Equity Impact Assessment (Social Equity Analysis)

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Version of 4/20/2010

Objectives

Equity focused impact assessment seeks to:

• put concern for equity and the reduction of inequalities in services and benefits on the planning and policy agendas where it currently is not considered enough,

• provide a flexible, yet structured approach to routinely and consistently identifying and determining the possible impacts of policies and practices on different population groups, and

• provide a means for adding evidence about inequalities and the consequences of inequity into decision making processes at all levels of government.

Why do an equity impact assessment?

It’s required.

It will help reduce the hazards of litigation.

FTA, BART case

In 2009, HUD helped bring about a constructive and important settlement in a case that alleged Westchester County, New York had made false claims to the federal government when it certified that it would affirmatively further fair housing, though it had never analyzed racial segregation patterns in areas where it placed new affordable housing.

Shannon v. United States Department of HUD, 436 F.2d 809 (3rd Cir. 1970), involved a decision by HUD to approve the development of a project in an urban renewal
area that was racially and economically integrated. The plaintiffs claimed that the development of subsidized, low-income housing in their neighborhood would destroy the existing racial and economic balance. The court held that HUD had to develop an institutional system for assessing the racial and socio-economic impact of the location of its projects.

It will reduce risk.

It will help provide benefits to people.

It will help prevent mistakes.

**Dimensions of Social Equity:**

A. Procedural fairness. Examination of problems or issues in procedural rights (due process), treatment in procedural sense (equal protection), and determination of eligibility within existing policies and programs.

B. Access — Distributional equity. Review of current policies and services including assessment of programs that reflect any of the distributional approaches to addressing inequality, i.e., (1) simple equality, (2) differentiated equality, (3) targeted intervention, (4) redistribution, and (5) equal results.

C. Quality—Process equity. Review of the level of consistency in the quality of existing services delivered to groups and individuals. Process equity requires consistency in the nature of services delivered to groups and individuals regardless of the distributional criterion that is used. For example, is garbage pickup the same in quality, e.g., extent of spillage or missed cans, in all neighborhoods? Do children in inner city schools have teachers with the same qualifications as those in suburban schools? Does health care under Medicaid match prevailing standards of quality? Presumably, a commitment to equity entails a commitment to equal quality.

D. Outcomes. Disparities in outcomes for population groups (e.g., by race or income). The analysis includes consideration of how social conditions and individual behavior affect outcomes or limit the impact of government services, i.e., what underlying conditions contribute to differences in outcomes?


**Background**
“Experience is showing that undertaking an assessment of environmental justice requires an understanding of the communities potentially affected, the history of past public and private decisions that have shaped these communities, the institutions that are responsible for these decisions and how they work together, the manner in which transportation system planning and project development decisions are made, knowledge of the strengths and weaknesses of available analytical tools, the range of potentially available information sources, and the legislation and associated court decisions that protect these communities and govern transportation decisions.” (Cambridge Systematics, Inc., with Akin, Gump, Strauss, Hauer & Field, L.L.P.; Technical Methods to Support Analysis of Environmental Justice Issues; National Cooperative Highway Research Program Project 8-36 (11), Support to the Standing Committee on Planning of the American Association of State Highway and Transportation Officials; April 2002)

It is hard to identify the implicit assumptions in a policy or practice, particularly if you were responsible for drafting it and its intentions are benevolent.

Keep records and documents.

The process should be transparent and accessible.

Disaggregate data wherever possible, for example, by racial and ethnic group, by income level, by age, by gender, by class of disability, by primary or home language.

Allow sufficient time for each step.

Consider using project planning tools, such as Critical Path Method.

Equity impact assessments have some similarities with reviews done for environmental purposes. If one thinks in terms of benefiting people at least as much as one benefits animals and the natural environment using environmental protection laws, it is a step in the right direction. Although this may sound offensive to some, the reality is that endangered animals have more legal protections than endangered people do, under current law.

Perform various equity analyses (e.g., demographic characteristics of corridor/travel shed; origin/destination studies; and existing transit options/alternative driving routes, including commitments to collect data and/or monitor effects for years into project operations).

**Common challenges for the community impact analyst**

Constraints on staff and available resources,

The magnitude of the effort necessary to collect data on past actions,
Budget limitations to conduct the analysis,

Difficulty determining appropriate spatial and temporal boundaries,

Lack of adopted processes for conducting the analysis, and

Concerns regarding responsibility for identifying and mitigating past impacts.

(Michael Grant, Principal Investigator, Christine Paulsen, Wendy Messenger, ICF International and Teresa Townsend, AICP Co-Lead Investigator, Ann Steedly, PE Planning Communities, LLC; Recurring Community Impacts; September 2008; NCHRP Project 25-25, Task 36, National Cooperative Highway Research Program, Transportation Research Board)

**How can an Equity Impact Assessment be used?**

Prior to the beginning of a project.

When considering closing schools due to budgetary problems.

When considering how to allocate resources.

When figuring out how to mitigate adverse impacts.

To avoid discrimination.

To make a better case for intervention.

To show where community needs are.

To show the magnitude of community needs.

For preventive enforcement of environmental regulations.

For public health purposes.

Not all the data are useful for every purpose. But they give a broad picture of the community. Projects have effects that spillover into other areas. For example, transportation projects involve housing and education. Broad concepts of social impacts such as segregation require several types of infrastructure to continue, including transportation, housing, and education.

**Policies**
Understanding the background and context of the policy or practice is crucial. Questions that might need to be asked in relation to the policy or practice being assessed include the following:

- Which institution created the policy?
- Who has been consulted during the development of the policy?
- Why was the policy developed?
- Why is it being developed now?
- What is the stated intent of the policy?
- Is there an ‘unstated’ agenda? If so, what is it?
- Does the policy relate to any other relevant policies? If so how?

**Preliminary Steps**

Key factors influencing the analysis:

1. The selection of the benefits and burdens to be evaluated;
2. The identification of target populations;
3. The choice of spatial scale for the analysis;
4. The choice of impact thresholds for identifying disproportionately high and adverse impacts; and
5. The manner in which data uncertainty is addressed.

**Scoping**

Set the scope of the equity impact analysis, including the following:

The scope of an action (40 CFR §§ 1500.4, 1501.1, 1501.7, and 1508.25) consists of the range of actions (connected or closely related, cumulative, and similar actions), alternatives (no action, other reasonable alternatives, and mitigation measures), and impacts (direct, indirect and cumulative impacts) to be considered

- establish terms of reference
- clarify the dimensions of equity (access, resources,
• agree on definitions such as search terms, elements of SEP/SES

• brainstorm for likely or possible impacts of the policy

• identify outcome measures and consideration of how these could be used for monitoring, and

• plan for the assessment, e.g. timing, management, reporting and accountability.

Who else, what other organizations, should be involved? Projects rarely act in isolation.

The scoping consideration should have a feedback loop from the public involvement and participation, to address the concerns and needs of the community for what scope the work and analysis should cover.

**Travelshed determination**

A **travelshed** refers to the geographic area from which traffic on a given facility originates.

Examine the communities from which the trips originate.

**Planning to meet special requirements:**

- Federally recognized Indian tribe consultation
- Environmental Justice Executive Order
- Order and Circulars of the appropriate federal agency
- Compliance with settlement and monitoring agreements
- Due process requirements
- Serving people with special needs

**Identify potential project**

Big question to address: What is the earliest stage of a project?
Resources

Has the organization devoted sufficient resources, including money and staff, to accomplish the equity impact assessment?

Location

Where would the alternatives go?

GIS/Mapping

Use Geographic Information Systems (GIS) mapping to locate low-income and minority populations within the service area. Incorporate the information into a travel-demand forecasting model to assess the benefits and burdens of existing and planned transportation system investments on target populations. Map the adverse effects over Census block groups in the project study area. This allows a comparison of the low income and minority status of those who would be affected by the project with those who would not be affected by the project.

Demographics

Demographics of affected area

Identify groups with special needs

**Special needs populations** = Populations whose members may have additional needs before, during, and after an incident or project in functional areas, including but not limited to:

- Maintaining independence
- Communication
- Transportation
- Supervision
- Medical care

Individuals in need of additional response assistance may include those who have disabilities; who live in institutionalized settings; who are elderly; who are children; who are from diverse cultures; who have limited English proficiency; or who are non-English speaking; or who are transportation disadvantaged.

In practice, the term can also include people who live in poverty, receive public assistance, or students who receive subsidized lunches; people without private transportation or who rely on public transportation; and people who rely on caregivers for assistance in daily living and would need similar assistance in an emergency and those
who live independently or with the caregiver(s) in their homes, assisted living housing, nursing homes, supervised group homes, hospitals, and other health care facilities. (Nationwide Plan Review Phase 2 Report, U.S. Department of Homeland Security in cooperation with the US Department of Transportation, June 16, 2006. Page 41)

The term may also include people who are culturally or geographically isolated, people with substance abuse issues, the homeless, marginally housed or shelter-dependent, children with special circumstances (unattended minors, foster care or residential living situations), and single parent households.

One of the points is that the need is a need for something—an aid, benefit, or service. So the need depends on the what is offered, available, or denied.

Develop a community characteristics inventory.

**Public Involvement and Participation**

According to the EPA, “meaningful involvement” in environmental decision making means that: “(1) potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) the concerns of all participants involved will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected.”

Public involvement, participation, outreach activities

Some government agencies interpret their environmental justice responsibilities as providing equitable notification, rather than an obligation to guarantee equitable participation in decision-making. Therefore it is critical for environmental justice groups to have access to individuals who can act as watchdogs over public decision-makers and public decision-making.

These are not intended to be complete, but only examples.

**Focus groups**

Comprised of survey respondents who indicated a willingness to participate and others who were recruited through social service agencies

**Seeking public comment**

Post flyers at transit stops and place advertisements in publications that cater to low-income, minority, and LEP populations
Send general mailings to minority-owned businesses from a purchased mailing list. Look for any businesses that are owned by, cater to, or employ a number of low-income, minority, or LEP individuals.

Offer to give briefings to minority-owned business coalitions.

Unstaffed information kiosks

Hosting open houses

Conduct telephone and Web surveys

Attend public Committee meetings

Create and maintaining a project Web site.

Environmental justice analysts review phone books and Web sites to generate a list of additional social resources, businesses, and public services that serve low-income, minority, or LEP populations. For example, analysts can look for ethnic churches or churches that provided community services to low-income populations.

Distributing project materials (including materials in other languages) through businesses, social service agencies, libraries, community groups, and schools.

Providing information booths at community events.
Sharing information in newspaper and newsletter advertisements and radio spots.

Limited English Proficiency plans; disability access plans

It is helpful to have a diverse group of people working on the project, including people from the affected area.

Data Sources

Identify sources of data.

Zoning and land use policies, tax assessment/abatement practices

Transportation plans
School district enrolment figures by race, ethnicity, limited English proficiency, school lunch eligibility.

National Center for Education Statistics (NCES) demographic data on students enrolled in schools in the study area.

Food stamp usage.

Food bank usage.

Homelessness statistics.

Poverty rates.

Home Mortgage Data (HMDA), which shows home purchase loans by race and ethnicity.

School data

Dropout and graduation rates by race and ethnicity.

Student achievement rates by race and ethnicity.

Health data

Infant mortality by race and ethnicity.

Medicaid receipt rates by race and ethnicity.

Air quality.

Criminal justice data

Sentencing rates by race and ethnicity.

Police contact rates.

Traffic stop rates.

Environmental information

Distribution and location of superfund sites.

Census data

Census data can become outdated quickly as populations rapidly grow and change. State data are often not as accurate as local or regional data but are at times more
readily available. To address these challenges, data on emerging and diverse populations need to be collected from other sources, such as community members, to gain a better sense of the demographics and local priorities, and assess what form of outreach and involvement will be the most effective. Public health workers, community and religious leaders, and school administrators can be good sources of information and will most likely have data to share. These community members can also be used to validate existing data to determine if the data reflect the reality in their communities.

Past civil rights complaints and law suits

Poverty data

Social services listings (dialysis centers, Meals on Wheels, etc.)

Para transit providers

Health departments (State, tribal, or local as applicable)

Utility providers (for electricity dependent individuals)

Job Access Services
Large-scale senior housing developments

Congregate care facilities

Schools (especially those with significant proportion of students with disabilities or with limited English proficiency)

County emergency alert list serves

Hospitals

Day care centers (for children or senior citizens)

Nursing homes

Places of worship

Information from local, state, and federal human rights commissions and agencies

Actions taken by planning boards in regard to equal opportunity, desegregation, and equity.

For example, exclusionary zoning should not be reinforced by the actions or the instant agency.
Location of Section 8 and public housing

Contacts with advocacy and special interest groups, neighborhood organizations, churches

Examination of existing studies. Was anything done to address the issues identified in previous studies?

Examination of physical barriers, such as freeways, railroad tracks, bodies of water, bridges.

Car ownership statistics, disaggregated by race and ethnicity.

Ridership on existing bus routes in the service area.

Examine impact of haul routes for construction.

Existence of toll roads, bridges, and tunnels, and other economically regressive measures and devices.

Community Reinvestment Act statistics, measures, and actions.

Past efforts at urban renewal, revitalization, redevelopment, and their effects, good and bad.

Home to work transportation availability, including length of trip.

JARC, Welfare to Work, and TANF statistics.

**Other Types of Analysis That May Be Helpful [Analyses]**

The Community Impact Assessment (CIA) provides a larger framework for assessing, as required by the DOT order, whether a proposed action or plan causes impacts to any populations or communities in the project area. The CIA will also provide information to help determine whether or not there are disproportionately high and adverse effects on minority populations and low-income populations, and whether these populations are denied benefits. CIA is a requirement of the 1969 National Environmental Protection Act. CIA is essentially a social assessment of the environmental impacts of major developments and can also be used to guide urban growth strategies. CIA has become a particularly important part of transport planning and all federally funded transport projects demand that a CIA is carried out to assess whether there is a disproportionate negative impact of the project on minority and low-income groups (see, for example, the Community Impact Assessment for Transportation website).

Fair housing analyses of impediments
Environmental Justice (EJ) Analysis

Vulnerability analyses, which means that needs assessments aim to answer questions of the type “who is exposed to what kind of risk in what kind of time frame, with what severity?”

Cumulative Effects and Multiple Stressors Analysis: Council on Environmental Quality report, Conducting Cumulative Effects Analysis under the National Environmental Policy Act. The development of the environmental impact assessment field is closely related to conducting analyses under the National Environmental Policy Act. In the main, qualitative methods of analysis are used.

Social Impact Assessment (SIA)

Regional Equity Atlas

Opportunity Mapping (Kirwan Institute)

Risk Assessment

Context Sensitive Solutions (see below)

History

What has happened in the past with similar or analogous projects?

It is likely that sub-groups who have been omitted or excluded from the policy are already disadvantaged both socially and economically and will thus be hard to access.

Use existing knowledge.

For example, national and regional research suggest that minorities and lower-income residents are more likely than the general population to use transit, so transit facilities are of particular importance to low-income and minority populations.

Because land and housing in close proximity to large transportation facilities tend to be much less expensive, there have been serious concerns that communities with larger proportions of low-income and minority populations bear a disproportionate size of the burden associated with transportation-related air pollution. For that reason, it is particularly important to examine the effects of projects on air quality.

The organization must become fully aware of the existence, nature, extent, and causes of all equity and opportunity problems and the resources available to solve them.
Avoid perpetuation of past injustices.

Examine vestiges of past discriminatory practices and policies.

Any actions, omissions, or decisions which have the effect of restricting infrastructure use choices or the availability of choices on the basis of race, color, religion, sex, disability, familial status, or national origin.

**Current Benefits and Services**

Analysis of current services and benefits compared to new services or lack of services and benefits.

Identify service distribution patterns.

Evaluate service effectiveness.

Is an aid, benefit, product, or service being provided to members of a non-disadvantaged group that is not being provided to a disadvantaged group?

- Consider how the people in the scoping area will **benefit** from plan in terms of:
  - Safety
  - Travel times — auto, transit, etc.
  - Accessibility
  - Expenditures
  - Mobility

- **Analyze burdens**: (need to identify sources of data)
  - Air quality — use established standards/limits such as PM-10 and CO that are clearly defined by localized impact vs other types of air pollutions that have wide spread impact
  - Noise — use established standards/limits such as dBs. — increase highway noise by 3 dB
    - Airport noise standard is 65 CNEL; anything greater is inhabitable for residential use, maybe acceptable for industrial use.
  - Water quality
  - Community health quality
  - Traffic safety (vehicular and pedestrian)

As defined in the Appendix of the DOT EJ Order, **adverse effects 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.

• The denial of, reduction in, or significant delay in the receipt of, benefits of DOT programs, policies, or activities.

Generally, compare % benefit or burden to % population by race and income. For example:
– Air Emissions (PM-10)

• % pop. by race and income with greater PM-10 over baseline vs. % total pop by race and income.
• % pop. by race and income in top 10 worse-off travel analysis zone (TAZ) for PM-10 vs. % total pop. by race and income.

Valuation

There is a need for improved valuation, pricing and incentive mechanisms – environmental factors should be included in the valuation of assets, services, costs, and harms.

The evaluation should consider impact over time — 25-year plan impacts. (Cumulative effects of a whole set of projects, not just one project.) One facet of environmental justice impacts that may be overlooked during the environmental assessment of current projects is the past effect of government-sponsored construction on the same communities in which these current projects are now proposed. Many neighborhoods may have been previously adversely impacted by substantial numbers of business and residential acquisitions, the introduction of physical barriers that eliminated or impeded access, the intrusion of undesirable physical elements, such as traffic noise and air pollutants and a general erosion of community cohesion. As aging transportation facilities are slated for reconstruction and improvements, these communities will be affected once more. Too frequently, minority and low-income neighborhoods bear the brunt of these cumulative impacts, raising environmental justice concerns.

Mitigation and New Benefits
Analysts can consider the following:

Would measures to avoid or minimize high and adverse disproportionate effects be implemented?

Are there any project benefits that would affect low-income or minority populations? According to the FHWA implementing order, to offset disproportionate adverse effects on low-income or minority populations, project benefits also would have to disproportionately benefit low-income or minority populations.

The polluter pays principle – those who generate pollution and waste should bear the cost of containment, avoidance or abatement.

**Needs of the Community**

Does the project meet the self-identified needs of the community?

Will the project make things worse for the community?

- Quality of life.
- Community cohesion.
- Connectivity vs. barriers
  - Segregation indexes
- Social mobility.
- Opportunities.
- Does the project increase diversity?

Search literature for evidence of relationship between populations group, SEP & variable of interest

Consult with stakeholders, target population, and key informants on the relationship between the variable of interest, the potential or actual impacts, differential impacts and population group(s).

**Costs**

Cost of alternatives per capita
Analysis of regressive economic effects on low income people

The No Action alternative

Opportunity cost

Loaded cost

**Approaches to Solutions**

The practice of Context Sensitive Solutions (CSS)— also known as Context Sensitive Design (CSD) – may be a useful approach for developing transportation plans and projects so that they improve community quality of life. CSS is an approach to transportation design that considers the total context within which a transportation improvement will exist. It is a collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical and social setting and preserves community, scenic, aesthetic, historic, and environmental resources, while maintaining safety and mobility.

**The CSS Product: Qualities of Excellence in Transportation Design**

The "Qualities that Characterize Excellence in Transportation Design" - that is, of the physical end product of the CSS process – are as follows:

- The project satisfies the purpose and needs as agreed to by a full range of stakeholders.
- This agreement is forged in the earliest phase of the project and amended as warranted as the project develops.
- The project is a safe facility for both the user and the community.
- The project is in harmony with the community, and it preserves environmental, scenic, aesthetic, historic, and natural resource values of the area, i.e., exhibits context sensitive design.
- The project exceeds the expectations of both designers and stakeholders and achieves a level of excellence in people's minds.
- The project involves efficient and effective use of the resources (time, budget, community) of all involved parties.
- The project is designed and built with minimal disruption to the community.
- The project is seen as having added lasting value to the community.

*–Thinking Beyond the Pavement Conference, 1998*
The CSS Process: Characteristics of the Process That Yield Excellence

"The Characteristics of the Process that will Yield Excellence in Transportation Design" are:

- Communication with all stakeholders is open, honest, early, and continuous.
- A multidisciplinary team is established early, with disciplines based on the needs of the specific project, and with the inclusion of the public.
- A full range of stakeholders is involved with transportation officials in the scoping phase (the period before design is begun when the scope of the project is agreed upon). The purposes of the project are clearly defined, and consensus on the scope is forged before proceeding.
- The project development process is tailored to meet the circumstances. This process should examine multiple alternatives that will result in a consensus of approach methods.
- A commitment to the process from top agency officials and local leaders is secured.
- The public involvement process, which includes informal meetings, is tailored to the project.
- The landscape, the community, and valued resources are understood before engineering design is started. A full range of tools for communication about project alternatives is used (e.g., visualization).

—Thinking Beyond the Pavement Conference, 1998

Mitigation approaches increasingly include not only reducing direct impacts (e.g., through the provision of sound walls or pedestrian overpasses), but also compensating the community in other ways. For example, community improvements such as parks or pedestrian amenities may be offered as compensation for the negative impacts resulting from the project. However, it should be noted that were discrimination is found, it should be ended.

Types of Equity Impacts

How do you know this is likely to happen (do you have any evidence)?
- Which determinants of health are likely to be impacted upon?
- What are the key health issues of concern in this local population?
- In what ways is the proposal likely to impact on specific groups within the population?
- How likely is it that this will occur?
- How severe is this impact likely to be?
Weighting and synthesis of evidence and consideration of equity impacts in this setting at this time (such as the nature of impact versus the likelihood of impacts occurring).

Will construction jobs benefit local residents?

What percent of contracts will go to disadvantaged business enterprises? What programs are in place for such businesses?

Impacts of noise, dirt, pollution, disruption, community cohesion, lack of access to local businesses, etc.

Soil-disturbing activities, heavy-duty equipment, commuting construction workers, and the laying of asphalt may generate emissions that can affect air quality for the duration of construction. The total emissions and the timing of the emissions from these sources would vary depending on the phasing of the project and options chosen. During demolition and construction, crews could encounter contaminated soil, sediment, or groundwater; release hazardous materials used at construction sites; generate hazardous building materials through demolition; or create accidental spills. Any of these situations could adversely affect human health, especially for construction workers, residents living in close proximity to the construction site, and workers in close proximity to the construction site.

Will the negative impacts be disproportionately high and adverse?

Adverse effects may include 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.

Will there be cumulative and/or indirect impacts over time and space?

What has gone before?

What were the results?

Direct effects are caused by the action and occur at the same time and place. (40 CFR § 1508.8)

Indirect effects are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth
inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. (40 CFR § 1508.8)

**Cumulative impact** is the impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 CFR § 1508.7)

Where cumulative impacts are concerned, one leading court in *Fritiofson v. Alexander*, 772 F.2d 1225 (5th Cir. 1985), addressed cumulative impact analysis using the following five-part evaluation:

1. What is the geographic area affected by the project?
2. What are the resources affected by the project?
3. What are the other past, present, and reasonably foreseeable actions that have impacted these resources?
4. What were those impacts?
5. What is the overall impact on these various resources from the accumulation of the actions?

Are there sufficient resources for implementation? (this needs to be considered in the light of possible modifications to reduce any inequalities)

• How will resources influence the way the policy groups or sub-groups (included and excluded)?

Can negative impacts be avoided? Ameliorated? Compensated for?

Consider the effects on sustainability. Equity is one of the elements of sustainable development. For example, construction jobs are often counted as one of the benefits of an infrastructure project. But the jobs disappear after the project is built, usually leaving no benefits in the local area from increased skills or job training.

Who is accountable?

**Analysis**

**Recommendations**

**Decision Criteria**
What is a legally sufficient disparity?

Some courts: two standard deviations

What would be expected due to randomness?

20 percentage points different? (80-20 rule)

Administrative law standard: Preponderance of the evidence; whichever side possesses more of the material and relevant evidence; a simple weighing.

Who makes the final decision?

Use the “reasonably foreseeable” standard from environmental law:

Reasonably foreseeable = One general guideline from a court decision is, would a prudent person take this circumstance into account in planning for the future? Is there existing or planned infrastructure to allow the future events to go forward? Have other parties invested capital or other resources, thereby increasing the likelihood of future actions occurring? Is the regulatory environment conducive to those actions? Or are the actions merely speculative? Those that are likely to occur or probable, rather than those that are merely possible. For a better understanding of what reasonably foreseeable means in NEPA analysis, we turn our attention to court cases and decisions that have dealt with the adequacy of reasonably foreseeable analysis in the NEPA process.

In Dubois v U.S. Dept. of Agriculture, 102 F.3d 1273, 1286 (1st Cir 1996), the court concluded that when attempting to define indirect impacts, "the agency need not speculate about all conceivable impacts but it must evaluate the reasonably foreseeable effects of the proposed action."

In Sierra Club v. Marsh, 976 F.2d 763, 767 (1st Cir. 1992), the court reviewed the issue of whether a particular indirect (secondary) impact was "sufficiently likely to occur, that a person of ordinary prudence would take it into account in making a decision"

These cases indicate that indirect and cumulative impact analyses are appropriately concerned with impacts that are sufficiently "likely" to occur and not with the speculation of any impact that can be conceived of or imagined. The confident prediction of reasonably foreseeable impacts requires judgment based on information obtained from reliable sources.

If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement:

1. a statement that such information is incomplete or unavailable;
2. a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment;
3. a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and
4. the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

**Consider using the Precautionary Principle:**

The precautionary principle seeks to prevent harm before it happens by urging protective measures when there is reasonable evidence of harm. While our current regulations and laws ask "How much harm is allowable?", the Precautionary Principle requires that we consider, "How little harm is possible?" If any possibility of a link exists, then action should be taken to reduce the risk. It is a tool for making better health and environmental decisions. It aims to prevent harm from the outset rather than manage it after the fact. When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically.

**Appeal mechanisms**

**Dealing with Conflicting Evidence**

1. Set out the evidence from each source showing how it was valued by each source separately from most to least. Examples used here are results of focus groups, published literature and analysis of policies/records.

2. Make assessments about each part of the evidence.

**Cautions**

Project proponents have enormous latitude to define and implement impact analysis and a “perverse incentive” to do it poorly or not at all.

**Examples**

**Equality Impact Assessment**
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① Decide who will contribute to the Equality Impact Assessment

Identify the people who will lead and be responsible for undertaking the Equality Impact Assessment and other people or partner organisations who will contribute to the assessment. Try to get a balance of skills and experience as well as mix of staff at different levels, generally people who drafted or will work under the policy. For some (smaller) assessments, it may be easier to have a “virtual team” with one or two people taking responsibility for the review but drawing on the knowledge and expertise of others as and when necessary.

② Identify your policy or service aims

Only by being clear about the aims of your policy or the focus of your service can you meaningfully assess whether it will have a positive or negative impact on certain groups, and whether this impact will be high medium or low.

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<tr>
<th>Q. What are the consequences or evidence of any negative impact upon the strands?</th>
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<td>Can you think of any instance where the proposal may have a negative consequence for any equality strands? Example, this may occur if resources are being allocated or re-allocated as it may be seen to mean that a service affecting a particular strand is being taken away without any back-up provision.</td>
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<th>Q. How does the proposal positively impact on the strands? E.g. Opportunities, access, choice, language, information</th>
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<tr>
<td>Can you think of any instance where the proposal may have a positive consequence for any of the equality strands? Example, does the proposal provide better access for any of the equality strands, think of why the proposal was created and who are the beneficiaries.</td>
</tr>
</tbody>
</table>

| Q. Is there any potential that any part of the proposal could discriminate, directly or indirectly? If so can it be justified? |

| Q. Is the proposal likely to affect relations between any strand e.g. because it is seen as favouring particular group/s or denying opportunities to another? |

How will the individual equality strands benefit from the proposal? Is the proposal reducing benefits from one group and if so, is it proportionate to the need. Could the proposal be seen as being a ‘political’ shift rather than based on need?

Consider existing data and research
Exploring the available data and research relevant to the development of the service or policy is a vital part of EQIA. For example, patterns and trends data may show that a particular group of people are not accessing a service. Both qualitative and quantitative data can be used (in the right context). This may include service activity, workforce profiles, information from formal audits, consultation exercises (with the public and staff), surveys, information of the local population and census data. Where data by equality group are limited or not available, managers should identify this as a limitation and devise action plans to overcome this.

**Involve and consult relevant stakeholders**

Equity Impact Assessments must be informed by consultation. This can include engaging with staff and members, staff associations or trade unions, other public bodies or voluntary and community groups. If relevant and recent consultation data exists that can be analysed by the different groups, you can use that. If the date doesn’t exist, then you will need to undertake consultation as part of the assessment process. There may be consultation processes or forums already in place, which should be used; however such mechanisms should be representative of the local community.

**Produce an action plan, if required**

An implementation plan should be produced, which simply and clearly sets out any actions you have identified as a result of undertaking the EQIA. These may include actions that need to be carried out before the EQIA can be completed or longer-term actions that will be carried out as part of policy development or service delivery. Actions should be prioritised.

Some large projects will be made up of many different activities, some of which are in themselves projects. As part of the screening, these activities should be listed and if any of them are projects in themselves.

The aim should be to try to take the perspective of some one outside of the organisation, such as a potential beneficiary or user, when carrying out an equity impact analysis.

Completing the template is similar to doing a risk assessment. It involves predicting and assessing what the implications of a policy, strategy or project will be on a wide range of people with different and varied needs.

Minority Impact Statements in Iowa and Connecticut: Both states have passed legislation which requires the examination of the racial and ethnic impacts of all new sentencing laws prior to passage. Commissions have been created in Illinois and Wisconsin to consider adopting a similar review process. Related measures are being proposed in other states, based on a model developed by the Sentencing Project.
- Proposed Racial Equity Impact Policy in St. Paul, MN: If approved by the city council, a Racial Equity Impact Policy would require city staff and developers to compile a “Racial Equity Impact Report” for all development projects that receive a public subsidy of $100,000 or more.

For further information:

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