

Chapter 23: Public Involvement and Agency Coordination

23.1 INTRODUCTION

FRA developed the public and agency participation program for the Western Rail Yard Infrastructure Project in compliance with legislation and policies that guide compliance with the stakeholder involvement requirements of NEPA.

A detailed description of the tools being used to engage stakeholders in this EIS process can be found in the Public and Agency Coordination Plan, (provided in **Appendix P1**), which is also posted on the project website at www.westernrailyardinfrastructure.com. This chapter presents an overview of the regulatory process and summarizes the agency and public outreach activities that have occurred to date for this EIS.

23.2 REGULATORY PROCESS

23.2.1 NATIONAL ENVIRONMENTAL POLICY ACT

The overall NEPA process involves the public throughout the process and documents the decisions made in a NEPA document. Agencies are required to provide meaningful opportunities to include the public and other agencies in the NEPA process. The FRA has provided two key opportunities for input during the development of the EIS: Scoping and the Draft EIS and Draft Section 4(f) Evaluation.

- **NOI.** Publication of the NOI in the Federal Register formally announced FRA's intent to prepare an EIS for a proposed action and initiates the environmental review process. FRA published an NOI to prepare an EIS for the Western Rail Yard Infrastructure Project in the Federal Register on June 15, 2020.
- **Scoping.** Scoping immediately followed the publication of the NOI and served as the initial step in the NEPA process where the public and agencies were provided an opportunity to review and comment on the scope of the EIS. FRA requested comments specifically on the purpose and need, additional alternatives to be considered in the EIS, environmental issues of concern, and the methodologies for the environmental analysis. A Scoping Document was made available on July 1, 2020, on the Federal Docket system at Regulations.gov (Docket FRA-2020-0039) and on the Project website (www.westernrailyardinfrastructure.com).

FRA conducted a virtual public scoping process. The scoping period was held from July 1 through July 31, 2020. FRA led the outreach activities with a scoping presentation made available on the project website. FRA also facilitated a virtual scoping meeting for local, State, and Federal agencies. All comments were reviewed and considered by FRA, and responses were provided in a Scoping Summary Report, which was posted to the Federal Docket and the project's website in September 2020 (see Section 23.4 for more details).

- **DEIS.** Following scoping, this DEIS was prepared, which incorporates comments received during scoping, as appropriate, and provides detailed technical analyses related to potential social, economic, and environmental impacts of the No Action and Preferred Alternatives. This DEIS identifies appropriate measures to avoid, minimize, or mitigate impacts of the Preferred Alternative consistent with the requirements of NEPA and other applicable regulations and requirements.
- **Public Review of the DEIS.** This is the second key opportunity for input on the NEPA process and the EIS. In accordance with NEPA, a public comment period for the DEIS of no less than 45 days was established and the Notice of Availability of the DEIS was widely distributed. FRA will hold Public Hearings and any other project meetings virtually, and encourages submission of comments for the DEIS and other documents electronically. Public and interested agencies will have the opportunity to submit comments in writing, via the Docket system at Regulations.gov (Docket FRA-2020-0039), email, or U.S. mail to FRA.
- **Combined FEIS/ROD.** After the close of the public comment period on the DEIS, FRA intends to issue a combined FEIS/ROD in accordance with 23 USC §139(n)(2) and 49 USC §304a, which directs the lead agency, to the maximum extent practicable, to expeditiously develop a single document combining the FEIS and ROD unless the following conditions exist:
 - The FEIS makes substantial changes to the Preferred Alternative that are relevant to environmental or safety concerns; or
 - There are significant new circumstances or information relevant to environmental concerns and that potentially affect the Preferred Alternative or the impacts of Preferred Alternative.

The FEIS/ROD will include a summary of, and response to, all appropriate comments made on the DEIS during the public comment period and address any necessary revisions to the DEIS to address the comments. The ROD will describe any commitments for mitigating potential social, economic, and environmental impacts.

23.2.2 SECTION 106 CONSULTATION

Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties that are listed in or meet the eligibility criteria for listing in the NRHP and afford the ACHP a reasonable opportunity to comment. Section 106 also requires that agency officials work with NYSHPO to identify parties to participate in the Section 106 process (Consulting Parties). Consulting parties may include local governments, Federally recognized Indian tribes, and individuals and organizations with a demonstrated interest in the project due to the nature of their legal or economic relationship to the project or affected historic properties, or their concern with the project's effects on historic properties.

23.2.3 SECTION 4(F) CONSULTATION

Section 4(f) prohibits operating administrations of USDOT from approving any transportation program or project that requires the use of any publicly owned parkland, recreation area, or wildlife and waterfowl refuge; or any land from a publicly or privately owned historic site of national, state, or local significance (collectively, Section 4(f) resources), unless (1) the agency determines that the use of the property will have a *de minimis* impact; or (2) there is no feasible and prudent avoidance alternative to the use of the land, and the action includes all possible planning to minimize harm to the Section 4(f) resource.

Section 4(f) requires that FRA must coordinate with the DOI, and if appropriate, with the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA), and the appropriate official(s) with jurisdiction over the Section 4(f) resource, prior to approving the use of a Section 4(f) property.

Section 4(f) requires that public notice and an opportunity for public review and comment must be provided on the Draft Section 4(f) Evaluation. This requirement can be satisfied in conjunction with other public involvement procedures, such as the comment period provided on an EIS prepared in accordance with NEPA. For this Project, FRA is providing the public an opportunity to review and comment on the Draft EIS and Draft Section 4(f) evaluation for the Preferred Alternative simultaneously during the NEPA public review period. FRA would issue a Section 4(f) determination prior to or in conjunction with its EIS ROD.

23.2.4 ENVIRONMENTAL JUSTICE OUTREACH

EO 12898 requires consideration of whether a proposed action would disproportionately affect minority or low-income groups (59 Federal Register 7629). EO 12898 also requires Federal agencies to ensure public participation from communities with substantial minority or low-income populations. Each Federal agency has developed a strategy to address environmental justice, with the CEQ responsible for oversight and coordination. The environmental justice analysis for the Preferred Alternative follows the guidance and methodologies recommended in CEQ's Environmental Justice Guidelines under the NEPA (December 1997); the USDOT's Final Order 5610.2(a) on Environmental Justice (April 1997 and updated May 2012); the *Environmental Justice Policy Guidance for Federal Transit Administration Recipients*, FTA C 4703.1; and relevant guidance from the State of New York.

23.2.5 OTHER PERMITS AND APPROVALS

Implementation and construction of the Preferred Alternative is subject to a number of state and local permits and approvals in addition to NEPA. The regulatory requirements related to the Preferred Alternative's construction and operations are discussed in detail in the preceding technical chapters. FRA anticipates the following permits and approvals would be required to implement the Preferred Alternative (see **Table 23-1**).

Table 23-1
Permits and Approvals Required for the Preferred Alternative

State of New York
New York State Department of Environmental Conservation
Soil Erosion Control
SPDES General Permit for Stormwater Discharge from Construction Activity
New York State Department of State
Coastal Zone Consistency Determination
Local
New York City Department of City Planning
New York City Department of City Planning Coastal Zone Consistency Determination
Compliance with Environmental Construction Measures per the Restrictive Declaration
New York City Department of Buildings
New Building Permit
New York City Department of Buildings/City of New York Fire Department
Fuel Storage
Fire Protection (Wet System)
City of New York Fire Department
Fire Alarm and Fire Suppression (FM-200)
Life Safety / Egress
Radio
New York City Department of Environmental Protection
Site Connection – for water drainage and runoff
Generators (for emissions)
Tunneling Permit
New York City Department of Parks and Recreation
Proximity to High Line
New York City Department of Transportation
Division of Bridges
Department of Transportation – Sidewalks
Department of Transportation – Underground Vaults if necessary
Department of Transportation – Revocable Consents if necessary
OCMC
Con Edison
Electrical and Gas Service
New York City Mayor's Office of Environmental Remediation
Remedial Investigative Report (RIR)
RAP
Waste Characterization
Noise RAP
LIRR – for Transit areas for compliance with NYS Uniform Fire Prevention and Building Code
Amtrak for proximity to existing structures
Friends of the High Line

23.3 AGENCY COORDINATION

23.3.1 LIST OF AGENCIES, ROLES, AND RESPONSIBILITIES

Lead agencies include the USDOT, or any operating administration thereof designated by the Secretary, and any project sponsor that is a state or local governmental entity receiving Federal funds for the purpose of preparing any environmental document under NEPA (23 U.S.C. § 139[a][1]). FRA is serving as Federal lead agency for this EIS. Lead agencies are responsible for providing an opportunity for public, cooperating, and participating agency involvement. It is the responsibility of the lead agencies to identify, invite, and involve cooperating and participating agencies.

“Cooperating agencies” are Federal agencies other than the lead Federal agency that have jurisdiction by law, or special expertise with respect to a particular environmental issue involved in a particular project (40 CFR 1501.5). Cooperating agencies may also be state or local agencies of similar qualifications or Indian tribal governments (40 CFR 1508.5), if agreed upon by the lead agencies. While no cooperating agencies have been identified for this project, CEQ regulations (40 CFR § 1501.6) state that an agency may request the lead agency to designate it a cooperating agency.

“Participating agencies” are those Federal, state, or local agencies or Federally recognized tribal governmental organizations with an interest in the Preferred Alternative. The standard for participating agency status is more encompassing than the standard for cooperating agency status. The role of participating agencies is to:

- Provide input on defining the purpose and need for the Preferred Alternative, the range of alternatives to be considered, and the methodologies and level of detail required in the alternatives analysis;
- Participate in coordination meetings and joint field reviews, as appropriate;
- As requested by FRA, provide timely review and comments on pre-draft or pre-final environmental documents; and
- Provide timely comments on unresolved issues.

Table 23-2 lists FRA as the lead agency and the agencies that FRA invited to serve as participating agencies, with their applicable area of jurisdiction or expertise. FRA continues to consult with Participating Agencies throughout the NEPA process to update them on the status of the EIS development and discuss areas of concern.

Table 23-2
Lead and Invited Participating Agencies

Agency	Role	Accepted or Declined Invitation	Responsibilities
[Lead] Federal Railroad Administration (FRA)	Federal Lead Agency	Accepted	Manage environmental review process; prepare EIS and decision document; provide opportunity for public and agency involvement; arbitrate and resolve issues
[Federal] Federal Transit Administration (FTA)	Participating Agency	Accepted	Consultation related to NEPA
[Federal] U.S. Department of Interior (USDOI)	Participating Agency	Accepted	Consultation related to Section 4(f) of the U.S. Department of Transportation Act
[Federal] U.S. Environmental Protection Agency (USEPA)	Participating Agency	Accepted	Consultation related to NEPA; Section 309, Clean Air Act
[Federal] Federal Emergency Management Agency (FEMA), Federal Region II	Participating Agency	Declined	Consultation related to resilience and floodplain issues
[Federal] Bureau of Indian Affairs Eastern Region	Participating Agency	Declined	
[Federal] U.S. Geological Survey	Participating Agency	Declined	
[Federal] U.S. Department of Homeland Security (DHS)	Participating Agency	Accepted	Consultation related to security
[Federal] Advisory Council on Historic Preservation (ACHP)	Participating Agency, possible Section 106 Consulting Party	Accepted	Consultation related to Section 106 of the National Historic Preservation Act; possible participation in Section 106 process; promulgates Section 106 regulations and guidance
[State / Regional / Local] Metropolitan Transportation Authority (MTA)	Participating Agency	Accepted	Consultation
[State / Regional / Local] MTA Long Island Rail Road	Participating Agency	Accepted	Consultation
[State / Regional / Local] New York State Department of Environmental Conservation, Region 2 (NYSDEC)	Participating Agency	Accepted	Consultation and various reviews
[State / Regional / Local] New York State Department of State (NYSDOS)	Participating Agency	Declined	Coastal zone consistency review

Table 23-2 (cont'd)
Lead and Invited Participating Agencies

Agency	Role	Accepted or Declined Invitation	Responsibilities
[State / Regional / Local] New York State Historic Preservation Office (NYSHPO)	Participating Agency; Section 106 Consulting Party	Accepted	Concurrence under Section 106, National Historic Preservation Act
[State / Regional / Local] New York State Department of Transportation (NYSDOT)	Participating Agency	Accepted	Consultation related to potential impacts to State roadways and associated mitigation in New York City
[State / Regional / Local] New York City Department of City Planning (NYCDCP)	Participating Agency	Accepted	Consultation related to potential environmental impacts and associated mitigation in New York City, and coastal zone consistency review
[State / Regional / Local] New York City Department of Environmental Protection (NYCDEP)	Participating Agency	Accepted	Consultation related to various potential environmental impacts in New York City
[State / Regional / Local] New York City Landmarks Preservation Commission (NYCLPC)	Participating Agency; Section 106 Consulting Party	Accepted	Consultation related to Cultural Resource (historic structure and/or archaeological resource) impacts in New York City
[State / Regional / Local] New York City Department of Transportation (NYCDOT)	Participating Agency	Accepted	Consultation related to potential transportation system impacts and associated mitigation in New York City
[State / Regional / Local] New York City Department of Parks and Recreation (NYC Parks)	Participating Agency; Section 106 Consulting Party	Accepted	Consultation related to potential impacts to Parklands, historic resources, and open spaces, and associated mitigation in New York City; Section 4(f) consultation
[State / Regional / Local] New York City Mayor's Office of Environmental Coordination (NYCMOEC)	Participating Agency	Accepted	Consultation related to potential environmental impacts and associated mitigation in New York City; MOEC will coordinate all of the comments on environmental review documents for the Project from all NYC agencies

Note: Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless it declines in writing; other agencies must accept in writing.

FRA collaborated with the participating agencies in defining the purpose and need, range of reasonable alternatives to be examined in the EIS, and methodologies for documenting environmental conditions, and assessing impacts. While consensus is not required in the development of impact assessment methodologies, FRA considered the views of the agencies with relevant interests before making a decision on a particular methodology. FRA hosted agency coordination meetings to gather feedback from the agencies on the Preferred Alternative and proposed methodologies on July 21, 2020, and October 15, 2020, respectively. FRA notified the participating agencies of the availability of the key environmental review documents (e.g., Scoping Document, Scoping Summary Report, and EIS) and provided comment opportunities.

23.3.2 SECTION 106 CONSULTATION

FRA is conducting consultation and public involvement required under Section 106 of the NHPA concurrently with the NEPA process (36 CFR 800.8). On July 3, 2020, FRA initiated consultation with the NYSHPO. On July 30, 2020, FRA wrote to Federally recognized tribal organizations to invite them to participate as Consulting Parties. FRA invited public agencies, preservation groups, and other stakeholders to participate as Consulting Parties, in August 2020. All correspondence related to Section 106 is presented in **Appendix F1**.

In accordance with Section 106 regulations (36 CFR § 800.2), FRA has consulted with the NYSHPO to identify other Consulting Parties to participate in the Section 106 process. As set forth in the regulations, Consulting Parties for an undertaking can include the following:

- Federally recognized Indian tribes
- Representatives of local governments with jurisdiction over the area where the undertaking may occur;
- The applicant for Federal assistance, permits, licenses, and approvals; and
- Additional consulting parties: certain individuals and organizations with a demonstrated interest in the undertaking due to their legal or economic relation to the undertaking or affected properties or their concern with the undertaking's effects on historic properties.

The entities FRA invited to participate as Consulting Parties in the Section 106 review process for the undertaking are as follows:

- NYSHPO
- Amtrak
- ACHP
- Delaware Nation
- Delaware Tribe
- Shinnecock Indian Nation
- Stockbridge-Munsee Community of Mohican Indians
- Eastern Delaware Nations (not federally recognized)
- Lenape Nation of Pennsylvania (not federally recognized)
- New York City Landmarks Preservation Commission
- Hudson River Park Trust
- Friends of the High Line
- Society for Industrial Archaeology
- Professional Archaeologists of New York City
- Anthracite Railroads Historical Society

- Erie Lackawanna Railroad Historical Society
- National Railway Historical Society, Inc.
- Railway and Locomotive Historical Society, Inc.

In addition, FRA subsequently provided information regarding the Preferred Alternative's proposed APE, identification of historic properties, assessment of the Preferred Alternative's potential effects on historic properties, and measures proposed to avoid, minimize and/or mitigate adverse effects to historic properties to Consulting Parties.

FRA provided opportunities for public involvement in Section 106 concurrent with the NEPA public involvement, including the scoping period and DEIS public outreach. In addition, this EIS includes detailed information on FRA's efforts to comply with Section 106 for the Preferred Alternative (including the identification of and assessment of effects to historic properties) in Chapter 9, "Cultural Resources." Circulation of this EIS for public review/comment helps satisfy FRA's public involvement obligations under Section 106.

23.3.3 ENVIRONMENTAL JUSTICE OUTREACH

FRA has held virtual public outreach meetings throughout development of the EIS documentation, including at key project milestones. Meeting materials have been translated into Spanish, which is the predominant language other than English that residents of the Study Area speak at home. FRA posted on the project website a narrated scoping presentation in Spanish and English.

FRA is soliciting public comments on this DEIS through the end of the 45-day comment period. 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.

23.4 PUBLIC INVOLVEMENT

FRA conducted a virtual public scoping process. FRA also held other meetings virtually, including Section 106 Consulting Party meetings, and encouraged submission of scoping comments and other documents electronically. As part of the virtual public scoping process, FRA developed and posted a narrated scoping presentation, in both English and Spanish. These scoping presentations were available on the Project website on July 1, 2020, and will remain on the project website for the duration of the EIS process.

During preparation of this DEIS, FRA has informed and solicited feedback from the public; encouraged open discussion of details and issues on the Preferred Alternative; and provided opportunities for comments and questions. FRA used the Federal Docket (Regulations.gov, Docket No. FRA-2020-0039), project website (www.westernrailyardinfrastructure.com), meeting flyers, and email notices to publicize the availability of documents and all public meetings. The flyers were in English and Spanish, and were mailed or emailed to the project mailing list. FRA also distributed flyers to libraries and repositories, listed in Table 23-3. Since the availability of materials for public review at these repositories is uncertain, as an accommodation, FRA will send, free of charge, a copy of the DEIS Executive Summary in English or Spanish to anyone that requests it (call 929-229-5220, or email wryproject@dot.gov).

**Table 23-3
Project Document Repositories**

Organization	Address	City, State	Phone
Jack Brause Library*	11 West 42nd Street, #510	New York, NY	(212) 992-3627
Manhattan Community Board 4**	330 West 42nd Street, 26th Floor	New York, NY	(212) 736-4536
Manhattan Community Board 5**	450 Fashion Avenue, #2109	New York, NY	(212)-465-0907
Mid-Manhattan Library*+.	455 Fifth Avenue	New York, NY	(212) 340-0863
NYPL Columbus Branch Library*+.	742 Tenth Avenue	New York, NY	(212) 586-5098

Notes:

Since the availability of materials for public review at these repositories is uncertain, as an accommodation, FRA will send a copy of the DEIS Executive Summary in English or Spanish to anyone that requests it free of charge (call 929-229-5220, or email wryproject@dot.gov).

- * Libraries may not yet be open to visitors during the DEIS comment period. Please call the library you wish to visit to obtain current operating hours and accessibility information for public review of the DEIS and Draft Section 4(f) Evaluation.
- ** The Community Board offices have the DEIS and Draft Section 4(f) Evaluation available for public review in their offices, by appointment only. Call in advance for hours and to schedule a visit to review these materials.
- + The Mid-Manhattan Library and NYPL Columbus Branch Library were not fully open during the scoping period.

Advertisements for the public Scoping Notice were published in local newspapers and online media outlets serving the project area, including English language newspapers/online media and Spanish language newspapers (with Spanish language advertisements). **Table 23-4** lists the newspapers and publication dates of the project Scoping Notices. **Appendix P2** includes copies of the advertisements FRA published in newspapers and online media outlets, and their corresponding Affidavits of Publication. In addition to these traditional means of outreach and notification, FRA distributed the bi-lingual public Scoping Notice to locally based organizations, including the Hudson Yards Corporation, Hudson Yards Hell's Kitchen Alliance, and Midtown South Community Council to assist with publicizing the public scoping process and associated comment period.

**Table 23-4
Public Scoping Notice Publications**

Newspaper / Online Media	Publication Date
AMNY / Metro (merged with The Villager)	6/22/2020—Monday e-newsletter
	6/23/2020—Tuesday e-newsletter
	6/25/2020—Thursday Print Edition
	6/26/2020—Friday e-newsletter
Chelsea / Clinton News	6/24/2020—Wednesday e-blast
	6/25/2020—Thursday Print Edition
Midtown Patch	6/22/2020 through 6/28/2020—Online
El Diario Nueva York – Spanish language paper	6/25/2020—Thursday Print Edition
El Especialista NYC – Spanish language paper	6/26/2020—Friday Print Edition

23.4.1 PUBLIC SCOPING PROCESS

The analysis of website metrics, covering the period from the publication of the NOI on June 15, 2020 (when the website was activated) through the end of the public scoping period (on July 31, 2020), includes 1,077 unique website page views, 126 and 18 viewings of the scoping presentation video for English and Spanish, respectively. FRA received a total of seven comment submissions (via letter, email, and the Federal Docket system) on the Scoping Document. FRA prepared a Scoping Summary Report, which is available for review on the project's website (www.westernrailyardinfrastructure.com) and on the Federal Docket system, which summarizes and responds to the substantive comments received during the scoping comment period, and includes the full text of all comments received.

23.4.2 PUBLIC REVIEW AND COMMENT ON DEIS

Following scoping, FRA prepared this DEIS, which incorporates comments received during scoping, as appropriate, and provides detailed technical analyses related to potential social, economic, and environmental impacts of the Preferred Alternative. FRA is soliciting public comments on this DEIS through the end of the comment period. FRA will hold a project hearing virtually, and encourages submission of comments for the project and other documents electronically. Detailed information regarding the public hearing and the various ways to comment on the DEIS are posted on the project website at www.westernrailyardinfrastructure.com.

This DEIS is available on the Federal Docket system (Regulations.gov, Docket No. FRA-2020-0039), the project website at www.westernrailyardinfrastructure.com, and at the local repositories (libraries and other publicly accessible locations) listed on the project website.

The public comment period will be open for a minimum of 45 days after the publication of the DEIS, as specified in the Notice of Availability for the DEIS. The public and other interested parties are encouraged to comment by the following methods:

- going online to www.regulations.gov, and using Docket Number FRA-2020-0039;
- leaving a message at the following phone number exclusive to the project: (929) 229-5220; or
- sending written comments by mail to the following address: Western Rail Yard Infrastructure Project, c/o FHI Studio, 416 Asylum Street, Hartford, CT 06103.

23.5 FRA CONTACT

For further information contact:

Ms. Andrea Poole
Environmental Protection Specialist
Office of Railroad Policy and Development
USDOT Federal Railroad Administration
wryproject@dot.gov

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