

**GF/EGF  
METROPOLITAN  
PLANNING  
ORGANIZATION'S**

**ENVIRONMENTAL  
JUSTICE  
PROCEDURAL  
MANUAL**

**2003**

“Environmental justice represents a public policy goal of ensuring that adverse human health or environmental effects of government activities do not all disproportionately upon minority or low-income populations.”

David J. Forkenbrock and Lisa A. Schweitzer

This document provides procedures for the Grand Forks-East Grand Forks Metropolitan Area to follow to address the Environmental Justice Executive Order. These steps are designed to begin as early as practicable in the report development process. These recommendations and guidelines apply to all MPO planning and programming reports, including the Metropolitan Long Range Transportation Plan, Transportation Corridor Plans, and the Transportation Improvement Program (T.I.P.). Public involvement is not addressed as a separate step, but rather as an integrated process in each step.

The following steps should be followed in determining Environmental Justice:

**I. Determine if the report is eligible to be processed under the Programmatic Categorical Exclusion Approval Agreement between the Federal Highway Administration and the State (ND & MN) Departments of Transportation.**

If the report is on the categorical exclusion list, documentation should be included in the report folder. No further investigation relative to environmental justice is necessary.

If the report is not exempted by step one, proceed to step two.

**II. Determine if a minority or low-income population is present within the report area.**

This step involves the use of Appendix B. Appendix B is a document that will be updated following the availability of census block group level information involving income and minority populations. The data used may also include information from local human service agencies and grant applications made by small cities that would detail information on low-income and minority populations.

If the conclusion is that no minority and/or low-income population is present within the report area, document how the conclusion was reached and indicate this in the project NEPA document.

If the conclusion is that there are minority and/or low-income populations present, proceed to step three.

**III. Determine whether report impacts associated with the identified low-income and minority populations are disproportionately high and adverse. The questions are to be dealt with in this order.**

**Question 1: Is the anticipated adverse impact high?** Any impact which exceeds a state or federal standard should be considered high. If an impact is determined to be “significant” per NEPA, it would also be considered high. In some areas there may be quantitative standards to draw upon; e.g. noise, air quality, water quality, contamination, etc. In other impact areas, the decision will be based on qualitative standards. A public involvement effort will often be necessary to address qualitative impacts thoroughly.

**Question 2: Is the high and adverse impact anticipated to fall disproportionately on a low-income or minority population?** Two questions must be answered to determine whether there may be disproportionate impacts. The first question is whether the overall adverse impact is predominantly borne by the minority or low-income group? If the answer is “NO”, then the impact may not be disproportionate in nature. The second question is whether the adverse effect is “appreciably more severe” than that experienced by non-minority or non-low-income persons.

It is the “NET” impact, which should be used in reaching the determination, (see DOT Order Item 8b). Rather than simply considering the gross impact, make the determinations after mitigation, and after enhancements, and after calculating all “offsetting benefits” to the low-income or minority populations.

A. High and Adverse. First is the decision as to whether or not an adverse impact is “High”. This is not the same as an impact being “Significant”, as that term is used in NEPA. Any impact which exceeds a state or federal standard should be considered high. Many of the most traditional NEPA issue areas; e.g., wildlife impacts or relocation impacts, do not have standards or a numerical threshold to determine if an impact is high. The same type of logic used in those issue areas should be employed in determinations regarding environmental justice. If we determine an impact is “significant” per NEPA, we would also conclude that it is high. In some areas we may draw upon standards for this decision; e.g., noise, air quality, water quality, contamination, etc.. In other impact areas, the decision will be a qualitative determination.

And, this may be the point at which a larger public involvement/public involvement effort becomes important. The DOT Order indicates that minority or low-income populations should have a meaningful opportunity for public involvement, including the identification of potential effects, alternatives and mitigation measures.

B. Disproportionate. The DOT Order defines the term “Disproportionate” in two ways. First, ask the question: “Is the overall impact “predominantly borne” by

the minority or low-income group”? If the answer is “No”, then the impact may not be disproportionate in nature.

When an adverse effect will be experienced by a low-income or minority population, the second question to ask is: “Will the effect experienced by either of these groups be appreciably more severe than that experienced by non-minority or non-low-income persons?”

If the answer to both these questions is negative, then, by definition, the report does not cause a disproportionately high and adverse effect on low-income and minority populations. If the answer to either of the above questions is “Yes”, then the report has an environmental justice issue to address.

Once again, the report must make a qualitative decision. When is an effect “predominately born” by one of the protected groups? Let us presume that a report will have an adverse noise effect. How shall we presume that a noise effect will be predominately borne by a low income or minority population? The same type of decision must be reached when answering the question of whether the effect experienced by the low-income or minority population is appreciably more severe than that experienced by the non-minority or non-low-income population.

At this stage, it may be appropriate to again consider the DOT Order (Item 8b). This item indicates that in decision making for disproportionately high and adverse effects, consideration may be given to: “...design, comparative impacts, and relevant number of similar existing system elements in non-minority or non-low-income.” (DOT Order, Item 8b). This suggests that under certain well-defined conditions, an impact which may fall primarily on a minority or low-income population still may not be “Disproportionate” under the Order. The major question seems to be whether the report, which will result in the impact, is consistent with what the agency has done elsewhere in the state. If the report is similar in its design, comparative impacts, and the relevant number of similar existing system elements in non-minority and non-low-income areas, the report may not reach the disproportionately high and adverse standard. This suggests that if the proposed facility is similar to that used in many other locations throughout the state or region, and there are non-minority nor non-low-income populations who have been affected in a similar manner in these locations, then the adverse impact resulting from the proposed action may not reach the high adverse and disproportionate standard.

**IV. If, after mitigation, enhancements, and off-setting benefits to the affected populations, there remains a high and disproportionate impact to minority populations or low-income populations, then the following questions must be considered:**

- A. Are there further mitigation measures that could be employed to avoid or reduce the adverse effect to the minority or low-income population? If further

mitigation measures exist, then those measures must be employed unless they are not practicable.

- B. Are there other additional alternatives to the proposed action that would avoid or reduce the impacts to the low-income or minority population? If such an alternative exists and is practicable, then that alternative must be selected.

If further mitigation or alternatives that avoid the impact are judged to be not practicable, that conclusion must be documented, supported by evidence, and included in the report document.

In making the determination as to whether or not the additional mitigation measures or alternatives discussed immediately above are practicable; the social, economic (including cost), and environmental effects of the mitigation measures and alternatives should be considered.

- C. Title VI Populations: If the disproportionate impact will fall on a population protected by the Title VI of the Civil Rights Act of 1964, then additional considerations must be undertaken. In the case of an impact to a Title VI population, two additional tests must be met for the report to go forward.

1. Substantial Need For Report

Considering the overall public interest, a substantial need for the report must be shown;

AND

2. Other Alternatives Not Available

Alternatives that would still satisfy the need for the report have less of an impact on protected populations:

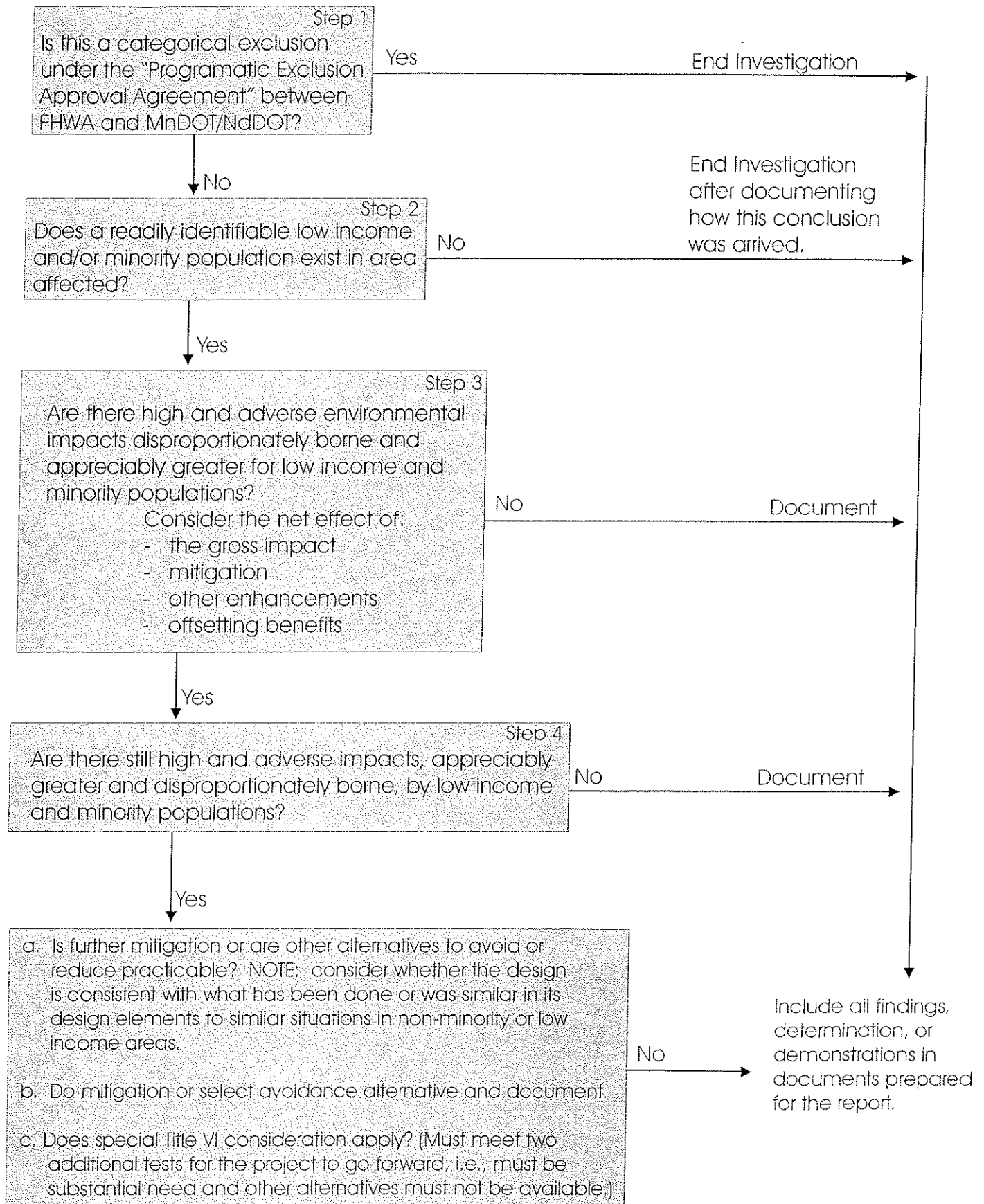
- (a) would have other social, economic, or environmental impacts that are more severe than those of the proposed action,

OR

- (b) the other alternative that would reduce or avoid the impacts to protected populations have increase costs of extraordinary magnitude.

- V. Include all findings, determinations, or demonstrations in the environmental document prepared for the report.**

# PROCESS FLOW CHART



Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

**CONTESTING RECORD PROCEDURES:**

See Notification Procedure and Record Access Procedures above.

**RECORD SOURCE CATEGORIES:**

Customers.  
Stanley F. Mires,  
*Chief Counsel, Legislative.*  
[FR Doc. 97-9590 Filed 4-15-97; 8:45 am]  
BILLING CODE 7710-12-P

**SECURITIES AND EXCHANGE COMMISSION**

**Sunshine Act Meeting**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission held a closed meeting on Tuesday, April 8, 1997.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries attended the closed meeting. Certain staff members with an interest in the matters were also present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting held on Tuesday, April 8, 1997, at 11:15 a.m., was:

Matter involving confidential privileged commercial or financial information.  
Institution of injunctive action.  
Formal order of investigation.

Commissioner Johnson, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: April 11, 1997.

Johathan G. Katz,  
*Secretary.*  
[FR Doc. 97-9888 Filed 4-11-97; 3:54 pm]  
BILLING CODE 8010-01-M

**DEPARTMENT OF STATE**

[Public Notice No. 2530]

**Defense Trade Advisory Group; Notice of Upcoming Meeting**

The Defense Trade Advisory Group (DTAG) will meet beginning at 8:30 a.m. on Friday, May 16, 1997, in the East Auditorium, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. This advisory committee consists of private sector defense trade specialists who advise the Department on policies, regulations, and technical issues affecting defense trade.

The open session will include presentations by representatives of the Department of State and the Department of Defense. Reports on DTAG Working Group progress, accomplishments, and future projects will also be presented.

Members of the public may attend the open session as seating capacity allows, and will be permitted to participate in the discussion in accordance with the Chairman's instructions.

As access to the Department of State is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by COB Monday, May 12, 1997. If you notify the DTAG Secretariat after this date, the DTAG Secretariat cannot guarantee that State's Bureau of Diplomatic Security can complete the necessary background checks required for you to attend the May 16 plenary.

Each person should provide his/her name, company or organizational affiliation, date of birth, and social security number to the DTAG Secretariat at telephone number (202) 647-4231 or fax number (202) 647-4232 (Attention: Catherine Shelton). A list will be made up for Diplomatic Security and the Reception Desk at the C-Street diplomatic entrance. Attendees must carry a valid photo ID with them. They should enter the building through the C-Street diplomatic entrance (22nd and C Streets, NW.) where Department personnel will direct them to the East auditorium.

A working lunch will be held at the Department. Limits on available seating may require that only DTAG members may attend.

For further information, contact Catherine Shelton of the DTAG Secretariat, U.S. Department of State, Office of Arms Transfer and Export Control Policy (PM/ATEC), Room 2422 Main State, Washington, DC 20520-2422. She may be reached at telephone number (202) 647-4231 or fax number (202) 647-4232.

Dated: April 9, 1997.

Martha C. Harris,  
*Deputy Assistant Secretary for Export Controls, Bureau of Political-Military Affairs.*  
[FR Doc. 97-9654 Filed 4-14-97; 8:45 am]  
BILLING CODE 4710-25-M

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

[OST Docket No. OST-95-141 (50125)]

**Department of Transportation (DOT) Order To Address Environmental Justice in Minority Populations and Low-Income Populations**

**AGENCY:** Departmental Office of Civil Rights and Office of the Assistant Secretary for Transportation Policy, DOT.

**ACTION:** Notice of final DOT Order on environmental justice.

**SUMMARY:** The Department of Transportation is issuing its final DOT Order, which will be used by DOT to comply with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. The Order generally describes the process that the Office of the Secretary and each Operating Administration will use to incorporate environmental justice principles (as embodied in the Executive Order) into existing programs, policies, and activities. The Order provides that the Office of the Secretary and each Operating Administration within DOT will develop specific procedures to incorporate the goals of the DOT Order and the Executive Order with the programs, policies and activities which they administer or implement.

**FOR FURTHER INFORMATION CONTACT:** Ira Laster Jr., Office of Environment, Energy, and Safety, Office of the Assistant Secretary for Transportation Policy, (202) 366-4859, or Marc Brenman, Departmental Office of Civil Rights, (202) 366-1119, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** Executive Order 12898, as well as the President's February 11, 1994 Memorandum on Environmental Justice (sent to the heads of all departments and agencies), are intended to ensure that Federal departments and agencies identify and address disproportionately high and adverse human health or environmental effects of their policies, programs and activities on minority populations and low-income populations.

The DOT Environmental Justice Order is a key component of DOT's June 21, 1995 Environmental Justice Strategy (60 FR 33896). The Order sets forth a process by which DOT and its Operating Administrations will integrate the goals of the Executive Order into their operations. This is to be done through a process developed within the framework of existing requirements, primarily the National Environmental Policy Act (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 applicable statutes, regulations and guidance that concern planning; social, economic, or environmental matters; public health or welfare; and public involvement. The Order is an internal directive to the various components of DOT and does not create any right to judicial review for compliance or noncompliance with its provisions.

In order to provide an opportunity for public input, a proposed version of this Order was published for comment on June 29, 1995 (60 FR 33899). A total of 30 written comments were received. Fifteen comments were received from state transportation or highway agencies, representing 20 state agencies (one letter was signed by ten state agencies, but four of those also sent individual comments). The other 15 comments included four from transit agencies, four from national organizations, two each from local governments, metropolitan planning organizations, and citizens objecting to one particular project, and one from a professional association.

Most of the comments from the state agencies suggested that the proposed Order would duplicate existing processes and impose additional burdens on the state agencies, and urged that greater flexibility be granted to states.

The DOT Order reinforces considerations already embodied in NEPA and Title VI, and the final version has been revised to make this clearer. It is intended to insure that a process for the assessment of environmental justice factors becomes common practice in the application of those, and related, statutes.

Many other comments suggested ways in which the Order might be clarified or simplified, or addressed specific details of individual agency implementation. As this Order is only intended to provide general guidance to all DOT components, detailed comments on

each agency's implementation are premature, and should be made during opportunities for public input on agency implementation (para. 5 of the Order).

Several commenters suggested greater reliance on existing procedures, particularly those implementing NEPA.

One commenter noted, "Over the past number of years we have seen rules and laws initiated with laudable intent, only to be slowly transformed into bureaucratic mazes only dimly related to their original purpose."

The Department does not intend that this Order be the first step in creating a new set of requirements. The objective of this Order is the development of a process that integrates the existing statutory and regulatory requirements in a manner that helps ensure that the interests and well being of minority populations and low-income populations are considered and addressed during transportation decision making.

To further advance this objective, explanatory information has been provided in this preamble and several changes have been made in the Order. Most notably:

- Further clarification has been provided concerning the use of existing NEPA, Title VI, URA and ISTEA planning requirements and procedures to satisfy the objectives of Executive Order 12898.
- The application of the Order to ongoing activities is discussed in this preamble.
- The Order has been modified to further clarify the relationship and use of NEPA and Title VI in implementing the Executive Order.

Further, in developing and reviewing implementing procedures, described in paragraph 5a to comply with Executive Order 12898, the emphasis continues to be on the actual implementation of NEPA, Title VI, the URA and ISTEA planning requirements so as to prevent disproportionately high and adverse human health or environmental effects of DOT's programs, policies and activities on minority populations and low-income populations.

One of the primary issues raised in the proposed Order concerned the actions that would be taken if a disproportionately high and adverse human health or environmental effect on minority populations or low-income populations is identified. The proposed Order set forth three options. A variety of comments were received on this issue, both for and against the various options.

The final Order adopts a modified version of Option B from the proposed Order. While Option B implements a new process for addressing disproportionately high and adverse

effects, the Department believes that Option B is consistent with existing law and best accomplishes the objectives of the Executive Order. Option B (now incorporated in paragraphs 8a, 8b and 8c of the final Order) provides that disproportionate impacts on low-income and minority populations are to be avoided, if practicable, that is, unless avoiding such disproportionate impacts would result in significant adverse impacts on other important social, economic, or environmental resources. Further, populations protected by Title VI are covered by the additional provisions of paragraph 8b. Three commenters expressed concern and uncertainty as to the implementation of paragraph 6b(1) of Option B as proposed, that provided for an agreement with populations protected by Title VI. DOT agreed with the comments and, accordingly, that paragraph has been deleted from the final Order.

Several commenters asked about the effective date of this Order. In particular they wanted to know whether it applies to ongoing projects. The effective date of the Order is the date of its issuance. However, to the extent that the Order clarifies existing requirements that ensure environmental justice principles are considered and addressed before final transportation decisions are made, its purposes already should be reflected in actions relating to ongoing projects.

Several commenters recommended that insignificant or *de minimis* actions not be covered by this Order. It is noted that the definition of "programs, policies and/or activities" in Section 1f of the Appendix does not apply to those actions that do not affect human health or the environment. Other actions that have insignificant effects on human health or the environment can be excluded from coverage by a DOT component.

One commenter suggested that this Order might be inconsistent with the Supreme Court's decision in *Adarand Constructors v. Peña*. DOT has concluded that, since the purpose of this Order is unrelated to the types of programs which were the subject of *Adarand*, this Order is not affected by the *Adarand* decision.

Dated: February 3, 1997.

Federico F. Peña,  
Secretary of Transportation.

Department of Transportation, Office of  
the Secretary, Washington, D.C.

Order

Subject: Department of Transportation  
Actions 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 meanings\*:

- 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. Disproportionately 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.

\* These 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.

**Federico F. Peña,**

*Secretary of Transportation.*

[FR Doc. 97-9684 Filed 4-14-97; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### RTCA, Inc.; Special Committee 169, Aeronautical Data Link Applications

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)-169 meeting to be held April 28-May 1, 1997, starting at 9:00 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda will include: April 28-29 Working Group (WG)-2, Required Communications Performance; April 30-May 1, Plenary Session: (1) Plenary Administration: Chairman's Introductory Remarks; Review and Approval and Meeting Agenda; Review and Approval of Minutes from the Previous Meeting; Review of Outstanding Action Items; (2) Working Group Progress: WG-1, Air Traffic Services Data Link Communications; WG-2, Required Communications Performance; WG-3, Flight Information Services Communications; WG-4, Coordination of Communications Capability Implementation; WG-5, Ground/Ground Traffic Flow Management Applications; WG-6, Human Factors Guidelines; (3) Plenary Business: Final Review/Approval of *Minimum Aviation System Performance Standard (MASPS) for Air Traffic Management (ATM)*—Aeronautical Operational Control (AOC) Ground-Ground Information Exchange, RTCA Paper No. 440-96/SC169-273; Review and SARP Compliant Documents; Discussion of Future of SC-169 Work Efforts; (4) Other Business; (5) Date and Place of Next Meeting.

Attendees is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036; (202) 833-9339 (phone); (202) 833-9434 (fax); or <http://www.rtca.org> (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 8, 1997.

**Janice L. Peters,**

*Designated Official.*

[FR Doc. 97-9639 Filed 4-14-97; 8:45 am]

BILLING CODE 4810-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration Commercial Space Transportation Advisory Committee—Open Meeting

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Commercial Space Transportation Advisory Committee Open Meeting.

**SUMMARY:** Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Wednesday, May 14, 1997, from 8:00 a.m. to 1:15 p.m. in Room 9230 of the Department of Transportation's Headquarters building at 400 Seventh Street, SW., in Washington, DC. This will be the twenty-fifth meeting of the COMSTAC.

The agenda for the meeting will include reports from the respective COMSTAC Working Groups; a legislative update on Congressional activities involving commercial space transportation; an activities report from FAA's Acting Associate Administrator for Commercial Space Transportation (formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995]); and other related topics.

The meeting is open to the public; however, space may be limited.

**FOR FURTHER INFORMATION CONTACT:** Brenda Parker, (AST-200), Office of the Associate Administrator for Commercial Space Transportation, 400 7th Street SW., Room 5415, Washington, DC 20590, telephone (202) 366-2932.

Dated: April 8, 1997.

**Patricia G. Smith,**

*Acting Associate Administrator for Commercial Space Transportation.*

[FR Doc. 97-9640 Filed 4-14-97; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Monthly Notice of PFC Approvals and Disapprovals. In March 1997, there were six applications approved. Additionally, six approved amendments to previously approved applications are listed.

## Appendix B

This document is a general survey of protected populations in the Grand Forks Metropolitan Area and is not related to any specific project. Protected populations are racial minority and low-income populations. The minority population consists of all races other than white and persons of Hispanic origin. Hispanic is not considered to be a race. Most Hispanics report their race to be white, but many do not. Therefore, some persons are counted twice if Hispanics are added on to the total non-white races. For this document the majority population is defined as all non-Hispanic whites and the minority population is everyone else. Low-income populations are defined as all persons living in households with incomes below poverty level as reported in the 2000 Census.

The Grand Forks area has a relatively small minority population. In 2000, 6.7 percent of the population was not white in the City of Grand Forks, and 9.0 percent for East Grand Forks. This compares with 6.0 percent for North Dakota, 8.6 percent for Minnesota, and 24.9 percent for the United States. There is no block group in the Grand Fork Metropolitan Area with a minority population greater than 25 percent, which is about the same as for the United States as a whole. See Map 1. There are five individual block groups with percentages between 16 percent and 24 percent. If a specific project were being considered, it would be necessary to base the analysis on smaller geographic units than block groups. It would also be necessary to determine what level of concentration is required to trigger consideration of protected populations in project decisions.

Protected Populations, 2000

	Percent Minority Population	Percent Population Below Poverty Level
United States	24.9	12.4
North Dakota	6.0	11.9
Minnesota	8.6	7.9
Grand Forks	6.7	14.6
East Grand Forks	9.0	12.4
GF-EGF Metro	7.0	13.2 (15.2)*

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\* Based on Health and Human Services Department Poverty Threshold.

Percentage of persons below the poverty level is nearly the same for both cities, 16.6 for Grand Forks and 14.4 for East Grand Forks. This is only slightly higher than for the Nation. There are eleven block groups with more than 20% of the population earning an income below the poverty level. See Map 2. Income data are not available for blocks, so it is difficult to determine how concentrated low-income populations may be in the neighborhoods which are smaller than block groups. Some indicators of low-income are available at the block level, such as value of owner-occupied housing units, rent for renter-occupied units, percent of population 65 years of age and over, etc. The distribution of low-income areas is very similar to that of minorities, as seen by comparing Maps 1 and 2.

There are at least two reasons why the low-income population in Grand Forks is as high as it is. First, poverty level determination is based on family size, but does not consider local cost of living. Second, Grand Forks has a large college population. The census reported that 10,434 persons were enrolled in college in 2000 in the two cities. A large percentage of college students technically live below the poverty level, but are not what is usually intended as a protected population. Map 3 shows the distribution of college students. This helps to explain some of the distribution of low-income areas.

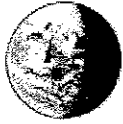
There is still the problem of what standard to use in judging what concentration of minority or low-income population is necessary to be of concern. There is no generally accepted standard. The Metro wide minority population averages seven percent and persons below the poverty level averages 15.2 (HHS) percent. Map 4 shows all block groups with either percentage three times its respective average. Until better standards become available, the Grand Forks-East Grand Forks MPO will use this as a standard. As a part of planning for all future projects, areas of high concentrations of protected populations will be scrutinized to ensure that these areas do not bear a disproportion share adverse effects or that areas of below average concentrations do not receive more than their share of the benefits.











"Ways, Sherry  
<FHWA>"

07/17/2003 02:01 PM

To: LaneMagnuson@grandforksgov.com (IPM Return requested) (Receipt notification requested)  
cc: "Spear, Bruce <FHWA>", "Wheeler, Robert <FHWA>",  
"/c=US/admd=ATTMAIL/prmd=gov+dot/o=FHWA/ou=FHWAgw/dd.GWise=FHGW2EX.EXAPI:(q)lynne.bly(a)dot.state.mn.us(q)"/@mh1-gw.dot.gov (IPM Return requested) (Receipt notification requested),  
"/c=US/admd=ATTMAIL/prmd=gov+dot/o=FHWA/ou=FHWAgw/dd.GWise=FHGW2EX.EXAPI:(q)pbenning(a)state.nd.us(q)"/@mh1-gw.dot.gov (IPM Return requested) (Receipt notification requested)  
Subject: RE: Poverty Thresholds

Hi Lane,

Thank you for your e-mail.

FHWA uses the US Department of Health and Human Services definition of poverty level. Therefore, I would recommend that you use the second option.

Recently FTA completed a series of MPO studies looking at Environmental Justice in transportation planning. Below are two names of individuals who you may want to talk to:

Scott Erikson  
San Antonio &  
Bexar County MPO  
1021 San Pedro  
San Antonio, Texas 78212  
(210) 227-8651  
<http://www.sametroplan.org/>

Thomas Maziarz  
Capitol Region Council of Governments  
241 Main Street  
Hartford, CT 06106  
(860) 522-2217  
<http://www.crcog.org>

I hope this helps.

Sherry B. Ways, AICP  
Transportation Planner  
FHWA-Office of Planning  
400 Seventh Street, SW  
Room 3301  
Washington, DC 20590  
Direct (202) 366-1587  
Fax (202) 493-2198

-----Original Message-----

From: LaneMagnuson@grandforksgov.com  
Sent: Thursday, July 17, 2003 8:53 AM  
To: Ways, Sherry  
Cc: lynne.bly@dot.state.mn.us; pbenning@state.nd.us  
Subject: Poverty Thresholds

Ms. Ways

My name is Lane Magnuson and I'm a Planner with the Grand Forks - East Grand Forks MPO. I am currently working on an update to our Environmental

Justice Procedural Manual. In the past our data for determining protected populations has come from census data. The problem I am running into is that FHWA's definition of poverty is different from the Census' definition. They also use different matrices in their poverty thresholds which are based on family size.

We are trying to locate the block groups with the highest percentage of the population below the poverty level. Our Social Services Department does not have the digital capabilities to provide us data that can be used in our GIS system. What would you suggest should be done? Right now I have two options. One is to use the Census' definition and say it is close enough.

The other option is to use the average number of persons in a household to correspond with the U.S. Health and Human Services matrix. Then I would use that dollar amount as a household poverty threshold and plug it in to the Census Data to find the number of households below that level in each block group.

What are other MPO's doing? Are either of my methods acceptable for determining the poverty level? Please E-mail or Phone me with any help.

Thank you for your time

Lane Magnuson  
Senior Planner  
Grand Forks - East Grand Forks MPO  
255 North Fourth Street  
Grand Forks, ND 58206

(701) 746-2683

### 2002 HHS Poverty Guidelines

Size of Family Unit	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$ 8,860	\$11,080	\$10,200
2	11,940	14,930	13,740
3	15,020	18,780	17,280
4	18,100	22,630	20,820
5	21,180	26,480	24,360
6	24,260	30,330	27,900
7	27,340	34,180	31,440
8	30,420	38,030	34,980
For each additional person, add	3,080	3,850	3,540

**SOURCE:** *Federal Register*, Vol. 67, No. 31, February 14, 2002, pp. 6931-6933.

The separate poverty guidelines for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966-1970 period. Note that the poverty thresholds — the original version of the poverty measure — have never had separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and Palau. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office which administers the program is responsible for deciding whether to use the contiguous-states-and-D.C. guidelines for those jurisdictions or to follow some other procedure.

The poverty guidelines apply to both aged and non-aged units. The guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical) poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Programs using the guidelines (or percentage multiples of the guidelines — for instance, 125 percent or 185 percent of the guidelines) in determining eligibility include Head Start, the Food Stamp Program, the National School Lunch Program, the Low-Income Home Energy Assistance Program, and the Children's Health Insurance Program. Note that in general, cash public assistance programs (Temporary Assistance for Needy Families and its predecessor Aid to Families with Dependent Children, and Supplemental Security Income) do NOT use the poverty guidelines in determining eligibility. The Earned Income Tax Credit program also does NOT use the poverty guidelines to determine eligibility.

The poverty guidelines (unlike the poverty thresholds) are designated by the year in which they are issued. For instance, the guidelines issued in February 2002 are designated the 2002 poverty guidelines. However, the 2002 HHS poverty guidelines only reflect price changes through calendar year 2001; accordingly, they are approximately equal to the Census Bureau poverty thresholds for calendar year 2001. (The 2001 thresholds are expected to be issued in final form in September or October 2002;

# U.S. Census Bureau

## Poverty 2002

(Use landscape & legal printer options to print this table)

Poverty Thresholds for 2002 by Size of Family and Number of Related Children Under 18  
(Dollars)

Size of family unit	Related children					
	None	One	Two	Three	Four	Five
One person (unrelated individual)...						
Under 65 years.....	9,359					
65 years and over.....	8,628					
Two persons.....						
Householder under 65 years.....	12,047	12,400				
Householder 65 years and over.....	10,874	12,353				
Three persons.....	14,072	14,480	14,494			
Four persons.....	18,556	18,859	18,244	18,307		
Five persons.....	22,377	22,703	22,007	21,469	21,141	
Six persons.....	25,738	25,840	25,307	24,797	24,038	23,
Seven persons.....	29,615	29,799	29,162	28,718	27,890	26,
Eight persons.....	33,121	33,414	32,812	32,285	31,538	30,
Nine persons or more.....	39,843	40,036	39,504	39,057	38,323	37,

Source: U.S. Census Bureau.

[Go to Poverty 2001](#)

[Go to Poverty Statistics](#)

Last Revised: February 26, 2003

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