

A. INTRODUCTION

The federal Coastal Zone Management Act (CZMA) of 1972, established to support and protect the distinctive character of the waterfront, sets forth standard policies for reviewing proposed development projects along coastlines. New York State Department of State (NYS DOS) administers the program at the state level, *in consultation with the* New York City Department of City Planning (NYC DCP) through the City's *Local Waterfront Revitalization Program (LWRP)*, the locally adopted plan under the Coastal Zone Management Program. The program includes 44 statewide policies for waterfront protection and improvement and 12 policies specifically for New York City.

Additionally, a revised LWRP was approved by the City Council in October 1999 and is currently awaiting statewide approval. The overhaul of the LWRP was the result of the numerous plans and studies focusing on New York City's waterfront and led to a better understanding of the conditions and issues facing the waterfront. The goal was to simplify and clarify the review process by consolidating the 44 statewide and 12 city-specific policies into 10 New York City coastal zone policies.

The policies address the following specific coastal issues:

- Public access
- Recreation
- Development
- Flood and erosion hazards
- Water resources
- Fish and wildlife
- Scenic quality
- Cultural resources
- Air quality
- Energy
- Agriculture

Because several of the *project* sites lie within the coastal zone (as discussed in Chapter 15, "Natural Resources"), the East Side Access Project must be *consistent* with applicable coastal policies. The process for determination of consistency with coastal zone management policies varies with location and regulation. Under the National Environmental Policy Act (NEPA) NYS DOS, *in consultation with NYC DCP*, will make a consistency determination as required under CZMA regulations.

Under the Preferred Alternative, three of the areas affected by the project lie within the coastal zone: Blissville, Maspeth, and Highbridge. Under the TSM Alternative, the Queens waterfront, which could see increased ferry service, is within the coastal zone. Of the seven illustrative rail storage yard sites analyzed in this FEIS, two (Babylon and Riverhead) are

located within the Coastal Zone. If these or any other sites located in the Coastal Zone are selected for development as rail yards, those new rail yards must be consistent with the state's coastal zone management policies. An assessment of that consistency will be made as part of the environmental analyses to be conducted for the new rail yards (this is discussed in more detail in Chapter 2).

The discussion below addresses those policies that are relevant to project alternatives. *Each applicable policy is followed by a discussion of the project's consistency with that policy. Except where indicated, the discussion refers to the Preferred Alternative, since that alternative would be most likely to have effects on the project sites. Since the 10 new consolidated LWRP policies are pending approval by New York State, the 56 existing statewide and local policies and these 10 consolidated policies are addressed below. The following assessment is consistent with and relies on the analyses included in the FEIS.*

B. CONSISTENCY WITH CURRENT LWRP POLICIES

Policy 1: Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.

By rehabilitating and/or reconstructing the Blissville or Maspeth and Highbridge rail yards, the Preferred Alternative would be consistent with this policy. The project would restore these once active yards and put them to use as part of the region's transportation network. Under the TSM Alternative, it is possible that ferry service between Queens and East Midtown would increase, thus increasing the use of a waterfront area for a compatible use. Both alternatives would *be consistent with* this policy.

Policy 3: Promote the development and use of the state's major ports as centers of commerce and industry, emphasizing the siting, within port areas of land use and development that is necessary to, or in support of, the waterborne transportation of cargo and people. The state's major ports are the ports of Albany, Buffalo, New York, Ogdensburg, and Oswego.

The proposed project would foster the transportation of goods by restoring the Blissville or Maspeth rail yard to New York & Atlantic Railway's freight operations. Increased East River ferry service under the TSM Alternative would also conform to this policy.

Policy 8: Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants that bioaccumulate in the food chain or cause significant sublethal or lethal effects on those resources.

As discussed in Chapter 14, "Contaminated Materials," the proposed project would be constructed to avoid discharging of hazardous materials into the city's coastal waters. Subsurface investigations of the yards conducted as part of this EIS and mitigating measures to prevent the discharge of toxic materials into coastal waters are discussed in Chapter 14. Specifically, prior to any work on the site, a Construction Contaminant Management Plan (CCMP) would be created to provide guidance related to hazardous materials or chemicals that may be encountered in project construction areas. After the design of project elements is more fully developed, *but* prior to the start of construction, additional soil and groundwater sampling would be undertaken in all project construction areas where contaminated materials were identified. This additional work would be designed to characterize the nature, approximate quantity, and extent of contaminated materials at all construction areas. This would be undertaken to address worker safety and to identify any soil or groundwater

that would require special off-site disposal. With these controls in place, the project would *be consistent with this policy.*

Policy 11: Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

The project locations are not located within the city-designated coastal erosion hazard area—the city’s Atlantic Ocean shoreline area—which is subject to flooding and erosion. *Blissville, Maspeth, and Highbridge Yards lie within the 100-year floodplain. No buildings would be constructed at Blissville or Maspeth Yard, as the project entails only the construction of storage tracks in underutilized train storage yards. The improvements to the existing rail yard in either location would not constitute a floodplain encroachment, increase flooding risks, or support incompatible floodplain development. Highbridge Yard would be elevated above the 100-year floodplain via the placement of approximately 3 feet of fill. The design of the storage and maintenance facilities would meet the applicable floodplain management criteria for state projects in accordance with 6 NYCRR Part 502. Therefore, the project would be consistent with this policy.*

Policy 14: Activities and development including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development at other locations.

The proposed action would not create a measurable increase in the risk of erosion or flooding at the construction sites or at other locations, as erosion control measures (*described in Chapter 15, “Natural Resources”*) would be used, *nor would there be any increased risk of flooding.*

Policy 18: To safeguard the vital interests of the State of New York and of its citizens in the waters and other valuable resources of the state’s coastal area, all practicable steps shall be taken to ensure that such interests are accorded full consideration in the deliberations, decisions and actions of state and federal bodies with authority over those waters and resources.

Coastal considerations are part of the NEPA review of the project. The compatibility of the project’s program and design with the policies of the Local Waterfront Revitalization Program, which reflect the vital interests of the state and its citizens in this matter, is addressed in this EIS and will be considered during public review and final decision-making.

Policy 21: Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast.

The proposed project seeks to rehabilitate active or once-active rail yards that are located in the city’s coastal zone. Due to the industrial nature of the surrounding land uses, these rail yards would not be appropriate locations for recreational use of the waterfront. *Therefore, the project is not consistent with this policy, but this policy is not applicable at the project sites.*

Policy 23: Protect, enhance, and restore structures, districts, areas, or sites that are of significance in the history, architecture, archaeology, or culture of the state, its communities, or the nation.

As discussed in Chapter 7, "Historic Resources," and Chapter 8, "Archaeological Resources," there are no historic or archaeological resources in those portions of the project located in the coastal zone. Therefore, the project conforms to this policy.

Policy 33: Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

All sites would contain stormwater systems that would conform to Best Management Practices. At those sites where new or enlarged discharges would go directly to a river or stream, a State Pollutant Discharge Elimination System (SPDES) permit would be required. These include Highbridge and Yard A (which is not itself in the coastal zone, but which discharges stormwater to Dutch Kills). At those sites where discharges would be to the city's combined sewer system, the requirements of the New York City Department of Environmental Protection (NYCDEP) for pretreatment, using Best Management Practices, would be followed.

Policy 36: Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters: all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

The project alternatives would not involve activities directly related to the shipment and storage of petroleum and other hazardous materials. During construction, the removal and disposal of any hazardous materials would be performed in conformance with all applicable local, state, and federal requirements.

Policy 37: Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics, and eroded soils into coastal waters.

During construction, erosion-control measures would be used where appropriate to minimize sedimentation into coastal waters. Storm water management systems would be implemented to collect and treat (if necessary) overland runoff, before it is discharged, either to the city's sewer system or to a receiving water.

New York City Policy K: Curtail illegal dumping throughout the coastal zone and restore areas scarred by this practice.

The proposed project, *which would reclaim several underutilized rail yards, would remove the debris on several sites and preclude future dumping by instituting an active presence at these locations.*

Policy 41: Land use or development in the coastal area will not cause national or state air quality standards to be violated.

As discussed in Chapter 10, "Air Quality," the project would not cause any national or state air quality standards to be violated. In fact, by reducing automobile travel in the region, the project would contribute to a reduction in vehicular pollutant emissions.

Policy 44: Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

The project would protect wetlands by complying with all applicable federal and state regulations related to wetlands, utilizing best management practices to minimize im-

pact to water bodies, and avoiding construction in wetland areas. Highbridge Yard lies along the Harlem River, which is a tidal wetland. A riprap wall is currently in place. The project entails constructing three new outfalls to the Harlem River and a new retaining wall adjacent to the riprap wall on the landside. These activities would be reviewed by the ACOE and NYSDEC for compliance with applicable wetland regulations. In addition, a very small area in Highbridge Yard contains phragmites, vegetation typically associated with freshwater wetland areas. However, this area is not within the construction footprint and would not be disturbed by construction. Therefore, the project would be consistent with this policy.

C. CONSISTENCY WITH NEW LWRP POLICIES

New York City's new LWRP includes 10 policies designed to maximize the benefits derived from economic development, environmental preservation, and public use of the waterfront, while minimizing the conflicts among those objectives. Each policy is presented below, followed by a discussion of the project's applicability to and consistency with the policy. Only the relevant subsections of each policy are discussed in detail.

Policy 1: Support and facilitate commercial and residential development in areas well-suited to such development.

This policy seeks to encourage redevelopment on appropriately located vacant and underused land not needed for other purposes such as industrial activity. Since the Preferred Alternative would rehabilitate and/or reconstruct rail yards in existing industrial areas for transportation purposes, it would be consistent with this policy. Under the TSM Alternative, it is possible that ferry service between Queens and East Midtown would increase, thus increasing the use of the waterfront area for a compatible commercial use, also consistent with this policy.

Policy 2: Support water-dependent and industrial uses in New York City coastal areas that are well-suited to their continued operation.

Policy 2.1: Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas (SMIA).

The proposed project seeks to rehabilitate active or once-active rail yards in Blissville or Maspeth that are located within an SMIA designated by the proposed LWRP. The Blissville and Maspeth sites would contain industrial uses as defined by the LWRP, and are therefore consistent with this policy.

Policy 2.2: Encourage working waterfront uses at appropriate sites outside the SMIA's.

This policy defines a number of factors to be considered in evaluating the suitability of sites outside the SMIA's for working waterfront uses. The Highbridge site, which is outside the SMIA's, contains appropriate zoning, proximity and access to railroad infrastructure, adequate and appropriate buffering from surrounding residents, and existing industrial development patterns for working waterfront uses, and so would be appropriate for working waterfront use, consistent with this policy.

Policy 2.3: Provide infrastructure improvements necessary to support working waterfront uses.

Development at each of the sites would consist of infrastructure improvements that would support working waterfront uses, and so the project would be consistent with this policy.

Policy 3: Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation centers.

Due to the industrial nature of the surrounding land uses, these rail yards would not be appropriate locations for recreational use of the waterfront. Therefore, this portion of the policy is not applicable at the project sites. Increased ferry service as part of the TSM Alternative would be consistent with this policy.

Policy 4: Protect and restore the quality and function of ecological systems within the New York City coastal area.

Policy 4.2: Protect and restore tidal and freshwater wetlands.

The project would protect wetlands by complying with all applicable federal and state regulations related to wetlands, utilizing best management practices to minimize impact to water bodies, and avoiding construction in wetland areas. Highbridge Yard lies along the Harlem River, which is a tidal wetland. A riprap wall is currently in place. The project entails constructing three new outfalls to the Harlem River and a new retaining wall adjacent to the riprap wall on the landside. These activities would be reviewed by the ACOE and NYSDEC for compliance with applicable wetland regulations. In addition, a very small area in Highbridge Yard contains phragmites, vegetation typically associated with freshwater wetland areas. However, this area is not within the construction footprint and would not be disturbed by construction. Therefore, the project would be consistent with this policy.

Policy 5: Protect and improve water quality in the New York City coastal area.

Policy 5.1: Manage direct or indirect discharges to waterbodies. Policy 5.2: Protect the quality of New York City's waters by managing activities that generate non-point source pollution. Policy 5.4: Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.

At all project sites within the coastal zone, storm water management systems utilizing Best Management Practices would be implemented to collect and treat (if necessary) overland runoff, before it is discharged, either to the city's sewer system or to a receiving water. At those sites where new or enlarged discharges would go directly to a river or stream, a SPDES permit would be required. These include Highbridge and Yard A (which is not itself in the coastal zone, but which discharges stormwater to Dutch Kills). At those sites where discharges would be to the city's combined sewer system, the requirements of the NYCDEP for pretreatment, using Best Management Practices, would be followed. The quality and quantity of groundwater, streams, and the sources of water for wetlands would not be significantly changed as a result of construction at the project sites. The project is therefore consistent with these policies.

Policy 5.3: Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes or wetlands.

The project would not excavate or place fill in navigable waters or in or near marshes, estuaries, tidal marshes or significant wetlands areas. Therefore, this policy would not apply.

Policy 6. *Minimize the loss of life, structures, and natural resources caused by flooding and erosion.*

Policy 6.1: Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area.

Blissville, Maspeth, and Highbridge Yards lie within the 100-year floodplain. No buildings would be constructed at Blissville or Maspeth Yard, as the project entails only the construction of storage tracks in underutilized train storage yards. The improvements to the existing rail yard in either location would not constitute a floodplain encroachment, increase flooding risks, or support incompatible floodplain development. Highbridge Yard would be elevated above the 100-year floodplain via the placement of approximately 3 feet of fill. The design of the storage and maintenance facilities would meet the applicable floodplain management criteria for state projects in accordance with 6 NYCRR Part 502.

Policy 7: *Minimize environmental degradation from solid waste and hazardous substances.*

Policy 7.1: Manage solid waste material, hazardous wastes, toxic pollutants, and substances hazardous to the environment to protect public health, control pollution and prevent degradation of coastal ecosystems.

As discussed in Chapter 14, “Contaminated Materials,” the proposed project would be constructed to avoid discharging of hazardous materials into the city’s coastal waters. Subsurface investigations of the yards and mitigating measures to prevent the discharge of toxic materials into coastal waters are discussed in Chapter 14. Specifically, prior to any work on the site, a Construction Contaminant Management Plan (CCMP) would be created to provide guidance related to hazardous materials or chemicals that may be encountered in project construction areas. After the design of project elements is more fully developed, but prior to the start of construction, additional soil and groundwater sampling would be undertaken in all project construction areas where contaminated materials were identified. This additional work would be designed to characterize the nature, approximate quantity, and extent of contaminated materials at all construction areas. This would be undertaken to address worker safety and to identify any soil or groundwater that would require special off-site disposal. With these controls in place, the project would be consistent with this policy within the coastal zone.

Policy 7.2: Prevent and remediate discharge of petroleum products. Policy 7.3: Transport solid waste and hazardous substances and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.

The project alternatives would not involve activities directly related to the shipment, storage, or discharge of petroleum and other hazardous materials. During construction, the removal and disposal of any hazardous materials would be performed in conformance with all applicable local, state, and federal requirements.

Policy 8: *Provide public access to and along New York City’s coastal waters.*

There is currently no public access to New York City’s coastal waters from any of the project sites in the coastal zone. Therefore, while the project would not provide any new public access to coastal waters, it would not eliminate any existing or planned public access.

Policy 9: *Protect scenic resources that contribute to the visual quality of the New York City coastal area.*

Policy 9.1: Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.

As discussed in Chapter 6, "Visual and Aesthetic Considerations," the project sites are currently abandoned industrial rail yards containing unused trackage, debris piles, and vegetation. Reconstruction of these yards would improve their visual quality as part of New York City's working waterfront. Therefore, the project would be consistent with this policy.

Policy 9.2: Protect scenic values associated with natural resources.

There are no significant natural resources in the vicinity of the project sites, nor are any of the sites located in a Special Natural Area District, Special Natural Waterfront Area, or Recognized Ecological Complex; therefore, this policy does not apply.

Policy 10: *Protect, preserve, and enhance resources significant to the historical, archaeological, and cultural legacy of the New York City coastal area.*

Policy 10.1: Retain and preserve designated historic resources and enhance resources significant to the coastal culture of New York City.

As discussed in Chapter 7, "Historic Resources," there are no historic resources in those portions of the project located in the coastal zone. Therefore, the project is consistent with this policy.

Policy 10.2: Protect and preserve archaeological resources and artifacts.

As discussed in Chapter 8, "Archaeological Resources," there are no archaeological resources in those portions of the project located in the coastal zone. Therefore, the project is consistent with this policy. ❖