

APPENDIX D – Classes of Individuals as Transportation System Users

SUMMARY

Legal classifications of individuals as defined by federal and Minnesota laws and relevant to pedestrian, bicycle, and non-motorized transportation are presented below. These laws and regulations were compiled between August 2012 and June 2013. Laws often change, so legal citations and references need to be checked against federal, state, and other legal authorities to verify the validity of the information provided. The laws and regulations included were collected from the State of Minnesota Office of the Revisor of Statutes website¹ and the U.S. Government Printing Office website,² among other authoritative resources as indicated.

Federal Classifications of Individuals

1. Individual with a disability

Americans with Disabilities Act

- Individual with a disability means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use. 28 CFR 35.104.
- Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity. 28 CFR 55.104

Rehabilitation Act Variation

- Handicapped person means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) “Physical or mental impairment” includes--

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term

“physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) “Major life activities” includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. 28 CFR 39.103.

2. Age

Age Discrimination Act of 1965: Pursuant to regulations prescribed under section 6103 of this title, and except as provided by section 6103(b) and section 6103(c) of this title, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance. 42 USC 6102

3. Race, color, or national origin

Title VI Classes: No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 42 USC 2000d:

4. Environmental Justice Protection Classes

Executive Order 12898 Environmental Justice: To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

US DOT Order 5610.2: 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 population and low-income populations are avoided, minimized or mitigated in a manner consistent with this Order and Executive Order 12898.

FHWA Order 6640.23A: The FHWA will administer its governing statutes so as to identify and avoid discrimination and 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 FHWA programs, policies, and activities;

(2) proposing measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental or public health effects and interrelated social and economic effects, and providing offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by FHWA programs, policies, and activities, where permitted by law and consistent with EO 12898;

(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, where permitted by law and consistent with EO 12898; and

(4) Providing public involvement opportunities and considering the results thereof, including providing meaningful access to public information concerning the human health or environmental impacts and soliciting input from affected minority populations and low-income populations in considering alternatives during the planning and development of alternatives and decisions.

FHWA Order 6640.23A: Low-Income. A person whose median household income is at or below the Department of Health and Human Services poverty guidelines.

FHWA Order 6640.23A: Low-Income Population. 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 FHWA program, policy, or activity.

Minnesota Classifications of Individuals

1. Race, color, creed; national origin.

As a class "race, color, creed" are undefined by the Minnesota Human Rights Act, Minn. Stat. 363A; however national origin is defined in Minn. Stat. § 363A.03, subd. 25. National origin. "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors. Minn. Stat. §363A.

2. Religion.

Undefined by the Minnesota Human Rights Act, Minn. Stat. §363A.

3. Sex.

"Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth. Minn. Stat. § 363A, Subd. 42.

4. Sexual orientation.

"Sexual orientation" means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally

associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult. Minn. Stat. § 363A, Subd. 44

5. **Disability.**

"Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. Minn. Stat. §363A, Subd. 12.

Qualified disabled person. "Qualified disabled person" means:

(2) with respect to public services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others. If a respondent contends that the person is not a qualified disabled

person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job. Minn. Stat. § 363A.03, subd. 36.

Public Accommodations.

The blind, the visually disabled, and the otherwise physically disabled have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places; and are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, boats, or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. Minn. Stat. § 256C.02

¹ MINN. OFFICE OF THE REVISOR OF STATUTES, <https://www.revisor.mn.gov/pubs/> (last visited July 15, 2013).

² FEDERAL DIGITAL SYSTEM, U.S. GOV'T PRINTING OFFICE, <http://www.gpo.gov/fdsys/> (last visited July 15, 2013).