Chapter 12: Coastal Zone Management

A. LEGAL FRAMEWORK

The Route 9A Project is located within New York City’s Coastal Zone Boundary as outlined in the Department of City Planning’s Coastal Zone Boundary of New York City, June 1986 (see Figure 12-1). As such, this chapter examines the compliance of the proposed project with coastal zone policies.

The federal Coastal Zone Management (CZM) Act of 1972 was established to support and protect the distinctive character of the waterfront, and set forth standard policies for reviewing proposed development projects along coastlines. In response to the CZM Act, New York State adopted its Coastal Management Program, designed to balance economic development and preservation by promoting waterfront revitalization and water-dependent uses while protecting fish and wildlife, open space and scenic areas, public access to the shoreline, and farmland; and minimizing adverse changes to ecological systems and erosion and flood hazards.

The program encourages coordination among all levels of government to promote sound waterfront planning and requires consideration of the program’s goals in making land use decisions. It also provides for local implementation when a municipality adopts a local waterfront revitalization program, as is the case in New York City. The New York State Department of State (NYSDOS) administers the program at the state level, and the New York City Department of City Planning (DCP) administers it in the city. To determine consistency NYSDOS seeks concurrence from the local administrator, NYCDCP.

The New York City Waterfront Revitalization Program (WRP) is the City’s principal coastal zone management tool. The WRP was originally adopted in 1982 and approved by NYSDOS for inclusion in the New York State Coastal Management Program. The WRP establishes the city’s policies for development and use of the waterfront and provides a framework for evaluating discretionary actions in the coastal zone. WRP was revised and a new WRP approved by the City Council in October 1999. In August 2002, the NYSDOS and the U.S. Army Corps of Engineers adopted the City’s 10 WRP policies for projects located within the City boundaries. This chapter reviews the 10 New York City coastal zone policies of the WRP, and assesses, where applicable, the general consistency of the project with the policies.

In April of 2005, the NYSDOS determined that the Route 9A Project met the Department’s general consistency concurrence criteria and had no objections to the use of FHWA funds for the project.

B. LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) CONSISTENCY DETERMINATION

New York City’s WRP 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 proposed project’s applicability to, and consistency with, the policy.

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

*Policy 1.1: Encourage commercial and residential redevelopment in appropriate coastal zone areas.*

The Route 9A Project would rebuild the section of Route 9A that was destroyed by the terrorist attacks on September 11, 2001. The project site is located within the Special Lower Manhattan District, which promotes commercial and residential uses in lower Manhattan. One of the goals of the project is to support the economic recovery and development of lower Manhattan. Therefore, the proposed action would be consistent with the policy. However, as discussed in Chapter 4, “Land Use, Public Policy, and Neighborhood Character,” the No Action Alternative would not be consistent with this policy.

*Policy 1.2: Encourage non-industrial development that enlivens the waterfront and attracts the public.*

Goals of the proposed project include: improvement of pedestrian movements along and across Route 9A and enhancement of green areas and open space. The highway includes a continuous Class I bikeway and accompanying walkway and would include access to the proposed World Trade Center (WTC) Memorial, cultural facilities, and open spaces. Therefore, the proposed project would be consistent with this policy.

*Policy 1.3: Encourage redevelopment in the coastal area where public facilities and infrastructure are adequate or will be developed.*

The proposed project consists of the reconstruction of the portion of Route 9A that was damaged in the September 11, 2001 terrorist attacks on the WTC. This action would replace infrastructure damaged during the terrorist attacks and support the redevelopment of lower Manhattan. Therefore, the proposed project would be 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.*

Route 9A is not located in a Significant Maritime and Industrial Area; therefore, this policy is not applicable.

*Policy 2.2: Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas.*

Although the project site is not located directly along the waterfront, the proposed project would improve vehicular and pedestrian access between Battery Park City and the rest of lower Manhattan. Therefore, the proposed project would be consistent with this policy.

*Policy 2.3: Provide infrastructure improvements necessary to support working waterfront uses.*
Although the project site is not located directly along the waterfront, it is an infrastructure improvement that would better serve and support working waterfront uses in lower Manhattan. Therefore, the proposed project would be consistent with these policies.

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

*Policy 3.1: Support and encourage recreational and commercial boating in New York City’s maritime centers.*

The project site is within the service areas of several ferry lines, and it is likely that some of the commuters and visitors to lower Manhattan would use these ferries and Route 9A. The proposed project is unlikely to have any negative effect on recreational boating. Therefore, the proposed project would be consistent with this policy.

*Policy 3.2: Minimize conflicts between recreational, commercial, and ocean-going freight vessels.*

The proposed project does not involve recreational, commercial, or ocean-going freight vessels; therefore, this policy is not applicable.

*Policy 3.3: Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses.*

The project would not involve any commercial or recreational boating activities; therefore, this policy is not applicable.

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

*Policy 4.1: Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas, Recognized Ecological Complexes and Significant Coastal Fish and Wildlife Habitats.*

The project site is not located within a Special Natural Waterfront Area or Recognized Ecological Complex. While the project site is located near a Significant Coastal Fish and Wildlife Habitat (the Lower Hudson River), no in-water construction activities are proposed. Therefore, the proposed project would be consistent with this policy.

*Policy 4.2: Protect and restore tidal and freshwater wetlands.*

There are no tidal or freshwater wetlands on the project site. Therefore, this policy is not applicable.

*Policy 4.3: Protect vulnerable plant, fish, and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.*

The project site does not include any identified vulnerable plant, fish, or wildlife species, or rare ecological communities. Therefore, this policy is not applicable.

*Policy 4.4: Maintain and protect living aquatic resources.*

The proposed alternatives would include application of Best Management Practices (BMPs) to manage stormwater quality and quantity during construction. These measures, including use of sumps, grit chambers, and flow hoods, act to minimize
pollutants and floatables that enter stormwater that drains to the Hudson River and the municipal combined sewer system. Enhanced green space, with a concomitant increase in pervious surface, should also reduce the amount of stormwater runoff generated on the project site. Use of green designs such as recycling stormwater to irrigate landscaping would be considered in the design process. As a result, these measures would minimize potential impacts from stormwater and water quality in the receiving waters would be expected to improve. Consistent with this policy, significant coastal fish and wildlife habitats would not be adversely affected.

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

Policy 5.1: Manage direct or indirect discharges to waterbodies.

All construction activities would be carefully monitored to avoid and/or minimize discharges, as discussed with respect to Policy 4.4. Improvements to the stormwater drainage system that were installed during the previous Route 9A Reconstruction Project, including flow hoods and sumps, were damaged or destroyed in the September 11, 2001 terrorist attacks. The temporary roadway constructed as part of restoration activities did not reconstruct the pre-September 11, 2001 improvements. The temporary roadway drainage system currently ties into the pre-September 11, 2001 system, with repairs to some of the trunk lines. All project alternatives would reconstruct and improve the stormwater drainage system destroyed in the September 11, 2001 terrorist attacks to better manage discharges to the Hudson River. Therefore, the proposed project would be consistent with these policies.

Policy 5.2: Protect the quality of New York City’s waters by managing activities that generate non-point source pollution.

All construction activities would be carefully monitored to avoid and/or minimize discharges. As described above, the proposed project would decrease the amount of stormwater runoff and non-point source pollution from the Route 9A site by reconstructing the infrastructure destroyed during the September 11, 2001 terrorist attacks and through the use of BMPs and green designs. Therefore, the proposed project would be 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.

No construction activities are anticipated to occur in navigable waters and in or near marshes, estuaries, tidal marshes, or wetlands. The proposed Short Bypass Alternative would entail excavation for the below-ground traffic lanes. However, no fill would be placed in navigable waters and in or near marshes, estuaries, tidal marshes, or wetlands for the Short Bypass or other alternatives. Therefore, the proposed project would be consistent with this policy.

Policy 5.4: Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.

There are no streams or wetlands located on or in proximity to the project site. Groundwater is not used for drinking water or other purposes in the project vicinity or Manhattan as a whole. If dewatering is required, it would be done in conformance with the New York City Department of Environmental Protection’s regulations and contaminated groundwater would be pretreated before being discharged (see Section E,
“Mitigation” in Chapter 15, “Contaminated Materials”). Therefore, the proposed project would be consistent with this policy.

**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.*

The entire waterfront adjacent to the segment of Route 9A to be reconstructed is bulkheaded, with no areas of active erosion. The proposed project, which is located in the 100-year flood plain, would not increase flooding, nor would it induce flood damage at the site, at other locations, or to structures in the floodplain. Flooding along Route 9A is dominated by tides and storm surge. The roadway and land to be added to Route 9A in the At-Grade and Short Bypass Alternatives are currently entirely paved. The water retention characteristics would be unchanged in the No Action Alternative, and would be enhanced with the At-Grade and Short Bypass Alternatives. Therefore, the proposed project would be consistent with this policy.

*Policy 6.2: Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.*

The proposed project does not include erosion control measures except those related to temporary conditions during construction, which would be addressed, as described in Chapter 11, “Natural and Water Resources.” Therefore, the proposed project would be consistent with this policy.

*Policy 6.3: Protect and preserve non-renewable sources of sand for beach nourishment.*

There are no non-renewable sources of sand on or near the project site; therefore, this policy does not apply.

**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.*

No hazardous wastes or toxic pollutants are anticipated to be generated by this proposed action. During construction, contaminated soils may be encountered. These wastes would be disposed of by a licensed waste hauler at an appropriate licensed facility (to be determined) as required by all applicable laws, rules, and regulations. As discussed above, road design would include pollution prevention measures such as sumps and grit chambers. The proposed project would be consistent with this policy.

*Policy 7.2: Prevent and remediate discharge of petroleum products.*

No petroleum products are anticipated to be disturbed or discharged by the proposed project. If construction activities reveal the presence of petroleum products on site, such products would be handled, remediated, and/or disposed of in accordance with all applicable laws, rules, and regulations. As a result, the proposed project would be consistent with this policy.
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.

All solid waste generated by construction of the proposed project would be transported by a licensed waste hauler according to applicable laws and regulations. As a result, the proposed project would be consistent with this policy.

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

Policy 8.1: Preserve, protect and maintain existing physical, visual, and recreational access to the waterfront.

The project site is not located directly along the Hudson River waterfront. However, the proposed project would facilitate access to the waterfront by providing connections between Battery Park, the west side of the roadway, and elements of the proposed WTC Memorial and Redevelopment Plan project on the east side of the roadway. The proposed project would not create any new significant visual obstructions to the Hudson River to the west of the roadway. Therefore, the proposed project would be consistent with this policy.

Policy 8.2: Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

As discussed in response to Policy 8.1, public access to elements of the proposed WTC Memorial and Redevelopment Plan project and Battery Park would be provided as part of the proposed project. At-grade crossings with attractive planted medians would be provided as part of the Short Bypass and At-Grade Alternatives. A pedestrian bridge would be provided at Liberty Street as part of the No Action and At-Grade Alternatives. Additional pedestrian bridges may be provided at Rector or Carlisle Streets, and/or Murray or Warren Streets.

Policy 8.3: Provide visual access to coastal lands, waters, and open space where physically practical.

As discussed in response to Policy 8.1, the proposed project would not impede visual access to the Hudson River waterfront to the west of the roadway and would be consistent with this policy.

Policy 8.4: Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

As noted previously, the proposed project is not located on the waterfront; therefore, this policy does not apply.

Policy 8.5: Preserve the public interest in and use of lands and waters held in public trust by the State and City.

The proposed project is not located along the waterfront and would not interfere with the continued use or ownership of land and waters held in the public trust. Therefore, the proposed project would be consistent with this policy.
**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.*

While the project site is not located on the waterfront, the extensive landscaping associated with the At-Grade and Short-Bypass Alternatives would improve the visual quality of the area. The planted median areas provided as part of these alternatives would provide pedestrian refuges between the northbound and southbound roadways and improve the aesthetics of the project site. Therefore, the proposed project would be consistent with this policy.

*Policy 9.2: Protect scenic values associated with natural resources.*

There are currently no natural resources associated with the Project Site. All landscaping in the reconstruction area was destroyed in the September 11, 2001 terrorist attacks and subsequent clean-up effort. Natural resources would not be degraded by the No Action Alternative. The scenic value of the project site would be significantly increased in the At-Grade and Short Bypass Alternatives with the addition of the planted median. Therefore, the proposed project would be consistent with this policy.

**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 described in Chapter 6, “Cultural Resources,” the existing Programmatic Agreement has been amended and updated, and no adverse impacts to historic resources would occur. In addition, the At-Grade and Short Bypass Alternatives would provide safer, more aesthetically pleasing pedestrian crossings between the WTC Site and Memorial and the waterfront on the western side of the Route 9A corridor, enhancing the overall character of the area. Positive impacts could be magnified by the Short Bypass Alternative as compared to the At-Grade Alternative, as routing through traffic below grade would minimize traffic and noise at the Memorial and the rest of the WTC Site, allowing for an improved pedestrian experience between the waterfront and this important cultural resource.

*Policy 10.2: Protect and preserve archaeological resources and artifacts.*

As described in Chapter 6, “Cultural Resources,” the existing Programmatic Agreement has been amended to include discussion of the Short Bypass Alternative’s potential to affect buried portions of the Hudson River Bulkhead. Intact portions of the bulkhead would be impacted by the utility relocations required with this alternative. Measures to avoid, minimize, or mitigate these impacts, in accordance with the Programmatic Agreement will be employed. Therefore, no adverse impacts to archaeological resources would occur, and the proposed project would be consistent with this policy.