

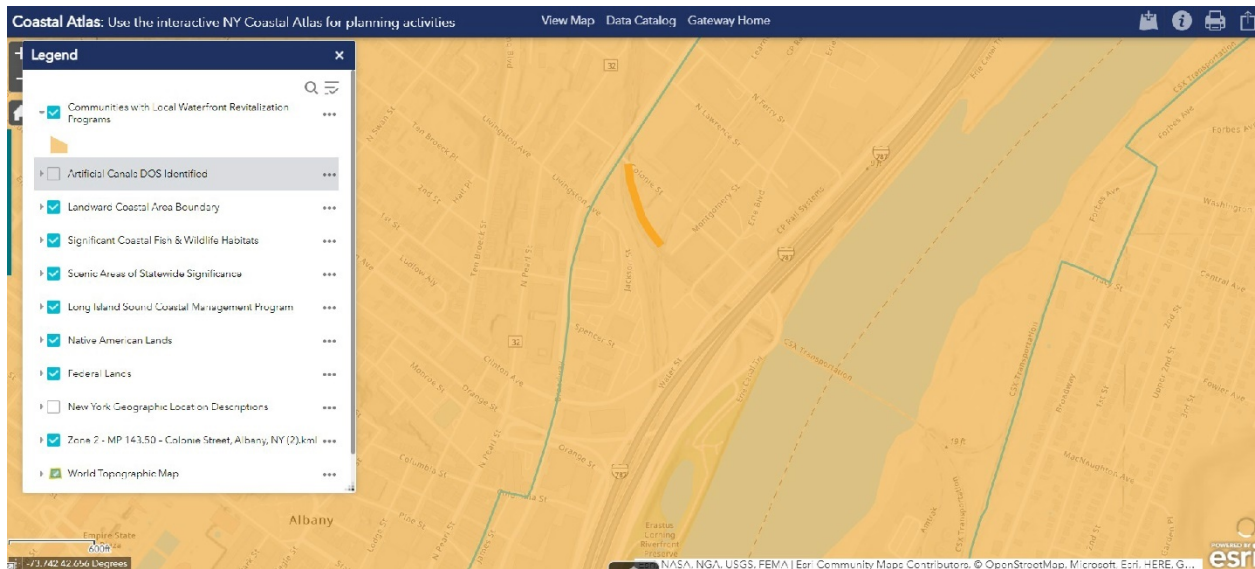
New York State Department of State
Office of Planning, Development & Community Infrastructure
99 Washington Avenue, Suite 1010
Albany, NY 12231

To the Coastal Resources Consistency Review Unit for the New York State Department of State:

The National Railroad Passenger Corp. (Amtrak) requests a review of a planned project to install protective fencing at a location within the state Coastal Zone in order to obtain official confirmation that this project is consistent with all state Coastal Management Program (CMP) and Local Waterfront Revitalization Program (LWRP) policies. Using the New York Department of State’s Coastal Atlas map, Amtrak has confirmed that this project (displayed below) falls within the designated boundaries for state Coastal Areas, and therefore must be undertaken in a manner consistent with New York State CMP policies as well as the LWRP policies for the City of Albany.

Description of Proposed Work and Statement of Consistency

This project includes installation of fencing in the Amtrak-served right-of-way at an existing Amtrak property in Colonie, NY. The proposed work is needed to add a layer of security. All proposed Amtrak standard security fencing noted in this requested review is 8 feet tall, constructed of metal with a black, picketed design and a curved gauntlet top.



Zone 2: MP 143.5, Colonie Street, Albany, NY

The proposed work is located within the NY coastal zone and the City of Albany LWRP. Amtrak plans to install approximately 650 feet of new chain-link fencing along the property line where Amtrak maintains an existing right-of-way immediately northwest of the Broadway Bridge, which spans the Hudson River.

The below documentation supports Amtrak’s overall finding that the proposed project can and will be undertaken in a manner consistent with the maximum practicable extent of enforceable policies of the New York State CMP and the City of Albany LWRP.



Policy Review and Evaluation of Effects – City of Albany Local Waterfront Revitalization Program (LWRP) Policies

Category: Development

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

The proposed fencing at this site will enhance the safety of operations for existing passenger rail operations.

Policy 1A: Restore, revitalize and redevelop downtown Albany as the city's Central Business District.

The proposed installation of fencing at this site will enhance public safety in the existing Amtrak right-of-way, which would complement efforts to restore, revitalize and redevelop downtown Albany as the city's Central Business District.

Policy 1B: Revitalize the South End as a residential and business community with expanded recreational opportunities

Not applicable. The proposed fencing is located north of the South End in Albany.

Policy 1C: Revitalize the Port of Albany as an industrial center.

Not applicable. The proposed fencing is located north of the Port of Albany.

Policy 2: Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.

The project is located at an existing Amtrak facility and would not preclude the siting of water dependent uses and facilities on or adjacent to coastal waters.

Policy 3: Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of State public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.

The project enhances the development of the Port of Albany as a center of commerce by improving the safety of existing Amtrak transportation operations in the city. The proposed fencing site, which is located north of the Port of Albany, will be a non-permanent structure and qualifies as a temporary non-water-dependent use.

Policy 3A: Further develop the Port of Albany as a center of commerce and industry, and encourage the siting of development which is essential or in support of the waterborne transportation of cargo and people.

Not applicable. The proposed fencing site is located north of the Port of Albany.

Policy 4: Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

This policy is not applicable to the City of Albany's LWRP.

Policy 5: Encourage the location of development in areas where public services and facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitate its location in other coastal areas.

Not applicable. The proposed fencing site will improve the safety and security of existing infrastructure in the existing Amtrak right-of-way.

Policy 6: Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

Not applicable. This project does not involve changing permit procedures related to development activities.

Category: Fish and Wildlife Services

Policy 7: Significant coastal fish and wildlife habitats, as identified on the coastal area map, shall be protected, preserved and, where practicable, restored so as to maintain their viability as habitats.

Not applicable. This project will not affect ongoing efforts to protect, preserve and restore coastal fish and wildlife habitats.

Policy 7A: The Normans Kill habitat shall be protected, preserved and, if practical, restored so as to maintain its viability as a habitat.

Not applicable. The proposed fencing is located north of Normans Kill and will not affect ongoing efforts to protect, preserve and restore the waterway.

Policy 8: Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

Not applicable. This project will not lead to any additional potential accumulation of hazardous waste or pollutants.

Policy 9: Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources. Such efforts shall be made in a manner which ensures the protection of renewable fish and wildlife resources and considers other activities dependent on them.

This project will not produce any effects leading to overutilization of resources or impairment of fish and wildlife habitats, nor will it impede existing or future utilization of the City of Albany's recreational fish and wildlife resources.

Policy 10: Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.

This policy is not applicable to the City of Albany's LWRP.

Category: Flooding and Erosion Hazards

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.

This policy is not applicable to the City of Albany's LWRP.

Policy 12: Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.

This policy is not applicable to the City of Albany's LWRP.

Policy 13: The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

Not applicable. This project will not construct erosion protection structures.

Policy 13A: The repair and maintenance of wharves and docks within the port should be planned to insure that future destabilization of these facilities will not occur.

Not applicable. This project will not involve repair and maintenance of wharves and docks.

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

Not applicable. This project will not construct erosion protection structures.

Policy 15: Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

Not applicable. This project will not involve the movement of beach materials or shoreline sediment or any mining, excavation or dredging.

Policy 16: Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.

Not applicable. This project does not include erosion protective structures.

Policy 17: Whenever possible, use nonstructural measures to minimize damage to natural resources and property from flooding and erosion. Such measures shall include the following: 1) The setback of buildings and structures; 2) the planting of vegetation and the installation of sand fencing and drainage; 3) the reshaping of bluffs; and 4) the floodproofing of buildings or their elevation above the base flood level.

Not applicable. This project will result in minimal ground disturbance from fencing installation.

Category: General

Policy 18: To safeguard the vital economic, social and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.

Not applicable. This project will does not propose any major actions in the coastal area.

Category: Public Access

Policy 19: Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities so that these resources and facilities may be fully utilized in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources. In providing such access, priority shall be given to public beaches, boating facilities, fishing areas and waterfront parks.

Not applicable. The fencing installation will occur entirely on Amtrak property and will not restrict access to public water-related recreation resources or facilities.

Policy 19A: Protect, maintain, and increase the level and types of access to the Corning Preserve.

Not applicable. This project does not impede efforts to protect, maintain and increase access to the Corning Preserve Boat Launch.

Policy 19B: Protect, maintain, and increase the level of access to the public boat launch located at the southern tip of Lower Patroon Island.

Not applicable. This project site is situated significantly south of Lower Patroon Island.

Policy 20: Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided, and it should be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.

The proposed installation of fencing will not affect public access to the nearby portions of the publicly owned foreshore or water's edge, but will enhance the safety and security of Amtrak operations.

Category: Recreation

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, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and to those areas where the use of the shore is severely restricted by existing development.

See response to Policy 19: The proposed fencing site is situated on existing Amtrak property already in use for passenger rail service.

Policy 22: Development, when located adjacent to the shore, will provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.

This proposed fencing installation does not impede development of additional water-related recreation opportunities nearby.

Category: Historic and Scenic Resources

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 in this project area.

Not applicable. There are no structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation.

Policy 24: Prevent impairment of scenic resources of statewide significance.

This policy is not applicable to the City of Albany's LWRP.

Policy 25: Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

This project has been designed to avoid introducing unnecessary interference or obstructions of viewsheds of the scenic Hudson River coastal area. The chain-link material avoids creating total obstruction of views of the waterfront.

Category: Agricultural Lands

Policy 26: Conserve and protect agricultural lands in the State's coastal area.

This policy is not applicable to the City of Albany's LWRP.

Category: Energy and Ice Management

Policy 27: Decisions on siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.

Not applicable. This project does not relate to siting or construction of a major energy facility.

Policy 28: Ice management practices shall not damage significant fish and wildlife and their habitats, increase shoreline erosion or flooding, or interfere with the production of hydroelectric power.

Not applicable. This project does not relate to ice management.

Policy 29: Encourage the development of energy resources on the outer Continental Shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.

Not applicable. This project does not relate to the development of energy resources and therefore does not carry any related environmental safety risks.

Category: Water and Air Resources

Policy 30: Municipal, industrial, and commercial discharge of pollutants, including but not limited to toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.

Not applicable. This project will not produce any discharge of pollutants, including plant site runoff, leaching, spillages, sludge or any waste, into coastal waters.

Policy 31: State coastal area policies and management objectives of approved local Waterfront Revitalization Programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.

This project includes a review of state coastal area policies and water quality standards, but does not introduce any changes that would have any impact on water quality or lead to any additional contamination of the waterway.

Policy 32: Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.

This policy is not applicable to the City of Albany's LWRP.

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

Not applicable. This project will not introduce any structures that would contribute to additional stormwater runoff or discharge into coastal waters.

Policy 34: Discharge of waste materials into coastal waters from vessels subject to State jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

Not applicable. This project will not introduce any structures or vessels producing discharge of waste materials into coastal waters.

Policy 35: Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural areas, and wetlands.

Not applicable. This project will not incorporate any dredging or disposal of dredge spoil into coastal waters.

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.

Not applicable. This project includes no activities related to the shipment and storage of petroleum or other hazardous materials.

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

Not applicable. This project includes no activities that will produce nonpoint source pollution, waste or other discharge into coastal waters.

Policy 38: The quality and quantity of surface water and ground-water supplies will be conserved and protected, particularly where such waters constitute the primary source of water supply.

Not applicable. This project does not involve the use of surface or groundwater supplies.

Policy 39: The transport, storage, treatment, and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, recreation areas, and scenic resources.

Not applicable. This project includes no activities that will include the transport, storage, treatment and disposal of solid waste.

Policy 40: Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

Not applicable. This project does not involve steam electric generation or industrial facilities.

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

Not applicable. This project will not involve any new land uses or development that would affect air quality or produce any toxic discharges.

Policy 42: Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.

Not applicable. This project will not require any changes leading the state to propose reclassifying any areas classified as at risk of significant land deterioration.

Policy 43: Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.

Not applicable. This project will not include any development or new land use causing the generation of nitrates or sulfates.

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

This policy is not applicable to the City of Albany's LWRP.

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 footnote 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 dredged or fill material in coastal waters? (15, 35) | — — |
| 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, or State-approved regional coastal management program?
(see policies in 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, Office of Planning and Development, Attn: Consistency Review Unit, One Commerce Plaza-Suite 1010, 99 Washington Avenue, 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.