

**Key Differences Between Environmental Justice and Title VI**

<b>Key Aspects of the Authorities<sup>5</sup></b>	<b>Title VI</b>	<b>Environmental Justice</b>
<b>What is the basis for the authority?</b>	Federal statute provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance.	Executive Order: EO 12898- directs each Federal agency to “make achieving environmental justice part of its mission.” The EO is intended to improve the internal management of the executive branch and not create legal rights enforceable by a party against the US.
<b>What is the purpose of the authority?</b>	Title VI prohibits recipients of Federal financial assistance (e.g., states, local governments, transit providers) from discriminating on the basis of race, color, or national origin in their programs or activities, and it obligates Federal funding agencies to enforce compliance.	EO 12898 calls on each Federal agency to achieve "environmental justice...by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low income populations...."
<b>To whom does the authority apply?</b>	Title VI is a Federal law that applies to recipients and subrecipients of Federal financial assistance (e.g., States, local governments, transit providers), and not to DOT itself.	EO 12898 applies to Federal agency actions, including DOT’s and FTA’s actions. Title VI is one of the tools used by Federal agencies to implement this directive.

<sup>5</sup> Federal Transit Administration Title VI Circular 4702.1B

<p><b>What does the authority require, and of whom?</b></p>	<p>Under Title VI, DOT has the responsibility to provide oversight of recipients and to enforce their compliance with Title VI, to ensure that recipients do not use DOT funds to subsidize discrimination based on race, color, or national origin.</p>	<p>EO 12898 is a directive from the President of the United States to Federal agencies intended to improve the internal management of the Federal government. DOT issued its own Order implementing EO 12898, and updated the Order in May 2012 (Order 5610.2(a)).</p>
<p><b>What does the authority say with regard to negative effects or impacts?</b></p>	<p>In accordance with 49 CFR part 21 and Title VI case law, if an otherwise facially neutral program, policy, or activity will have a discriminatory impact on minority populations, that program, policy, or activity may only be carried out if (1) the recipient can demonstrate a substantial legitimate justification for the program, policy, or activity; (2) there are no comparably effective alternative practices that would result in less-disparate impacts; and (3) the justification for the program, policy or activity is not a pretext for discrimination.</p>	<p>In accordance with EO 12898 and the DOT Order on EJ, if a DOT program, policy, or activity will have a disproportionately high and adverse effect on minority or low-income populations, that program, policy, or activity may only be carried out if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects 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.</p>

<p><b>Does the authority create any rights or remedies?</b></p>	<p>Title VI allows persons alleging discrimination based on race, color, or national origin by recipients of Federal funds to file administrative complaints with the Federal departments and agencies that provide financial assistance. Persons alleging intentional discrimination (i.e., disparate treatment) may bring a court action seeking to enforce Title VI but cannot do so with regard to allegations of discrimination based on agency disparate impact regulations. Disparate impact claims may be filed with the Federal agency.</p>	<p>EO 12898 establishes the Executive Branch policy on environmental justice; it is not enforceable in court and does not create any rights or remedies.</p>
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