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## **Appendix D –Environmental Justice Legislation and Guidance**

## **Environmental Justice Legislation and Guidance**

Title VI of the 1964 Civil Rights Act, The National Environmental Policy Act of 1969 (NEPA), the Civil Rights Restoration Act of 1987, and the Federal-Aid Highway Act of 1970: 23 United States Code 109(h), established the basis for non-discrimination and the equitable treatment of communities in transportation projects. Attention was focused on Title VI and these other acts in the early 1990s, with *Executive Order 12898 (EO 12898): Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, issued by President Clinton on February 11, 1994. EO 12898 provides that “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.” Additional guidance expanding upon EO 12898 and clarifying how environmental justice principles are to be implemented is in:

- *US Department of Transportation (DOT) Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations (DOT Order 5610.2)* (April 1997): The Order summarizes and expands upon EO 12898 and generally describes the process for incorporating environmental justice principles into all DOT existing programs, policies, and activities.
- *FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (DOT Order 6640.23)* (December 1998): The Order requires the Federal Highway Administration (FHWA) to implement the principles of the DOT Order 5610.2 and EO 12898 by incorporating environmental justice principles in all FHWA programs, policies, and activities.
- FHWA and the Federal Transit Administration (FTA) memorandum, *Implementing Title VI Requirements in Metropolitan and Statewide Planning* (October 7, 1999): This memorandum provides clarification to field offices, on ensuring that environmental justice is considered during current and future planning certification reviews.

In addition to these US DOT and FHWA directives, a number of state departments of transportation, including the Michigan Department of Transportation (MDOT), have developed guidance on environmental justice. MDOT’s *Environmental Justice Interim Draft Guidance for Michigan Department of Transportation Plans, Programs and Activities* (March 2001) establishes impact categories that need to be addressed as part of MDOT transportation projects. This Guidance was consulted in preparation of this EJA.

## ***Environmental Justice Principles and Terminology***

The fundamental Environmental Justice principles are:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations
- To provide for the full and fair participation by all potentially affected communities in the transportation decision-making process
- To prevent the denial of, reduction in, or significant delay in, the receipt of benefits by minority and low-income populations

Although the proposed project due to its location will impact a predominantly low-income and minority population that is adjacent, the effects are not disproportionately distributed. Consideration of alternative alignments would not have significantly altered the demographic composition of areas impacted. Nevertheless, the potential social, economic, and other impacts of the project warrant the environmental justice assessment presented in this document.

Definitions of key terms are as follows:

- **Low Income:** Household income at or below the United States Department of Health and Human Services (HHS) poverty guidelines for the year 2000, which is defined as \$8,350 for a single person in the 48 contiguous states and the District of Columbia.
- **Minority:** Person who is Black, Hispanic, Asian American, Native American, or Alaskan Native.
- **Low-Income Population:** Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed or transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed program, policy, or activity.
- **Minority Population:** Any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed or transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed program, policy, or activity.
- **Adverse Effects:** Totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which can include, but are not limited to: bodily impairments, 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 non-profit organization; 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 proposed programs, policies or activities.

- **Disproportionately High and Adverse Effect on Minority and Low-Income Populations:** An adverse effect that is predominantly borne by a minority population and/or low-income population, or 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.