the population is minority or low-income does not relieve recipients from analyzing whether the proposed action may result in disproportionately high and adverse human health or environmental effects. Under DOT Order 5610.2(a), whether an adverse effect is “disproportionately high” on minority and low-income populations depends on whether that effect is (1) predominantly borne by an EJ population, or (2) will be suffered by the EJ population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-EJ population.

FTA received a number of comments on the “Preparing a Residential Demographic Profile” section. We have taken these comments into consideration in the revised “Know Your Community” section, which incorporates the “Preparing a Residential Demographic Profile” section. One commenter stated that the inclusion of specific requirements to conduct equity analyses and analyze demographic data will help to lift out some of the “hidden” impacts of transit projects, such as cumulative impacts of a series of transit service cuts or fare increases. Multiple commenters expressed that American Community Survey (ACS) data is unreliable, that Census data should be more readily accessible, and that recipients should be allowed to use reliable existing data or complement Census data with local surveys. We have included ACS data as a source of demographic data because it is a useful tool that is, along with the Census, readily available. The ACS and Census are not the exclusive sources of demographic data, and local data can be used to refine ACS and Census data. Any demographic data used by

recipients must be from a reliable source. Multiple commenters also wanted more guidance and flexibility regarding area of study and data sets, including information that goes beyond where EJ populations reside to where they work and receive benefits.

One commenter suggested using the Census Bureau poverty threshold in place of the U.S. Department of Health and Human Services (HHS) threshold for the definition of low-income. The definition in the proposed Circular is the same as that in the DOT EJ Order, and for Departmental consistency, we have retained that definition. However, recipients may use a more inclusive definition of low-income, e.g., 150% of poverty level, or incomes at a certain percentage of median household income, etc., if they choose, provided the threshold is at least as inclusive as the HHS poverty guidelines. FTA did revise the Circular text in response to comments suggesting changes regarding the use of Census block level and block group level data, NEPA references, and TIGER/Line file availability.

FTA received several comments regarding the Benefits and Burdens Analysis section. Commenters asked for clarification regarding the timing of an analysis, the types of projects or activities that require an analysis, whether a separate analysis would be required for Transportation Improvement Programs (TIP) and long-range plans, and whether special or promotional fares are subject to an analysis before implementation. Multiple commenters suggested FTA specify that an EJ analysis be done after alternatives are identified and before a preferred alternative is selected. Another commenter suggested that this type of analysis should apply only to specific transportation improvement projects, and not to Metropolitan Planning Organization (MPO) plans, which should be recognized as reflective of the time when the plan is developed. Another commenter suggested FTA clarify that benefits and burdens analysis must assess the burden of lack of service, while another suggested that metrics should be tailored to a specific impact, on which EJ populations would then provide input.

Many of the above comments reflect a misunderstanding of what it means to promote the principles of environmental justice in public transportation plans, programs, activities and projects. EJ is not a one-time analysis conducted at a specific moment in time, never to be revisited again. Throughout the transportation planning process and project implementation, there are

opportunities for recipients to engage the public, including members of EJ communities. FTA has attempted to clarify this analysis with the section “Determining Whether Adverse Effect Is Disproportionately High.” FTA has included more discussion and updated graphics on potential impacts and when an EJ analysis may be appropriate. Fare equity analyses are addressed in FTA’s Title VI Circular, and not in the EJ Circular. An EJ analysis should be included in environmental reviews under NEPA, and impacts on EJ populations should be analyzed and addressed as part of the environmental impact statement (EIS), environmental assessment (EA) or categorical exclusion (CE).

#### *E. Chapter III—Achieving Meaningful Public Engagement With Environmental Justice Populations*

Chapter III contains recommended strategies and techniques for ensuring that EJ populations have a voice in the decision-making process. In response to comments, this chapter has been revised to provide more clarity on our recommendations to make the public engagement process more inclusive and user-friendly, including the separation of the section on “Hosting a Successful Public Meeting.” This chapter also describes non-traditional outreach strategies that may result in greater participation by EJ populations.

FTA received numerous comments on chapter III, with positive comments on the emphasis on public participation throughout the transportation planning process, including the parts on community advisory committees and public engagement teams, and the traditional and non-traditional outreach techniques. Multiple commenters made suggestions on public engagement and outreach. One commenter suggested using the term “public engagement” or “participation,” rather than the weaker term “public involvement.” In response to this comment, FTA has replaced references to “public involvement” with “public engagement” or “participation.”

Several commenters asked for expanded guidance, particularly on how to consider the needs of EJ populations, how to do so at the earliest stages of planning, and how to incorporate those needs in recipients’ plans. These issues related to considering EJ population needs and planning are addressed in chapter IV, particularly in the “Strategies for Public Engagement for Planning Activities” and “Strategies to Achieve Full Public Participation for Planning Activities” sections, as well as in the FTA/FHWA joint planning regulations (23 CFR part 450). Another

commenter asked for clarification on the timing of outreach; i.e., whether outreach was to take place during the planning process or at the earliest stages of planning. Outreach should be done early in the planning process and continue throughout the transportation decision-making process, and this is reflected in the “Public Engagement as Part of Transportation Planning” section.

FTA has clarified guidance on public engagement and has stated that public engagement is integral to good transportation planning. Some commenters suggested the need to balance public input and provider capacity and resources, which includes the acceptance of local outreach practices. FTA has clarified the language in the chapter that engagement strategies will need to be evaluated on a case-by-case basis and FTA encourages local outreach practices that will effectively reach community members.

Additional outreach techniques that commenters suggested include advertising public meetings via multilingual door-to-door campaigns, working with community groups to develop public engagement plans, emphasizing the use of alternatively formatted materials for people with disabilities, and translated documents to reach limited-English proficient (LEP) persons, placing notices on vehicles and electronic displays, conducting onboard rider interviews, hosting meet and greet forums at terminals, avoiding blast public engagement techniques that may upset riders, and holding events and workshops at shopping centers, adult schools, or restaurants in areas where EJ populations live, work, and relax. FTA welcomes these suggestions and encourages recipients to evaluate the use of different techniques for public engagement in their communities. As noted in the Circular, there is no one technique for effective engagement of EJ populations; rather each situation will drive the outreach techniques used. Some commenters suggested that FTA create a clearinghouse of information for EJ populations to access region-specific data, require data collection from populations that do not regularly use a recipient's services, supplement data collection with feedback from EJ communities on the quality of service, and require transit providers to engage housing and social service providers to identify transportation challenges and mitigation strategies. FTA is exploring the possibility of such a clearinghouse, but declines to require this data collection and dissemination at this time.

Several comments were made on the “Getting to Know Your Community” section. A few commenters stated that maps of disaggregated minority populations have limited use in determining outreach targets, while another commenter cautioned on relying too heavily on non-profit organizations to conduct outreach to the public. Disaggregated minority population maps may be more useful than aggregated minority population maps, as they will provide more specific information on EJ populations. At the very least, minority populations should be disaggregated from low-income populations. While outreach through non-profit organizations is important, they are one of several listed examples of non-traditional outreach, along with informal group meetings, digital media, direct mail, and community led events. Another commenter stated that FTA should require collection of demographic information to ensure public meeting attendees are from the local EJ population, should not allow recipients to delegate or contract out public engagement, and should require public meeting notices posted in obvious locations three weeks prior to the meeting. Specific requirements for providing notice of public meetings are set forth in federal, state and local regulations, and must be followed. FTA does not intend to alter any of those regulations with this Circular. The intent of Chapter III is to provide suggestions for additional methods for engaging EJ populations.

#### *F. Chapter IV—Integrating Principles of Environmental Justice in Transportation Planning and Service Delivery*

This chapter includes guidance on incorporating EJ principles into Statewide, metropolitan and local planning processes. Many of the strategies described in this chapter apply not only to the required Statewide and metropolitan planning processes, but also to planning activities undertaken by transit providers and other local entities with public transportation planning and service-delivery responsibilities. This chapter builds on the residential demographic profile described in Chapter II and describes specific planning tools for developing these profiles. The chapter briefly outlines the Statewide and metropolitan planning public engagement requirements in the joint FHWA/FTA planning regulations, and proposes strategies to achieve public participation in planning activities. Each plan, whether Statewide, metropolitan, or local, should encompass the goals and visions for

future transportation for a region or area. This chapter explains why it is important to develop those goals and visions with input from EJ populations.

This chapter provides some sample questions to guide the discussion with the public to inform planning officials on how well current operation, management, and maintenance of facilities and services serve the needs of communities, with particular attention to the parity between EJ and non-EJ populations. In response to comments, references to service and fare equity have been moved to the Title VI Circular. This chapter recommends that public transportation providers and planning officials maintain a regular and open dialogue with EJ populations regarding the effectiveness of the plan, and identify trends in public transportation for future plans.

Commenters expressed interest in FTA providing more EJ guidance for MPOs and planning activities. One commenter pointed out that part of this chapter seemed repetitive of other chapters, while another suggested the creation of additional regulations and requirements that are sensitive to performance-based planning. Multiple commenters suggested linking the requirement to consider the needs of EJ populations with planning certification reviews, while several other commenters suggested flexibility as to when environmental justice should be considered for long term assessments. FTA revised the Circular to incorporate these suggestions.

#### *G. Chapter V—Incorporating Environmental Justice Principles Into the NEPA Process*

This chapter provides recipients with a road map for incorporating EJ analysis into the National Environmental Policy Act (NEPA) process. Federal agencies are required to consider the effects of Federally-funded projects on the environment. Recipients should include an EJ analysis, where applicable, as part of their NEPA documentation.

This chapter describes how a recipient can incorporate EJ principles into its analysis of the environmental impacts of a proposed project by defining the project impact area, identifying alternatives, identifying adverse environmental effects, identifying project benefits, and identifying mitigation measures and enhancements. Finally, this chapter provides guidance related to projects that qualify as categorical exclusions and information related to NEPA-specific public engagement strategies.

Several commenters spoke positively of Chapter V. Some commenters made

recommendations, including incorporating CEQ's definition of cumulative impacts into guidance; allowing stronger state-level analyses to suffice; and removing the chapter altogether. Multiple commenters wanted more discussion and clarification on categorical exclusions, including when further evaluation for an exclusion or exemption needs to be conducted. Commenters also wanted to clarify that projects are not always evaluated through the NEPA process. FTA acknowledges that Chapter V does not serve as guidance on the NEPA process, but rather assumes the reader has a level of familiarity with NEPA and its requirements. Therefore, FTA declines to incorporate into Chapter V discussions of general NEPA concepts such as cumulative impacts under CEQ. However, FTA has revised Chapter V to provide additional clarification of the relationship between NEPA and EJ.

Issued in Washington, DC, this July 12, 2012.

**Peter M. Rogoff,**  
Administrator.

[FR Doc. 2012-17404 Filed 7-16-12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD 2012 0080]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel AVENIR; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before August 16, 2012.

**ADDRESSES:** Comments should refer to docket number MARAD-2012-0080. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also

send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-0903, Email [Linda.Williams@dot.gov](mailto:Linda.Williams@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel AVENIR is:

**INTENDED COMMERCIAL USE OF VESSEL:** "Sunset harbor cruises with a master captain. Showing tourists and residents great views of the city, and giving them a sailing experience."

**GEOGRAPHIC REGION:** "California, Hawaii."

The complete application is given in DOT docket MARAD-2012-0080 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

#### Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

By Order of the Maritime Administrator.

Dated: July 9, 2012.

**Julie P. Agarwal,**

Secretary, Maritime Administration.

[FR Doc. 2012-17350 Filed 7-16-12; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2012 0079]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GUILDING LIGHT; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before August 16, 2012.

**ADDRESSES:** Comments should refer to docket number MARAD-2012-0079. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23-453, Washington, DC 20590. Telephone 202-366-0903, Email [Linda.Williams@dot.gov](mailto:Linda.Williams@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel GUILDING LIGHT is: