

Chapter 19:

Environmental Justice

19.1 INTRODUCTION

This chapter presents the analysis FRA conducted to assess whether minority populations and low-income populations (collectively, environmental justice populations) would experience disproportionately high and adverse effects from the No Action Alternative and the Preferred Alternative, and describes measures that would avoid, minimize, or mitigate impacts. In addition, the chapter summarizes the outreach FRA conducted to environmental justice populations in the Study Area.

19.2 REGULATORY CONTEXT

Executive Order (EO) 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994), directs federal agencies to identify and address disproportionately high and adverse environmental effects of their actions on minority and low-income populations. Additionally, USDOT issued Order 5610.2(a), *Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, which sets forth the USDOT policy to consider environmental justice principles in all USDOT programs, policies, and activities. It describes how the objectives of environmental justice are integrated into planning and programming, rulemaking, and policy formulation. The USDOT Order states that 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. This analysis complies with EO 12898, USDOT Order 5610.2(a), and other related federal policy and guidance documents, as further described in Chapter 16 of **Appendix B**. Additionally, this environmental justice analysis complies with the New York State environmental justice procedures set forth in Commissioner Policy 29 (CP-29), as well as Article 48 of the New York State Environmental Conservation Law.

19.3 ANALYSIS METHODOLOGY

Consistent with federal guidance documents, FRA's analysis involved the following five basic steps:

- Step 1: Identify the area where the Preferred Alternative may cause impacts (i.e., the Study Area);
- Step 2: Compile race and ethnicity and poverty data for the census block groups in the Study Area and identify minority and low-income populations;
- Step 3: Identify the Preferred Alternative's potential adverse impacts on minority and low-income populations;
- Step 4: Evaluate the Preferred Alternative's potential adverse effects on minority and low-income populations relative to its effects on non-minority and non-low-income populations to determine whether any disproportionately high and adverse effects on minority or low-income populations would result; and

- Step 5: If disproportionately high and adverse effects on minority or low-income populations would result, determine whether: (1) there are any practicable mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects; and (2) a substantial need for the action exists, and other alternatives that would have less adverse impact on the protected population and still satisfy the need would either have other adverse impacts that are more severe or involve increased costs of extraordinary magnitude.

Please see Analysis Methodology in Chapter 16 of **Appendix B**, for a complete description of the data sources consulted and the analysis methodology FRA followed for this resource category.

19.4 DELINEATION OF STUDY AREA

The Study Area is inclusive of the Project Site, immediate routes for travel of construction workers, goods and services, and retail and commercial businesses readily accessible to both to construction and operation personnel. The environmental justice Study Area is similar to the Study Area used to assess land use, which is a radius of ½-mile from the Project Site. However, because the environmental justice analysis relies on socioeconomic data, the Study Area boundary was expanded to include the areas inclusive of the census tracts within the Land Use Study Area, and follows census tract boundaries, consistent with the socioeconomics analysis presented in Chapter 17, “Socioeconomics.” Within each census tract, the environmental justice Study Area is further broken down into census block groups to identify areas of potential minority and low-income populations. In total, the environmental justice Study Area includes 19 census block groups, as shown on **Figure 19-1**. The Study Area is consistent with study areas for the environmental analysis of similar projects in New York City.

19.5 IDENTIFICATION OF ENVIRONMENTAL JUSTICE POPULATIONS WITHIN THE STUDY AREA

FRA used socioeconomic data from the U.S. Census Bureau’s 2014–2018 ACS Five-Year Estimates in this analysis to identify minority and low-income populations in the Study Area. FRA identified environmental justice populations by comparing the census block group data to census data collected for primary statistical reference areas. For this analysis, New York County (the Borough of Manhattan) was used as the primary statistical reference area. CEQ guidance defines minority and low-income populations as follows:

- **Minority** includes persons who are American Indian and Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian and other Pacific Islander. FRA’s environmental justice analysis also considers minority to include persons identified as being either “some other race” or “two or more races” in the census data. **Minority population** is any readily identifiable group or groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed or transient persons who would be similarly affected by a proposed project. CEQ guidance identifies minority populations if either of the following conditions are true: (1) the minority population of the affected area exceeds 50 percent; or (2) the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis. Approximately 53.1 percent of the population in New York County is minority. For this analysis, FRA considered all block groups where the minority population exceeds 50 percent as environmental justice populations.

- Low-Income** is defined where a person whose median household income is at or below the Department of Health and Human Services (HHS) poverty guidelines. FRA’s assessment used information on the number of households living in poverty from the U.S. Census Bureau 2014–2018 ACS 5-Year Estimates, which are the basis for the HHS poverty guidelines. Federal guidance documents also encourage use of a locally developed threshold or a percentage of median income for the area, if the threshold is at least as inclusive as the HHS poverty guidelines. **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 who would be similarly affected by a proposed project. In New York County, approximately 16.6 percent of individuals live below the Federal poverty threshold. FRA considered any census block group with more than 16.6 percent of its individuals living below the poverty level to be a low-income area. This methodology is more inclusive than the HHS poverty guidelines.

Table 19-1 presents the characteristics of the Study Area population in terms of race, ethnicity, and poverty status. The table also provides the corresponding data for Manhattan (New York County) and New York City as a whole for reference.

Table 19-1
Minority and Low-Income Characteristics of Study Area

Census Tract	Block Group	Total Population	White %	Black %	Asian %	Hispanic %	Other %	Minority %	Individuals Below Poverty Level %
93	1	1,554	63.9	8.9	12.8	10.9	3.5	36.1	9.5
93	2	1,812	80.8	2.5	4.7	5.5	6.4	19.2	12.8
93	3	1,111	63.2	9.0	0.0	22.0	5.9	36.8	12.6
93	4	869	93.1	0.0	6.9	0.0	0.0	6.9	3.5
93	5	727	79.4	3.2	17.5	0.0	0.0	20.6	9.4
93	6	2,741	7.9	10.0	41.0	37.8	3.2	92.1	17.1
93	7	446	77.4	7.8	8.1	6.7	0.0	22.6	3.4
97	1	2,045	73.4	1.0	12.2	12.7	0.7	26.6	6.4
97	2	803	0.0	14.7	25.2	58.0	2.1	100.0	44.2
97	3	814	49.6	7.1	10.0	33.3	0.0	50.4	8.6
97	4	1,303	45.0	7.1	38.2	9.7	0.0	55.0	33.3
99	1	5,759	60.5	5.6	19.8	11.5	2.6	39.5	8.1
103	1	1,990	53.3	6.5	27.7	6.9	5.6	46.7	13.3
111	1	2,491	46.2	5.8	33.8	13.9	0.2	53.8	15.9
111	2	787	58.6	13.7	10.7	15.2	1.8	41.4	16.3
111	3	1,560	55.4	2.8	25.1	12.6	4.1	44.6	16.4
115	1	1,715	36.7	1.0	34.6	24.1	3.6	63.3	9.2
115	2	2,064	33.7	12.0	31.9	20.2	2.2	66.3	26.1
117	1	4,242	47.3	6.8	18.8	26.1	1.0	52.7	5.8
Study Area		34,833	51.5	6.3	22.2	17.5	2.4	48.5	13.0
Manhattan		1,632,480	46.9	12.5	11.9	26.0	2.7	53.1	16.6
New York City		8,443,713	32.1	22.0	13.8	29.1	3.0	67.9	18.9

Notes:

The U.S. Census Bureau also further defines the racial and ethnic categories provided 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 (consisting of 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); and Hispanic (Hispanic or Latino; persons of Hispanic origin may be of any race).

Total minority percentage consists of all population other than non-Hispanic Whites.

Totals may not add up to 100 percent due to rounding.

Sources: U.S. Department of Commerce, Bureau of Census, ACS 2014–2018 5-Year Estimates

In 2018, the Study Area had a total population of about 34,833. Overall, the minority population of the Study Area is 48.5 percent, which is a lower percentage than Manhattan and New York City at 53.1 percent and 67.9 percent, respectively. The overall low-income population of the Study Area is 13.0 percent, which is a lower percentage than Manhattan and New York City at 16.6 percent and 18.9 percent, respectively. Using the criteria described above, of the 19 census block groups in the Study Area, eight census block groups were identified as minority populations; four of those are also low-income populations (see **Figure 19-1**).

19.6 POTENTIAL ADVERSE IMPACTS ON MINORITY AND LOW-INCOME POPULATIONS

The potential effects that would occur in the Study Area were identified as a result of the No Action Alternative and the Preferred Alternative, based on the analyses presented in the other chapters of this DEIS. This section identifies whether potential benefits and adverse impacts of the No Action Alternative and Preferred Alternative would affect environmental justice populations. An assessment of whether the Preferred Alternative would result in any disproportionately high and adverse effects to environmental justice populations is provided in Section 19.8 of this chapter.

19.6.1 NO ACTION ALTERNATIVE

Under the No Action Alternative, the Project Site would remain unchanged. The Project Site would continue to be used as an active rail yard operated by LIRR, specifically as a commuter railroad storage yard and maintenance facility, and the Tunnel Encasement and Platform would not be constructed. The No Action Alternative therefore would not contribute to adverse effects to environmental justice populations.

19.6.2 OPERATIONAL IMPACTS OF THE PREFERRED ALTERNATIVE

As FRA details in each technical chapter of this DEIS and summarizes in the “Executive Summary” (see Table S-1), the Preferred Alternative would overall result in beneficial effects. It would support local plans for development over the Project Site and would provide benefits to the transit system by providing cover above the existing Western Rail Yard and preserving ROW for future rail service improvements. The Preferred Alternative would not deny environmental justice populations benefits from the project. FRA has determined based on the analysis that the Preferred Alternative would not result in any operational adverse impacts. Therefore, the Preferred Alternative would not result in any operational adverse effects to environmental justice populations.

19.6.3 CONSTRUCTION IMPACTS OF THE PREFERRED ALTERNATIVE

Construction activities would last approximately five years and would be contained within the Project Site, with the exception of some staging within the adjacent parking lanes and sidewalks along Eleventh Avenue, West 33rd Street, and West 30th Street. The nearest environmental justice populations are located east of Tenth Avenue, about 1,000 feet from the nearest portion of the Project Site. Given this distance, these populations would not experience adverse effects from onsite construction activities. However, designated truck routes would pass through environmental justice areas along West 30th Street, West 34th Street, and Tenth Avenue. As presented in Chapter 6, “Transportation,” FRA concluded that the increase in truck and vehicular trips at intersections along these truck routes would be below the hourly trip generation threshold (i.e., 50 vehicles in an hour) for identifying adverse impacts using the *CEQR Technical Manual* guidelines.

Noise from construction activities would be potentially very loud and intrusive at portions of the High Line, a linear park adjacent to the Project Site that serves as a regional attraction and provides a recreational amenity for local residents, including environmental justice populations within the Study Area. Over the course of construction, noise levels at the High Line would exceed nuisance levels, as defined by the *CEQR Technical Manual*, and may interfere with speech while construction equipment is in use. As discussed in Chapter 8, "Noise and Vibration," the maximum predicted noise level increment at the High Line, 23 dB(A), would occur during hoe ram use periods for the first 20 months of excavation for Tunnel Encasement. During non-hoe ram use periods and the remaining 14 months of Tunnel Encasement construction, maximum predicted noise level increments at this receptor would be up to 18 dB(A) resulting from drill rig use. Tunnel Encasement construction is not anticipated to occur on weekends, leaving the High Line available for use without the effects of Tunnel Encasement construction noise during weekends. During the remaining 18 months of Platform Construction (which includes evening hours and Saturdays), after Tunnel Encasement is completed, the maximum predicted noise level increment would range between 3 and 14 dB(A), depending on the equipment used and the location of construction activity. The worst-case noise levels during Tunnel Encasement construction would not extend throughout the full length of the High Line, most of which would be substantially farther from the construction work areas associated with the Preferred Alternative than the worst-case location (i.e., the portion of the park west of Eleventh Avenue). Construction noise levels would be below the FTA guidance manual impact criteria during all stages of construction; however, the incremental changes in noise levels at the High Line during construction would constitute an adverse impact under *CEQR Technical Manual* guidelines, and therefore, avoidance and mitigation measures have been developed (see Section 19.7).

Vibration from construction equipment would not be anticipated to exceed the FTA criteria for damage at any building. FRA would include conditions as part of its environmental decision regarding the Preferred Alternative to ensure that the potential effects to the High Line from construction vibration are not adverse. These conditions include requiring the Project Sponsor to develop a CPP for the construction of the Platform and Tunnel Encasement in order to protect the High Line. The CPP would be incorporated into the overarching CEPP that would be developed for the Preferred Alternative (see Chapter 22, "Mitigation Measures and Project Commitments") and would be required to meet the guidelines set forth in the NYCDOB *Technical Policy and Procedure Notice #10/88*, the *Protection for Landmarked Buildings* guidance document of the NYCLPC, and the National Park Service's *Preservation Tech Notes, Temporary Protection #3: Protecting a Historic Structure during Adjacent Construction*. The CPP is described in Chapter 22.

With the exception of the potential adverse noise impact at the High Line, the various chapters of this DEIS describe that FRA concluded that the construction effects of the Preferred Alternative would not represent adverse impacts (see Table S-1 in the "Executive Summary"). The adverse noise impact would not be in an area with an environmental justice population. Temporary construction activities for the Preferred Alternative would occur in close proximity to the High Line and could be visible from the park, but construction of the Preferred Alternative would not be staged from, result in physical alterations to, or result in occupation of this park. Construction activities for the Preferred Alternative would include temporary underpinning of a segment of the High Line, where the Tunnel Encasement alignment would cross beneath the portion of the High Line that runs along West 30th Street between Eleventh and Twelfth Avenues. To ensure that potential construction-related effects to the High Line are not adverse, with the exception of the temporary noise impacts discussed above, FRA would require the Project Sponsor to develop a CEPP for the construction of the Platform and Tunnel Encasement. The High Line would be accessible to the public, including environmental justice populations, during construction of the Preferred Alternative. The portion of the High Line south of 30th Street would not be in close proximity to construction activities.

19.7 AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES

The Project Sponsor has worked to avoid, minimize, and/or mitigate impacts of the Preferred Alternative, and would commit to implement and incorporate measures into the Preferred Alternative to avoid adverse impacts. FRA details these measures in each technical chapter of this DEIS and summarizes them in Chapter 22 (see Table 22-1). Based on the analysis performed, FRA concluded that the Preferred Alternative would not result in any adverse operational effects to environmental justice populations.

With respect to potential noise impacts at the High Line discussed in Section 19.6.3 above, due to the high levels of construction noise at the portion of the High Line nearest to construction activity, FRA has coordinated with NYC Parks to determine appropriate minimization measures to address impacts to the High Line. For further details, see Sections 8.5.3 and 8.6 of Chapter 8, Sections 10.5.2 and 10.6 of Chapter 10, “Parks and Recreation,” and Sections 21.4 and 21.5 of Chapter 21, “Section 4(f) Evaluation.”

With respect to potential vibration and other construction-related impacts to the High Line discussed in Section 19.6.3 above, the Project Sponsor would develop a CPP to protect this resource during construction of the Platform and Tunnel Encasement. The CPP would include vibration monitoring whenever construction would occur within 90 feet of the High Line structure (due to its status as a historic resource—see Chapter 9, “Cultural Resources”) to ensure that construction activities do not result in vibration levels that would be capable of causing damage (see Chapter 22 for more details about the CPP for the Preferred Alternative). Therefore, the High Line would remain safe and accessible to users, including users from nearby environmental justice populations.

19.8 POTENTIAL FOR DISPROPORTIONATELY HIGH AND ADVERSE EFFECTS

As defined in the USDOT Order, a disproportionately high and adverse effect on an environmental justice population is an adverse effect that is predominantly borne by a minority and/or low-income population or will be appreciably greater for the minority and/or low-income population than for the non-minority and/or non-low-income population. Effects that may occur as a result of a proposed action may be considered in the context of associated mitigation measures and offsetting benefits when determining whether disproportionately high and adverse effects will occur.

As described in Section 19.6.2, the Preferred Alternative would not result in any operational adverse effects to environmental justice populations. As described in Section 19.6.3, construction vehicles would pass through environmental justice areas, but the temporary increase in truck and construction vehicle traffic would remain below impact criteria. Further, construction vehicles would pass through non-environmental justice areas as well as environmental justice areas. Construction of the Preferred Alternative would result in an adverse construction noise impact at a portion of the High Line, which is not located directly in an area with an environmental justice population but is a recreational amenity available to environmental justice populations in the Study Area. However, these impacts would affect both non-environmental justice populations and environmental justice populations. Therefore, the Preferred Alternative would not result in disproportionately high and adverse effects to environmental justice populations.

19.9 ENVIRONMENTAL JUSTICE CONCLUSIONS

Based on the analysis performed, FRA concluded that the Preferred Alternative would not result in any disproportionately high and adverse effects on environmental justice populations. Therefore, additional mitigation or consideration of additional alternatives are not required.

19.10 PUBLIC PARTICIPATION

To engage the public, including environmental justice populations, FRA has established a project website and conducted public outreach throughout development of the EIS documentation, including at key Project milestones. FRA translated key Project materials into Spanish, which is the predominant language other than English that residents of the Study Area speak. FRA published a Scoping Document on June 15, 2020 and conducted a virtual public scoping process. FRA posted the narrated scoping presentation for the project, in both English and Spanish, on the project website on July 1, 2020. FRA published advertisements in local newspapers and online media outlets servicing the project area and distributed the bilingual public Scoping Notice to locally based organizations, including the Hudson Yards Corporation, Hudson Yards Hell's Kitchen Alliance, and Midtown South Community Council. FRA accepted comments both electronically and by mail and provided responses in a Scoping Summary Report.

The public comment period will be open for a minimum of 45 days after the publication of the DEIS. FRA published advertisements in local newspapers and online media outlets servicing the project area and distributed the bilingual public notice to locally based organizations, including the Hudson Yards Corporation, Hudson Yards Hell's Kitchen Alliance, and Midtown South Community Council. See Chapter 23, "Public Involvement and Agency Coordination," for further details. *