

## Appendix D

### Title VI and Executive Order 12898 Comparison

<u>Aspects of the Authorities</u>	<u>Title VI of the Civil Rights Act of 1964</u>	<u>Executive Order 12898</u>
What is the authority?	Title VI is a federal statute enacted as part of the Civil Rights Act of 1964.	E.O. 12898 is a Presidential executive order signed in 1994. It is not a statute or law.
What does it say?	<p>Title VI prohibits discrimination on the basis of <b><u>race, color, and national origin</u></b> in programs and activities receiving federal financial assistance.</p> <p>Title VI itself prohibits intentional discrimination, and most funding agencies have regulations implementing Title VI that prohibit recipient practices that have the effect of discriminating on the basis of race, color, or national origin.</p>	E.O. 12898 directs all Federal agencies to “make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.”
What is the purpose?	Title VI was designed to ensure that federal funds are not being used for discriminatory purposes.	E.O. 12898 was issued to focus federal attention on the environmental and human health conditions in minority and low-income communities; to promote nondiscrimination in federal programs substantially affecting human health and the environment; and to provide minority and low-income communities’ access to public information on, and an opportunity for public participation in, matters relating to human health or the environment.
Who is covered?	Title VI applies to recipients of federal financial assistance.	E.O. 12898 applies to designated Federal agencies. (E.O. 12898 Section 6-604, see also 2011 Memorandum of Agreement on Environmental Justice)

<u>Aspects of the Authorities</u>	<u>Title VI of the Civil Rights Act of 1964</u>	<u>Executive Order 12898</u>
<p>What is required?</p>	<p>Title VI requires federal agencies to monitor their recipients and ensure their compliance with Title VI.</p> <p>Title VI requires recipients of federal financial assistance to not discriminate on the basis of race, color, or national origin.</p>	<p>E.O. 12898 requires Federal agencies to create environmental justice strategies. Pursuant to the 2011 Memorandum of Agreement on Environmental Justice entered into by 17 Federal agencies, those agencies agreed to issue an annual implementation progress report on environmental justice.</p>
<p>How is it enforced?</p>	<p>Individuals alleging <u>intentional</u> discrimination may file suit in federal court or a complaint with the federal agency providing funds for the program or activity at issue.</p> <p>If a program or activity has a <u>discriminatory effect</u>, individuals may file an administrative complaint with the federal funding agency. An individual <u>cannot</u> file a suit in federal court to address discriminatory impacts of a recipient’s activities.</p> <p>Additionally, federal agencies have the authority to conduct compliance reviews of recipients to ensure their activities do not violate Title VI.</p>	<p>E.O. 12898 is not enforceable in the courts and it does not create any rights, benefits, or trust responsibilities enforceable against the United States.</p> <p>While the E.O. 12898 is not enforceable against the United States, it is a Presidential order that requires each Federal agency to “conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons ... from participation in, denying persons...the benefits of, or subjecting persons...to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.”</p> <p>Therefore, to accomplish the goals of E.O. 12898, a Federal agency may implement policies that affect their funding activity. Agencies may also utilize their authority under various laws such as the Clean Air Act, National Environmental Policy Act, and the Fair Housing Act to achieve the goals of the Executive Order.</p>

US Environmental Protection Agency, Office of Environmental Justice  
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### *How do the Executive Order and Title VI overlap?*

The Presidential Memorandum accompanying EO 12898 states, in part:

“I am therefore today directing that all department and agency heads take appropriate and necessary steps to ensure that the following specific directives are implemented immediately: In accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.”

Agencies’ Title VI enforcement and compliance authority includes the authority to ensure the activities they fund that affect human health and the environment, do not discriminate on the basis of race, color, or national origin. Therefore, agencies can use their Title VI authority, when appropriate, to address environmental justice concerns.