

A. INTRODUCTION

On February 11, 1994, President Clinton issued Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.” This Executive Order is designed to ensure that 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.” Executive Order 12898 also requires federal agencies to work to ensure greater public participation in the decision-making process. Analyzed in this chapter are the project’s impacts in terms of their effects on minority and low-income populations and the potential for the alternatives to result in any disproportionately high and adverse impacts on those populations.

B. REGULATIONS AND METHODOLOGY**REGULATIONS**

The analysis was performed in accordance with the following: U.S. Department of Transportation’s (USDOT) Final Order on Environmental Justice, April 1997; the U.S. Environmental Protection Agency’s (USEPA) Guidance for Incorporating Environmental Justice Concerns in USEPA’s NEPA Compliance Analyses, April 1998; the Council of Environmental Quality’s Environmental Justice: Guidance under the National Environmental Policy Act, December 10, 1997; and the FHWA’s Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, December 2, 1998.

CEQ GUIDANCE

The federal Council on Environmental Quality (CEQ), which has oversight of the federal government’s compliance with Executive Order 12898 and the National Environmental Policy Act (NEPA), developed its guidance to assist federal agencies with their NEPA procedures so that environmental justice concerns are effectively identified and addressed. Federal agencies are permitted to supplement this guidance with more specific procedures tailored to their particular programs or activities, as USDOT has done.

The CEQ’s document provides guidance on consideration of environmental justice in each phase of NEPA (i.e., scoping, analysis of impacts, and issuance of a Record of Decision). In brief, the CEQ methodology involves collecting demographic information on the area where the project may cause high and adverse effects; identifying low-income and minority populations in that area using census data; and identifying whether the project’s high and adverse effects are disproportionately high and adverse on the low-income and minority populations in comparison to its effects on other populations. Any disproportionately high and adverse effects on minority and/or low-income populations should then be one of the factors the federal agency considers in making its finding on the project and issuing a Record of Decision.

USDOT'S FINAL ORDER ON ENVIRONMENTAL JUSTICE

This environmental justice assessment also follows USDOT's Final Order on Environmental Justice, which establishes the procedures for USDOT to use in complying with Executive Order 12898. The order applies to all of USDOT's operating administrations, including FRA. As set forth in the order, the sponsoring agencies must take steps to determine whether the project would have disproportionately high and adverse effects on minority and low-income populations. "Disproportionately high and adverse effects" are defined as adverse effects that are predominantly borne by a minority population and/or low-income population or will be suffered by the minority and/or low-income population and are appreciably more severe or greater in magnitude than the adverse effects that will be suffered by the non-minority or non-low-income population.

In making determinations regarding disproportionately high and adverse effects on minority and low-income populations, mitigation and enhancement 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 relevant number of similar existing system elements in non-minority and non-low-income areas. As set forth in the USDOT's Final Order on Environmental Justice (at Section 8.b.), "In making determinations regarding disproportionately high and adverse effects on minority and low-income populations, mitigation and enhancement 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 relevant number of similar existing system elements in non-minority and non-low-income areas." The analysis below therefore focuses on significant adverse impacts, and considers the population affected by those impacts. The mitigation of significant impacts is also considered. If a program or activity would have a disproportionately high and adverse effect on minority populations or low-income populations, it will only be carried out if: (1) further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effect are not practicable; (2) a substantial need for the program, policy, or activity exists, based on the overall public interest; and (3) alternatives that would have less adverse effects on protected populations that would still satisfy that need would either have other adverse social, economic, environmental, or human health impacts that are more severe, or would involve increased costs of extraordinary magnitude.

USEPA GUIDANCE

USEPA's guidance on conducting an environmental justice analysis follows the same methodology as the CEQ guidance, which was discussed above.

METHODOLOGY

To identify minority and low-income populations within the project study area, demographic information was obtained from the U.S. Census Bureau for the year 2000. The U.S. Census Bureau allows the collection of information using various geographic units such as census tracts, block groups, and blocks. For the purposes of this analysis, two different geographic units were used. Population and race information were collected using the block level, the smallest geographic unit for which these data are available. Data for median household income and poverty status were collected using block group level data, the smallest geographic unit for which the income and poverty data are available.

IDENTIFICATION OF MINORITY COMMUNITIES

The guidance documents define minorities to include American Indian or Alaskan natives, Asian, Pacific Islanders, Black, or Hispanic persons. In identifying study areas with minority residents, the total percentage of minority residents was estimated by adding together all residents who are any of those racial groups. Data from the U.S. Census Bureau were used to determine the population characteristics for each of the study areas. The following information was collected for each block group in the study areas:

- *Data on racial and ethnic characteristics:* The population in each block group in the study area was characterized using the following racial categories provided in the 2000 Census: White, Black, Asian, and “Other.” In addition to racial characteristics, the 2000 Census also includes information on Hispanic origin, which is considered to be an ethnic rather than racial characteristic. People of this ethnic category can be any race.
- *Total percentage of minority population:* Because Hispanic residents may be of any race, people who characterized themselves as White, Black, Asian, and Other in the 2000 Census may be non-Hispanic or Hispanic. To determine the total number of minority residents in each block group, the number of Black, Asian, Other, and Hispanic Whites were tallied.

A study area may be concluded to be a “minority community” when the percentage of minorities in a study area is “meaningfully greater” than the minority percentage of the general population or when the percentage of minorities in the community exceeds 50 percent.* It should also be considered in the analysis that the minority population of Hudson County, New Jersey is greater than 50 percent of the general population—65 percent, according to year 2000 Census information.

IDENTIFICATION OF LOW-INCOME COMMUNITIES

Data from the U.S. Census Bureau were also used to determine the population characteristics for each of the study areas. The percent of households living below poverty level was used to determine the low-income population in a given block group. For households, the U.S. Census Bureau defines a household as all people who occupy one housing unit. Accordingly, a household may include related family members and any unrelated people who share a housing unit. Because the CEQ guidance does not suggest a threshold to be used in identifying low-income populations, areas with a proportion of low-income households that is meaningfully greater than in Hudson County were considered to be low-income. In Hudson County, approximately 15 percent of the population lives below the federal poverty threshold, therefore, for this environmental justice analysis, any census block group in the study area with more than 15 percent of its population in poverty is considered to be a low-income area.

After identifying the communities of concern, the next steps in this environmental justice assessment include:

- Identifying the significant adverse impacts in each community;
- Determining whether significant impacts would disproportionately occur mostly within communities of concern;

* Section 1-101, Appendix A, *Guidance for Federal Agencies on Key Terms in Executive in Executive Order 12898, Environmental Justice: Guidance Under the National Environmental Policy Act*, Council on Environmental Quality, December 10, 1997.

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- Comparing the severity of the adverse impacts in various communities to determine if the impacts are disproportionately severe in communities of concern;
- As appropriate, considering mitigation measures and alternatives to the proposed action.

C. EXISTING CONDITIONS

IDENTIFICATION OF STUDY AREAS

The study area boundaries for the environmental justice impact analysis are the same as those for the land use analysis. As explained in Chapter 5.1, “Land Use and Social Conditions,” the study area is located in Hudson County and includes the Towns of Kearny and Secaucus, however there are very few, if any, residents located in the study area. Table 5.9-1 details the study area’s population and economic characteristics in terms of race and ethnicity and poverty status. Census Tract 127 Block Group 9 and Census Tract 197 Block Group 3 include the project study area and surrounding areas. The majority of the residents within these block groups reside outside the project study area; there are few, if any, residents within the project study area. Both the Town of Kearny and the Town of Secaucus have a lower minority population than Hudson County as a whole. Approximately 40 percent of the population of the Town of Kearny and roughly 30 percent of the population of the Town of Secaucus are minority, which is a smaller proportion than in Hudson County as a whole (65 percent). In addition, neither of the towns have a higher proportion of low-income households than in Hudson County as a whole. The Town of Kearny has 8.7 percent of households below the federal poverty level, and the Town of Secaucus has 7.3 percent of households living below the federal poverty level, both of which are below the percentage for households living below the federal poverty level in 1999 for Hudson County as a whole (15.3). Based on this data, the study area is neither populated nor minority, and the Towns of Kearny and Secaucus that encompasses the study area have a smaller proportion of minority and low-income populations compared to Hudson County as a whole.

**Table 5.9-1
Study Area Population and Economic Characteristics**

Study Area	Population (2000)											Economic Profile (1999)		
	2000 Total	Race and Ethnicity*										Total Minority (%)	Total** Households	Households Below Poverty Level (%)***
		White	%	Black	%	Asian	%	Other	%	Hispanic	%			
Hudson County	608,975	338,457	55.6	82,098	13.5	56,942	9.4	131,478	21.6	242,123	39.8	64.7	230,546	15.3
Town of Kearny	40,513	30,687	75.8	1,609	4	2,228	5.5	5,989	14.8	11,075	27.3	39.7	13,539	8.7
Town of Secaucus	15,931	12,512	78.5	709	4.5	1,880	11.8	830	5.2	1,953	12.3	29.9	6,214	7.3
Census Tract 127, Block Group 9	2	0	0	0	0	2	100	0	0	0	0	100	1	0
Census Tract 197, Block Group 3	2,288	1,488	65	275	12	374	16.4	151	6.6	316	13.8	43.7	1,027	13.2

Notes:
 * The racial and ethnic categories provided are further defined as: White (White alone, not Hispanic or Latino); Black (Black or African American alone, not Hispanic or Latino); Asian (Asian alone, not Hispanic or Latino); Other (American Indian and Alaska Native alone, not Hispanic or Latino; Native Hawaiian and Other Pacific Islander alone, not Hispanic or Latino; Some other race alone, not Hispanic or Latino; Two or more races, not Hispanic or Latino); Hispanic (Hispanic or Latino; Persons of Hispanic origin may be of any race).
 ** Census Tract 127 Block Group 9 and Census Tract 197 Block Group 3 include the project study area and surrounding areas. The majority of the residents within these block groups reside outside the project study area.
 *** Percent of individuals with incomes below established poverty level. The U.S. Census Bureau's established income thresholds for poverty levels defines poverty level.
Source: U.S. Census Bureau, Census 2000.

D. ENVIRONMENTAL EFFECTS OF THE PROPOSED PROJECT

There are no direct adverse effects on residential land uses in the study area, and as described in Chapter 5.1, “Land Use and Social Conditions,” there are few, if any residents in the project study area. The assessment below outlines the impacts that could potentially affect the minority and/or low-income populations in the Towns of Kearny and Secaucus and in Hudson County as a whole.

As discussed in previous chapters of this DEIS, the proposed project is not expected to result in adverse impacts to land uses, visual resources, transportation, air quality, or contaminated materials. The project would be expected to improve air quality and transportation. The potential for adverse impacts to open space, noise and vibration, cultural resources, ecological resources, and construction were identified and are further analyzed in this section to determine if these adverse impacts would disproportionately affect minority communities. In addition, the direct displacement of businesses as discussed in Chapter 5.1 was also considered with respect to environmental justice.

OPEN SPACE

As described in the Open Space section of Chapter 5.1, “Land Use and Social Conditions,” the Laurel Hill Park is located within the project study area and Hudson County recently purchased a 14.9-acre parcel adjacent to the existing park. Hudson County, in partnership with the New Jersey Meadowlands Commission (NJMC) and the NY/NJ Baykeeper, plans to construct a new boardwalk and fishing pier along the shoreline of this new park parcel. The remainder of the parcel will not be accessible to the public. This parcel is located between the Northeast Corridor right-of-way and the New Jersey Turnpike overpass and associated right-of-way; the New Jersey Turnpike separates the 14.9-acre parcel from the existing Laurel Hill Park. As discussed in Chapter 5.1, this parcel of land was purchased in part with Green Acres funding. While the park is located in Secaucus, which is neither minority nor low-income, it is likely that residents from throughout Hudson County utilize the existing park facilities and will use the accessible portions of the new park parcel. Since Hudson County includes minority and low-income communities (and is, as a whole, 65 percent minority) this analysis has conservatively assumed that minority and/or low-income populations will use the existing and future park facilities.

The Portal Bridge project would not result in adverse impacts to the existing park. All four build alternatives would require the permanent acquisition of 2.0 acres of the 14.9-acre parcel to accommodate the approach to the new northern bridge. Additionally, as described below, all project alternatives (including the No Action Alternative) would have an adverse noise impact on the planned boardwalk in the new park parcel. As described in previous chapters of this DEIS, NJ TRANSIT and Amtrak will coordinate with Hudson County, NJMC, and other stakeholders to develop appropriate mitigation measures for the loss of this planned open space area. New Jersey’s Green Acres Program requires special coordination at the State level. Appropriate mitigation or other compensatory measures will be developed in conjunction with Hudson County and other involved stakeholders once a preferred alternative is selected. Because the adverse open space impact would affect all users of the park, the project would not result in disproportionately high impacts to minority or low-income communities.

NOISE AND VIBRATION

All of the project alternatives (including the No Action Alternative) would result in an adverse noise impact on the planned expansion of Laurel Hill Park. This is a result of the park’s

proximity to the existing rail corridor and bridge. As discussed in Chapter 5.5, “Noise and Vibration,” the extent of the new park parcel that would be affected by noise impacts in excess of FTA’s noise impact criteria would vary minimally with each project alternative. None of the alternatives would result in adverse noise impacts at the existing publicly-accessible Laurel Hill Park. To mitigate any potential long-term adverse noise effects, the project sponsors would work with Hudson County and other stakeholders on the design and implementation of the planned boardwalk and fishing pier. Based on the conclusions of the noise and open space analyses, the project would not result in any disproportionately high or adverse impacts on the minority or low-income populations of Hudson County.

CULTURAL RESOURCES

All of the build alternatives would result in adverse impacts to cultural resources in the study area, specifically, four architectural resources and one archeological resource. These impacts were discussed in Chapter 5.2, “Historic Resources.” None of these adverse impacts to cultural resources would constitute a disproportionately high and adverse impact on the minority or low-income populations of Hudson County.

ECOLOGICAL RESOURCES

Chapter 5.6, “Ecology,” included an assessment of the project’s potential to adversely impact ecological resources within the study area. All four of the build alternatives would have the potential to adversely impact ecological resources such as wetlands and open water areas. Mitigation measures will be determined in conjunction with the appropriate natural resource agencies. None of these adverse ecological impacts would constitute a disproportionately high and adverse impact on the minority or low-income populations of Hudson County.

CONSTRUCTION-RELATED EFFECTS

The construction of any of the build alternatives would involve a lengthy and complex process, with many disruptive and intense activities occurring simultaneously. The project site is, however, heavily buffered by open space, wetlands, and industrial properties and located away from residential neighborhoods. As described in Chapter 6, “Construction Impacts,” most of the adverse construction-related would affect the study area’s ecological resources including wetlands, open water, and benthic habitat. Mitigation measures have been proposed to minimize adverse effects on these resources. Measures have also been proposed to mitigate any potential adverse effects from the disturbance to contaminated materials, archaeological resources, and historic structures. None of these impacts would disproportionately affect minority or low-income populations.

Typically, construction projects and construction vehicles can negatively impact residential neighborhoods through increased traffic and noise levels, reduced air quality, or temporary loss of access or community disruption. These types of impacts may impact minority and/or non-minority populations depending upon the demographics of the communities surrounding the project site. The Portal Bridge project is not expected to result in these types of adverse impacts to residential neighborhoods. As described in Chapter 5.1, “Land Use and Social Conditions,” and Chapter 6, “Construction Impacts,” the project site is generally surrounded by wetlands, open space, vacant land and industrial property. The only nearby use that would be considered sensitive to construction is Laurel Hill Park. As previously discussed, there are plans to expand public access within the newly-purchased park parcel. However, this public access may not be completed before construction of the Portal Bridge project begins. The existing Laurel Hill Park would not be adversely affected by construction activities due to its distance from the project

site. Additionally, noise from the adjacent New Jersey Turnpike would continue throughout the construction period and would partially mask any increase in noise due to the proposed construction activities. Since the construction activities planned adjacent to the expanded park (i.e., the eastern approach to the northern bridge) would be constructed in the first stage of the project, it is likely that the new components of the park expansion would be completed after the approach structure is in place, thereby minimizing any adverse noise or air quality impacts to park users.

Another concern with typical construction projects is the frequency and intensity of construction vehicle traffic. The Portal Bridge project would minimize adverse impacts to residential neighborhoods (including minority and low-income populations) through the use of designated truck routes, and the availability of barge and rail access to the site. By maximizing the use of rail and barge for the delivery of materials and the removal of debris, truck activity would be kept to a minimum. Where truck delivery is required, the proximity of the project site to the New Jersey Turnpike and Belleville Turnpike would minimize the adverse effects on ambient air quality and local noise levels. Therefore, the construction activities associated with the build alternatives would not result in disproportionately high and adverse impacts on minority or low-income populations.

DIRECT DISPLACEMENT IMPACTS

Chapter 5.1, “Land Use and Social Conditions,” included an analysis of the businesses that would require relocation under the four build alternatives. As discussed in the chapter, two businesses located adjacent and to the north of the existing Northeast Corridor right-of-way would require relocation. One business would be affected in all alternatives for the approach to the northern bridge while the other would be affected by three of the four alternatives. A preliminary assessment of the characteristics of the businesses to be displaced and their “uniqueness” was performed. The initial analysis concluded that these businesses do not possess unique characteristics that would restrict relocation. As explained in Chapter 5.1, “Land Use and Social Conditions,” all displaced businesses would be relocated and therefore it is not expected that any jobs would be lost as a result of the project. Additional information about these businesses will be obtained as the project proceeds. No disproportionately high and adverse impacts on minority or low-income populations would result from these business displacements.

E. CONCLUSION ON DISPROPORTIONATE IMPACTS

Based on the composition of the project study area, the type and extent of the potential adverse impacts, and the proposed mitigation measures, the project would not result in any disproportionately high and adverse impacts to low-income or minority populations. *