

DEPARTMENT OF TRANSPORTATION [4910-RY]

Federal Highway Administration

**Notice of Final Federal Agency Actions on a Proposed Transportation Project in, and
between, the States of New York and New Jersey: Cross Harbor Freight Program, Tier 1
Final Environmental Impact Statement**

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT)

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA, and
Other Federal Agencies

SUMMARY: This notice announces actions taken by the FHWA and other Federal Agencies that are final within the meaning of 23 U.S.C. 139(I)(1). The actions relate to the Cross Harbor Freight Program (CHFP) Tier I Final Environmental Impact Statement (Tier I FEIS), and consist of the issuance by FHWA of a record of decision (ROD), dated December 9, 2015, with respect to the Tier I FEIS . The Federal actions, taken as a result of a tiered environmental review process under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4351) and implementing regulations on tiering (40 CFR 1502.20, 40 CFR 1508.28, and 23 CFR part 771), determined certain issues relating to the proposed projects. Those Tier 1 decisions will be used by Federal agencies in subsequent proceedings, including decisions whether to grant licenses, permits, and approvals for highway, rail, and transit projects. Tier 1 decisions may also be relied upon by State and local agencies in proceedings on the proposed projects.

DATES: By this notice, the FHWA is advising the public that it has made decisions that are subject to 23 U.S.C. 139(I)(1) and are final within the meaning of that law. A claim seeking judicial review of the Tier 1 Federal agency decisions on the proposed highway, rail, and

transit projects will be barred unless the claim is filed on or before [INSERT DATE 150 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Peter W. Osborn, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207; telephone (518)431-4127; Peter.Osborn@dot.gov. FHWA New York Division Office's normal business hours are 7:30 a.m. to 4:00 p.m., e.t.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has issued a Tier 1 FEIS and a ROD in connection with the proposed CHFP that aims to improve the movement of goods in the greater New York/New Jersey region by enhancing the transportation of freight across New York Harbor (Harbor). As part of the CHFP, FHWA and the Port Authority of New York and New Jersey (PANYNJ) are undertaking a tiered environmental impact statement process, pursuant to the NEPA, which studies the goods movement system serving the region today, and considers how that system could be improved through various alternatives for the transportation of freight across the Harbor.

Tier I broadly examined the potential transportation and environmental effects from a range of alternatives, with the goal of selecting those alternative(s) for further study and potential implementation.

FHWA and the PANYNJ issued a Tier I Draft Environmental Impact Statement (Tier I DEIS) in November 2014 for public review and comment. The Tier I DEIS analyzed 10 Build Alternatives and a No Action Alternative. The project team used a variety of forums to engage stakeholders and solicit public comment on the Tier I DEIS, including scoping meetings; public hearings; briefings for elected officials, community groups, business, environmental, and transportation advocates, and other stakeholders; workshops for Federal, State, and local

government agencies having regulatory jurisdiction over, or expertise with respect to, the Alternatives under review; a project Web site; and informational materials made available in English, Chinese, Spanish, and Yiddish.

Based on the findings in the Tier I DEIS, and in consideration of the written and oral comments received from the public, FHWA and PANYNJ issued a Tier I FEIS in September 2015, which included a Response to Comments chapter, and identified two of the Build Alternatives (the Enhanced Carfloat Alternative and the Rail Tunnel Alternative) as Preferred Alternatives that are recommended for more detailed, site-specific review and analysis in a Tier II level of study.

As Federal lead agency, FHWA issued a ROD on December 9, 2015, adopting the recommendations made in the Tier I FEIS and closing out Tier I of the study. It is important to note that neither the Tier I FEIS, nor the ROD, constitute a decision to implement any of the Alternatives that have been advanced for further consideration.

The actions by FHWA and the laws under which such actions were taken, are described in the Tier I FEIS, the ROD issued on December 9, 2015, and in other documents in the FHWA administrative record. The Tier I FEIS, the ROD, and other documents in the FHWA administrative record file are available by contacting FHWA at the address provided above. The Tier I FEIS and the ROD can be viewed and downloaded from the project Web site at www.crossharborstudy.com.

This notice applies to all Federal agency Tier 1 decisions that are final within the meaning of 23 U.S.C. 139(l)(1) as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

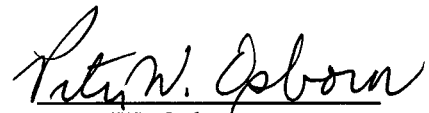
1. General: National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4351);
Federal-Aid Highway Act (23 U.S.C. 109 and 23 U.S.C. 128).
2. Air: Clean Air Act (42 U.S.C. 7401-7671(q)).
3. Land: Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303 and 23 U.S.C. 138).
4. Wildlife: Endangered Species Act (16 U.S.C. 1532-1544 and Section 1536); Fish and Wildlife Coordination Act (16 U.S.C. 661-667(d)); and Migratory Bird Treaty Act (16 U.S.C. 703-712).
5. Wetlands and Water Resources: Safe Drinking Water Act (42 U.S.C. 300(f)-300(j)(6)); Wild and Scenic Rivers Act (16 U.S.C. 1271-1287); and Wetlands Mitigation (23 U.S.C. 103(b)(6)(M) and 133(b)(11)).
6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470(f) et seq).
7. Social and Economic: Civil Rights Act of 1964 (42 U.S.C. 2000(d)-2001(d)(1)); and American Indian Religious Freedom Act (42 U.S.C. 1966).
8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; and E.O. 11514 Protection and Enhancement of Environmental Quality.
9. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601-9675); Superfund Amendments

and Reauthorization Act of 1986 (SARA); and Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901-6992(k)).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(I)(1)

Issued on: December 9, 2015

A handwritten signature in black ink, reading "Peter W. Osborn". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Peter W. Osborn
Division Administrator
Albany, New York