



STATE OF NEW YORK  
DEPARTMENT OF STATE  
41 STATE STREET  
ALBANY, NY 12231-0001

E1-964

GEORGE E. PATAKI  
GOVERNOR

June 25, 2004

RANDY A. DANIELS  
SECRETARY OF STATE

John D. Heffner, PLLC  
1920 N Street, NW  
Suite 800  
Washington, D.C., 20036

Re: STB Docket No. AB-873X, AB-565 (Sub No 17X0, & AB-55  
(Sub No. 652X)  
NY&E, CSX, NYC - Discontinue service and abandon railroad  
Hudson River, City and Town of Poughkeepsie, Dutchess  
County

Dear Mr. Heffner:

The Department of State appreciates your notification that New York and Eastern railway, LLC (NY&E), CSX Transportation, Inc. (CSX) and New York Central Lines, LLC (NYC), intend to file with the Surface Transportation Board a Petition for Exemption seeking authority for NY&E and CSX to discontinue service over and for NYC to abandon approximately 4.7 miles of railroad in Poughkeepsie.

Portions of the proposed discontinuance and abandonment are located within the New York State coastal area and within an area covered by the Town of Poughkeepsie Local Waterfront Revitalization Program. The Department of State is responsible for reviewing federal actions (e.g. STB approvals) as to their consistency with the State's Coastal Management Program as expressed by approved Local Waterfront Revitalization Programs. To assist the Department in this review, you will need to submit a completed Federal Consistency Assessment Form (copy enclosed) that includes an analysis of the proposed activity's consistency with the policies of the New York State Coastal Program as they are expressed by the Town of Poughkeepsie Local Waterfront Revitalization Program. Please also provide a copy of the petition filed with the Surface Transportation Board, and any other information which would further describe the proposed activity. Such information should include a map of the area and color photographs.

Should you have any questions regarding this matter, please contact me at (518) 486-7670 (email: [Bkennedy@dos.state.ny.us](mailto:Bkennedy@dos.state.ny.us)).

Sincerely,

Bridget R. Kennedy  
Coastal Resources Specialist

Enclosure

cc: Surface Transportation Board  
Town of Poughkeepsie - Laura Wojtowicz

NEW YORK STATE DEPARTMENT OF STATE  
COASTAL MANAGEMENT PROGRAM  
Federal Consistency Assessment Form

An applicant, seeking a permit, license, waiver, certification or similar type of approval from a federal agency which is subject to the New York State Coastal Management Program (CMP), shall complete this assessment form for any proposed activity that will occur within and/or directly affect the State's Coastal Area. This form is intended to assist an applicant in certifying that the proposed activity is consistent with New York State's CMP as required by U.S. Department of Commerce regulations (15 CFR 930.57). It should be completed at the time when the federal application is prepared. The Department of State will use the completed form and accompanying information in its review of the applicant's certification of consistency.

A. APPLICANT (please print)

- 1. Name: \_\_\_\_\_
- 2. Address: \_\_\_\_\_
- 3. Telephone: Area Code ( ) \_\_\_\_\_

B. PROPOSED ACTIVITY

- 1. Brief description of activity:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 2. Purpose of activity:  
\_\_\_\_\_  
\_\_\_\_\_
- 3. Location of activity:  
\_\_\_\_\_  

County	City, Town, or Village	Street or Site Description
- 4. Type of federal permit/license required: \_\_\_\_\_
- 5. Federal application number, if known: \_\_\_\_\_
- 6. If a state permit/license was issued or is required for the proposed activity, identify the state agency and provide the application or permit number, if known:  
\_\_\_\_\_

C. COASTAL ASSESSMENT (check either "YES" or "NO" for each of these questions. The numbers following each question refer to the policies described in the CMP document (see footnotes on page 2) which may be affected by the proposed activity.

1. Will the proposed activity result in any of the following: YES NO
- a. Large physical change to a site within the coastal area which will require the preparation of an environmental impact statement? (11, 22; 25, 32, 37, 38, 41, 43) \_\_\_\_\_
  - b. Physical alteration of more than two acres of land along the shoreline, land under water or coastal waters? (2, 11, 12, 20, 28, 35, 44) \_\_\_\_\_
  - c. Revitalization/redevelopment of a deteriorated or underutilized waterfront site? (1) \_\_\_\_\_
  - d. Reduction of existing or potential public access to or along coastal waters? (19, 20) \_\_\_\_\_
  - e. Adverse effect upon the commercial or recreational use of coastal fish resources? (9,10) \_\_\_\_\_
  - f. Siting of a facility essential to the exploration, development and production of energy resources in coastal waters or on the Outer Continental Shelf? (29) \_\_\_\_\_
  - g. Siting of a facility essential to the generation or transmission of energy? (27) \_\_\_\_\_
  - h. Mining, excavation, or dredging activities, or the placement of dredge or fill material in coastal waters? (15, 15) \_\_\_\_\_
  - i. Discharge of toxics, hazardous substances or other pollutants into coastal waters? (8, 15, 35) \_\_\_\_\_
  - j. Draining of stormwater runoff or sewer overflows into coastal waters? (33) \_\_\_\_\_
  - k. Transport, storage, treatment, or disposal of solid wastes or hazardous materials? (36, 39) \_\_\_\_\_
  - l. Adverse effect upon land or water uses within the State's small harbors? (4) \_\_\_\_\_

2. Will the proposed activity affect or be located in, on, or adjacent to any of the following: YES NO
- a. State designated freshwater or tidal wetland? (44) \_\_\_\_\_
  - b. Federally designated flood and/or state designated erosion hazard area? (11, 12, 17) \_\_\_\_\_
  - c. State designated significant fish and/or wildlife habitat? (7) \_\_\_\_\_
  - d. State designated significant scenic resource or area? (24) \_\_\_\_\_
  - e. State designated important agricultural lands? (26) \_\_\_\_\_
  - f. Beach, dune or barrier island? (12) \_\_\_\_\_
  - g. Major ports of Albany, Buffalo, Ogdensburg, Oswego or New York? (3) \_\_\_\_\_
  - h. State, county, or local park? (19, 20) \_\_\_\_\_
  - i. Historic resource listed on the National or State Register of Historic Places? (23) \_\_\_\_\_

3. Will the proposed activity require any of the following: YES NO
- a. Waterfront site? (2, 21, 22) \_\_\_\_\_
  - b. Provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (5) \_\_\_\_\_
  - c. Construction or reconstruction of a flood or erosion control structure? (13, 14, 16) \_\_\_\_\_
  - d. State water quality permit or certification? (30, 38, 40) \_\_\_\_\_
  - e. State air quality permit or certification? (41, 43) \_\_\_\_\_

4. Will the proposed activity occur within and/or affect an area covered by a State approved local waterfront revitalization program? (see policies in local program document) \_\_\_\_\_

**D. ADDITIONAL STEPS**

1. If all of the questions in Section C are answered "NO", then the applicant or agency shall complete Section E and submit the documentation required by Section F.
2. If any of the questions in Section C are answered "YES", then the applicant or agent is advised to consult the CMP, or where appropriate, the local waterfront revitalization program document\*. The proposed activity must be analyzed in more detail with respect to the applicable state or local coastal policies. On a separate page(s), the applicant or agent shall: (a) identify, by their policy numbers, which coastal policies are affected by the activity, (b) briefly assess the effects of the activity upon the policy; and, (c) state how the activity is consistent with each policy. Following the completion of this written assessment, the applicant or agency shall complete Section E and submit the documentation required by Section F.

**E. CERTIFICATION**

The applicant or agent must certify that the proposed activity is consistent with the State's CMP or the approved local waterfront revitalization program, as appropriate. If this certification cannot be made, the proposed activity shall not be undertaken. If this certification can be made, complete this Section.

"The proposed activity complies with New York State's approved Coastal Management Program, or with the applicable approved local waterfront revitalization program, and will be conducted in a manner consistent with such program."

Applicant/Agent's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: Area Code ( ) \_\_\_\_\_

Applicant/Agent's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**F. SUBMISSION REQUIREMENTS**

1. The applicant or agent shall submit the following documents to the New York State Department of State, Division of Coastal Resources, 41 State Street - 8th Floor, Albany, New York 12231.
  - a. Copy of original signed form.
  - b. Copy of the completed federal agency application.
  - c. Other available information which would support the certification of consistency.
2. The applicant or agent shall also submit a copy of this completed form along with his/her application to the federal agency.
3. If there are any questions regarding the submission of this form, contact the Department of State at (518) 474-6000.

\*These state and local documents are available for inspection at the offices of many federal agencies, Department of Environmental Conservation and Department of State regional offices, and the appropriate regional and county planning agencies. Local program documents are also available for inspection at the offices of the appropriate local government.